

**Board of Licensure in Medicine
137 State House Station, (Mailing)
161 Capitol Street (Physical Address)
Augusta, Maine 04333-0137**

December 9, 2008

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**Board of Licensure in Medicine
137 State House Station, (mailing)
161 Capitol Street (Physical Address)
Augusta, Maine 04333-0137**

**Minutes
December 9, 2008**

BOARD MEMBERS PRESENT

Sheridan R. Oldham, M.D., Chairman
Gary R. Hatfield, M.D., Board Secretary
George K. Dreher, M.D.
David H. Dumont, M.D.
Maroulla Gleaton, M.D.
Bettsanne Holmes
David Nyberg, Ph.D.
Daniel K. Onion, M.D.

BOARD STAFF PRESENT

Randal C. Manning, Executive Director
Jean M. Greenwood, Administrative Assistant
Timothy Terranova, Consumer Assistant
Dan Sprague, Assistant Executive Director

ATTORNEY GENERAL'S OFFICE

Dennis Smith, Assistant Attorney General
Det. Peter Lizanecz

Cheryl D. Clukey was excused
Dr. Onion left at 3:40 p.m.
Dr. Dumont left at 3:55 p.m.

The Board meets in public session with the exception of the times listed below, held in executive session. Executive sessions are to consider matters which, under statute, are confidential (1 M.R.S.A. §405). The Board moved, seconded, and voted the following executive session times.

During the public session portion of the meeting actions are taken on all matters discussed during executive session. Discussions of dismissed complaints are projected on a screen using power point projection.

PUBLIC SESSIONS

9:27 a.m. – 9:32 a.m.
10:15 a.m. – 10:18 a.m.
12:02 p.m. – 12:25 p.m.
1:14 p.m. – 1:15 p.m.
1:30 – 1:31 p.m.
2:14 – 2:22 P.M.
4:04 - 5:26 p.m.

EXECUTIVE SESSIONS

9:32 a.m. – 10:15 a.m.
10:31 a.m. – 11:15 a.m.
11:40 a.m. – 12:02 p.m.
1:15 – 1:29 p.m.
1:31 p.m. – 2:14 p.m.
2:57 – 4:04 p.m.

RECESS/LUNCH

10:27 – 10:31 a.m.

PURPOSE

MEETING CALLED TO ORDER
ASSESSMENT & DIRECTION VOTING
PROGRESS REPORTS & CRC RECOMMENDATIONS VOTING
OUT OF EXECUTIVE SESSION
INFORMAL CONFERENCE MOVED TO EXECUTIVE SESSION
INFORMAL CONFERENCE MOTION AND VOTING
PUBLIC SESSION AND ADJOURNMENT

ASSESSMENT & DIRECTION
PROGRESS REPORTS
COMPLAINT REVIEW COMMITTEE RECOMMENDATIONS
NEW COMPLAINTS
INFORMAL CONFERENCE
NEW COMPLAINTS

RECESS

11:15 – 11:40 a.m.	RECESS
12:25 – 1:14 p.m.	NOON LUNCH RECESS
1:29 – 1:30 p.m.	RECESS
2:22 – 2:57 p.m.	RECESS

I. CALL TO ORDER - Dr. Oldham called the meeting to order.

AMENDMENT TO AGENDA

Dr. Gleaton moved to amend CR 08-312 onto the agenda. Dr. Nyberg seconded the motion, which passed unanimously

EXECUTIVE SESSION

II. ASSESSMENT & DIRECTION

A. AD 08-269 (CR 08-445)

Dr. Dumont moved to issue a complaint regarding improper prescribing practices in the matter of AD 08-269 (CR 08-445). Dr. Nyberg seconded the motion, which passed unanimously.

B. AD 08-319

Dr. Dreher moved to issue a complaint regarding poor record keeping and questionable patient care in the matter of AD 08-319 (CR 08-446). Ms. Holmes seconded the motion, which passed unanimously.

C. AD 08-346

Dr. Dreher moved to investigate further AD 08-346. Dr. Gleaton seconded the motion, which passed unanimously.

D. AD 08-384

Dr. Hatfield moved to investigate further AD 08-384. Dr. Nyberg seconded the motion, which passed 6-0-0-2 with Dr. Onion and Dr. Dreher recused.

E. AD 08-386 (Tabled)

F. AD 08-397

Dr. Onion moved to investigate further AD 08-397. Dr. Hatfield seconded the motion, which passed unanimously.

G. AD 08-410 (CR 08-447)

Dr. Dumont moved to issue a complaint in the matter of AD 08-410 (CR 08-447). Dr. Nyberg seconded the motion, which passed unanimously.

H. AD 08-412 (CR 08-448)

Dr. Dreher moved to issue a complaint for fraud in application in the matter of AD 08-412 (CR 08-448). Ms. Holmes seconded the motion, which passed unanimously.

I. AD 08-413 (CR 08-449)

Dr. Hatfield moved to issue a complaint for fraud in application in the matter of AD 08-413 (CR 08-449). Dr. Nyberg seconded the motion, which passed unanimously.

J. AD 08-427 (CR 008-450)

Dr. Gleaton moved to issue a complaint for fraud in renewal application in the matter of AD 08-427 (CR 008-450). Dr. Nyberg seconded the motion, which passed unanimously.

K. AD 08-433

Dr. Nyberg moved to file AD 08-433, with a letter to the practice. Dr. Dreher seconded the motion, which passed unanimously.

III. PROGRESS REPORTS

A. CR 07-366 CATHERINE HAWTHORNE, M.D.

Dr. Hatfield moved to dismiss CR 07-366 with a letter of guidance. Dr. Nyberg seconded the motion, which passed unanimously.

In this a case, a physician licensed in Maine was treating a patient residing in Vermont where the physician also held an active license. The physician first established this relationship while in Vermont for some time, but later the patient's care was mostly by telephone and Email. Patient records were stored in Maine. This case was investigated by the Vermont Board of Licensure in Medicine, and the physician has agreed to no longer practice in this manner, with a document submitted by the physician outlining her agreement. The Vermont Board did not feel a reprimand was necessary. The physician's agreement is a public document. The letter of guidance will emphasize the physician's obligation to practice within the terms and conditions of her written agreement.

B. CR 08-159

Dr. Onion moved to dismiss CR 08-159. Ms. Holmes seconded the motion, which passed unanimously.

A patient, who was discharged from a PA/MD practice for non-compliance, felt she couldn't get an explanation of her dismissal. The Physician Assistant (PA) and doctor explained to the Board how the patient self-adjusted her medication dosing and was finally discharged from the practice after a pharmacy notified them that the patient had tried to fill a duplicate benzodiazepine prescription from another doctor. After extensive review by the PA sub-committee and the Board of Licensure in Medicine, the case was dismissed.

C. CR 08-203

Dr. Onion moved to dismiss CR 08-203. Dr. Hatfield seconded the motion, which passed unanimously.

The Board, in investigating another case, raised questions of this doctor's care of chronic pain patients. A review by the Board, of 6 charts of patients on chronic opiate prescriptions, revealed appropriate chronic pain care for very difficult patients utilizing ancillary modalities and consultations, appropriate drug screens, narcotic logs, contracts, etc. Therefore the Board voted to dismiss the complaint.

D. CR 08-255

Dr. Gleaton moved to dismiss CR 08-255. Dr. Dreher seconded the motion, which passed unanimously.

A mother complained about the care rendered by a nurse practitioner in a busy obstetrics/gynecology practice. The Board of Nursing elected to issue a Letter of Concern delineating advice about sensitivity in communication with patients—especially patients with disabilities. After careful review of the record and the plan of supervision between the physician and the nurse practitioner, as well as the interview of the physician, there is no substantial evidence that the physician who oversees this nurse practitioner is negligent in her duty or is in violation of a standard of professional behavior.

E. CR 07-243 PETER DOLLARD, M.D.

Ms. Holmes moved to dismiss, with a letter of guidance, the complaint against Peter Dollard, M.D. (CR 07-243). Dr. Nyberg seconded the motion, which passed 7-1

This case raised several questions regarding Dr. Dollard's attention to the emotional experience of a patient and their family. The patient experienced a significant orthopedic trauma, but the doctor refused to see the patient until the next day in spite of repeated requests for consultative services by the emergency department of the hospital. The Board wished to clarify certain aspects of the complaint and requested that Dr. Dollard meet in an informal conference setting. Although the technical aspects of the case were not in question, the clinician's ability to communicate with others and be sensitive to their needs was. Dr. Dollard declined the informal conference invitation as a waste of his time. The Board re-

extended the invitation and a time was set. Dr. Dollard requested re-scheduling reporting it was necessary that he participate in a critical onetime medical staff affairs function.

The informal conference was held in November, 2008. The Board then learned that the critical medical staff function was a golf tournament. When discussing the case in question, the hospital staff was blamed for failure to satisfy the trauma patient's concerns. There was also discussion in the informal conference about performance remediation recently required of the licensee by the hospital.

Even though the Board concluded that the physician's behavior did not rise to a level of misconduct sufficient to warrant disciplinary action, the language of the letter of guidance should include that:

- Relationships with peers when requesting consultation assistance is often critical to patient care. The licensee's support of them is equally important as their support of the physician. Often an injured patient needs the extra emotional support of a personal visit that a good surgeon would provide.
- The manner of the licensee's response to the Board's requests for an informal conference, lack of forthrightness with the Board about an "obligation" to attend a medical staff function, and the hospital's requirements for professional remediation verge on unacceptable and unprofessional conduct. The licensee is strongly urged to follow up immediately with the anger management and patient relationship training required by the hospital.

This letter of guidance, together with the complaint, response, and investigative materials, will be placed in Dr. Dollard's file and held for ten (10) years.

F. CR 08-312 PETER DOLLARD, M.D. – (Amended onto the Agenda today)

Ms. Holmes moved to dismiss the Board complaint against Peter Dollard, M.D. (CR 08-312), with a letter of guidance. Dr. Gleaton seconded the motion, which passed unanimously.

Dr. Dollard completed an on line renewal on December 6, 2007, failing to report an open complaint against himself.

G. CR 08-132

Dr. Dreher moved to dismiss CR 08-132. Ms. Holmes seconded the motion, which passed unanimously.

This case arose from a 2506 report from a hospital. A careful review and a 3286 evaluation found there were conflicting perceptions of practice style and level of function of the physician. This all occurred during a period of stressful work for the physician within a hospital whose approach to patient care was not well suited to the physician. The physician has displayed an insightful effort to move into a more appropriate practice setting and to engage a support system to avoid further such difficulties.

H. CR 08-064

Dr. Hatfield moved to dismiss CR 08-064. Dr. Nyberg seconded the motion, which passed unanimously.

The complainant feels that the physician would not prescribe him pain medication that he needed after hemorrhoid surgery and would not examine him when appropriate. A review of the records shows a system in place at the prison that makes triage the responsibility of someone other than the physician; and that requires the physician to make many decisions based on the information provided by the triage nurse. Although the patient would have benefitted from a continuation of pain medication, the system in place did allow him to be seen the next day and medication prescribed at that time.

I. CR 08-278 BENJAMIN BROWN, M.D.

Dr. Dumont moved to order an Adjudicatory Hearing in the matter of Benjamin Brown, M.D. (CR 08-278). Dr. Nyberg seconded the motion, which passed 7-0-0-1 with Dr. Onion recused.

J. COMPLAINT STATUS REPORT

The Board reviewed the monthly Complaint Status Report.

K. REVIEW DRAFT LETTERS OF GUIDANCE

1. BUCK LETTER OF GUIDANCE.

Dr. Gleaton moved to approve the letter of guidance. Dr. Dreher seconded the motion, which passed unanimously.

Dr. Gleaton moved to revisit the Buck letter of guidance. Dr. Onion seconded the motion, which passed unanimously.

Amendments were discussed.

Dr. Dreher moved to accept the Buck letter of guidance as amended. Dr. Gleaton seconded the motion which passed unanimously.

2. BADEEN LETTER OF GUIDANCE.

Dr. Gleaton moved to approve the Badeen letter of guidance. Ms. Holmes seconded the motion, which passed unanimously.

3. GAUDETTE LETTER OF GUIDANCE.

Dr. Gleaton moved to approve the letter of guidance regarding Gaudette. Dr. Dumont seconded the motion, which passed unanimously.

L. CONSUMER ASSISTANT FEEDBACK (none)

IV. NEW COMPLAINTS

COMPLAINT REVIEW COMMITTEE RECOMMENDATIONS

A. CR 08-246

Dr. Nyberg moved to dismiss CR 08-246. Dr. Gleaton seconded the motion, which passed unanimously.

The patient complains that this radiologist misinterpreted his nuclear medicine stress test. The patient also complains that the positive stress test led to a cardiac catheterization which showed normal coronary arteries. Because the catheterization was normal, the patient feels the test was unnecessary and blames the test for worsening acid reflux symptoms and kidney disease. Review of the medical records shows that the nuclear imaging test was interpreted correctly, even though this was a false positive result. The patient's other allegations are not supported by any medical science.

B. CR 08-275

Dr. Nyberg moved to dismiss CR 08-275. Dr. Dumont seconded the motion, which passed unanimously.

The crux of the complaint is that the mother of an 18 year old patient accuses the physician of calling her daughter a drug addict during a follow up visit for treatment of a broken finger. The physician's denial is supported by an affidavit from his P. A. who was present in the exam room, and who affirms it was the patient's mother who abruptly uttered the term "drug addict" followed by a string of obscenities as she left the room. There is no evidence that the care provided was wanting, nor is there evidence to support the allegation of improper communication on the physician's part.

C. CR 08-285

Dr. Nyberg moved to dismiss CR 08-285. Dr. Dreher seconded the motion, which passed unanimously.

The patient alleged that the physician: (1) was insensitive towards her when the physician commented that 911 calls were for emergencies; and (2) failed to diagnose her true medical condition on January 6, 2008, when she was transported to the hospital emergency department for a sore throat. The physician denied being insensitive to the patient, asserted

that she attempts to be professional and warm in all her patient encounters, and admitted that she tried to educate the patient about the emergent nature of 911 calls. The physician explained how she diagnosed and treated the patient's medical condition on January 6, 2008, based upon her physical examination and the history provided by the patient. Investigation revealed that at the time the patient arrived at the ER on January 6, 2008, she had a red, sore throat, and swollen lymph glands for which the physician appropriately prescribed an antibiotic. Investigation also revealed that when the patient returned to the ER on January 7, 2008, the physician made new findings, ordered additional testing, and transferred the patient to another hospital for treatment by a specialist.

D. CR 08-287

Dr. Nyberg moved to dismiss CR 08-287. Dr. Gleaton seconded the motion, which passed unanimously.

The spouse of a patient alleged that the physician was unprofessional in his treatment of her husband because the physician allegedly refused to see her husband after he was diagnosed with a serious medical condition. The physician denied any unprofessionalism in his dealings with the patient or his spouse, and explained how and why the police were called to the clinic in response to the patient's behavior. Investigation revealed that on March 18, 2008, the patient was diagnosed with a DVT by a PA in the orthopedic practice that was treating him. The medical records indicate that on that same date the patient was seen and evaluated by a physician in the orthopedic practice who also had a lengthy discussion with the patient about blood clots. That same date, the PA contacted the physician's nurse to have the patient seen and started on medication. The medical records also indicate that on March 18, 2008, the physician saw the patient, and ensured that he was started on the appropriate medication. In addition, the medical records indicate that the physician counseled the patient for his inappropriate behavior, and that the patient apologized. The medical records further indicate that, due to the patient's behavior, the physician appropriately inquired about the patient's anger control issues.

E. CR 08-288

Dr. Dreher moved to table CR 08-288. Ms. Holmes seconded the motion, which passed unanimously.

F. CR 08-307

Dr. Nyberg moved to dismiss CR 08-307. Dr. Dumont seconded the motion, which passed unanimously.

The patient had an orthopedic consultation for a longstanding (47 years) bilateral knee problem (pain). The doctor's note including his review of the x-rays found no orthopedic cause.

The patient "felt" mistreated. This is her perception but there does not appear to be any actionable complaint.

G. CR 08-308

Dr. Nyberg moved to dismiss CR 08-308. Dr. Gleaton seconded the motion, which passed unanimously.

This patient complains about many aspects of his medical care which is delivered in an institutional setting. Review of the medical records shows appropriate medical decision making. An order written by the physician was not properly carried out, and the physician fixed this error at the next visit.

H. CR 08-322

Dr. Nyberg moved to dismiss CR 08-322. Dr. Dreher seconded the motion, which passed unanimously.

The complainant alleged that the physician violated his physician/patient confidentiality by discussing a letter of complaint that he filed against the physician with a nurse, who also happened to employ the complainant. The physician responded that he did not discuss any of the patient's specific medical care with the nurse, and instead talked generally about the complainant's accusations that the physician was incompetent. Investigation revealed that the physician appropriately evaluated and treated the complainant for orthopedic issues following a car accident. There is no evidence that the physician breached physician/patient confidentiality regarding his care and treatment of the complainant.

I. CR 08-327

Dr. Nyberg moved to dismiss CR 08-327. Dr. Dumont seconded the motion, which passed unanimously.

The doctor could not locate the string for an IUD which had been in place for nine plus years. The doctor suggested an ultrasound to see if the IUD had been expelled or had become imbedded in the uterine lining.

The patient refused the doctor's advice, and went and to a second physician, who in fact found the string.

The physician's medical management was correct. The strings can retract and then reappear. While it is apparent the doctor and patient did not have a good interaction there is no evidence of poor or improper care.

BOARD COMPLAINT REVIEW

A. CR 08-256

Dr. Dreher moved to investigate further CR 08-256. Dr. Nyberg seconded the motion, which passed unanimously.

B. CR 08-286

Dr. Hatfield moved to dismiss CR 08-286. Dr. Nyberg seconded the motion, which passed unanimously.

The complainant feels that the physician in this case did not give adequate explanations of possible complications of colonoscopy and later the need for emergent laparotomy. She also feels that post-operatively the physician was rude to her and did not examine her when appropriate

The physician replies that adequate informed consent was given for both procedures, including possible complications of colonoscopy and later the need for the laparotomy. He feels he was not rude to the patient and that his clinical care was appropriate. He goes over in detail the process of informed consent for colonoscopy done in his office before the patient goes to the hospital at a later date for this procedure.

A review of the records shows informed consents for both procedures using a general hospital form and signed by the patient. Clinical management was appropriate. It is not possible to know if the physician was rude to the patient at any time. The Board points out to the physician that it would be appropriate to have an informed consent form specifically for colonoscopy that could be used and signed by the patient at the time of the physician's explanation.

