



STATE OF MAINE
BOARD OF LICENSURE IN MEDICINE
137 STATE HOUSE STATION
AUGUSTA, MAINE
04333-0137

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RANDAL C. MANNING, M.B.A.
EXECUTIVE DIRECTOR

*CERTIFIED MAIL # 7008183000082055630
RETURN RECEIPT REQUESTED*

September 15, 2009

Holly E. Russell, Esq.
Preti, Flaherty, Beliveau & Pachios, LLP
One City Center
P.O. Box 9546
Portland, ME 04112-9546

Re: Board of Medicine Complaint No. CR08-254 (Robert Baroody, M.D.)

Dear Ms. Russell-Jones:

As you are aware, Dr. Baroody's license to practice medicine has been suspended for thirty (30) days commencing at 12:00 p.m. EST (noon) on September 8, 2009. The license suspension will end at 12:00 p.m. EST (noon) on October 8, 2009.

Dr. Baroody's Consent Agreement also imposed a monetary fine in the amount of One Thousand Five Hundred Dollars (\$1,500), which is due by October 8, 2009. The investigative costs of Two Thousand Three Hundred and Fifty-Six Dollars and Twenty-Five Cents (\$2,356.25) are due by September 8, 2010.

In addition, the Consent Agreement requires Dr. Baroody to within thirty (30) days, have a Board approved practice monitor who shall monitor his medical practice. Please provide the name of a proposed practice monitor as well as a CV for that individual. Dr. Baroody will also need to propose a course in medical ethics and boundaries for Board approval, which shall be completed within six (6) months.

Sincerely,

Maria MacDonald
Investigator

/mm
CR 08-254 ✓

STATE OF MAINE
BOARD OF LICENSURE IN MEDICINE

In re:)	CONSENT
Robert Baroody, M.D.)	AGREEMENT
Complaint No. CR08-254)	

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 Robert Baroody, M.D. The parties to the Consent Agreement are: Robert Baroody, M.D. (“Dr. Baroody”), 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. Baroody has held a license to practice medicine in the State of Maine since October 3, 1980, and specializes in Family Practice.

2. On or about February 15, 2008, the Board received information from a representative of Blue Hill Memorial Hospital stating that he had received a report, that if true, may be of concern to the Board and a breach of professional ethics. The report included an allegation that Dr. Baroody was engaged in a personal relationship with a former patient, SY. In addition, that information alleged that Dr. Baroody’s relationship with patient SY began when he was the primary care physician for both patient SY and her husband, NY. After receiving this information, the Board staff conducted further investigation, including interviewing former patient NY, obtaining various e-

mails allegedly exchanged between Dr. Baroody and former patient SY, and obtaining copies of Dr. Baroody's treatment records regarding patient NY and SY.

According to patient SY's medical records, Dr. Baroody began treating her for depression in January 2005. At that time, Dr. Baroody prescribed fluoxetine (Prozac) to SY to treat her depression. Between January 21, 2005 and July 3, 2007, Dr. Baroody saw patient SY on seventeen (17) occasions for issues related to depression. During those appointments with SY, Dr. Baroody repeatedly diagnosed her with "situational stresses" and "depression." In addition, Dr. Baroody treated patient SY with a number of different anti-depressant drugs, including fluoxetine (Prozac), Wellbutrin, amitriptyline, Zoloft, Lexapro, and Cymbalta. According to the patient records, as early as January 2006, patient SY confided in Dr. Baroody regarding her marital problems. According to the patient records, on July 3, 2007, Dr. Baroody saw patient SY for "situational stresses/depression." At that visit, patient SY told Dr. Baroody that she felt "somewhat caught in her situation at home" and "continues to see a marriage counselor, although her husband seems to be showing less interest... She still has not made any final decisions."

According to patient NY's medical records, on August 3, 2006, Dr. Baroody performed an annual medical review for patient NY, patient SY's husband. At that appointment, patient NY shared his previous diagnosis of "depression" with Dr. Baroody, whose assessment of patient NY included a diagnosis of "depression." Dr. Baroody noted that patient NY did not feel his

depression symptoms had been exacerbated by his recent cancer diagnosis. On November 2, 2006, Dr. Barody saw patient NY for several issues, including “squamous cell carcinoma” and “depression.” Dr. Barody continued to treat patient NY’s depression with Paxil. On March 16, 2007, Dr. Barody saw patient NY for fatigue related to his radiation therapy for squamous cell carcinoma. At that visit, Dr. Barody agreed to see patient NY in two months. On July 30, 2007, Dr. Barody saw patient NY for “intermittent anxiety episodes/panic attacks.” According to Dr. Barody’s notes of that visit, patient NY confided to him that “his wife recently reported that she does not feel she can go on with her marriage, and that they need to separate. He has found this stressful.” As treatment, Dr. Barody recommended patient NY increase his dosage of Paxil, provided patient NY with lorazepam, and noted that patient NY be rechecked in two weeks.

