

STATE OF MAINE
BOARD OF LICENSURE IN MEDICINE

In re:) CONSENT AGREEMENT
REINALDO O. DE LOS HEROS, M.D.) FOR LICENSE REVOCATION
No. AD17-189)

This document is a Consent Agreement, effective when signed by all parties, regarding disciplinary action against the license to practice medicine in the State of Maine held by Reinaldo O. de los Heros, M.D. The parties to the Consent Agreement are: Reinaldo O. de los Heros, M.D. ("Dr. de los Heros"), 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. de los Heros was first licensed to practice medicine in the State of Maine (license number MD17206) on July 17, 2006, pursuant to a Consent Agreement for Conditional Licensure ("2006 Consent Agreement"). The 2006 Consent Agreement was terminated on December 11, 2007.

2. Dr. de los Heros specializes in psychiatry.

3. On February 29, 2016, Dr. de los Heros entered into a consent agreement with the Board. ("2016 Consent Agreement"). The 2016 Consent Agreement imposed a license probation, and required, among other things, that Dr. de los Heros have a Board approved physician monitor and that he document in all patient records the patient's psychosocial history and incorporate that information into the patient's treatment plan, including referrals or consultation with other health care professionals as necessary, and

that his medical records be legible and clearly state his rationale for prescribing medications, including any dosage change. On April 11, 2017, the 2016 Consent Agreement was amended and, although probation continued, the requirement that Dr. de los Heros have a Board approved physician monitor was removed. The amendment also provided that the requirements regarding medical record documentation would survive any termination of the 2016 Consent Agreement.

4. On October 10, 2017, the Board reviewed information regarding AD17-189 and pursuant to 5 M.R.S. § 10004(3) issued an Order of Immediate Suspension of Dr. de los Heros' s license to practice medicine for a period of thirty (30) days upon preliminarily finding that the actions of Dr. de los Heros constituted an immediate jeopardy to the health and physical safety of the public who might receive his medical services. The information reviewed by the Board included: 1) emails from Detective Cheryl Holmes of the Cumberland County Jail to Detective James Gioia of the Office of Attorney General; 2) an audio recording of a telephone call made on August 31, 2017, from an incarcerated male patient ("Patient 1") of Dr. de los Heros to a female patient ("Patient 2") who was present with Dr. de los Heros at the time of the call, during which Dr. de los Heros discussed issuing prescriptions to both Patient 1 and Patient 2, including the controlled substance Adderall which he noted was too early for Patient 1 based upon the most recent prescription; 3) Dr. de los Heros' s medical records for Patient 1, which included an entry for an in person 25 minute office visit dated August 31, 2017, who was incarcerated at the

Cumberland County Jail; and 4) a copy of a prescription for Adderall 20 mg dated August 31, 2017, issued to the male patient by Dr. de los Heros.

5. Pursuant to 32 M.R.S. § 3282-A(2)(A), the Board may impose discipline for engaging in the practice of fraud, deceit or misrepresentation in obtaining a license or in connection with service rendered within the scope of the license issued.

6. Pursuant to 32 M.R.S. § 3282-A(2)(E)(1), the Board may impose discipline for engaging in conduct that evidences a lack of ability or fitness to discharge the duty owed by the licensee to a client or patient or the general public.

7. Pursuant to 32 M.R.S. § 3282-A(2)(E)(2), the Board may impose discipline for engaging in conduct in conduct that evidences a lack of knowledge or inability to apply principles or skills to carry out the practice for which the licensee is licensed.

8. Pursuant to 32 M.R.S. § 3282-A(2)(F), the Board may impose discipline for engaging in unprofessional conduct for violating a standard of professional behavior that has been established in the practice for which the licensee is licensed. Standards of professional behavior established for the practice of psychiatry include the American Medical Association Principles of Medical Ethics as annotated by the American Psychiatric Association.

9. Pursuant to 32 M.R.S. § 3282-A(2)(P), and 10 M.R.S. § 8003(5)(A-1)(4), the Board may impose discipline for engaging in noncompliance with an order of the Board or failing to comply with the conditions of probation.

10. At its meeting on October 10, 2017, the Board reviewed AD17-189 and voted to authorize this Consent Agreement in lieu of proceeding to an adjudicatory hearing within thirty (30) days.

COVENANTS

11 The Board hereby finds the facts as stated above and that grounds exist to impose discipline upon Dr. de los Heros' s license to practice medicine in Maine pursuant to 32 M.R.S. § 3282-A(2)(A) (for fraud, deceit, or misrepresentation in connection with service rendered within the scope of the license); 32 M.R.S. § 3282-A(2)(E)(1), and (2) (for incompetence); 32 M.R.S. § 3282-A(2)(F) (for unprofessional conduct); and 32 M.R.S. § 3282-A(2)(P), and 10 M.R.S. § 8003(5)(A-1)(4) (for violation of a Board consent agreement and noncompliance with conditions of probation.

12. Without admitting the facts and findings as stated above, Dr. de los Heros agrees to the PERMANENT REVOCATION of his Maine license to practice medicine effective immediately upon the execution of this Consent Agreement.

13. Violation by Dr. de los Heros 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. This Consent Agreement is not appealable and is effective until modified or rescinded in writing by the parties hereto.

15. The Board and the Department of the Attorney General may communicate and cooperate regarding Dr. de los Heros or any other matter relating to this Consent Agreement.

16. 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-A.

17. This Consent Agreement constitutes discipline and is an adverse licensing action that is reportable to the National Practitioner Data Bank (NPDB), the Federation of State Medical Boards (FSMB), and other licensing jurisdictions.

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

19. Dr. de los Heros 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.

20. Dr. de los Heros has been represented by Elizabeth A. Olivier, Esq., who has participated in the negotiation of the terms of this Consent Agreement.

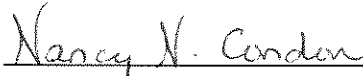
22. For the purposes of this Consent Agreement, the term "execution" means the date on which the final signature is affixed to this Consent Agreement.

I, REINALDO O. DE LOS HEROS, M.D., HAVE READ AND UNDERSTAND THE FOREGOING CONSENT AGREEMENT FOR LICENSE REVOCATION AND AGREE WITH ITS CONTENTS AND TERMS. 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 FOR LICENSE REVOCATION VOLUNTARILY, WITHOUT ANY THREAT OR PROMISE. I UNDERSTAND THAT THIS CONSENT AGREEMENT FOR LICENSE REVOCATION CONTAINS THE ENTIRE AGREEMENT AND THERE IS NO OTHER AGREEMENT OF ANY KIND, VERBAL, WRITTEN OR OTHERWISE.


DATED: 10/23/17 
REINALDO O. DE LOS HEROS, M.D.

STATE OF Maine
Cumberland, S.S.

Personally appeared before me the above-named Reinaldo O. de los Heros, 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: Oct. 23, 2017 
NOTARY PUBLIC/ATTORNEY **NANCY N. CONDON**
Notary Public, Maine
My Commission Expires December 3, 2017

MY COMMISSION ENDS: _____

DATED: Oct. 23, 2017 
ELIZABETH A. OLIVIER, ESQ.
Attorney for Reinaldo O. de los Heros,
M.D.


STATE OF MAINE
BOARD OF LICENSURE IN MEDICINE

DATED: 10/31/17


MAROULLA S. GLEATON, M.D., Chair

STATE OF MAINE DEPARTMENT
OF THE ATTORNEY GENERAL

DATED: October 30, 2017


MICHAEL MILLER
Assistant Attorney General

Effective Date: 10/31/2017