C. CR 08-276

Dr. Oldham moved to dismiss CR 08-276. Dr. Nyberg seconded the motion, which passed unanimously.

The patient alleged that the PA treated her with disrespect and failed to diagnose her medical condition in a timely manner. The PA denied treating the patient with disrespect and asserted that she performed initial diagnostic testing regarding the patient's claim to be suffering from a specific medical condition.

The medical record indicates that the PA performed appropriate diagnostic and treatment measures. There is no evidence to corroborate the patient's allegations of disrespect.

D. CR 08-279

Dr. Oldham moved to table CR 08-279. Dr. Hatfield seconded the motion, which passed unanimously.

E. CR 08-280

Dr. Oldham moved to table CR 08-280. Dr. Hatfield seconded the motion, which passed unanimously.

F. CR 08-281

Dr. Oldham moved to table CR 08-281. Dr. Hatfield seconded the motion, which passed unanimously.

G. CR 08-306

Dr. Oldham moved to hold an informal conference in the matter of CR 08-306. Ms. Holmes seconded the motion, which passed 5-0-0-1 with Dr. Gleaton recused.

H. CR 08-251

Dr. Oldham moved to dismiss CR 08-251. Dr. Nyberg seconded the motion, which passed unanimously.

In this complaint a wife complained about an unsanitary procedure performed on her husband in 2005. The doctor denies performing the procedure in an unsanitary fashion and states the husband suffered a known complication. Board staff attempted, unsuccessfully, to contact the husband on four occasions to discuss this case. Without the input of the husband there is no evidence to corroborate the allegations.

I. CR 08-196 RONALD W. KESSLER, P.A.-C.

Dr. Oldham moved to summarily suspend the license of Ronald W. Kessler, P.A.-C. (CR 08-196). Dr. Nyberg seconded the motion, which passed unanimously.

J. CR 08-316

Dr. Oldham moved to investigate further CR 08-316. Dr. Dreher seconded the motion, which passed unanimously.

K. CR 08-373 ANITA BANERJEE MD

Ms. Holmes moved to dismiss the Board complaint against Anita Banerjee, M.D. (CR 08-373) with a letter of guidance. Dr. Nyberg seconded the motion, which passed unanimously.

Dr. Banerjee failed to report an open complaint on her renewal form. There was an inadvertent error in her application. The staff that completed the application was unaware of the complaint. Dr. Banerjee apologizes for the error.

L. CR 08-335

Dr. Oldham moved to dismiss CR 080-335. Dr. Nyberg seconded the motion, which passed unanimously.

The patient complains of unprofessional conduct by a physician assistant. A review of the medical records shows appropriate decision making and medical care.

M. CR 08-292

Dr. Gleaton moved to dismiss CR 08-292. Dr. Dreher seconded the motion, which passed unanimously.

A mother complained that an otolaryngologist who saw her son as a patient for a second opinion regarding treatment for substandard hearing was unprofessional. The second opinion was recommended by the patient's audiologist and the patient had a history of previous treatment with a chiropractor for his hearing difficulties. Careful review of the record which included letters by the parents and the physician revealed an unsatisfactory encounter for both the parents and the physician. There is no substantial evidence of unprofessional behavior on the physician's part in the present complaint.

N. CR 08-374 KARYN L. WOELFLEIN, M.D.

Dr. Gleaton moved to dismiss the Board complaint against Karyn L. Woelflein, M.D (CR 08-374) , with a letter of guidance. Dr. Hatfield seconded the motion, which passed unanimously.

A physician carelessly and unwittingly entered incorrect information on reapplication for her Maine License. She accepts responsibility for this computer entry error on her part and will carefully review answers in the future.

O. CR 08-208

Dr. Oldham moved to dismiss CR 08-208. Dr. Nyberg seconded the motion, which passed unanimously.

The patient alleges that the physician discontinued his medications for anxiety, depression, and personality disorder and then refused to see him on a repeat appointment. A review of records shows that the patient is institutionalized and was not following the mental health treatment plan. The Mental Health Counselor continued to see the patient and informed the patient why medications were stopped. The patient perceived that as "punishment" but the treatment plan clearly indicated that if the patient did not participate with counseling

medications were unlikely to be helpful. The patient was advised of this. When the patient started participating in sessions he was again seen by the physician and appropriate medications were reinstated. With the patient's Psychiatric diagnosis this treatment seems appropriate.

P. CR 08-236

Dr. Oldham moved to dismiss CR 08-236. Ms. Holmes seconded the motion, which passed unanimously.

The patient alleges that when he was transferred to an institution he was on medication for depression and anxiety and that it was renewed 6/07 but ran out sometime around 9/07. He claims that he requested mental health services multiple times and was denied access to this and to Psychiatry Service. A review of records indicates the patient was non-compliant with medications on 8/07 and they were allowed to be discontinued. The physician stated that the first documented request "Call Slip for Mental Health" came at the end of 2/08. He was seen 3/08 by a Mental Health Worker and referred to the psychiatrist for a visit in April and was restarted on meds. Further, he had multiple mental health visits, additional psychiatry visits, and more were scheduled. The Patient's allegations appear unfounded.

Q. CR 08-304

Dr. Oldham moved to dismiss CR 08-304. Ms. Holmes seconded the motion, which passed unanimously.

In this complaint a mother complains that the physician failed to see her daughter because she was late for an appointment. The mother explains that the daughter was involved in a minor car accident two hours prior to the appointment and that three calls were made to the office to inform them of the accident and update the office on an expected arrival time. During the phone calls the office staff encouraged the daughter to come in and be seen. When the daughter arrived she was told the appointment would need to be rescheduled. The doctor admits there was a lack of effective communication between the office and the patient. The doctor has apologized for the incident and outlined steps the office is taking to improve communications.

R. CR 08-309

Dr. Dreher moved to dismiss CR 08-309. Ms. Holmes seconded the motion, which passed unanimously.

This complaint was brought by a patient, against one particular physician at a mental health center. The patient had difficulty accepting his diagnosis and seeing the physician in a timely manner. The patient felt he was being unfairly treated and intrusively advised regarding his finances. A review of the notes, including those of other clinicians at the center, shows that the patient was offered professional and thoughtful care, which was hampered by his choices and difficulties with appropriate boundaries. When the physician felt that his behaviors made

her continued engagement counter-therapeutic, other options for treatment were offered, which he had difficulty accepting.

NOON MEAL

V. 1:30 p.m. INFORMAL CONFERENCE

A. CR 07-383 WILLIAM E. HERBERT, M.D.

Dr. Hatfield moved to dismiss, with a letter of guidance, the complaint against William E. Herbert, M.D. (CR 07-383). Dr. Dreher seconded the motion, which passed 6-2.

In this case, a patient that Dr. Hebert had cared for over several years was given a prescription for a narcotic patch at a much higher dosage than the patient had ever received before. Within several days, the patient was admitted to the hospital with aspiration pneumonia, with the narcotic patch likely playing a significant role in her sudden worsening.

A review of the records shows that the dose of narcotic given was inappropriate and at least partly played a role in the patient's hospitalization. The letter of guidance will point out the need for appropriate lists of medications with dosages as well as an appropriate medical history within the chart, and the need to review these before any prescriptions are given. It will also point out the need to be consistent with pain care management, in terms of who manages pain, and who follows up on prescriptions for pain medication.

PUBLIC SESSION

VI. MINUTES OF NOVEMBER 11, 2008

Dr. Hatfield moved to approve the minutes of November 11, 2008, as amended. Ms. Holmes seconded the motion, which passed 6-0-0-2. Dr. Gleaton and Dr. Dreher were recused.

VII. NEW BUSINESS

A. CHAPTER 10 (SEXUAL MISCONDUCT) (FYI)

The Board of Licensure in Medicine (BOLIM) and the Board of Osteopathic Licensure (BOL) filed Sexual Boundary Rules (Chapter 10) jointly, effective March 12, 1997, and amended in 2006. Both BOLIM and BOL are in the process of updating the rule.

B. CHAPTER 3 (NP'S UNDER DELEGATION) REQUEST FOR ADVISORY RULING

The Aroostook Medical Center requested an advisory ruling under the Chapter 3 Rules but failed to provide sufficient information for such a ruling.

VIII. BOARD ORDERS & CONSENT AGREEMENT MONITORING & APPROVAL

A. BOARD ORDERS (none)

B. CONSENT AGREEMENT MONITORING AND APPROVAL

1. SERGIO RIFFEL, M.D. CR 07-113/CR 08-100

Dr. Nyberg moved to approve the proposed physician as practice monitor as well as the proposed continuing education. Dr. Dreher seconded the motion, which passed unanimously.

2. MICHAEL BERRY, M.D. (CR 08-120/08-133)

Dr. Nyberg moved to approve the three healthcare providers proposed by Dr. Michael Berry, M.D. to fulfill his consent agreement. Dr. Hatfield seconded the motion, which passed unanimously.

3. HOLLY ARATO, M.D. CR 04-056

Dr. Gleaton moved to summarily suspend the license of Holy Arato, M.D. CR 04-056 for violation of contract, difficulty in communicating and evidence from an existing provider that she should not be practicing unsupervised and any practice would pose a direct threat to the health and safety of the people of the State of Maine. Ms. Holmes seconded the motion, which passed unanimously.

4. MICHAEL BELL, M.D. CR 08-120/CR 08-133 [SEE APPENDIX A ATTACHED]

Dr. Gleaton moved to approve the consent agreement in the matter of Michael Bell, M.D. CR 08-120/ CR 08-133. Dr. Nyberg seconded the motion which passed 5-0-0-1 with Dr. Hatfield recused.

IX. ADJUDICATORY HEARING (none)

X. REMARKS OF CHAIRMAN

Dr. Oldham would like to explore ways of doing strategic planning perhaps using telephone technology. Dr. Oldham asked members to contact her with ideas.

XI. EXECUTIVE DIRECTOR'S MONTHLY REPORT

A. APPLICATION QUESTION REVIEW

Licensees have been answering "no" when asked on the BOLIM online renewal if there were any outstanding complaint against them when in fact an open complaint with BOLIM did exist and the answer should be "yes". The Board discussed how to impress on licensees they must report open complaints from "any Board" where they hold a license, including the Maine Board of Licensure in Medicine.

Mr. Manning will bring a proposed policy to the board at the January 11, 2009 meeting for further discussion.

B. FSMB ANNUAL MEETING (MAY 1, 2, & 3) and AIM ANNUAL MEETING (APRIL 30)

Dr. Nyberg agreed to act as the Board's voting delegate for the FSMB Annual Meeting. Dr. Dreher, will be making a presentation regarding CME, assisted by Ms. Holmes who audited his presentation at MMC. FSMB will pay for travel for Dr. Nyberg as voting delegate as well as Dr. Dreher and Ms. Holmes as presenters. The FSMB Annual Meeting is scheduled for May 1, 2, and 3 with the AIM Annual Meeting scheduled for April 30. The Board approved the Executive Director's attendance funded by Federation scholarship. Final decision will be made at the January meeting.

C. DISCUSSION OF EXCESS CASH RESERVES / POSSIBLE APPLICATION FEE FORGIVENESS

The Executive Director explained to the Board that the Board would need a new software program for licensing and renewals soon. Due to the hiring freeze, the position budgeted for a medical director has left what appears to be an excess cash reserve. Under the current budget plan, the Board may need to raise licensing fees by 2010 to pay for the new software. The suggested reduction of licensing fees would not be feasible under the budget plan.

D. POST COMPLAINT SURVEY REPORT

Ms. MacDonald discussed the post complaint survey with the Board. No action was necessary.

XII. REMARKS OF ASSISTANT ATTORNEY GENERAL (none)

XIII SECRETARY'S REPORT

A. LIST A

Dr. Gleaton moved to ratify the physicians on List A below. Dr. Dreher seconded the motion, which passed unanimously.

1. M.D. LIST A - LICENSES FOR RATIFICATION

The following license applications have been approved by staff and Board Secretary Gary R Hatfield, MD without reservation:

<u>NAME</u>	<u>SPECIALTY</u>	<u>LOCATION</u>
Awobuluyi, Marc T	Diagnostic Radiology	Not Listed
Ayeni, Sylvanus A	Neurological surgery	CMMC
Caushan, Fillor	General Surgery	Lewiston/Auburn

Cubberley, Thomas N	Diagnostic Radiology	Bangor
Curlik, Martin R	Urology	Blue Hill
Dedekian, Michael A	Pediatrics	Portland Area
Evans, Carol	Oncology/Internal Medicine	Bridgton
Figueiredo, Fabio C	Orthopedic Surgery	Bangor
Heckert, Jeffrey J	Family Medicine	Portland
Hutner, Edward S	Surgery	Pittsfield/Bangor
Johnson, David A L	Orthopedic Surgery	Biddeford
Karunasiri, Manel M	Pediatrics	Caribou
Macias, Enrique G	Pediatrics	Brunswick
Mode, Donald G	Urology	Bangor
Nielson, Kyle P	Radiology	Teleradiology/
Orquiza, Rene	Diagnostic Radiology	Locum Tenens
Ringnes, Jenny	Pediatrics	Not Listed
Sadio, Sonita M	Urology	Bangor
Sarett, Renee M	Emergency Medicine	Stephen's Memorial Hospital
Sweeney, Tara	Ophthalmology	Ellsworth
Tan, Charissa C	Pediatrics	Caribou
Thomas Jr., Jerry R	Diagnostic Radiology	Teleradiology

2. P.A. LIST A - LICENSES FOR RATIFICATION (none)

B. LIST B APPLICATIONS FOR INDIVIDUAL CONSIDERATION

1. MITCHELL E. BLUM, M.D.

The Licensure Committee found that Dr. Blum became involved with a non-FDA medication without being aware of its status and seems to have learned from the experience.

The Licensure Committee moved to approve the license application of Mitchell E. Blum, M.D. The motion passed unanimously.

2. FLORENCE F. DOMAN, M.D.

There were some concerns that there may have been some negative references but in reviewing it and getting feedback from where she is currently working these do not appear to be of significant substance.

The Licensure Committee moved to approve the license application of Florence F. Doman, M.D. The motion passed unanimously.

3. MUKESH K. JALOTA, M.D.

Dr. Jalota was placed on probation by the State of Maryland for 6 months due to quality assurance issues, and has had a number of malpractice cases with payouts as well as a number of other issues.

The Licensure Committee moved to preliminarily deny Dr. Jalota's application for permanent license, with leave to withdraw. The motion passed unanimously.

4. RUTH E. O'MAHONY, M.D.

Dr. O'Mahony was brought to the Licensure Committee's attention after a patient she was caring for died of multiple trauma. It does not appear that she made major mistakes but she has decided a change of environment was needed and has changed her workplace to a less trauma focused situation. Dr. O'Mahony has taken educational courses and is now working as a surgeon in Maine for some time, and reports from her new workplace indicate she is very efficient and effective and they want her to stay there full time. The information presented to the committee shows she is well qualified.

The Licensure Committee moved to approve the license application of Ruth O'Mahony. The motion passed 5-1.

5. DONALD B. SHEA, M.D.

The difficulties Dr. Shea has had are well outlined in his application.

The Licensure Committee moves to grant a license to Dr. Shea as soon as the Board receives written proof of enrollment in the Maine Professionals Health Program for five years plus confirmation "in writing" from Dr. Shea that he is participating. The motion passed 5-1.

6. JENNIFER ARICH, P.A.-C.

Ms. Arich is a physician assistant who was recently arrested for operating under the influence. Ms. Arich went through an evaluation by the MPHP, has also seen an addictionologist and both of these systems have felt that this was a relatively isolated event and that she is making efforts to avoid any similar events in the future.

The Licensure Committee moved to approve Ms. Arich's license application. The motion passed unanimously.

7. DAVID S. SAUNDERS, M.D.

Dr. Saunders's application is being presented for review of his medical malpractice claims and an administrative suspension of his Nova Scotia medical license for non-payment of annual membership dues. The malpractice claims were evaluated and with the number and scope of the claims the Licensure Committee found there were enough

difficulties in his malpractice claims to recommend preliminary denial, with leave to withdraw his application.

The Licensure Committee moves to preliminarily deny the license application of David S. Saunders, M.D., with leave to withdraw his application. The motion passed unanimously.

C. LIST C -APPLICATIONS FOR REINSTATEMENT

The following license reinstatement application has been approved by staff and Board Secretary Gary R Hatfield, MD without reservation:

<u>NAME</u>	<u>SPECIALTY</u>
Mohammed A. Shaikh, MD	Hematology/Medical Oncology

Dr. Gleaton moved to ratify the reinstatement of Mohammed A. Shaikh, M.D. Dr. Dreher seconded the motion, which passed unanimously.

D. LIST D - WITHDRAWALS

1. LIST D (1) WITHDRAW LICENSE APPLICATION (none)

2. LIST D (2) WITHDRAW LICENSE APPLICATION FROM REGISTRATION

Dr. Dreher moved to approve the physicians on List D (2) below to withdraw their licenses from registration. Dr. Gleaton seconded the motion which passed unanimously.

The following physicians have applied to withdraw their licenses from registration:

<u>NAME</u>	<u>LICENSE NUMBER</u>
Bensen, Pamela P	007251
Blenc, Ann Marie	015981
Endicott, Ruth E	004752
Lee, Sang Hoon	017338
Lesser, Lawrence H	008614
Mace, Christopher	006856
Mulcahy, Thomas M	010510
Potts, Ronald S	005094
Scandura, Rosario A	005170
Segal, Harvey M	012374

Dr. Dreher moved to approve the physicians on List D (2) to withdraw their licenses from registration. Dr. Gleaton seconded the motion, which passed unanimously.

3. LIST D (3) WITHDRAW LICENSE FROM REGISTRATION – INDIVIDUAL

CONSIDERATION (none)E. LIST E – LICENSES TO LAPSE BY OPERATION OF LAW

The following physician licenses lapsed by operation of law effective December 2, 2008.

<u>NAME</u>	<u>LICENSE NO.</u>
Andrada, Elizabeth C	017673
Capurro, Nico	005030
Crowe, Daniel	012753
Endres, Nathan K	017559
Ervin, Thomas J	011730
Hall, Michael J	017486
Kechriotis, Alexander	015460
Kittredge, Ben W	012521
Kohli, Parul T	016297
Lee, Chung-Hsiung	010811
Munir, Mazen K	017494
Ough, Debra A	015717
Pazzaglia, Peggy J	016540
Shang, Chung Chu	008414
Shea, Nenita Guia	010012
Strobeck John E	015002
Supple, Kelly A	015816
Todd, Stuart K	017315
Valcourt, Karl M	017753
Walker, Alexander M	009599
Yanoschak, Jennifer L	017038

F. LIST F – LICENSEES REQUESTING TO CONVERT TO ACTIVE STATUS (none)G. LIST G – RENEWAL APPLICATIONS FOR REVIEW1. CARLO CARANDANG

This physician was charged in June of 2008 with “assault” and “assault with a weapon” in what appeared to be a domestic dispute. In the plea bargaining he was given what is called a “peace bond” where he was in Canada. Dr. Carandang was asked to write a letter of explanation of what happened. His note was extremely brief stating that it was a domestic dispute. The police report indicates this may not have been the only episode with this particular person. After consideration, the recommendation of the Licensure Committee is that Dr. Carandang be given a choice to either make a request to withdraw his renewal application or submit to a 3286 evaluation.