3. On or about July 8, 2008, the Board reviewed the information provided by Blue Hill Memorial Hospital and the investigative materials obtained by the Board staff, and, pursuant to Title 32 M.R.S.A. § 3282-A, initiated a complaint against Dr. Barody’s Maine medical license. The Board docketed that complaint as CR08-254.

4. On or about August 26, 2008, the Board received a written response from Dr. Barody to complaint CR08-254. In his response, Dr. Barody admitted that he had been the primary care physician for both patient SY and NY. However, Dr. Barody denied that he started a personal relationship with SY when she was still his patient. According to Dr. Barody,

his professional relationship with SY ended on July 6, 2007.¹ According to Dr. Baroody, his first sexual encounter with SY occurred on July 15, 2007. According to Dr. Baroody, "it was clear by 2006 that the sole reason for her (SY) depression was the ongoing daily emotional and verbal abuse that her husband (NY) subjected her to." In addition, according to Dr. Baroody, "it became clear during the late winter or early spring of 2007 that she had left her marriage emotionally for some time and that it would never succeed. She felt trapped in her relationship... the marriage had been over for some time. SY made that very clear." Dr. Baroody admitted that he saw NY as a patient on July 30, 2007, two weeks after his first sexual encounter with NY's wife. According to Dr. Baroody, this appointment with patient NY was an unexpected, urgent, add-on visit, and he felt it was his professional obligation to see NY. Dr. Baroody also felt that he should not disclose to NY his sexual relationship with NY's wife. Dr. Baroody alleged that even though he began a sexual relationship with SY while she was still living in a home with NY, their "marriage was over."

5. On or about September 9, 2008, the Board reviewed the complaint materials, including Dr. Baroody's response, and voted to schedule the matter for an adjudicatory hearing. In addition, the Board authorized its legal counsel to offer Dr. Baroody a Consent Agreement to resolve complaint CR08-254.

¹ According to Dr. Baroody: he provided medical care to SY for 3 ½ years; prior to becoming his patient, he had known and worked with SY at his medical practice and the hospital; and had conversations with SY about the need to end their professional relationship prior to commencing a personal relationship.

6. This Consent Agreement has been negotiated by legal counsel for Dr. Baroody and legal counsel for the Board in order to resolve complaint CR08-254 without an adjudicatory hearing. Absent Dr. Baroody'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 August 6, 2009, 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.

7. By signing this Consent Agreement, Dr. Baroody and his legal counsel waive any and all objections to, and hereby consent to the presentation of this Consent Agreement to the Board for possible ratification. Dr. Baroody and his legal counsel also forever waive any arguments of bias or otherwise against any of the Board members in the event that the Board failed to ratify this proposed Consent Agreement.

COVENANTS

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

8. Dr. Baroody admits that with regard to complaint CR08-254 the Board has sufficient evidence from which it could reasonably conclude that he engaged in unprofessional conduct by: (a) engaging in a personal/romantic relationship with patient SY, whom he had been treating for mental health issues; (b) engaging in a sexual relationship with former patient SY within ten

(10) days of ending their physician/patient relationship; and (c) engaging in a romantic/sexual relationship with SY, while still having a physician/patient relationship with SY's husband. Dr. Baroody admits that the Board has sufficient evidence from which it could conclude that such conduct constitutes unprofessional conduct and grounds for discipline of his Maine medical license pursuant to 32 M.R.S.A. § 3282-A(2)(F).

9. As discipline for the conduct described in paragraph 8 above, Dr. Baroody agrees to accept, and the Board agrees to issue, the following discipline:

a. A REPRIMAND. Dr. Baroody is hereby reprimanded by the Board for engaging in unethical and unprofessional conduct. Dr. Baroody agrees never to engage in this type of conduct again.

b. A MONETARY FINE of One Thousand Five Hundred Dollars and Zero Cents (\$1,500.00). Dr. Baroody 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 Maria MacDonald, Investigator, Maine Board of Licensure in Medicine, 137 State House Station, Augusta, Maine 04333-0137.

c. A LICENSE SUSPENSION of thirty (30) days commencing upon the execution² of this Consent Agreement.

