

**STATE OF MAINE
BOARD OF OSTEOPATHIC LICENSURE**

IN RE: DONALD YORKEY, D.O.)	
)	CONSENT AGREEMENT AND BOARD ORDER
)	
)	

The Board of Osteopathic Licensure (hereafter “the Board”), Donald Yorkey, D.O. (hereafter “Dr. Yorkey”) and the Office of the Attorney General enter into the following Consent Agreement in order to resolve violations of violations of Board statutes and rules. This Consent Agreement is entered into pursuant to 32 M.R.S § 2591-A(1)(A) and 10 M.R.S. § 8003(5).

I. FACTS

1. Dr. Yorkey is a physician who is licensed with the Board, and who at all times pertinent to this matter was licensed with the Board.

2. Dr. Yorkey treated a female patient, C.C., from the year 2006 through the year 2009. Treatment was for back pain, which included osteopathic manipulative therapy (“OMT”) and prescribing medications, including hydrocodone.

3. During what was supposed to be a routine office visit in 2008, Dr. Yorkey decided to do a digital examination of C.C.’s vaginal floor muscles, which involved Dr. Yorkey inserting his finger into C.C.’s vagina. This examination was not planned, and was not expected by C.C.

4. It is not documented by Dr. Yorkey in C.C.’s medical record that he explained the examination to her. C.C. recalls Dr. Yorkey only telling her that she would “feel something cold.”

5. Immediately prior to the examination, Dr. Yorkey told C.C. to pull down her pants. Dr. Yorkey did not provide a johnnie or anything else to cover C.C.’s exposed areas during the

exam.

6. Dr. Yorkey did not have a chaperone present in the room during this exam, nor did he offer to C.C. to provide one.

II. FINDINGS AND CONCLUSIONS

1. Dr. Yorkey admits to the facts stated in paragraphs one through six, above.

2. Dr. Yorkey agrees that the conduct described in paragraphs one through six, above, constitute grounds for discipline pursuant to the following statutes and/or rules: 32 M.R.S. § 2951-A(2)(F), unprofessional conduct, and 10 M.R.S. § 8003(5-A)(A)(2), violation of a standard of practice of osteopathic medicine.

3. Absent Dr. Yorkey's acceptance of this Consent Agreement by signing it and dating it and sending it to Sue Strout, Executive Secretary, Maine Board of Osteopathic Licensure, 142 State House Station, Augusta, Maine 04333-0142 by August 15, 2012, this matter will be set for an adjudicatory hearing.

III. SANCTIONS

Based on the foregoing findings and conclusions, the Board imposes the following disciplinary sanctions on Donald Yorkey, D.O., to which Dr. Yorkey agrees:

1. **Reprimand.**
2. **Continuing Medical Education.**

Dr. Yorkey shall attend and successfully complete a course on interpersonal communications and on the management of nonmalignant chronic pain. Both courses shall be pre-approved by the Case Reporter and completed before December 31, 2012.

3. **Requirement of a Chaperone.**

A. Dr. Yorkey shall not treat and/or examine any female patient when that examination or treatment is intimate in nature unless there is an adult chaperone present at all times during the treatment and/or examination. The term “chaperone” includes a medical assistant and a parent or other family member. Any individual acting as a chaperone shall not be a relative of Dr. Yorkey. Examinations or treatments that are “intimate in nature” include breast exams, gynecological exams, and any other treatment that involves touching the breasts or genitals.

B. In all instances in which a chaperone is required, Dr. Yorkey must have the adult chaperone, who is not a family member, sign the medical chart, whether in a paper or electronic format, on the date of the office visit, signifying that the individual acted as a chaperone during the treatment and/or examination provided by Dr. Yorkey. In the case of a family member, Dr. Yorkey shall make a chart entry identifying the chaperone. The documentation shall be done in a manner and format approved by the Board or Case Reporter at the time of the execution of this Agreement.

4. **Informed Consent.** Dr. Yorkey shall obtain informed consent from each patient before treating or examining that patient, particularly when the treatment or examination is different from the original purpose of the visit. Dr. Yorkey shall notate informed consent in the patient’s medical record.

COVENANTS

1. 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.

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

3. The Board and Dr. Yorkey agree that no further agency or legal action will be initiated against him by the Board based upon the facts described herein, except or unless he fails to comply with the terms and conditions of this consent agreement.

4. The action taken by the Board in this Consent Agreement may be reported to the National Practitioner Data Bank ("NPDB").

I, DONALD YORKEY, D.O., HAVE READ AND UNDERSTAND THE FOREGOING CONSENT AGREEMENT. I UNDERSTAND THAT BY SIGNING I WAIVE CERTAIN RIGHTS INCLUDING THE RIGHT TO FURTHER HEARINGS OR APPEALS REGARDING THIS CONSENT AGREEMENT. KNOWING THIS, I SIGN THIS AGREEMENT VOLUNTARILY, WITHOUT ANY THREAT OR PROMISE. I UNDERSTAND THAT THE CONSENT AGREEMENT CONTAINS THE ENTIRE AGREEMENT AND THERE IS NO OTHER AGREEMENT OF ANY KIND, VERBAL, WRITTEN, OR OTHERWISE. I ACKNOWLEDGE THAT I HAVE HAD THE OPPORTUNITY TO DISCUSS THE CONSENT AGREEMENT WITH LEGAL COUNSEL PRIOR TO SIGNING IT.

Dated: 3 Aug 2012

Donald Yorkey, D.O.
Donald Yorkey, D.O.

STATE OF MAINE
Cumberland, ss.

Before me this 3 day of August, 2012, personally appeared Donald Yorkey, D.O., who after first being duly sworn, signed the foregoing Consent Agreement in my presence or affirmed that the signature above is his own.

Lynda D Adams
Notary Public/Attorney at Law
My commission expires:

LYNDA D. ADAMS
Notary Public, Maine
My Commission Expires February 6, 2015

BOARD ORDER

IT IS HEREBY ORDERED by vote of the Maine Board of Osteopathic Licensure that Donald Yorkey's license to practice osteopathic medicine is subject to the terms and conditions of the Consent Agreement signed by Dr. Yorkey on August 3, 2012, which are incorporated by reference.

STATE OF MAINE
BOARD OF OSTEOPATHIC LICENSURE

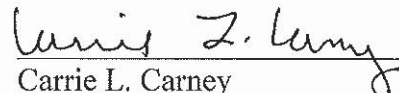


Board Chair

Dated: 8/9/2012

Approved by:

STATE OF MAINE, OFFICE OF
ATTORNEY GENERAL



Carrie L. Carney
Assistant Attorney General

Dated: 8-9-12