The motion passed unanimously.

2. SAMPATH KUMAR, M.D.

Dr. Kumar, who practices in New York, has 6 settled malpractice cases for more than \$300,000, 3 that have been dismissed and 5 that are pending. This raised a concern with the committee.

The Licensure Committee moves preliminary denial of the renewal application of Sampath Kumar, M.D., with leave to withdraw his application and allow his license to lapse. The motion passed unanimously.

3. RICHARD CABOT, M.D.

The Licensure Committee moved to investigate further. The motion passed unanimously.

H. LIST H.DELEGATED PRACTITIONER SCHEDULE ii REQUEST FOR RATIFICATION
(none presented)

XIV. STANDING COMMITTEE REPORTS

A. PERSONNEL & FINANCE COMMITTEE

1. REPORT OF 2008 PERFORMANCE

Ms. Holmes, Chairman of the Personnel & Finance Committee, reported the Committee met this morning to discuss the executive director's goals and solicited input from board members to be discussed in January. Between the two sources a plan will be developed.

B. PUBLIC INFORMATION COMMITTEE

1. NEWSLETTER SPECIALIST

Ms. Clukey was excused from the meeting so no report was given on the status of contracting a Newsletter Specialist.

C. LEGISLATIVE & REGULATORY COMMITTEE

1. REPORT OF BOARD SPONSORED LEGISLATION

The Board received proposed legislative language, which would give the Board the ability to hear Informal Conferences by sub-committees.

D. PHYSICIAN ASSISTANT ADVISORY COMMITTEE

XV. BOARD CORRESPONDENCE (none)

XVI. FYI

XVII. FSMB MATERIAL (FYI)

XVIII. OTHER BUSINESS

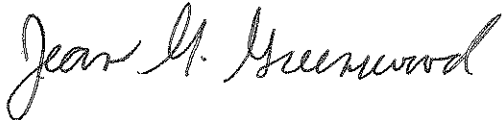
A. MAINE MEDICAL ASSOCIATION.

Gordon Smith, Executive Vice President of Maine Medical Association reported about coverage for the Medical Professionals Physician Health while Dr. Simmons is on sick leave. He reported the program is being covered by the Physician Assistant and there should be no interruption in services.

XIX. ADJOURNMENT 5:26 P.M.

Dr. Gleaton moved to adjourn. Ms. Holmes seconded the motion, which passed unanimously.

Respectfully submitted,



Jean M. Greenwood
Administrative Assistant
Board Coordinator

STATE OF MAINE
 BOARD OF LICENSURE IN MEDICINE

In re:)
 Michael A. Bell, M.D.) CONSENT AGREEMENT
 Complaint Nos. CR08-134)

This document is a Consent Agreement, effective when signed by all parties, regarding disciplinary action against and modifications to and conditions imposed upon the license to practice medicine in the State of Maine issued to Michael A. Bell, M.D. The parties to the Consent Agreement are: Michael A. Bell, M.D. ("Dr. Bell"), the State of Maine Board of Licensure in Medicine ("the Board") and the State of Maine Department of the Attorney General ("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. Bell has held a license to practice medicine in the State of Maine since March 25, 2003. Dr. Bell specializes in Family Practice.
2. On March 11, 2008, St. Mary's Regional Hospital notified the Maine Office of Attorney General that Dr. Bell had been recently diverting Percocet, an opiate, from the emergency department. According to the hospital, staff determined that two patients who were discharged from the emergency department were both missing two (2) Percocet tablets from their take home dosage. The hospital's chief pharmacist accessed the Pyxis, an automated drug storage system accessible only by authorized persons with codes, and found that Percocet prescriptions were remarkably high at times when Dr. Bell was working in the emergency department. The hospital reported that Dr. Bell had approached the hospital's administration and obtained direct access to Pyxis. The hospital also reported that a review of the prescription monitoring program indicated that Dr. Bell had recently received several prescriptions for Percocet from another physician who worked with Dr. Bell in the emergency department, and who denied issuing any prescriptions to Dr. Bell. According to the report, Dr. Bell admitted to hospital administration to taking the Percocet from the emergency department and to misusing the other physician's DEA registration.
3. On March 12, 2008, the Board staff received information from the Maine Office of Attorney General Health Care Crimes Unit (HCCU) that Dr. Bell had allegedly been stealing narcotic medication from the emergency room at St. Mary's Regional Hospital. In addition, the HCCU information reported that Dr. Bell has used another physician's DEA registration in order to acquire drugs.

4. On April 8, 2008, the Board reviewed the information provided by the Office of Attorney General and, pursuant to 32 M.R.S. § 3282-A, voted to initiate a complaint against Dr. Bell's Maine medical license. The Board docketed the complaint as CR08-134.

5. On or about August 20, 2008, the Board received a response from Dr. Bell to complaint CR08-134. In his response, Dr. Bell admitted that he diverted Percocet on a number of occasions from supplies that were supposed to be dispensed to patients. More specifically, Dr. Bell admitted that he diverted some or all of the Percocet that he was supposed to be providing to patients at the time of their discharge from the emergency department. According to Dr. Bell, on almost every occasion that he dispensed Percocet to patients in the emergency department it was not "permissible or indicated" for it be dispensed in the emergency room. Dr. Bell also admitted that he obtained a prescription for Vicodin, an opiate, from another physician with whom he worked in the emergency department, and that he altered that prescription without permission by indicating on it that it could be refilled twice. Dr. Bell admitted that he faxed this altered prescription to two different pharmacies, thereby acquiring a total of six (6) containers of Vicodin. Dr. Bell admitted that this conduct violated the standards for professional behavior for physicians.

Dr. Bell indicated that he attended residential treatment for his substance abuse and is actively engaged in aftercare treatment. According to Dr. Bell, he provided excellent care for his patients and worked well and congenially with other physicians, which is evidenced by the fact that St. Mary's Regional Hospital paid for his residential treatment and has retained him on staff to treat patients. Dr. Bell noted that he had voluntarily surrendered his DEA registration, recognizes that he suffers from opiate dependence, and accepts full responsibility for his actions.

6. On September 9, 2008, the Board reviewed complaint CR08-134. Following its review, the Board voted to schedule the complaint for an adjudicatory hearing. In addition, the Board authorized its legal counsel to negotiate a consent agreement to resolve complaint CR08-134 without hearing.

7. Absent Dr. Bell's acceptance of this Consent Agreement by signing and dating it in front of a notary and returning it to Maureen Lathrop, Investigative Secretary, Maine Board of Licensure in Medicine, 137 State House Station, Augusta, Maine 04333-0137 on or before December 2, 2008, the matter shall be scheduled for an adjudicatory hearing at a later date.

8. By signing this Consent Agreement, Dr. Bell waives, in his personal capacity and through legal counsel, any and all objections to, and hereby consents to allow the Board's legal counsel to present this proposed Consent Agreement to the Board for possible ratification on December 9, 2008. Dr. Bell waives, in his personal capacity and through legal counsel, forever any

arguments of bias or otherwise against any of the Board members in the event that the Board fails to ratify this proposed Consent Agreement.

COVENANTS

9. Dr. Bell admits, based upon the evidence in possession of the Board that with regard to complaint CR08-133, the Board has sufficient evidence from which it could reasonably conclude that Dr. Bell: (i) engaged in the practice of fraud or deceit in connection with services rendered within the scope of his Maine medical license; (ii) engaged in habitual substance abuse that was foreseeably likely to result in his performing services in a manner that endangered the health or safety of patients; and (iii) engaged in unprofessional conduct by diverting and using opiates. Dr. Bell acknowledges that such conduct constitutes grounds for discipline of his Maine medical license pursuant to 32 M.R.S. § 3282-A(2)(A),(B), and (F).

DISCIPLINE/CONDITIONS OF LICENSURE

10. In light of the admissions in paragraph 9 above, as well as Dr. Bell's acceptance of responsibility, his efforts to seek treatment and his commitment to refrain from the use of illegal substances, the Board agrees to impose and Dr. Bell agrees to accept the following discipline:

a. A REPRIMAND. Dr. Bell agrees that he will never again divert or use drugs that he has prescribed to patients for their care and treatment.

b. A MONETARY PENALTY of One Thousand Dollars and Zero Cents (\$1,000.00). Dr. Bell shall ensure that he pays the monetary penalty within thirty (30) days following the execution¹ 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 PROBATION of five (5) years with the following conditions, which shall remain in place for five (5) years following the execution of this Consent Agreement unless this Consent Agreement is first amended or rescinded by agreement of all of the parties hereto:

(1). ABSTINENCE. Dr. Bell agrees that, following the execution of this Consent Agreement, he shall completely abstain from the use of any and all Prohibited Substances. "Prohibited Substances" as used

¹ For the purposes of this Consent Agreement, "execution" means the date on which the final signature is affixed to this Consent Agreement.

throughout this Consent Agreement shall mean: benzodiazepines; sedatives; hypnotics or similar drugs; opiates; alcohol; Fentanyl; morphine, Demerol, Vicodin, Percocet, mood, consciousness or mind-altering substances, whether illicit or not; and all drugs which are dispensed to or prescribed for him by anyone other than a single primary care physician approved by the Board who is knowledgeable of Dr. Bell's medical history, including his substance abuse history, unless the circumstances constitute a genuine medical or surgical emergency.²

(a). Prescription Medication. If any controlled drug is dispensed or prescribed for Dr. Bell for a personal medical condition, Dr. Bell or the Supervising Physician shall notify the Board by telephone and in writing within 48 hours or as soon thereafter as possible. This notice shall be followed by a written summary of all pertinent circumstances. The Board shall be apprised of all continuing pertinent circumstances regarding continued use of the controlled drug, and a written report thereof shall be submitted to the Board.

