



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

EDWARD DAVID, M.D.J.D.
CHAIRMAN

JOHN ELIAS BALDACCI
GOVERNOR

RANDAL C. MANNING
EXECUTIVE DIRECTOR

September 19, 2006

**SENT VIA FIRST CLASS AND CERTIFIED MAIL 7003 3110 0004 1522 7460
RESTRICTED DELIVERY, RETURN RECEIPT REQUESTED**

Sarah E. Babine, M.D.
The Medical Group
3 Shape Dr
Kennebunk, ME 04043

Re: Summary suspension of Maine medical license

Dear Dr. Babine:

This letter is to inform you that at the September 19, 2006 meeting of the Board of Licensure in Medicine the Board reviewed information regarding your failure to comply with the Board Order dated September 12, 2006. Pursuant to Title 5 M.R.S.A. 10004(3) the Board voted to suspend your medical license effective immediately based upon the immediate jeopardy that your continued practice of medicine poses to the safety of the public. Your license is suspended effective September 19, 2006, for a period of thirty (30) days. An Adjudicatory Hearing will take place at a later date. Notice of the time date and location of the Adjudicatory Hearing will be sent to you forthwith.

Because your license is under suspension, immediately return the license to this office at the address above.

Sincerely,


Randal C. Manning
Executive Director

RCM/msl
cc: Dennis E. Smith, AAG
Kenneth W. Lehman, Esq. (7003 3110 0004 1522 7453)

II.

FINDINGS OF FACT

A. Factual History

Sarah Babine, M.D., graduated from medical school in 1993. She has a specialty in the field of psychiatry which she has practiced for approximately 13 years. Dr. Babine was first licensed as a physician in the State of Maine on June 6, 2003 and her current license expires on January 31, 2007. Dr. Babine has been employed at The Medical Group in Kittery, Maine, which employs some 50 staff members ranging from non-health professionals to physicians. She is the sole psychiatrist in that practice and treats a wide variety of patients including mostly adults and the elderly. Dr. Babine is well respected by her fellow colleagues who testified at this hearing and according to them there have been no indications that she has been impaired at work or has a substance abuse problem.

Dr. Babine lives alone at home with her dog. Following her usual Monday-Friday work day from 7:30 a.m. -5:00 p.m., she gardens in season and has other talents and interests which include the restoration of an antique automobile and the installation of new floors in her home. Dr. Babine admitted in her response to the Board's inquiry that "I like a regular glass of wine" but stated that she has never been impaired while treating patients.

On or about September 24, 2004, at approximately between 9:30 p.m. and 10:15 p.m. while on call, Dr. Babine consumed approximately a 6 ounce glass of wine at her home in Kennebunk, Maine. One hour later, she was requested to travel to Southern Maine Medical Center in order to deal with one of her patients who had been voluntarily admitted but who had changed her mind and wanted to be released. After arriving at the hospital, several of the nursing staff reported smelling alcohol on Dr. Babine's breath. Shortly thereafter, Dr. Babine admitted to consuming a glass of wine during a discussion with the supervising nurse. The licensee then was informed that the Chief of the Medical Staff, Dr. Terry Sheehan, wanted to speak with her by telephone. Dr. Babine spoke to this individual and was advised to turn over the patient to the Chief of Psychiatric Services. Dr. Babine was then assessed for impairment by the nursing supervisor who noted no impairment in her functioning.

The following Sunday, Dr. Babine met with Dr. Sheehan who informed her that although the hospital did not have an absolute policy regarding the consumption of alcohol while on call, it was not considered to be a good idea. Dr. Sheehan then suggested that she contact the Maine

Physician Health Program (PHP) in case someone reported the incident to the Board. Subsequently, Dr. Babine was able to contact David Simmons, M.D., Clinical Director of the PHP. She met with Dr. Simmons for approximately 1 1/2 to 2 hours on October 2, 2004 at which time she agreed to a substance abuse evaluation with the physician recommended by Dr. Simmons. However, Dr. Babine was concerned that it appeared as though Dr. Simmons was “not able to differentiate me from his own issues or the issues of others. I began to write down the things that bothered me about our interactions. In that second meeting I felt he became coercive, and he wrote a follow up letter which was clearly coercive.”

Dr. Babine was evaluated by the recommended physician. She stated in her response to the Board that this individual was also biased based on his experience with recovery and 12 step programs. She wrote that she reviewed his evaluation and “was astounded to find it full of errors of fact, omission, and commission, creating a very negative distortion of who I am, where I’ve been, and what I’ve done with my life, and where I am now. I let him know that this was exactly the kind of distortion and pathologizing that I avoid in my work...”

The evaluation was forwarded to Dr. Simmons who recommended that Dr. Babine enroll in the PHP program. On February 5, 2005, Dr. Simmons wrote the Board (in compliance with the protocol between the PHP and the Board) and informed it that Dr. Babine had refused to enter into a contract with that program. On February 15, 2005, the Board sent Dr. Babine a letter requesting an explanation for her failure to enroll in the PHP program. One month later, the Board received Dr. Babine’s reply in which she stated that “in the absence of any evidence that I am in any way impaired in my ability to safely practice medicine, I must express my concern that [Dr. Simmons and the PHP] have behaved unprofessionally and unethically in violating my confidentiality.” She further stated that “I have no further information to provide or release.”

On March 16 and 18, 2005, Board staff telephoned Dr. Babine with requests for her to call the Board. The calls were not returned and the licensee testified that she never received them. On April 19, 2005, the Board sent Dr. Babine a complaint against her license which she received on April 23. The complaint alleged, among other things, unprofessional conduct and habitual substance abuse and requested a response within 30 days. Despite Board reminders that the response had not been received, Dr. Babine waited until June 8, 2005 before responding by e-mail. She had previously stated that the Board complaint was “somewhat vague and difficult to respond to and that she had been busy caring for her patients.”

On June 17, 2005, the Board sent Dr. Babine a written request for a copy of the substance abuse evaluation which she referred to in her response to the Board complaint. Dr. Babine did not respond and neither did she raise any issues related to confidentiality pursuant to federal law. On August 8, 2005, the Board's Executive Director sent Dr. Babine a second request for the substance abuse report. In that letter, the licensee was informed that failure to produce same would most likely result in a Board order requiring that she undergo a full substance and psycho-social evaluation at her own expense. Dr. Babine, once again, did not respond to this request.

As a result, the Board, on September 27, 2005, sent Dr. Babine a letter directing her to "undergo a psychological and substance abuse evaluation" which she agreed to have performed by Jonathan Siegel, Ph.D. She requested, however, that she be permitted to review with him the accuracy of his report prior to releasing same to the Board. Dr. Siegel denied the request as it was contrary to the accepted standard of practice.

On November 18, 2005, Dr. Siegel conducted the evaluation during which he requested the name of the prior evaluator who had performed the evaluation through PHP and also that she provide him with a copy of that evaluation. Dr. Babine refused these requests on the basis that the evaluator was "biased" and that "it would be inappropriate to allow inaccurate information [to] become part of my official record."

Significantly, Dr. Babine revealed to Dr. Siegel that Dr. Simmons had quoted a diagnosis of "alcohol abuse" from the report and then written a letter indicating that the expert had said something "between abuse and dependency." She then confirmed with Dr. Siegel that the expert had specifically stated to her that Dr. Babine had an alcohol abuse problem.

On February 27, 2006, the Board received a copy of Dr. Siegel's evaluation which was then forwarded on to Dr. Babine. The Board then scheduled the matter for hearing prior to which the State subpoenaed the PHP expert's evaluation which was not provided by the licensee despite being ordered to provide same following argument between the parties just before the hearing.

B. Dr. Babine's Testimony

Dr. Babine mostly reiterated her written response to the Board. She further explained that the first evaluation indicated that she had a problem related to the abuse of alcohol but that the report was inaccurate and contained boundary issues around the evaluator's own personal history. She testified that she was more objective regarding the alcohol issue as it pertained to her than the experts and that she did not have an alcohol related problem. She repeated her belief that Dr.

Simmons was coercive, threatening, and misconstrued the expert's report. She accused the expert evaluator of bias and with errors of omission and commission, distortions and pathologizing, and labeling her with a diagnosis detrimental to her reputation. She also commented that her skills were better than some of her colleagues.

Dr. Babine also expressed her dissatisfaction with Dr. Siegel and his evaluation. She felt that his signature of "Jonathan" on one of his cover letters to her was too personal and therefore inappropriate. Although Dr. Babine claimed that Dr. Siegel's report contained many factual inaccuracies, she was hard pressed at the hearing to give examples of any significance.

Dr. Babine also discussed her reasons for refusing to participate in the Minnesota Multiphasic Personality Inventory (MMPI) test which Dr. Siegel determined was a necessary component to a valid evaluation. She testified that she was aware of the test's benefits in that the results could be of value in certain types of major diagnostic categories and personalities and could assist in determining differential diagnoses including personality disorders. However, she testified that the test was inappropriate for her since she believed that the norm was based on individual subjects who had achieved only 2/3rds of her educational level and were of a lower socio-economic status. Additionally, she was concerned that the test could be interpreted in a number of ways and the results of the K scale interpretation, which measures defensiveness, could be skewed to her detriment. However, Dr. Babine did not bring those concerns to Dr. Siegel's attention since she stated that he might think she was "difficult" and would risk "antagonizing" him if she questioned him regarding how the results of the MMPI would be interpreted.

Dr. Babine also felt that Dr. Siegel had been dismissive of her when he declined to allow her to review the results of the evaluation before the Board obtained a copy of same. She didn't feel safe or comfortable with Dr. Siegel due to a concern that the information which she gave to him would not "be understood and recorded in a manner that represented who I am." This concern partially arose when she informed Dr. Siegel that her brother was schizophrenic and had been in a forensic facility during the past 30 years. Dr. Siegel recognized the facility as one where individuals are sentenced to if found not guilty by reason of insanity but neglected to explore the reasons why the brother was at that institution except to confirm that the brother must have "done something bad." In fact, the brother had killed their father and grandmother when Dr. Babine was

19 years old.² Dr. Babine further testified that the effect of Dr. Siegel's failure to follow up on his questioning regarding this topic made her feel as though the purpose of the evaluation was not to gain a full understanding of who she was and where she was but rather to "give the Board the answer they wanted." She additionally testified that she thought that the Board wanted to hear that "I had a problem" when it requested the evaluation which would be paid for by the Board and could not accept any bona fide reason for the Board's ordering the evaluation except for her drinking the one glass of wine.

Dr. Babine has not attended any AA or Caduceus meetings or received substance abuse counseling. At the end of her testimony, Dr. Babine reiterated that she had not consumed alcohol on call since September 2004 but, when asked by the Board, stated that she had consumed alcohol "once or twice" while on call before that time. She stated that it was bad judgment to have had alcohol while on call. She then decided to reveal the name of her first evaluator. However, she continued to deny the Board access to her evaluation and would not issue a release to enable that physician to send a copy of or to discuss the evaluation with the Board.

Dr. Babine concurred that any amount of alcohol could be interpreted as being a risk to the patient populace. She stated that her "colleagues will tell you how I am" in response to the Board questioning how, without testing and evaluation, it could be assured that there wasn't a problem. Dr. Babine was also made aware by the Board that testing and evaluation may reveal a person different from who she thinks she is and that the fact that all psychological testing is open to interpretation is no reason under the circumstances to refuse to be tested.

C. Colleagues' Testimony

Dr. Babine called three individuals to testify on her behalf. All stated that she was a competent practitioner and that they had never seen nor suspected her to be impaired or to have a substance abuse problem. However, one of her fellow physicians agreed that substance abuse may go undetected and another admitted to being surprised when he discovered that a patient was a substance abuser.

D. Testimony of Jonathan Siegel, Ph. D.

Dr. Siegel was qualified as an expert through his vast experience, education and training. He has performed more than 800 treatment evaluations and testified in at least 200 court

² Dr. Siegel testified that the brother's incarceration was irrelevant to his evaluation since Dr. Babine did not react to that tragedy by turning to alcohol or drugs or recognize any problem with the latter.

proceedings as a psychologist. He has provided at least 10 evaluations similar to the one requested regarding Dr. Babine. Dr. Siegel testified that the standard of practice regarding these evaluations requires that he conduct clinical interviews, consider prior evaluations, perform psychological testing and make contact with collateral references. Dr. Siegel was confident in his ability to perform an unbiased evaluation and Dr. Babine did not express any concern to him on that issue.

Dr. Siegel requested that Dr. Babine provide him with the prior evaluation since it would most likely factor into his evaluation. She refused stating that the prior evaluation contained erroneous conclusions. In response, Dr. Siegel stated that he would give her the opportunity to review those inaccuracies with him but she declined and explained that it was inappropriate to let incorrect information be a part of her official record. Dr. Babine did disclose that the prior evaluator "has stated she had an alcohol abuse problem specifically." Dr. Babine also disclosed that she had told the evaluator that she consumed "one to three glasses of wine several times a week" and that in the past, her consumption had been higher and that she had "cut back." She also confided that she told the expert that "I suppose I'd probably feel better if I didn't drink at all."

Dr. Siegel further testified that the MMPI is the most accepted and well researched objective personality test and is accepted as the gold standard of any forensic evaluation. He testified that Dr. Babine was totally incorrect in her assertion regarding the underlying norms and in how the responses are interpreted. Moreover, the test would render unbiased results and would be scored by the only professional so authorized. Although Dr. Babine refused to participate in this test, she did offer to take the Wechler Adult Intelligence Scale. Dr. Siegel demurred as Dr. Babine's level of intellectual functioning was not in question.

Dr. Siegel was somewhat incredulous regarding Dr. Babine's testimony that she felt unsafe and uncomfortable during the evaluation. Dr. Siegel stated that toward the end of their interview, Dr. Babine chose to share with him pictures of an old house that she hoped to restore that used to be in her family. There was nothing in her manner to indicate that she was not comfortable. This expert added that Dr. Babine's explanation that Dr. Siegel made her feel uncomfortable and unsafe as a reason for her refusal to take the MMPI and her choice not to disclose her brother's horrific crime or pursue discussing the effects of same were examples of her blaming others for her decisions.

Dr. Siegel was also disturbed by other actions demonstrated by Dr. Babine. For example, she displayed pictures of several patients whom she had successfully treated in California after

other practitioners had not met with success. The lack of respect for their confidentiality was problematic as was her perceived need for praise and affirmation. Dr. Siegel testified that individuals such as Dr. Babine may undergo deflation and a sense of having been dismissed, humiliated, and placed in a shameful position if the above needs are not met. He stated that Dr. Babine presented as though others were deceiving her and that she had probable narcissistic dynamics in her personality and viewed the process as a narcissistic injury. In that regard, he noted that it was dramatic for him to witness her “extraordinary difficulty” in dealing with some of the State’s and Board’s questions whereas she exhibited a “remarkable turnaround” when praised by her colleagues.

In summation, Dr. Siegel did not feel as though he had obtained enough information and data without the prior evaluation and MMPI test scores to offer an informed opinion as to whether Dr. Babine has a substance abuse problem. He further stated that her resistance to the testing and release of the prior evaluation could or could not be related to substance abuse.

III. CONCLUSIONS OF LAW

The Board, exercising its knowledge, experience, and training, and having considered all of the evidence, and particularly having had the opportunity to observe Dr. Babine’s demeanor during this proceeding including her occasional vague responses to questions, hereby unanimously concludes that the State has met its burden of proof by a preponderance of the evidence that Sarah Babine, M.D., violated the provisions of 32 M.R.S.A. Sec. 3282-A(2)(F)³ by her unprofessional conduct which is defined as a violation of the standard of professional behavior that has been established in the practice for which the licensee is licensed. More specifically, Dr. Babine violated this section by her failure to fully comply with a mental examination by Dr. Jonathan Siegel as ordered by the Board pursuant to 32 M.R.S.A. Sec. 3286⁴ in that she refused to produce the prior substance abuse evaluation and refused to undergo the MMPI as recommended by the examiner.

The Board additionally concluded by a vote of 7-1 that Dr. Babine violated the provisions of 32 M.R.S.A. Sec. 3282-A(2)(B) by engaging in habitual substance abuse that has resulted in or

³ The Board also unanimously concluded that Dr. Babine violated the provisions of 32 M.R.S.A. Sec. 3282-A(2)(H) by violating any Board statute or Rule: to wit, the same sections 3282-A(2)(F) and 3286.

⁴ The Board by a vote of 7-1, concluded that Dr. Babine’s refusal to fully comply with a mental examination constituted an admission as authorized by this section to the allegations in the complaint.

is foreseeably likely to result in her performing medical services in a manner that endangers the health or safety of patients. In support of its conclusion, the Board reasoned that:

1. The prior evaluation as confirmed by Dr. Babine identified her as having an alcohol abuse problem.
2. Dr. Simmons apparently agreed that there was a substance abuse problem since he requested that Dr. Babine sign a contract with the Physicians' Health Program.
3. Dr. Babine refused to participate in the PHP program.
4. Dr. Babine refused to submit a copy of said report to either Dr. Siegel or the Board. This refusal effectively and intentionally stymied Dr. Siegel from completing his evaluation as did her refusal to take the MMPI which may have disclosed substance abuse and/or other serious personality issues.
5. Dr. Babine admitted in her response to the Board's complaint that she enjoys a regular glass of wine and that she informed Dr. Siegel that she had told the evaluator that she consumed "one to three glasses of wine several times a week" and that in the past, her consumption had been higher and that she had "cut back." She also confided that she told the expert that "I suppose I'd probably feel better if I didn't drink at all."
6. Dr. Babine appeared at Southern Maine Medical Center to attend to a patient while on call after consuming approximately 6 ounces of wine.
7. Dr. Babine insisted that she is able to view herself more objectively than experts skilled in substance abuse and other related mental health fields.

In this regard, the Board was particularly concerned that Dr. Babine appeared to find fault with or bias regarding professionals who suspected or diagnosed that she had a substance abuse problem. She claimed that Dr. Siegel was dismissive of her, that he did not provide her the opportunity to be transparent in that she felt uncomfortable and unsafe, that he and others failed to accurately report her history, and that Dr. Simmons was coercive and threatening while the first expert was guilty of inaccuracies, distortion and pathologizing.

IV.

SANCTIONS

The Board has as its primary duty the protection of the public. The Board strives to achieve this mandate by effectively regulating those practitioners who it licenses. The Board could not effectively regulate physicians if the licensees were allowed to pick and choose which tests and

evaluations they would participate in during Board ordered examinations. Moreover, for the Board to obtain a full understanding of an alleged substance abuse or other serious problem, physicians cannot be allowed to hide allegedly damaging evaluations and produce those that are favorable to them.

As a result of the above violations, the Board, exercising its knowledge, experience, and training, and having considered all of the evidence, and particularly having had the opportunity to observe Dr. Babine's demeanor, by the following votes ordered the below sanctions regarding Dr. Babine's license to practice medicine.

1. Dr. Babine shall receive a written **Reprimand** due to the above cited violations. These violations go to the heart of the Board's regulatory responsibilities and represent a calculated, deliberate obstruction of the Board's orders and a refusal by the licensee to be regulated. (8-0)

2. Dr. Babine's license to practice medicine is hereby placed on probation for a period of five (5) years. During that time, she shall, at her own expense:

a. Enlist in the Physicians' Health Program by July 18, 2006 and fully cooperate with the provisions of that program.⁵

b. Fully cooperate in an evaluation pursuant to 32 M.R.S.A. Sec. 3286 to be conducted by an evaluator selected by the licensee by September 11, 2006 but pre-approved by the Board before any services are rendered. The licensee shall have the opportunity to present to the Board two individuals who she deems acceptable to provide the service. In the event that the Board does not approve either, the Board shall select the evaluator. The licensee shall provide the evaluator with copies of Dr. Johnson's and Dr. Siegel's evaluations as well as all other evaluations and documents that the evaluator requests. The testing shall include but not be limited to the MMPI as well as projective testing. The evaluator shall issue within 10 days of his/her selection a schedule outlining dates by which the goals of the evaluation will be reached, including the final report. The schedule shall be pre-approved by the Board. In the event that the Sec. 3286 evaluation reveals mental health issues that need to be addressed, Dr. Babine shall retain a counselor pre-approved by the Board to provide such counseling and to provide quarterly reports to the Board regarding the progress of the sessions. (8-0)

⁵ Both Dr. Babine and her legal counsel were present at all times during these proceedings including when the Board voted on these sanctions. Therefore, they were aware that the Board expected compliance with the dates noted herein even though the Decision had not been reduced to writing or signed by the time that the hearing adjourned.

3. Dr. Babine shall **pay by July 11, 2007, the Board's costs of this hearing not to exceed \$3,000⁶** with the exception that she shall pay for any additional costs of transcribing the hearing testimony at her request or if she appeals. Payment of the \$3,000 shall be by certified check or money order **made payable to: "Maine Board of Licensure in Medicine"** and remitted to Randal C. Manning, Executive Director, 137 State House Station, Augusta, Maine 04333-0137. Costs are ordered due to the failure of the licensee to cooperate with Dr. Siegel's examination and failure to provide a copy of the prior evaluation. Had the licensee cooperated, a hearing may have been avoided, or at least, a proceeding which consumed much less time would have most likely occurred. The costs are also ordered consistent with past Board practices and because Board licensees who obey Board statutes and Rules should not be obligated to pay for the costs of those who don't. Full costs were not ordered by the majority since Dr. Babine will have associated costs in complying with the conditions of probation. (5-3). (The dissenting members would assess the full costs of the hearing).

SO ORDERED.

Dated: September 12, 2006



Edward David, M.D., J.D., Chairman
Maine Board of Licensure in Medicine

V.

APPEAL RIGHTS

Pursuant to the provisions of 5 M.R.S.A. Sec. 10051.3 and 10 M.R.S.A. Sec. 8003, any party that appeals this Decision and Order must file a Petition for Review in the Superior Court within 30 days of receipt of this Order. The petition shall specify the person seeking review, the manner in which they are aggrieved and the final agency action which they wish reviewed. It shall also contain a concise statement as to the nature of the action or inaction to be reviewed, the grounds upon which relief is sought and a demand for relief. Copies of the Petition for Review shall be served by Certified Mail, Return Receipt Requested upon the Maine State Board of Licensure in Medicine, all parties to the agency proceedings and the Attorney General.

⁶ The costs including those of Dr. Siegel, the investigator, publication of the notice of hearing, and presiding officer exceed \$6,000.