

COMMONWEALTH OF MASSACHUSETTS

Middlesex, SS.

Board of Registration in Medicine

Adjudicatory Case No. 2016-020

In the Matter of)
)
)

WILLIAM ORTIZ, M.D.)
_____)

STATEMENT OF ALLEGATIONS

The Board of Registration in Medicine (Board) has determined that good cause exists to believe the following acts occurred and constitute a violation for which a licensee may be sanctioned by the Board. The Board therefore alleges that William Ortiz, M.D. (Respondent) has practiced medicine in violation of law, regulations, or good and accepted medical practice as set forth herein. The investigative docket number associated with this order to show cause is Docket No. 14-352.

Biographical Information

1. The Respondent was born on February 16, 1959. He graduated from New York Medical College in 1996. He has been licensed to practice medicine in Massachusetts under certificate number 156739 since 1999. He is employed as a nocturnist at Saint Vincent Hospital, in Worcester, Massachusetts. He is also licensed to practice medicine in Maine.

Factual Allegations

2. On September 9, 2014, the Board of Licensure in Medicine for the State of Maine (Maine Board) disciplined the Respondent for certain conduct occurring in the State of Maine through adoption of a Consent Agreement (Maine Order), which sets forth the factual basis for

the imposition of discipline and which is attached hereto as Attachment A and incorporated herein by reference.

3. The Maine Order establishes facts upon which this Board may impose discipline pursuant to G.L. c. 112, § 5 or 243 CMR 1.03(5), specifically the Respondent's admission that "he engaged in unprofessional conduct pursuant to 32 M.R.S. § 3282-A(2)(F)" when he issued medical marijuana certificates to certain of his patients in Maine but failed to maintain proper medical records that documented his clinical reasoning and/or the patient's underlying chronic condition, which conduct also violates Massachusetts regulations, to wit: 243 C.M.R.

2.07(13)(a), which requires a physician to:

- a. maintain a medical record for each patient, which is adequate to enable the licensee to provide proper diagnosis and treatment, and
- b. maintain a patient's medical record in a manner which permits the former patient or a successor physician access to them..

4. The Respondent is certified through the State of Maine's Medical Use of Marijuana Program to purchase and possess medical marijuana, in the State of Maine, for his own personal use; the Respondent is not so certified in any jurisdiction other than Maine.

5. During the course of the investigation of this matter, the Respondent admitted to Board staff that he applied a medical marijuana salve that he purchased in the State of Maine via his certificate, to one or more of his patients within the Commonwealth of Massachusetts.

Legal Basis for Proposed Relief

A. Pursuant to 243 CMR 1.03(5)(a)12, the Board may discipline a physician upon proof satisfactory to a majority of the Board, that said physician has been disciplined in another jurisdiction in any way by the proper licensing authority for reasons substantially the same as

those set forth in M.G.L. c. 112, § 5 or 243 CMR 1.03(5). More specifically, in Massachusetts, the Board may discipline a physician upon proof satisfactory to a majority of the Board, that said physician has violated 243 CMR 2.07(13)(a), which requires a physician to:

- a. maintain a medical record for each patient, which is adequate to enable the licensee to provide proper diagnosis and treatment;
- b. maintain a patient's medical record in a manner which permits the former patient or a successor physician access to them.

B. Pursuant to *Levy v. Board of Registration in Medicine*, 378 Mass. 519 (1979); *Raymond v. Board of Registration in Medicine*, 387 Mass. 708 (1982), the Board may discipline a physician upon proof satisfactory to a majority of the Board, that said physician has engaged in conduct that undermines the public confidence in the integrity of the medical profession.

The Board has jurisdiction over this matter pursuant to G.L. c. 112, §§ 5, 61 and 62. This adjudicatory proceeding will be conducted in accordance with the provisions of G.L. c. 30A and 801 CMR 1.01.

Nature of Relief Sought

The Board is authorized and empowered to order appropriate disciplinary action, which may include revocation or suspension of the Respondent's license to practice medicine. The Board may also order, in addition to or instead of revocation or suspension, one or more of the following: admonishment, censure, reprimand, fine, the performance of uncompensated public service, a course of education or training or other restrictions upon the Respondent's practice of medicine.

