

STATE OF MAINE  
BOARD OF LICENSURE IN MEDICINE

IN RE: )  
MARK A. KANDUTSCH, M.D. ) CONSENT AGREEMENT

This document is a Consent Agreement, effective when signed by all parties, regarding a license to practice medicine in the State of Maine held by Mark A. Kandutsch, M.D. The parties to this Agreement are Mark A. Kandutsch, M.D. (the "licensee"), the State of Maine Board of Licensure in Medicine (the "Board") and the Maine Department of Attorney General. This Consent Agreement is issued pursuant to 10 M.R.S.A. § 8003(5)(B) and 32 M.R.S.A. § 3282-A(1).

STATEMENT OF FACTS

At all relevant times, Dr. Kandutsch has held a license to practice medicine in the State of Maine. In July, 1992, Dr. Kandutsch began dating a young woman who was his patient and became sexually involved with her. In July, 1995, this patient complained to the Board about Dr. Kandutsch's conduct and the adverse emotional effects which she suffered because of this relationship.

The Board issued a complaint against Dr. Kandutsch for unprofessional conduct. The Board also ordered a psychiatric evaluation and later voted to proceed to an adjudicatory hearing.

AGREEMENT

In lieu of proceeding to an adjudicatory hearing, Dr. Kandutsch, the Board and the Department of Attorney General agree to the following:

1. Dr. Kandutsch's behavior in initiating a sexual relationship with a patient constitutes unprofessional conduct as defined by 32 M.R.S.A. § 3282-A(2)(F).

2. Dr. Kandutsch agrees to accept a REPRIMAND from the Board and to pay a fine of \$1,500 as discipline for his unprofessional conduct.

3. Dr. Kandutsch agrees to have a chaperone present for all examinations of female patients. An examination occurs whenever the patient removes any clothing or is touched by the physician.

4. A confirmed violation of the terms of this Agreement shall result in the immediate, indefinite and automatic suspension of Dr. Kandutsch's license. A violation shall be confirmed by the Board Chairman who will make a preliminary determination of validity within 10 days of the report based on the information provided to the Board and Dr. Kandutsch's response to that information. The automatic suspension shall become effective at the time of actual notice from the Board that a report of violation has been substantiated by the Board Chairman. Actual notice can be provided by telephone, in person, in writing, by another means or any combination of the above-mentioned means. The indefinite, automatic suspension shall continue until the Board holds a hearing on the matter, unless the Board Chairman, in consultation with the Assistant Attorney General, determines that the report is without merit or decides that no further sanction is warranted.

5. Dr. Kandutsch may petition the Board in writing for amendment of this agreement no sooner than three years after the date of approval by the Board. The decision to amend this agreement shall be discretionary with the Board and shall be made without a hearing, based on information provided to and requested by

the Board.

6. Dr. Kandutsch waives his right to a hearing before the Board or any Court regarding all findings, terms and conditions of this Consent Agreement.

7. Dr. Kandutsch has been represented by Gene Libby, Esq. who has participated in the negotiation of the terms of this Agreement.

I, MARK A. KANDUTSCH, M.D., HAVE READ AND UNDERSTAND THIS CONSENT AGREEMENT. I UNDERSTAND THAT BY SIGNING IT I WAIVE CERTAIN RIGHTS. I SIGN IT VOLUNTARILY, WITHOUT ANY THREAT OR PROMISE.

Dated:

10 31 97

  
MARK A. KANDUTSCH, M.D.

Dated:

11 -18 -97

  
EDWARD DAVID, M.D., Chairman  
Board of Licensure in Medicine

Dated:

11/18/97

  
RUTH E. McNIFF  
Assistant Attorney General