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

d. A LICENSE PROBATION for five (5) years following the execution of this Consent Agreement. As specific conditions of probation, Dr. Baroody shall:

(i) Notify the Board in writing of any and all current locations where he practices medicine. In complying with this condition, Dr. Baroody shall notify the Board in writing of any change(s) in the location(s) of his practice of medicine within seven (7) days of any such change(s).

(ii) Permit the Board or its agent(s) complete access to his medical practice, including but not limited to all patient records, employee records, office records, and office equipment.

(iii) Permit the Board or its agent(s) to conduct random and/or announced inspections of his medical practice. Dr. Baroody shall bear the cost of any such inspection(s) by the Board or its agent(s).

(iv) 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 appropriate patient-physician boundaries. Dr. Baroody shall provide the Board with documentation of the successful completion of this course in medical ethics and boundaries within six (6) months following the execution of this Consent Agreement.

(vi) Within thirty (30) days following the execution of this Consent Agreement, Dr. Baroody must have a Board-approved practice monitor who shall monitor his medical practice. In complying with this requirement,

Dr. Baroody 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. Baroody and observe him within his medical practice at least once a week, and inform the Board if Dr. Baroody 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 24 hours or as soon thereafter as possible. Dr. Baroody understands that the monitoring physician will be an agent of the Board pursuant to Title 24 M.R.S. § 2511. Dr. Baroody shall permit the monitoring physician full access to his medical practice, including but not limited to all patient information. The Board-approved monitor shall provide the Board with reports regarding Dr. Baroody's medical practice on or before October 9th, January 9th, April 9th, and July 9th of each year following the execution of this Consent Agreement.

(vii) Within one (1) year of the execution of this Consent Agreement, Dr. Baroody shall reimburse the Board Two Thousand Three Hundred Fifty-Six Dollars Twenty-Five Cents (\$2,356.25) as the actual 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.

10. Violation by Dr. Baroody 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.

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

12. Dr. Baroody waives his right to a hearing before the Board or any court regarding all findings, terms and conditions of this Consent Agreement. Dr. Baroody agrees that this Consent Agreement and Order is a final order resolving complaint CR08-254. This Consent Agreement is not appealable and is effect 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. Baroody shall be made in writing and submitted to the Board. Dr. Baroody may, at reasonable intervals, petition the Board for amendment of the terms and conditions of this Consent Agreement. Upon making such a petition, Dr. Baroody shall bear the burden of demonstrating that the Board should amend the Consent Agreement. The Board shall have the discretion to: (a) deny Dr. Baroody's petition; (b) grant Dr. Baroody's petition; and/or (c) grant Dr. Baroody'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.

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

14. 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.

15. 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).

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

17. The Board and Dr. Baroody agree that no further agency or legal action will be initiated against him by the Board based upon the facts described herein³, 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 misconduct in the event that similar true allegations are brought against Dr. Baroody in the future. The Board may also consider the fact that discipline was imposed by this

³ The "facts described herein" include any future complaint by patient SY that Dr. Baroody engaged in unprofessional conduct by entering into or continuing a personal or sexual relationship with her.

Consent Agreement in determining appropriate discipline in any further complaints against Dr. Baroody's license.

18. Dr. Baroody 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, ROBERT BAROODY, 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: 8/6/09 Robert Baroody
ROBERT BAROODY, M.D.

STATE OF Maine
Hancock County, S.S.

Personally appeared before me the above-named Robert Baroody, 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: 8/6/09 Dianne B. Thompson
NOTARY PUBLIC/ATTORNEY

MY COMMISSION ENDS: _____
DIANNE B. THOMPSON
NOTARY PUBLIC MAINE
MY COMMISSION EXPIRES MAY 03, 2012


DATED: _____



HOLLY F. RUSSELL JONES, ESQ.
ATTORNEY FOR ROBERT BAROODY,
M.D.

STATE OF MAINE
BOARD OF LICENSURE IN MEDICINE


DATED: 09/08/2009



SHERIDAN R. OLDHAM, M.D., Chairman

STATE OF MAINE DEPARTMENT
OF THE ATTORNEY GENERAL

DATED: 9/8/09



DENNIS E. SMITH
Assistant Attorney General

Effective Date: