



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

JOHN ELIAS BALDACCI
GOVERNOR

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

RANDAL C. MANNING
EXECUTIVE DIRECTOR

June 17, 2003

Robert N. Phelps, Jr., M.D.
597 Spruce Head Road
S. Thomaston, ME 04858

Dear Dr. Phelps:

Pursuant to your request, the Board has authorized this letter to confirm that the proceedings that resulted in the Consent Agreement dated June 13, 2000 did not involve your orthopedic clinical competence.

Very truly yours,


Dan Sprague
Assistant Executive Director

AGREEMENT

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

1. The Licensee agrees that his conduct violated Chapter 10 of the Rules of the Board of Licensure in Medicine regarding sexual misconduct. Sexual misconduct is behavior that exploits the physician—patient relationship in a sexual way. It is non-diagnostic and non-therapeutic. Sexual misconduct constitutes incompetence and unprofessional conduct as defined by 32 M.R.S.A. § 3282-A(2).

2. The Licensee will be on PROBATION INDEFINITELY from the effective date of this agreement with the following conditions:

- (a) The Licensee will continue in counseling in order to understand the issues, which led to his inappropriate behavior, and to develop strategies necessary to prevent recurrence of that behavior. The counseling will take place at a minimum of twice a month and continue for at least two (2) years. It will only be terminated with the therapist's agreement. The therapist or counselor must be approved by the Board. Periodically, the Board will order a reassessment by an independent evaluator who will report to the Board about the Licensee's progress in counseling.
- (b) The Licensee will use a chaperone when seeing female patients in his office.
- (c) The Licensee will be subject to mandatory clinical and professional supervision by a colleague to be approved by the Board. The purpose of the supervision is to ensure that the Licensee is focused on the clinical

aspects of his practice and is dealing appropriately with the ethical issues, which arise in the practice of medicine. The Licensee will meet quarterly with his professional monitor to discuss cases and ethical problems. The monitor will provide quarterly reports to the Board.

- (d) The Licensee agrees to educate himself about the ethical and boundary issues involved in the doctor—patient relationship. The Licensee will document his ongoing education in these matters on his next two applications for renewal of his medical license.

3. The Licensee waives his right to a hearing before the Board or any court regarding all findings, terms and conditions of this Consent Agreement.

4. The Licensee has been represented by Roger J. Katz, Esq., who has participated in the negotiation of the terms of this agreement.

5. Any substantiated reports to the Board alleging sexual impropriety or misconduct by the Licensee shall result in the immediate, indefinite and automatic suspension of the Licensee's license. The report shall be substantiated by a preliminary determination of validity by the Assistant Attorney General assigned to the Board and Board staff based on information provided to the Board and the Licensee's response to that information. The automatic suspension shall become effective at the time of actual notice from the Board that a reported allegation of sexual impropriety or misconduct has been substantiated. The indefinite, automatic suspension shall continue until the Board holds a hearing on the matter. The hearing will be held as soon as possible after the suspension. If the allegations are proven, the Board will consider revocation of the Licensee's license.

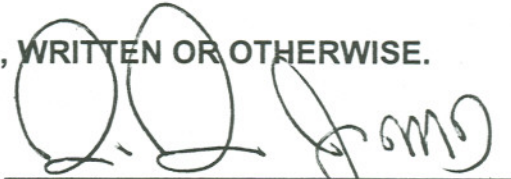
6. The Licensee will notify his patients and the hospitals at which he is affiliated of the terms of this agreement as required by 32 M.R.S.A. § 3282-A.

7. This Consent Agreement can only be amended by a writing signed by all the parties and approved and by the Department of Attorney General. Requests for amendment of the Consent Agreement must be submitted to the Board in writing. The Board will not consider such a request for at least two (2) years from the effective date of this Agreement.

I, ROBERT N. PHELPS, JR., M.D., HAVE READ AND UNDERSTAND THE FOREGOING CONSENT AGREEMENT. I UNDERSTAND THAT BY SIGNING IT, I WAIVE CERTAIN RIGHTS. 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:

5/22/2000


ROBERT N. PHELPS, JR., M.D.

STATE OF MAINE

_____, S.S.

Personally appeared before me the above-named Robert N. Phelps, Jr., 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:

05-22-00


NOTARY PUBLIC/ATTORNEY

STATE OF MAINE
BOARD OF LICENSURE IN MEDICINE

DATED: 6/13/00

[Handwritten Signature]

STATE OF MAINE
DEPARTMENT OF THE
ATTORNEY GENERAL

DATED: 6/13/00

Ruth E. McNiff
RUTH E. McNIFF
Assistant Attorney General

APPROVED
EFFECTIVE: 6/13/00