

STATE OF MAINE
BOARD OF LICENSURE IN MEDICINE

In re:)	CONSENT
Charles M. Stewart, M.D.)	AGREEMENT
Complaint No. CR10-603)	

This document is a Consent Agreement, effective when signed by all parties, regarding a disciplinary action concerning and conditions imposed upon the license to practice medicine in the State of Maine held by Charles M. Stewart, M.D. The parties to the Consent Agreement are: Charles M. Stewart, M.D. ("Dr. Stewart"), the State of Maine Board of Licensure in Medicine ("the Board") and the State of Maine Department of the Attorney General. This Consent Agreement is entered into pursuant to 10 M.R.S. § 8003(5)(B) and 32 M.R.S. § 3282-A.

STATEMENT OF FACTS

1. Dr. Stewart has held a license to practice medicine in the State of Maine since May 18, 1988, and specializes in Psychiatry.
2. On or about December 21, 2010, the Board received a complaint from Patient A, who had been a patient of Dr. Stewart's for approximately eighteen years. The complaint alleged that Dr. Stewart engaged in inappropriate conduct towards Patient A, including: rubbing Patient A's back/neck; telling Patient A that he had a "hard on," "you know how I feel about you," "you will always have me," and "I love you;" taking Patient A's hand and placing it on Dr. Stewart's face; hugging Patient A; and sending Patient A money for "gas money coming down here [to Dr. Stewart's office]" and "Christmas" and signing the letter "Hugs, Charlie." Patient A stated that Dr.

Stewart "should have kept his feelings to himself and never revealed anything (emotions) to" her. According to Patient A, she could "not express the deep loss and betrayal" caused by Dr. Stewart's actions, and felt "embarrassed, ashamed, [and] humiliated." The Board docketed that complaint as CR10-603, and sent it to Dr. Stewart for a response.

3. On February 3, 2011, the Board received a written response from Dr. Stewart to complaint CR10-603. In his response, Dr. Stewart acknowledged that he had been Patient A's psychiatrist for eighteen years. Dr. Stewart also acknowledged that: he remembered rubbing Patient A's back, "but have no memory of saying [he] had a hard on." According to Dr. Stewart, Patient A complained of a severe pain in her back and he was showing her "how to break the muscle tension cycle that was making it worse." Dr. Stewart denied making any inappropriate contact, gestures or words towards Patient A. Dr. Stewart also admitted telling Patient A over the course of his treatment that "you must know how I feel about you" and "I love you." Dr. Stewart thought it odd that Patient A would misinterpret what was going on because these statements were meant to provide reassurance to Patient A about her self-image. According to Dr. Stewart, his stating "I love you" to Patient A "was a code phrase that was often accompanied by 'I respect you, I think you have wonderful qualities if only you would recognize them.'"¹ Dr. Stewart stated that he rarely told Patient A that he loved her, and that Patient A's response to him

¹ In another part of his response, Dr. Stewart admitted that following one session he hugged Patient A and whispered "I love you" into her ear. According to Dr. Stewart, the "emphasis was on the I, as in 'I love you' even if your boyfriend doesn't."

“often was to say that ‘I love you too.’” Dr. Stewart indicated that “obviously something was going on in her feelings that I did not understand... She misinterpreted my saying I loved her and she apparently thought I meant I wanted to have an affair with her.” Dr. Stewart admitted that he hugged Patient A when she was anguished and crying, and that on one occasion he took Patient A’s hand and placed it on his face “after another particularly trying session.” Dr. Stewart also acknowledged that he and Patient A “joked together about how if the situation were different we might be a good match for each other.” Dr. Stewart admitted that Patient A “does not like to be hugged or have much physical contact” and that Patient A had “a history of being exploited and victimized by men starting from an early age.” Dr. Stewart recognized that Patient A felt “really hurt and victimized” by his actions and that he felt “very sorry that some of [his] actions were interpreted in a manner that [he] did not intend.”

4. On February 11, 2011, the Board received additional information from Patient A in reply to Dr. Stewart’s response. According to Patient A, she felt that Dr. Stewart’s behavior was sexually inappropriate and that it was Dr. Stewart’s responsibility as a professional “not to blur the lines” of the physician-patient relationship. In addition, Patient A stated that Dr. Stewart asked Patient A to show him her mastectomy scar, which she felt was another instance of inappropriate sexual behavior. Patient A believed that touching a patient and telling them “I love you” is “dangerous and misleading.”

5. On or about March 8, 2011, the Board reviewed complaint CR10-603, including Dr. Stewart's response and all investigative information obtained to date, and directed that Dr. Stewart undergo a neuropsychiatric evaluation pursuant to 32 M.R.S. § 3286 to evaluate Dr. Stewart's cognitive and emotional functioning.

6. On September 6, 2011, the Board received a report of the neuropsychiatric evaluation of Dr. Stewart. The evaluation report including the following:

- a. Dr. Stewart did not deny boundary crossing type actions with Patient A, but did deny any eroticized or sexualized intent.
- b. Dr. Stewart engaged in a series of physician-patient boundary crossings with Patient A, who Dr. Stewart described as "highly sexualized," and who had a history of sexual trauma and manifested a potential borderline personality issue, that led to the erosion of a professional relationship "into the realm of something more personal," including:
 - (i) Not charging her a co-pay for 15 years;
 - (ii) Offering her money;
 - (iii) Providing her with money;
 - (iv) Signing a letter "Hugs, Charlie;"
 - (v) Telling her that he "loved her;"
 - (vi) Hugging her;
 - (vii) Placing her hand on his face;
 - (viii) Rolling his chair over to her and putting his knee between hers; and
 - (ix) Asking to see her mastectomy scar.
- c. At least a number of statements and actions acknowledged by Dr. Stewart in the course of his work with Patient A constituted "significant lapses of appropriate professional boundaries."

7. Dr. Stewart acknowledges the following conduct:
 - a. Stating that he loved Patient A in a manner that she could misinterpret.
 - b. Asking Patient A if it would help normalize her feelings about her mastectomy scar to have him view it.
 - c. On a few occasions with Patient A's permission Dr. Stewart hugged her at times of emotional distress.
 - d. On one occasion, Dr. Stewart sent Patient A \$30 to help her pay for her cell phone bill and gas money to enable her to drive to an appointment with him that was included in a letter which he signed "hugs, Charlie".
 - e. Dr. Stewart once put her hand on his face at a moment of emotional distress for her as she was leaving the office.
 - f. On one occasion when Patient A was experiencing a back spasm, and with her permission, Dr. Stewart massaged a knot in her upper back.
 - g. On one occasion, Dr. Stewart rolled his chair to within 3 to 4 feet of Patient A and remained there during a time of emotional distress.

8. On October 11, 2011, the Board reviewed complaint CR10-603, including the neuropsychiatric evaluation. Following its review, the Board voted to schedule complaint CR10-603 for an adjudicatory hearing. In addition, the Board authorized its assigned legal counsel to negotiate a consent agreement to resolve complaint CR10-603 without an adjudicatory hearing.

9. This Consent Agreement has been negotiated by and between legal counsel for Dr. Stewart and legal counsel for the Board in order to resolve complaint CR10-603 without an adjudicatory hearing. Absent Dr. Stewart's acceptance of this Consent Agreement by signing and dating it in front of a

notary and mailing it to Maine Board of Licensure in Medicine, 137 State House Station, Augusta, Maine 04333-0137 on or before May 4, 2012, the matter will be scheduled for an adjudicatory hearing. In addition, absent the Board's acceptance of this Consent Agreement by ratifying it, the matter will be scheduled for an adjudicatory hearing.

10. By signing this Consent Agreement, Dr. Stewart and his legal counsel waive any and all objections to, and hereby consent to the presentation of this Consent Agreement to the Board by its assigned legal counsel for possible ratification. Dr. Stewart and his legal counsel also forever waive any arguments of bias or otherwise against any of the Board members based solely upon the Board's failure to ratify this proposed Consent Agreement.

COVENANTS

In lieu of proceeding to an adjudicatory hearing in this matter, Dr. Stewart agrees to the following:

11. Dr. Stewart neither admits nor denies the allegations in complaint CR10-603. However, Dr. Stewart concedes that should complaint CR10-603 proceed to an adjudicatory hearing, the Board would have sufficient evidence from which it could reasonably conclude that he engaged in unprofessional conduct, and that such conduct constitutes grounds for discipline of his Maine medical license pursuant to 32 M.R.S.A. § 3282-A(2)(F).

12. Dr. Stewart agrees to accept, and the Board agrees to issue, the following discipline effective upon execution² of this Consent Agreement:

a. A REPRIMAND. Dr. Stewart is hereby reprimanded by the Board for engaging in unprofessional conduct towards Patient A. As a psychiatrist, Dr. Stewart is responsible for being aware of and maintaining appropriate physician-patient boundaries. Failure to maintain such boundaries can lead to patient harm. In this case, Patient A felt that Dr. Stewart had breached the trust she placed in him as a professional physician. Dr. Stewart recognizes that, while Patient A may have misinterpreted his intentions, she also felt hurt and victimized as a result of his conduct. Dr. Stewart agrees never to engage in this type of conduct again.

b. A LICENSE PROBATION for five (5) years following the execution of this Consent Agreement. Specific conditions of probation shall include the following:

(i) Ethics and Boundaries Course. Dr. Stewart shall enroll in, attend, and successfully complete a Board-approved substantive course in medical ethics and boundaries within six (6) months following the execution of this Consent Agreement. The ethics and boundaries course must cover the topic of establishing and maintaining appropriate patient-physician boundaries within the context of psychiatry. The Board retains the sole discretion to approve or deny any course proposed by Dr. Stewart to meet this

² For the purposes of this Consent Agreement, "execution" shall mean the date on which the final signature is affixed to this Consent Agreement.

requirement. Dr. Stewart shall provide the Board with documentation of the successful completion of a Board-approved course in medical ethics and boundaries within six (6) months following the execution of this Consent Agreement. Until such time as Dr. Stewart successfully completes a Board-approved course in medical ethics and boundaries, he shall not treat any new female patients.

(ii) Mental Health Treatment. Dr. Stewart shall engage in counseling with a mental health provider approved by the Board regarding his countertransference issues with patients, including Patient A. Such counseling shall occur at least once a month. In compliance with this condition, Dr. Stewart shall, within thirty (30) days following the execution of this Consent Agreement, provide the Board with the name of a proposed mental health provider with whom he shall consult and counsel regarding his countertransference issues with patients, including Patient A. The Board retains the sole discretion to approve or deny any individual proposed by Dr. Stewart to meet this requirement. Following one year of treatment, and upon the recommendation of the mental health provider, Dr. Stewart may apply for a modification of this term of probation, which the Board in its sole discretion may approve or deny.

(iii) Practice Monitor. Prior to resuming the treatment of female patients, and following his successful completion of a Board-approved substantive course in medical ethics and boundaries, Dr. Stewart must have a Board-approved practice monitor who shall monitor that part of Dr. Stewart's

medical practice involving the treatment of female patients pursuant to a written agreement approved by the Board. The practice monitor shall be given full access to Dr. Stewart's medical practice, including but not limited to all patient information. The duties of the practice monitor shall include on-going regular monitoring of Dr. Stewart's treatment of female patients, including a review of patient charts. The practice monitor need not be physically present during therapy session, but shall review audiotapes of the therapy sessions as discussed more fully in section (iv) below. In complying with this requirement, Dr. Stewart shall submit to the Board for its approval the name of a proposed practice monitor, whom the Board has the sole discretion to approve or deny. The monitoring physician must be in direct contact with Dr. Stewart and observe him within his medical practice at least once a week, and inform the Board if Dr. Stewart demonstrates any issues with regard to isolation, inappropriate boundaries or decision-making, incompetence, unprofessionalism or any other concerns. The monitoring physician shall report such information to the Board by telephone and in writing within 72 hours or as soon thereafter as possible. Dr. Stewart understands that the monitoring physician will be an agent of the Board pursuant to Title 24 M.R.S. § 2511. The Board-approved monitor shall provide the Board with reports regarding Dr. Stewart's medical practice on or before July 9th, October 9th, January 9th, and April 9th of each year following the execution of this Consent Agreement.

(iv) Audio Recording of Treatment Sessions. Dr. Stewart shall perform an audio recording of all treatment sessions involving female patients, which recordings shall be created and maintained in his office, but kept separately from the patient's file in order to preserve the confidentiality of the psychotherapy sessions. Dr. Stewart shall assign an identification number for each patient's audio recordings, and maintain a separate list that identifies each patient with her corresponding identification number. Dr. Stewart shall provide a copy of this list, the patient identifying numbers, and audio recordings to the Board upon request. During each quarter, the practice monitor shall review at least ten³ (10) audio recordings of ten (10) different patients, which audiotapes shall be selected by random number selection. In addition, the practice monitor shall review the medical records of the ten (10) patients. The practice monitor shall review the audio recordings and the corresponding patient records to ensure, among other things, that Dr. Stewart is complying with appropriate standards of physician-patient boundaries. Following one year of monitoring, and upon the recommendation of the practice monitor, Dr. Stewart may apply for a modification of the number of patient psychotherapy audio recordings reviewed by the practice monitor each calendar quarter. The Board retains the sole discretion to approve or deny the modification.

(v) Within one (1) year of the execution of this Consent Agreement, Dr. Stewart shall reimburse the Board \$1,501.90 as the actual

³ Dr. Stewart typically conducts fifty (50) minutes psychotherapy sessions.

costs incurred by the Board for the investigation of this matter. Payment shall be made by certified check or money order made payable to "Maine Board of Licensure in Medicine" and be remitted to Maria MacDonald, Investigator, Maine Board of Licensure in Medicine, 137 State House Station, Augusta, Maine 04333-0137.

13. Violation by Dr. Stewart of any of the terms or conditions of this Consent Agreement shall constitute grounds for discipline, including but not limited to modification, suspension, or revocation of licensure or the denial of re-licensure.

14. Pursuant to 10 M.R.S.A. § 8003(5) the Board and Dr. Stewart agree that the Board has the authority to issue an order, following notice and hearing, modifying, suspending or revoking his license in the event that he fails to comply with any of the terms or conditions of this Consent Agreement.

15. Dr. Stewart waives his right to a hearing before the Board or any court regarding all findings, terms and conditions of this Consent Agreement. Dr. Stewart agrees that this Consent Agreement and Order is a final order resolving complaint CR10-603. This Consent Agreement is not appealable and is effective until modified or rescinded by the parties hereto. This Consent Agreement cannot be amended orally. It can only be amended by a writing signed by the parties hereto and approved by the Office of Attorney General. Requests for amendments by Dr. Stewart shall be made in writing and submitted to the Board.

16. Unless otherwise specifically provided by this Consent Agreement, after successfully completing three (3) years of practice under the terms and conditions of this Consent Agreement, Dr. Stewart may apply to the Board to modify the terms and conditions of this Consent Agreement. Thereafter, Dr. Stewart may, at reasonable intervals, petition the Board for amendment of the terms and conditions of this Consent Agreement. Upon making such a petition, Dr. Stewart shall bear the burden of demonstrating that the Board should amend the Consent Agreement. The Board shall have the discretion to: (a) deny Dr. Stewart's petition; (b) grant Dr. Stewart's petition; and/or (c) grant Dr. Stewart's petition in part as it deems appropriate to ensure the protection of the public. Any decision by the Board on this issue need not be made pursuant to a hearing and is not appealable.

