

STATE OF MAINE  
BOARD OF LICENSURE IN MEDICINE

In re: ) CONSENT AGREEMENT  
SALLY R. WEISS, M.D. )  
Complaint No. CR17-151 )

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 Sally R. Weiss, M.D. The parties to the Consent Agreement are: Sally R. Weiss, M.D. (“Dr. Weiss”), 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. Weiss has held a license to practice medicine in the State of Maine since July 22, 1981 (license number MD10694). Dr. Weiss specializes in psychiatry.

2. On July 21, 2017, the Board issued a complaint following receipt of a report from a health care provider reporting that on May 1, 2017, Dr. Weiss began prescribing oxycodone to Patient T who she had been treating for mental health issues. Patient T was in the process of being tapered off his chronic use of opioids by the reporting health care provider due to a lack of indication for their use and likely harm to Patient T. The health care provider reported that Dr. Weiss continued to prescribe oxycodone to Patient T after being informed of this by the health care provider. The complaint alleged that

Dr. Weiss's medical records for Patient T failed to document a medical history, an appropriate physical examination, diagnostic, therapeutic or laboratory results, treatment objectives, a discussion of risks and benefits, or informed consent related to her prescribing of oxycodone. The Board docketed that complaint as CR17-151, and sent it to Dr. Weiss for a response.

3. By letter dated October 2, 2017, Dr. Weiss responded to the complaint. In her response, Dr. Weiss acknowledged that she began prescribing oxycodone to Patient T after his primary care physician retired, and Patient T told her that no subsequent primary care provider he contacted would continue to prescribe opioids to him. Dr. Weiss explained that she prescribed oxycodone to Patient T to provide "pain control necessary for his mental health", and her treatment plan was to continue the degree of pain relief that Patient T "enjoyed while under the care of" his prior primary care physician. In her response, Dr. Weiss acknowledged that she had not conducted physical examinations of Patient T. Dr. Weiss told the Board that in her view, Patient T was an "innocent victim of the backlash against opioid prescribing that has taken hold in Maine and across the country" and that the "health care system threatens to fail" him. Dr. Weiss explained that if Patient T were to be "denied the medication that is most effective at managing his pain, he will deteriorate psychiatrically."

4. By letter dated December 18, 2017, Dr. Weiss responded to questions posed by the Board. Dr. Weiss informed the Board that she was no longer prescribing opioids to Patient T. She explained that when she was

prescribing opioids to Patient T, her treatment plan was to keep him on a “stable course.” She stated that she regularly monitored his mental status, performed pill counts, and “was prepared to perform urine drugs screens or take other intervention as necessary.” In addition, Dr. Weiss explained why she was not following universal precautions for opioid prescribing, and indicated that she had not taken a course that specifically focused on opioid prescribing.

5. On February 20, 2018, the Board issued a subpoena for medical records of patients prescribed opioids by Dr. Weiss. Review of the patient medical records indicated that Dr. Weiss failed to consistently follow universal precautions and comply with Board rules regarding the use of controlled substances for the treatment of pain.

6. By letter dated April 2, 2018, Dr. Weiss provided additional information to the Board and acknowledged that she had not “been aware of and compliant with many of the Board’s requirements concerning the prescribing of opioids.” Dr. Weiss stated that she intends “to be persistent in [her] efforts to comply with the Board’s rule going forward...” Dr. Weiss described her recent completion of continuing medical education related to opioid prescribing. In the letter, Dr. Weiss explained her treatment of the patients to whom she continued to prescribe opioids.

7. By letter dated May 31, 2018 to Dr. Weiss’s legal counsel, the Board reminded Dr. Weiss that if she was to continue to treat patient’s pain by

prescribing controlled substances, she must consult with other treatment providers and follow Board rules, including employing universal precautions.

8. On September 9, 2018, the Board issued a subpoena to Dr. Weiss for patient medical records for the period April 1, 2018 to the date of the subpoena. Review of the medical records received in response to the subpoena indicated that Dr. Weiss failed to consistently employ universal precautions when prescribing controlled substances to patients.

9. Pursuant to 32 M.R.S. § 3282-A(2)(F), the Board may impose discipline for unprofessional conduct if the licensee has engaged in conduct that violates a standard of professional behavior that has been established for the practice of medicine.

10. Pursuant to 32 M.R.S. § 3282-A(2)(H), the Board may impose discipline for violation of Board statute or rule, including rules regarding the use of controlled substances for treatment of pain that are contained in Board Rules, Chapter 21.

11. On November 13, 2018, the Board reviewed complaint CR17-151, and voted to set the matter for an adjudicatory hearing. In addition, the Board voted to offer Dr. Weiss this Consent Agreement to resolve the matter without further proceedings. Absent Dr. Weiss'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 January 28, 2019, the matter will be scheduled for an adjudicatory hearing.