(b). Future Use of Prohibited Substances Shall Result in Loss of Licensure. Dr. Bell agrees and understands that any reliable evidence of his use at any time in the future, whether in Maine or elsewhere, of any Prohibited Substance, including but not limited to benzodiazepines, sedatives, hypnotics, opiates, Fentanyl, morphine, Demerol, or alcohol, shall constitute a violation of this Consent Agreement, which **SHALL RESULT IN THE IMMEDIATE, INDEFINITE AUTOMATIC SUSPENSION OF LICENSURE, AND PROOF OF USE MAY RESULT IN PERMANENT REVOCATION OF LICENSURE.**

(2). SINGLE PHYSICIAN. Dr. Bell agrees and understands that, with the sole exception of medications permitted by the Board to be prescribed to him by his Board-approved treating psychiatrist, he shall only obtain his prescription medication(s) from a single primary care physician approved by the Board. Dr. Bell agrees and understands that he will not make any unilateral changes to the medication regimen prescribed for him by his Board approved primary care physician. In complying with this provision, Dr. Bell agrees that he will not self-prescribe or self-treat himself for any medical issues. In addition, Dr. Bell agrees that any and all prescriptions for medications that are prescribed to him by his Board-approved primary care physician and psychiatrist shall be filled by him in the State of Maine and at a single pharmacy.

² Notwithstanding this provision, the Board may approve Dr. Bell's treating psychiatrist to continue to prescribe all psychotropic medications for Dr. Bell's psychiatric care and treatment so long as Dr. Bell ensures that his single primary care physician is informed of any such prescriptions and coordinates his care and treatment with his treating psychiatrist.

(3). SUBSTANCE MONITORING.³ Dr. Bell understands and agrees that, for the duration of this Consent Agreement, he will undergo some level of substance monitoring to test whether he has used a Prohibited Substance. The monitoring shall be through urinalysis testing and/or blood testing, and any other reliable method which may later be developed and approved by the Board. Dr. Bell irrevocably agrees that the Board and the Maine Department of Attorney General will have full access to all test data and reports. Dr. Bell shall execute any and all releases necessary for the Board and/or the Attorney General to have full access to all data and reports pertaining to his substance monitoring.

(a). Supervising Physician. Dr. Bell shall propose a Supervising Physician (the "Supervising Physician"), who shall be approved by the Board who shall have Dr. Bell provide urine samples for testing for the presence of Prohibited Substances. Under no circumstances shall Dr. Bell fail to appear and/or provide a urine sample for testing as required by this Consent Agreement.

(b). Process. All urine and/or blood samples shall be handled through legal chain of custody methods. All samples provided shall be analyzed by a certified laboratory, which regularly handles drug monitoring tests. All samples shall be tested for the presence of Prohibited Substances, specifically including but not limited to opiates (ie. Fentanyl, morphine, Demerol).

(c). Frequency of Urine Testing. It is Dr. Bell's obligation to ensure that all the samples are given and tests occur as specified in this Consent Agreement. Testing shall be randomly scheduled. Notwithstanding any other provision of this Consent Agreement, the Board, the Supervising Physician, or the Board's agent may request Dr. Bell to submit to testing at any time. Failure to maintain this schedule or the random nature of the tests shall be cause for suspension, non-renewal or revocation of Dr. Bell's Maine medical license, unless proof of genuine emergent medical circumstances (for Dr. Bell or a patient) exist which warrant less serious disciplinary actions being taken by the Board. For the indefinite period following the execution of this Consent Agreement, Dr. Bell shall provide urine samples for testing for the presence of Prohibited Substances at least once a week.

(d). Reporting Test Results. It is Dr. Bell's responsibility to ensure that all test results are reported promptly to the Board.

³ The substance abuse monitoring pursuant to this Consent Agreement may, at the approval of the Board, be performed by the Medical Professionals Health Program.

(i). Immediate Report of Positive Test Results. Any test result evidencing any level of a Prohibited Substance, whether by urine or other sample, shall be reported to the Board by telephone and in writing within 24 hours or as soon thereafter as possible.

(ii). Reporting Negative Test Results. Written reports of all tests shall be sent to the Board monthly, together with an explanation of the dates and times samples were provided and tests made, the type(s) of tests made, and the substances tested for (together with detectable levels tested for), and the test results. Dr. Bell shall ensure that all reports are made to the Board in a timely fashion.

(iii). Confidentiality Waived. With regard to the Board and its agents and any process to be pursued by the Board, Dr. Bell hereby waives all claims of confidentiality and privilege with respect to all tests taken and test results pursuant to this Consent Agreement. Dr. Bell shall execute any and all releases in order for the Board to obtain access to and copies of all urine test results.

(e). Rebuttable Presumption Raised by Positive Test. It is agreed and understood that a test evidencing the presence of any Prohibited Substance, shall raise a rebuttable presumption that such substance was in fact used by Dr. Bell. Such a positive test result shall alone be sufficient to prove the use of the Prohibited Substance by Dr. Bell. Dr. Bell further agrees that the result of the test may be admitted into evidence in any proceeding regarding his Maine medical license, whether before the Board or before a Court of competent jurisdiction.

(f). Immediate, Indefinite, Automatic Suspension for Positive Test. If any urine or blood test is positive (i.e., in any manner evidences any use of any Prohibited Substance), then the result shall be the immediate, indefinite, automatic suspension of Dr. Bell's Maine medical license, which shall continue until the Board holds a hearing on the matter, unless the Board, or the Board Secretary and the Department of Attorney General, earlier determine that the report is without merit. The suspension shall become effective at the time that Dr. Bell receives actual notice from the Board that a report of violation(s) has been made. Actual notice can be provided by telephone, in person, in writing, by another means or any combination of the above-referenced means.

(g). Board Hearing to Determine if Dr. Bell Used Any Prohibited Substance. After receiving a positive report evidencing use by Dr. Bell of any Prohibited Substance, the Board shall investigate the situation, including demanding a response from Dr. Bell. The Board will hold a hearing within 60 days of the automatic suspension or as soon thereafter as practicable

(unless both Dr. Bell and the Board agree to hold the hearing later) and it shall be held pursuant to the Maine Administrative Procedure Act.

(h). Failure to Maintain Sampling Schedule or Failure to Appear or to Provide Sample. Failure by Dr. Bell: to maintain the sampling schedule; to appear when demanded to provide a sample; or to provide samples upon being demanded to do so shall be dealt with as follows:

(i). Report. If Dr. Bell fails to appear to provide a sample, fails to maintain the sampling/testing schedule, or fails to provide a urine sample, then the Supervising Physician and Dr. Bell must telephone the Board as soon as possible and send to the Board a written report of such failure within 48 hours.

(ii). Second Opportunity to Provide Urine Sample. If Dr. Bell appears when scheduled or ordered, but fails to provide an adequate sample, then with regard to urine, after accurate notation of any and all substances consumed (no substance shall be consumed which might affect the accuracy of the tests to be performed), a second opportunity to provide a urine sample shall be given after a reasonable time. A repeat failure or any refusal shall result in an immediate, indefinite suspension of medical licensure. The suspension shall begin the moment of the occurrence.

(iii). Suspension. An immediate, indefinite suspension of licensure shall result from any failure by Dr. Bell to comply with the mandated schedule of samples, failing to appear to provide a sample, or failing to provide a urine sample after given a second opportunity. The suspension shall begin the moment Dr. Bell actually learns a report has been made or sent to the Board.

(iv). Meeting with Board. Both Dr. Bell and the Supervising Physician shall, at the discretion of the Board, be required to appear before the Board regarding this situation at its next regularly scheduled Board meeting, unless the next meeting is to be held within 15 days of the suspension, in which case they may be scheduled to appear at the subsequent regularly scheduled Board meeting.

(v). Board Action. The Board may order Dr. Bell's Maine medical license reinstated or, if appropriate, may continue the suspension and may set the matter for hearing. The Board shall attempt to hold a hearing within 60 days of the automatic suspension, or as soon thereafter as practicable, at which time it may take such action as it deems appropriate, including without limitation, reinstatement, fines, probation, suspension, non-renewal and revocation.

(i). Amendment of Testing Provisions. After two (2) years of successful compliance with the terms and conditions of this Consent Agreement, Dr. Bell may file a written application with the Board to amend the testing conditions. Upon written application by Dr. Bell to the Board, the Board may amend the above agreed conditions for testing. Amendment of the testing conditions shall be in the sole discretion of the Board and shall be based upon such information as the Board deems pertinent. A decision regarding the amendment of testing provisions may be made by the Board, in its sole discretion, with or without providing a hearing. Any decision by the Board regarding a request to amend the testing conditions is not appealable. The Board can propose Amendment(s), which may or may not be agreed to by Dr. Bell.