17. The Board and the Office of the Attorney General may communicate and cooperate regarding Dr. Stewart or any other matter relating to this Consent Agreement.

18. This Consent Agreement is a public record within the meaning of 1 M.R.S. § 402 and will be available for inspection and copying by the public pursuant to 1 M.R.S. § 408.

19. This Consent Agreement constitutes discipline and is an adverse licensing action that is reportable to the National Practitioner Data Bank (NPDB), the Healthcare Integrity and Protection Data Bank (HIPDB), and the Federation of State Medical Boards (FSMB).

20. Nothing in this Consent Agreement shall be construed to affect any right or interest of any person not a party hereto, including any and all medical practice partners. If any clause of this Consent Agreement is deemed illegal or invalid, then that clause shall be deemed severed from this Consent Agreement.

21. The Board and Dr. Stewart agree that no further agency or legal action will be initiated against him by the Board based upon the facts described herein, except or unless he fails to comply with the terms and conditions of this Consent Agreement. The Board may however consider the conduct described above as evidence of a pattern of conduct in the event that similar proven allegations are brought against Dr. Stewart in the future. The Board may also consider the fact that discipline was imposed by this Consent Agreement in determining appropriate discipline in any further complaints against Dr. Stewart's license.

22. Dr. Stewart acknowledges by his signature hereto that he has read this Consent Agreement, that he has had an opportunity to consult with an attorney before executing this Consent Agreement, that he executed this Consent Agreement of his own free will and that he agrees to abide by all terms and conditions set forth herein.

23. Dr. Stewart has been represented by James G. Goggin, Esq., in the negotiation of the terms of this Consent Agreement.

I, CHARLES M. STEWART, M.D., HAVE READ AND UNDERSTAND THE FOREGOING CONSENT AGREEMENT AND AGREE WITH ITS CONTENTS AND TERMS AND AGREE TO ABIDE BY THEM. I FURTHER UNDERSTAND THAT BY SIGNING THIS AGREEMENT, I WAIVE CERTAIN RIGHTS, INCLUDING THE RIGHT TO A HEARING BEFORE THE BOARD. I SIGN THIS CONSENT AGREEMENT VOLUNTARILY, WITHOUT ANY THREAT OR PROMISE. I UNDERSTAND THAT THIS CONSENT AGREEMENT CONTAINS THE ENTIRE AGREEMENT AND THERE IS NO OTHER AGREEMENT OF ANY KIND, VERBAL, WRITTEN OR OTHERWISE.

DATED: 5/4/12 Charles M. Stewart
STATE OF Maine CHARLES M. STEWART, M.D.

_____, S.S.

Personally appeared before me the above-named Charles M. Stewart, M.D., and swore to the truth of the foregoing based upon his own personal knowledge, or upon information and belief, and so far as upon information and belief, he believes it to be true.

DATED: May 4, 2012 Linda S. LeClair
NOTARY PUBLIC/ATTORNEY
Linda S. LeClair
MY COMMISSION ENDS: _____

LINDA S. LeCLAIR
Notary Public, Maine
My Commission Expires March 9, 2013

DATED: May 4, 2012 J. Goggin
JAMES G. GOGGIN, ESQ.
ATTORNEY FOR CHARLES M. STEWART,
M.D.

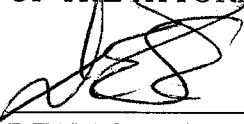
STATE OF MAINE
BOARD OF LICENSURE IN MEDICINE

DATED: May 21, 2012 Gary R. Hatfield
GARY R. HATFIELD, M.D., Chairman

STATE OF MAINE DEPARTMENT
OF THE ATTORNEY GENERAL

DATED:

5/25/12



DENNIS E. SMITH
Assistant Attorney General

Effective Date:

5/25/12