Order

Wherefore, it is hereby **ORDERED** that the Respondent show cause why the Board

should not discipline the Respondent for the conduct described herein.

By the Board of Registration in Medicine,

Candace Lapidus Sloane, MD

Candace Lapidus Sloane, M.D.
Board Chair

Date: May 19, 2016

STATE OF MAINE
BOARD OF LICENSURE IN MEDICINE

In re:)	CONSENT
William Ortiz, MD)	AGREEMENT
Complaint No. CR13-67)	

This document is a Consent Agreement, effective when signed by all parties, regarding discipline imposed upon the license to practice as a physician in the State of Maine held by William Ortiz, M.D. The parties to the Consent Agreement are: William Ortiz, M.D. ("Dr. Ortiz"), the State of Maine Board of Licensure in Medicine ("the Board"), and the State of Maine Office of the Attorney General ("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. At all times relevant to the complaint, Dr. Ortiz was licensed as a physician in the State of Maine. The Board first issued a license to practice medicine on February 29, 2012. Dr. Ortiz specializes in Internal Medicine.

2. On or about April 9, 2013, the Board reviewed information received from the Maine Medical Marijuana Program (MMMP) alleging that: (a) Dr. Ortiz held a "medical seminar" in Orono, Maine at the University Inn for the purpose of issuing medical marijuana certificates from 0800 hours on March 20, 2013 to 0300 hours on March 21, 2013; and from 0800 hours on March 21, 2013 to 1700 hours on March 21, 2013 – at which time the owner/manager of the hotel asked Dr. Ortiz to cease these activities; (b) Dr. Ortiz saw many people between March 20-21, 2013, who came from all over the State in order to obtain a marijuana certificate from him; (c) Dr. Ortiz charged each person \$200 cash and provided medical marijuana certificates for a three (3) month period. After the three (3) month period, a follow-up visit costing \$175 cash would be required to obtain a medical marijuana certificate for

a one (1) year period. Following its review, the Board initiated a complaint against Dr. Ortiz's Maine medical license alleging unprofessional conduct. The Board subsequently docketed the complaint as Complaint 14-44, and sent it to Dr. Ortiz for a response.

3. On or about May 17, 2013, the Board received a written response from Dr. Ortiz to Complaint CR13-67. In his response, Dr. Ortiz indicated that, in his professional judgment, he did not believe that a single patient visit provided him with enough history with a patient to justify a one-year certification. Dr. Ortiz described his own personal experience with medical marijuana, and how it relieved his own chronic pain. In addition, Dr. Ortiz indicated that he consulted with the Maine Medical Association regarding medical marijuana practice, and understood the importance of establishing a bona fide doctor-patient relationship. Dr. Ortiz admitted that he saw existing and new patients on March 20-21, 2013 at the University Motor Inn in Orono, Maine. According to Dr. Ortiz, he rented a conference room at the University Motor Inn for that purpose, and was assisted by his family members, including his wife and daughter. According to Dr. Ortiz, Judy Bunn – an individual who owned a business¹ in Old Town, Maine where Dr. Ortiz had seen patients - “double-booked” patients on March 20-21, 2013 at the University Motor Inn. As a result, Dr. Ortiz saw 33 patients on March 20th (from 8:00 am to 3:00 am) and 11 patients on March 21st at the University Motor Inn. In addition, Dr. Ortiz indicated that he saw an additional 15 patients on March 21st at the Black Bear Inn. According to Dr. Ortiz, of the 59 patients that he saw on March 20-21, 40 of them were “new” patients and “almost all of them have already had follow-up visits” with him. In addition, Dr. Ortiz indicated that he reviews the prescription monitoring program (PMP) records for each new patient to ensure that they are not diverting or abusing prescription medications. According to

¹ Investigation revealed that the business was called “The Captains Joint.”

Dr. Ortiz, he “gave live lectures to four or five patients at a time, each of which lasted forty² minutes to an hour.” In addition, Dr. Ortiz stated that the “individual visit with each patient was between forty³ minutes to an hour, and was consistent from patient to patient.”

4. On or about May 24, 2013, the Board received a supplemental response from Dr. Ortiz in response to questions from the Board’s investigator regarding the alleged amount of time that Dr. Ortiz spent giving “live lectures” and in “individual patient visits.” According to Dr. Ortiz, he “meant to state that the live lectures last for approximately 20 minutes” and that he gave them at 9:00 am, 12:00 pm, and 3:00 pm on March 20th and 21st. In addition, Dr. Ortiz indicated that he may also have given a lecture at 6:00 pm on March 20th, but could not recall. As a further clarification, Dr. Ortiz stated that “only new patients are required to attend [his] live lectures” and that only saw 15 new patients on March 20th and 18 new patients on March 21st. In addition, Dr. Ortiz indicated that “[u]pon further reflection, it’s more likely that the patient examinations for new patients... lasted 30 to 40 minutes” and that his follow-up examinations for existing patients were “typically around 20 minutes in duration.”

5. On June 18, 2013, the Board issued a subpoena to Dr. Ortiz to produce the “complete medical records” including prescription monitoring program (PMP) printouts for the 59 patients that Dr. Ortiz saw on March 20-21, 2013 at the University Motor Inn or the Black Bear Inn in Orono, Maine.

6. On or about July 17, 2013, the Board received from Dr. Ortiz a copy of the records that he created for the 59 patients he saw on March 20-21, 2013 in Orono, Maine. A review of those records revealed that: (a) The records of 7 new patients seen on March 20th did

² Thus, at a minimum, on March 20th Dr. Ortiz would have had 6 lecture sessions for a total of 240 minutes. This equates to 4 hours.

³ Thus, at a minimum, Dr. Ortiz would have spent 1,320 minutes with the 33 patients he saw on March 20th. This equates to 22 hours.

not include any documentation demonstrating that an examination was performed on March 20th; (b) The records of 12 existing patients seen on March 20th did not include any documentation that an examination was performed on March 20th; (c) The records of 21 new patients seen on March 21st did not include any documentation demonstrating that an examination was performed on March 21st; (d) The records of 4 existing patients seen on March 21st did not include any documentation that an examination was performed on March 21st. In addition, those same records contained sparse information regarding Dr. Ortiz's medical decision making, and failed to include a treatment plan. In sum, Dr. Ortiz's medical documentation failed to include the following elements for treating chronic pain in accordance with Board Rule, Chapter 21, Section III, "Principles of Proper Pain Management:"

- a. Appropriate documentation of medical history and physical examination, including the nature and intensity of the pain, current and past treatments for pain, underlying or coexisting diseases, the effect of the pain on physical and psychological functioning, and history of substance abuse.
- b. Appropriate documentation of a treatment plan that states objectives to be used to determine treatment success, and should indicate whether any other diagnostic evaluations or treatments are planned.

7. Section 3.1.2.1 of the Rules Governing the Maine Medical Use of Marijuana Program requires that a "physician must follow 2-373 or 2-383, Code of Maine Rules (C.M.R.), Chapter 21, *Use of Controlled Substances for Treatment of Pain* when certifying a patient for the medical use of marijuana.

8. On July 8, 2014, the Board reviewed the Complaint No. CR13-67, Dr. Ortiz's response, and the investigative information, and voted to schedule the matter for an adjudicatory hearing. In addition, the Board voted to offer Dr. Ortiz this Consent Agreement to resolve Complaint No. CR13-67 without further proceedings.

9. This Consent Agreement has been negotiated by Dr. Ortiz and legal counsel for the Board in order to resolve Complaint No. CR13-67 without further proceedings, including an adjudicatory hearing. Absent Dr. Ortiz's acceptance of this Consent Agreement by signing and dating it in front of a notary and mailing it to Maureen Lathrop, Investigative Secretary, Maine Board of Licensure in Medicine, 137 State House Station, Augusta, Maine 04333-0137 on or before September 8, 2014, the matter will be scheduled for an adjudicatory hearing.

10. By signing this Consent Agreement, Dr. Ortiz waives any and all objections to, and hereby consents to allow the legal counsel to the Board to present this Consent Agreement to the Board for possible ratification.

COVENANTS

11. Dr. Ortiz admits that the Board has sufficient evidence from which it could conclude that he engaged in unprofessional conduct pursuant to 32 M.R.S. § 3282-A(2)(F) based upon: (a) The manner and location of the medical marijuana clinics on March 20-21, 2013; and (b) Failing to create and maintain adequate medical records for the patient encounters on March 20-21, 2013. Dr. Ortiz admits that such conduct constitutes grounds for discipline of his Maine medical license.

12. As discipline for the conduct described in paragraphs 1-11 above, Dr. Ortiz agrees to:

- a. Accept a REPRIMAND. As a licensed physician and medical professional Dr. Ortiz is responsible for being aware of and following the Board's rules with regard to appropriate medical record documentation. In addition, by conducting these clinics at local hotels, through all hours, and with too numerous

a patient load, Dr. Ortiz created a negative impression of his activities that reflects badly upon the medical profession. Dr. Ortiz shall not again engage in this type of conduct.

b. Pay a MONETARY FINE of Two Thousand Dollars and Zero Cents (\$2,000.00). Dr. Ortiz shall ensure that he pays the monetary penalty within thirty (30) days following the execution of this Consent Agreement. Payment shall be made by certified check or money order made payable to "Treasurer, State of Maine," and be remitted to the Maine Board of Licensure in Medicine, 137 State House Station, Augusta, Maine 04333-0137.

c. Reimburse the Board One Thousand Four Hundred Eleven Dollars and Seventy-Six Cents (\$1,411.76) as the actual costs of the investigation of this matter. Dr. Ortiz shall ensure that he makes full payment of reimbursement to the Board within thirty (30) days following the execution of this Consent Agreement. Payment shall be made by certified check or money order made payable to "Maine Board of Licensure in Medicine" or any other method of payment acceptable to the Board and be remitted to the Maine Board of Licensure in Medicine, 137 State House Station, Augusta, Maine 04333-0137.

13. Following the execution of this Consent Agreement and the Board's receipt of Dr. Ortiz's payments of the fine and actual costs, the Board agrees to renew Dr. Ortiz's Maine medical license, which has been pended during the investigation of this complaint.

14. Dr. Ortiz waives his right to a hearing before the Board or any court regarding all findings, terms and conditions of this Consent Agreement. Dr. Ortiz agrees that this Consent Agreement is a final, non-appealable action resolving the Complaint No. CR13-67. This

Consent Agreement is not appealable and is effective until or unless modified or rescinded in writing 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.

15. The Board and the Office of the Attorney General may communicate and cooperate regarding Dr. Ortiz 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.

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

18. Nothing in this Consent Agreement shall be construed to affect any right or interest of any person not a party hereto.

19. The Board and Dr. Ortiz agree that no further agency or legal action will be initiated against him by the Board based upon complaint CR13-67.

20. Dr. Ortiz has not been represented by an attorney and has participated in the negotiation of this Consent Agreement.

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

22. Dr. Ortiz 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.

I, WILLIAM ORTIZ, 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:

8/18/14


WILLIAM ORTIZ, M.D.

STATE OF MAINE

ARROSTOCK, County

Personally appeared before me the above-named William Ortiz, 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:

8-18-2014


NOTARY PUBLIC/ATTORNEY
MY COMMISSION ENDS: _____

PATRICK R. BENNET,
Notary Public, Maine
My Commission Expires
March 4, 2019

STATE OF MAINE
BOARD OF LICENSURE IN MEDICINE

DATED:

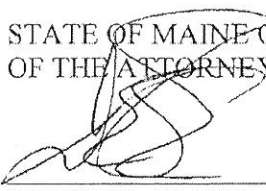
9/9/14


MAROULLA S. GLEATON, M.D., Chairman

STATE OF MAINE OFFICE
OF THE ATTORNEY GENERAL

DATED:

9/9/14


DENNIS E. SMITH
Assistant Attorney General

Effective Date:

9/9/14