(j). Increasing Testing. For good cause shown (i.e., questionable reports or problems with providing samples), the Board can, in its sole discretion, without hearing, unilaterally increase the frequency of testing to the highest levels contemplated by this Consent Agreement, and may also add an additional four random tests per month. Any decision made by the Board pursuant to this paragraph does not require a hearing and is not appealable.

(4). PROFESSIONAL MANAGEMENT.

(a). Substance Abuse Treatment. Within thirty (30) days following the execution of this Consent Agreement, Dr. Bell shall submit for Board approval the name of a licensed individual or agency in the treatment of substance abuse with whom Dr. Bell shall consult and counsel for the purpose of working on all issues pertaining to his substance abuse issues, including Dr. Bell's compliance with this Consent Agreement, which consultations shall be at least twice monthly following the execution of this Consent Agreement.

(b). Single Primary Care Physician. Within thirty (30) days following the execution of this Consent Agreement, Dr. Bell shall submit for Board approval the name of a primary care physician who shall prescribe all necessary medications for Dr. Bell, and who shall coordinate Dr. Bell's treatment and pharmacological therapy with the Board-approved substance abuse and psychological providers.

(c). Prior Evaluation and Treatment Records. The Board and Dr. Bell agree that Dr. Bell shall execute all releases necessary to permit the transmission and disclosure of all records from previous treatment providers to the Board approved primary care physician and Board-approved treatment provider(s).

(d). Communication of Treatment Providers. The Board and Dr. Bell agree that all treatment providers involved in his care shall

have full communication allowed among themselves, any prior treatment providers and, when requested, with the Board or its agent(s). Dr. Bell waives any privileges concerning such information, reports, records, and communications among his treatment providers and the Board.

(e). Amendment of Aftercare Treatment Requirements. After one (1) year of successful compliance with the terms and conditions of this Consent Agreement, Dr. Bell may file a written application with the Board to amend his substance abuse treatment. The Board shall retain the sole discretion, without hearing, to grant or deny such application. Dr. Bell acknowledges that any decision by the Board concerning this issue is not appealable.

(f). Change of Primary Care Physician or Treatment Provider(s). If Dr. Bell desires to change his primary care provider or treatment provider(s), then he shall make written application to the Board, including among other things a letter regarding his reasons for requesting such change(s) and separate letters from the current primary care physician or treatment provider(s) and the proposed new primary care physician or treatment provider(s) relative to their understanding of the reasons for this request and, to the extent applicable, any concerns they may have. The Board shall retain the sole discretion to grant or deny such application without hearing. Dr. Bell acknowledges that any decision by the Board concerning this issue is not appealable. If the request is denied, nothing precludes Dr. Bell from proposing another primary care physician or treatment provider for approval. In requesting a change of primary care physician or treatment provider, Dr. Bell understands that the Board may inquire into any issues it deems pertinent with any person, including, without limitation, the current primary care physician or treatment provider(s).

(g). Reports from Treatment Providers. Dr. Bell shall ensure that on or before October 9th, January 9th, April 9th, and July 9th of each year following the execution of this Consent Agreement the Board-approved treatment provider(s) submit(s) to the Board a written report regarding: Dr. Bell's compliance with his schedule of meetings; Dr. Bell's ability to continue practicing medicine; and the prognosis of Dr. Bell's continued recovery. In addition, the treatment providers shall immediately notify the Board in writing whenever: (1) in his/her professional judgment, Dr. Bell poses a potential danger to the health, safety and welfare of patients; or (2) Dr. Bell terminates treatment or is non-compliant with the treatment plan. Dr. Bell hereby waives any privileges concerning such information, reports, records and disclosures to the Board.

(h). Board Investigation. At any time the Board may deem appropriate, the Board or its agent may contact Dr. Bell and/or the Board-approved treatment providers to obtain further information relative to

Dr. Bell. In addition, if the Board deems it appropriate, it may directly contact the treatment providers regarding any issues concerning Dr. Bell's treatment. In complying with this requirement, Dr. Bell waives any privileges concerning such information, reports, records and disclosures to the Board. Dr. Bell shall execute any and all releases necessary to enable the Board and/or the Attorney General to communicate directly with his treatment provider(s) and to obtain copies of any and all notes, records, and documentation concerning his treatment.

(5). PROFESSIONAL OVERSIGHT.

(a). Clinical Setting. Prior to engaging in the practice of medicine pursuant to this Consent Agreement, Dr. Bell must have a Board-approved practice location. In complying with this requirement, Dr. Bell shall submit to the Board for its approval practice location(s), which locations the Board has the sole discretion to approve or deny. At the time of the execution of this Consent Agreement, the Board has approved the following practice locations regarding Dr. Bell:

St. Mary's Regional Medical Center
Campus Avenue
P.O. Box 291
Lewiston, ME 04243-0291

In addition, should Dr. Bell seek to change the location(s) of his medical practice, the Board may, as a condition of approving such location(s), require additional conditions upon Dr. Bell's medical license including but not limited to a physician monitor, a prohibition on Dr. Bell's possession or storage of certain drugs, and access to Dr. Bell's medical practice.

(b). Board Access to Medical Practice. Dr. Bell shall permit the Board or its agent(s) complete access to his medical practice locations, including but not limited to all patient records, employee records, office records, and office equipment to ensure his compliance with this Consent Agreement. In addition, Dr. Bell shall permit the Board or its agent(s) to conduct random and/or announced inspections of his medical practice locations to ensure his compliance with the terms and conditions of this Consent Agreement. Dr. Bell shall bear the cost of any such inspection(s) by the Board or its agent(s).

(c). Possession of Controlled Drugs. Dr. Bell agrees that following the execution of this Consent Agreement, he shall, subject to paragraph (i) below, completely abstain from the possession of Prohibited Substances, including but not limited to benzodiazepines, sedatives, hypnotics or similar drugs, opiates, Fentanyl, morphine, Demerol, Vicodin, Percocet, and alcohol. In complying with this provision, Dr. Bell agrees that:

(i). He shall not have direct access to any Pyxis machine, shall not order or accept samples or stocks of any Prohibited Substances, and shall not possess or have access to Prohibited Substances while at St. Mary's Regional Medical Center with the exception of Etomidate and Propofol, short-acting hypnotics used to induce conscious sedation for emergency medical treatment. Dr. Bell agrees and understands that he shall be allowed to possess and administer these hypnotics only in the presence of another hospital employee; and

(ii). He will not possess or have access to Prohibited Substances while at any other location outside of St. Mary's Regional Hospital and shall not order or accept samples or stocks of any Prohibited Substances.

(d). Physician Monitor. Within thirty (30) days following the execution of this Consent Agreement, Dr. Bell must have a Board-approved practice monitor who shall monitor his medical practice. In complying with this requirement, Dr. Bell 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. Bell and observe him within his medical practice at least once a week, and inform the Board if Dr. Bell demonstrates any issues with regard to isolation, inappropriate boundaries or decision-making, ability to concentrate, absenteeism, drug abuse, 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. Bell understands that the monitoring physician will be an agent of the Board pursuant to Title 24 M.R.S. § 2511. Dr. Bell 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. Bell'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.

(6). SELF-HELP GROUP MEETINGS.

(a). Attendance at AA and NA. Dr. Bell agrees to attend Alcoholics Anonymous ("AA") and/or Narcotic Anonymous ("NA") or another non-faith-based self-help group meeting approved by the Board a minimum of twice per week from the effective date of this Consent Agreement.

(b). Impaired Physicians Self-Help Group. Dr. Bell agrees that he shall attend self-help group meetings of an impaired medical professional group (i.e. Caduceus), on a regular basis for the term of this Consent Agreement. Meetings of the impaired professional self-help groups may be substituted on a one-for-one basis with meetings of AA or NA.

(c). Reports of Attendance. Dr. Bell shall submit a signed, written quarterly report of his attendance at AA, NA or impaired professional self-help group meetings to the Board beginning three months after the execution of this Consent Agreement. Any instances of failure to attend the required numbers of meetings shall be noted, together with specific explanation detailing reasons.

(d). Failure to Meet This Requirement. It is the parties' understanding that, periodically, reasonable explanations may exist for occasionally missing a meeting; however, unexcused continuous or repeated failures to comply with the requirements of this section shall constitute a violation of the Consent Agreement which, after hearing before the Board, can result in licensure discipline, including without limitation a fine, suspension, non-renewal, or revocation of Dr. Bell's conditional Maine medical license.

(7) MAINTENANCE OF OBLIGATIONS WHEN AWAY

(a). General. Dr. Bell agrees to maintain his obligations regarding substance monitoring and self-help group meetings at all times, including times when he is away from home but within the continental limits of the United States. Dr. Bell will notify the Director of the Medical Professionals Health Program sufficiently in advance of travel to make whatever arrangements the Director deems appropriate for monitoring before he leaves. It shall be Dr. Bell's obligation to ensure that arrangements are made consistent with this Consent Agreement in such other location(s) to ensure the continuation and satisfaction of his obligations under this Consent Agreement. Any such occurrences shall be noted in writing sent to the Board by Dr. Bell explaining the arrangements made and how the arrangements were carried out.