## COVENANTS

12. Dr. Weiss admits the facts stated above and agrees that such conduct constitutes grounds for discipline pursuant to 32 M.R.S. § 3282-A(2)(F) for engaging in unprofessional conduct, and 32 M.R.S. § 3282-A(2)(H) for violation of Board rules.

13. As discipline for the foregoing conduct, Dr. Weiss agrees to accept, and the Board imposes:

a LICENSE PROBATION for a period of at least one (1) year with the following terms and conditions:

a) Within thirty (30) days of the effective date of this Consent Agreement, Dr. Weiss shall submit for approval by the Board Chair or Board Secretary the name of a Physician Practice Monitor. The Physician Practice Monitor must be currently engaged in prescribing controlled substances and familiar with standards of practice associated with prescribing all controlled substances, including the use of universal precautions. The Physician Practice Monitor shall monitor Dr. Weiss's compliance with controlled substance prescribing and medical recordkeeping standards associated with controlled substances prescribing. The monitoring and medical record review contemplated by this subparagraph may NOT occur solely by telephone, and must include in person communication at least quarterly or via HIPAA compliant shared portal access or interface. The Physician Practice Monitor must randomly select and review at least ten (10) patient charts each month. The Physician Practice Monitor shall submit written reports to the Board no

later than the 28<sup>th</sup> day of every month following his/her approval. In the reports to the Board, the Physician Practice Monitor shall provide a summary of his or her monitoring activities, Dr. Weiss' s compliance with universal precautions, controlled substances prescribing and medical recordkeeping standards, and shall identify any issues with medical decision-making or documentation. Dr. Weiss understands that the Physician Practice Monitor is an agent of the Board pursuant to 24 M.R.S. § 2511. Dr. Weiss shall permit the Physician Practice Monitor full access to her medical practice, including but not limited to all patient information. After receipt by the Board of at least twelve (12) Physician Practice Monitor reports, Dr. Weiss may request that the Board modify or eliminate the requirements of this paragraph. Upon receipt of such request, the Board shall review all information, and in its sole discretion, may maintain, modify, or eliminate the requirements for any remaining period of probation.

14. Dr. Weiss acknowledges that while this Consent Agreement, together with any amendments, is in effect she must directly communicate with the Board or Board staff and has the obligation to respond to any request for information or documentation within the timeframe specified or requested. If providing notice or supplying information to the Board is required by any provision of this Consent Agreement, Dr. Weiss shall provide such notice in writing to Julie Best, Complaint Coordinator, or her successor. Failure to comply with or respond to any request will be considered a violation of this Consent Agreement.

15. The duration of any probationary period shall be tolled for: a) any absence from the state that is in excess of thirty (30) continuous days; b) any absence from the state that is in excess of sixty (60) aggregate days in a single year; c) any period in which Dr. Weiss does not hold an active Maine license. Dr. Weiss shall inform the Board in writing in advance of any absence from the state specified above.

16. Any conduct of Dr. Weiss described herein may be considered in future Board action(s) as evidence of a pattern of misconduct.

17. Violation by Dr. Weiss 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.

18. This Consent Agreement is not appealable and is effective until modified or rescinded in writing by the parties hereto.

19. The Board and the Department of the Attorney General may communicate and cooperate regarding Dr. Weiss or any other matter relating to this Consent Agreement.

20. 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.

21. 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.

22. 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.

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

25. Dr. Weiss has been represented by Christopher C. Taintor, Esq., who has participated in the negotiation of the terms of this Consent Agreement.

26. 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, SALLY R. WEISS, M.D., HAVE READ AND UNDERSTAND THE FOREGOING CONSENT AGREEMENT 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 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: 1/30/19 Sally R. Weiss MD  
SALLY R. WEISS, M.D.

STATE OF Maine  
PENOBSCOT, S.S.

Personally appeared before me the above-named Sally R. Weiss, M.D., and swore to the truth of the foregoing based upon her own personal knowledge, or upon information and belief, and so far as upon information and belief, she believes it to be true.

DATED: 1/30/19 Christopher Taintor  
NOTARY PUBLIC/ATTORNEY

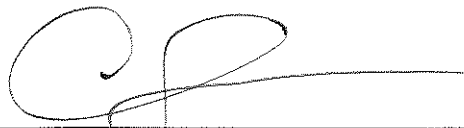
MY COMMISSION ENDS: \_\_\_\_\_

DATED: 1/30/19 Christopher Taintor  
CHRISTOPHER C. TAINTOR, ESQ.  
Attorney for Sally R. Weiss, M.D.

STATE OF MAINE BOARD  
OF LICENSURE IN MEDICINE

DATED:

8/13/19

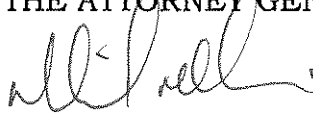


PETER J. SACCHETTI, M.D., Acting Chair

STATE OF MAINE DEPARTMENT  
OF THE ATTORNEY GENERAL

DATED:

August 13, 2019



MICHAEL MILLER  
Assistant Attorney General

Effective Date: August 13, 2019