(b). Failure to Comply. Any failure by Dr. Bell to meet the conditions of the Consent Agreement outside of Maine shall constitute a violation of this Consent Agreement, and may result in the immediate suspension by the Board of Dr. Bell's Maine medical license pending hearing, and, following hearing, other sanctions as permitted by law including but not limited to suspension, modification, or revocation of licensure.

(8). INVOLVEMENT IN THE MAINE MEDICAL PROFESSIONALS HEALTH PROGRAM.

Dr. Bell shall enter into a contract with the Maine Medical Professionals Health Program and fully participate in that program as long as this Consent Agreement remains in force.

(9). MAINTAINENCE OF LICENSE.

Dr. Bell shall be required to maintain his Maine license to practice medicine for as long as this Consent Agreement remains in effect. In the event that Dr. Bell applies for licensure in other jurisdictions during the term of this Consent Agreement, Dr. Bell shall notify said jurisdiction of the existence of this Consent Agreement.

(10). WAIVER OF CONFIDENTIALITY AND RELEASE OF RECORDS.

Dr. Bell agrees and understands that the Board and the Department of Attorney General shall have complete access to his present and future personal medical and counseling records regarding chemical dependency and mental health issues and to all otherwise confidential data pertaining to treatment or monitoring of Dr. Bell for substance abuse and mental health issues. Dr. Bell waives any privileges concerning such information, reports, or records, and agrees to execute any and all releases necessary to permit the Board access to such information. All releases must, in addition to waiving any relevant State law privileges or immunities, provide the Board with access to all material covered by 42 C.F.R., Part 2. In the event that the releases are not sufficient to obtain access to any information which the Board considers relevant, Dr. Bell agrees to personally obtain such information and furnish it to the Board, to the extent permitted by law.

11. SANCTION FOR VIOLATION OF CONSENT AGREEMENT.

a. Automatic Suspension. Any reliable oral or written report to the Board of violation(s) of the terms and conditions of this Consent Agreement as described above by Dr. Bell shall result in the immediate, indefinite and automatic suspension of Dr. Bell's Maine medical license. The automatic suspension of Dr. Bell's Maine medical license shall become effective at the time that he receives actual notice from the Board that a report of violation(s) has been made. Actual notice can be provided by telephone, in person, in writing, by another means or any combination of the above-referenced means. The indefinite, automatic suspension shall continue until the Board holds a hearing on the matter, unless the Board earlier determines that the report is without merit or decides that no further sanction is warranted.

b. Continued Suspension; Other Sanctions. Dr. Bell's indefinite automatic suspension shall continue for such time until the Board holds a hearing and reaches a decision. The Board will hold a hearing within 60 days of the automatic suspension or as soon thereafter as practicable (unless both Dr. Bell and the Board agree to hold the hearing later) and shall be held pursuant to the Maine Administrative Procedure Act. The Board may impose such other discipline, including without limitation, fines, further suspension, probation, non-renewal or revocation of licensure, as the Board after hearing deems appropriate.

c. General Acknowledgment. Dr. Bell acknowledges that, pursuant to Title 10 M.R.S. § 8003(5)(B), his failure to comply with any of the terms or conditions of this Consent Agreement shall constitute grounds for disciplinary action against his Maine medical license, including but not limited to an order, after hearing, modifying, suspending, or revoking his license.

12. DESIGNATED COPY OF CONSENT AGREEMENT.

Dr. Bell shall have his supervising physician, monitoring physician and all treatment providers read, date, and sign a copy of the Consent Agreement (the "Designated Copy"). Dr. Bell shall retain a copy of the Consent Agreement signed by all of the aforementioned individuals at his Board-approved medical practice locations and shall produce it upon request of the Board or its agent(s). A copy of the signature page shall be made and sent to the Board. Dr. Bell agrees that if new individuals assume the roles set forth in this Consent Agreement during the existence of this Consent Agreement, such individuals shall also read, date and sign the Consent Agreement.

Dr. Bell shall provide a copy of this Consent Agreement to any hospital or medical practice with whom he becomes affiliated.

13. BOARD'S JURISDICTION.

Dr. Bell acknowledges that the Board has jurisdiction over his license. Dr. Bell understands that, at the time the Board is agreeing to issue him this Conditional, Modified License, the Board has the statutory jurisdiction to revoke licenses. Pursuant to 10 M.R.S. § 8003(5)B, in consideration for the Board's issuing Dr. Bell his Maine medical license pursuant to this Consent Agreement, he agrees that, regarding any alleged violation of this Consent Agreement, the Board is granted jurisdiction to revoke his license or take such other disciplinary action as is available to the Courts, following an adjudicatory hearing conducted in accordance with the Maine Administrative Procedure Act.

14. MISCELLANEOUS PROVISIONS.

a. Notice. Unless otherwise specified in this Consent Agreement, written notice shall be deemed served upon mailing by first class mail, postage prepaid.

(i). Notice to the Board:

State of Maine Board of Licensure in Medicine
Attention: Board Investigator
137 State House Station
Augusta, Maine 04333-0137

Telephone: (207) 287-3601

(ii). Notice to the Licensee:

Until December 15, 2008
Michael A. Bell, M.D.
401 Cumberland Avenue
Apt. 1604
Portland, ME 04101

After December 15, 2008
Michael A. Bell, M.D.
401 Cumberland Avenue
Apt. 1607
Portland, ME 04101

b. Address Change. If Dr. Bell changes jobs, moves his residence or practice, changes telephone numbers at work or at home, or secures privileges at a hospital, he shall provide written notice to the Board within ten (10) days of any such change. In addition, Dr. Bell shall notify the Board of any attempts to seek licensure in another jurisdiction, and shall disclose to the licensing authority in such jurisdiction his status with this Board.

c. Costs. All costs incurred in performance of the Modifications and Conditions of this Consent Agreement shall be borne by Dr. Bell. If a violation of this Consent Agreement is proven to have occurred, regardless of the sanctions imposed, the Board may require Dr. Bell to reimburse the Board for all costs and attorney's fees incurred in proving such violation.

d. Hearings. Unless otherwise specified, hearings shall be held consistent with the Maine Administrative Procedure Act.

e. Severance. If any clause of this Consent Agreement is deemed illegal or invalid, then that clause shall be deemed severed from this Consent Agreement.

15. DURATION OF CONSENT AGREEMENT.

Dr. Bell understands and agrees that the duration of this Consent Agreement is five (5) years. The probation and conditions imposed by this Consent Agreement shall remain in effect until amended or rescinded in writing by the parties hereto.

16. AMENDMENT OF CONSENT AGREEMENT.

Dr. Bell waives his right to a hearing before the Board or any court regarding all findings, terms and conditions of this Consent Agreement. Dr. Bell agrees that this Consent Agreement is a final order resolving complaint CR08-134, and is not appealable and is effective 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 to this Consent Agreement by Dr. Bell shall be made in writing and submitted to the Board. Dr. Bell shall bear the burden of demonstrating that the Board should amend the Consent Agreement. The Board shall have the sole discretion to: (a) deny Dr. Bell's petition; (b) grant Dr. Bell's petition; and/or (c) grant Dr. Bell's petition in part as it deems appropriate to ensure the protection of the public. Any decision by the Board as a result of Dr. Bell's request to modify this Consent Agreement need not be made pursuant to a hearing and is not appealable to any court.

17. COMMUNICATIONS. The Board and the Attorney General may communicate and cooperate regarding Dr. Bell's practice or any other matter relating to this Consent Agreement.

18. PUBLIC RECORD. 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.

19. REPORTABLE DISCIPLINE. This Consent Agreement constitutes disciplinary action, and is reportable to the National Practitioner Data Bank, the Federation of State Medical Boards, and other licensing jurisdictions.

20. ADVICE OF COUNSEL. Dr. Bell has been represented by legal counsel, William B. Cote, Esq., with respect to the terms of this Consent Agreement.

21. WAIVER OF RIGHT TO APPEAL CONSENT AGREEMENT.

Dr. Bell waives his right to a hearing before the Board or any court regarding all facts, terms and conditions of this Consent Agreement. Dr. Bell agrees that this Consent Agreement is a final order resolving complaint CR08-134, and that it is not appealable and is effective until modified or rescinded in writing by the parties hereto.

I, MICHAEL A. BELL, M.D., HAVE READ AND UNDERSTAND THE FOREGOING CONSENT AGREEMENT AND AGREE WITH ITS CONTENTS AND TERMS. I FURTHER UNDERSTAND THAT BY SIGNING THIS CONSENT 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: 12/1/08


MICHAEL A. BELL, M.D.

STATE OF Maine

Androscoggin County, s.s.

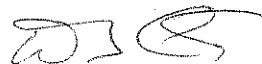
Personally appeared before me the above-named Michael A. Bell, M.D., and swore to the truth of the foregoing based upon his own personal knowledge, or upon information and belief, and so far as upon information and belief, he believes it to be true.

DATED: 12/01/08


NOTARY PUBLIC/ATTORNEY
MY COMMISSION ENDS: 9-05-2015

Lisa D. Cates
My Commission Expires
September 5, 2015

DATED: 12/1/08


WILLIAM B. COTE, ESQ.
Attorney for Dr. Bell

STATE OF MAINE
BOARD OF LICENSURE IN MEDICINE

DATED: 12/9/08


SHERIDAN R. OLDDHAM, M.D., Chairman

STATE OF MAINE DEPARTMENT
OF THE ATTORNEY GENERAL

DATED:

12/9/08



DENNIS E. SMITH
Assistant Attorney General

Effective Date: