

**STATE OF MAINE
BOARD OF LICENSURE IN MEDICINE
137 STATE HOUSE STATION
AUGUSTA, MAINE 04333-0137
MEETING OF JANUARY 8, 2008
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STATE OF MAINE
BOARD OF LICENSURE IN MEDICINE
137 STATE HOUSE STATION
AUGUSTA, MAINE 04333-0137
MEETING OF JANUARY 8, 2008

BOARD MEMBERS PRESENT

Sheridan R. Oldham, M.D., Chairman
Gary R. Hatfield, M.D., Board Secretary
Cheryl D. Clukey
George K. Dreher, M.D.
Maroulla Gleaton, M.D.
Kimberly K. Gooch, 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
Maria A. MacDonald, Field Investigator
Dan Sprague, Assistant Executive Director

ATTORNEY GENERAL'S OFFICE

Dennis Smith, Assistant Attorney General
Detective Pete Lizanecz, AG's Office
James E. Smith, Esq., Presiding Officer

Ms. Clukey was excused at 5:45 P.M.

The Board meets in public session with the exception of the times listed below which are held in executive session. Executive sessions are held 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. All voting takes place in public session.

EXECUTIVE SESSION TIME

9:07 a.m. – 10:46 a.m.
10:58 a.m. – 12:11 p.m.
5:40 p.m. – 6:05 p.m.

PURPOSE

A & D, Progress Reports and New Complaints
Informal Conference
New Complaints

PUBLIC SESSION TIME

9:06 a.m. - 9:07 a.m.
12:44 p.m. – 4:41 p.m.
4:58 p.m. – 5:37 p.m.
6:08 p.m. – 7:10 p.m.

Call to Order
Adjudicatory Hearing
Adjudicatory Hearing
Public Business

RECESS *(The Board moved and voted to stand in recess during the following times.)*

10:46 a.m. – 10:58 a.m. Recess
12:11 p.m. – 12:44 p.m. Noon Recess
4:41 p.m. – 4:58 p.m. Recess
5:37 p.m. – 5:40 p.m. Recess

I. **CALL TO ORDER**

Dr. Oldham called the meeting to order at 9:06 a.m.

A. **AMENDMENTS TO THE AGENDA**

1. PROGRESS REPORTS - Amend off CR 07-239
2. CONSENT AGREEMENTS - Amend on
 - a. CR 06-077 & 07-012 Takeo Kawamura, M.D.
 - b. CR 07-197 Daniel Bobker, M.D.
 - c. CR 02-104 & 07-145 Marc S. Shinderman, M.D.

II. **MINUTES OF DECEMBER 11, 2007**

MOTION was made by Dr. Dreher to approve the minutes of the December 11, 2007 meeting, as amended. Dr Nyberg seconded the motion which passed unanimously.

III. ASSESSMENT & DIRECTION

A. AD 07-389

MOTION was made by Ms. Holmes to investigate further AD 07-369. Dr. Onion seconded the motion which passed by unanimous vote.

B. AD 07-397 (CR 08-005)

MOTION was made by Dr. Gooch to issue a complaint and order a 3286 evaluation (at the doctor's expense) in the matter of AD 07-397 (CR 08-005). Dr. Dreher seconded the motion which passed by unanimous vote.

C. AD 07-398

MOTION was made by Dr. Dreher to investigate further AD 07-398. The motion was seconded by Dr. Nyberg and passed by unanimous vote.

IV. PROGRESS REPORTS

A. CR 07-326

MOTION was made by Dr. Onion to investigate further CR 07-326. The motion was seconded by Dr. Dreher and passed by unanimous vote.

B. CR 07-127 - ALFRED B. CICHON, PA-C

MOTION was made by Dr. Gooch to unset the Adjudicatory Hearing in the matter of CR 07-127. Dr. Nyberg seconded the motion which passed by unanimous vote.

C. CR 07-127

MOTION was made by Dr. Gooch to dismiss CR 07-127. Ms. Holmes seconded the motion.

This complaint arose from a concern by an inmate that her privacy rights were violated because her intake exam took place within earshot of other inmates and in a room where the door was left open. The complaint was initially scheduled for an Adjudicatory Hearing. The complainant is no longer able to cooperate with the investigatory process and the clinician involved has had his license restricted. The institution in which this event took place has responded through an internal grievance process and revised the exam room and now allows the door to be closed. The Board therefore considered this matter resolved and dismissed the complaint.

The motion passed by unanimous vote.

D. CR 07-367 DAVID B. GAMMON, M.D.

MOTION was made by Dr. Hatfield to order an Adjudicatory Hearing in the matter of David B. Gammon, M.D. (CR 07-367). Dr. Nyberg seconded the motion which passed 7-0-0-1. Dr. Onion was recused.

E. COMPLAINT STATUS REPORT

The Complaint Status Report was reviewed and accepted.

F. REVIEW DRAFT LETTERS OF GUIDANCE

The Board reviewed and edited letters of guidance.

G. CONSUMER ASSISTANT FEEDBACK

The Consumer Assistant provided feedback from complainants whose cases have been adjudicated.

V. NEW COMPLAINTS

A. CR 07-295

MOTION was made by Dr. Gooch to dismiss CR 07-295. Dr. Nyberg seconded the motion.

The daughter of a patient complained of care given to her mother by the mother's initial oncologist. In particular the daughter felt that lab work was done too frequently, the patient didn't appropriately receive transfusions and Aranesp injections and that the oncologist did not see her mother frequently enough.

The medical records showed appropriate use of blood products and Aranesp. Also, monitoring was frequent due to the initiation of chemotherapy in this elderly woman and the woman was seen frequently by professional staff in an oncology center. The daughter did receive phone calls back from the office; however, seemed to have some emotional needs that remained unaddressed with regards to her mother's new diagnosis. This did not constitute inappropriate care, thus the complaint was dismissed.

The motion passed 6-0-0-2 with Ms. Holmes and Dr. Dreher recused.

B. CR 07-314

MOTION was made by Dr. Onion to investigate further CR 07-314. Dr. Nyberg seconded the motion which passed by unanimous vote.

C. CR 07-323

MOTION was made by Dr. Hatfield to dismiss CR 07-323. Dr. Nyberg seconded the motion.

In this complaint the patient's daughter-in-law, who is the patient's medical power of attorney, feels that her mother-in-law's pain medication was inappropriately discontinued by her physician. As well, she feels that the requirements of a pain contract were not appropriate for the patient given her multiple medical problems. The physician was felt to be "unbending and not compassionate".

The physician replies he did not change the patient's pain medication until she refused to follow the rules of her pain contract by leaving a monitored urine sample and that he continued one of her two narcotic prescriptions while adding a new non-narcotic pain medication at that time. The medical records show the patient's care to be appropriate, including the informed usage of a pain contract.

The motion passed unanimously.

D. CR 07-356

MOTION was made by Ms. Holmes to dismiss CR 07-356. Dr. Hatfield seconded the motion.

The complainant alleges that during a postoperative appointment the physician humiliated her publicly by yelling at her and accusing her of not following his instructions to promote healing of her sphincteroplasty wound. She also alleged the physician used demeaning language to explain the condition of her wound.

The records show an extensive workup was completed by the physician and the attending nurse. The physician states he did emphasize the need to follow medical instructions to clean the wound which was necessary to heal the wound. The physician's nurse was present during the appointment and states in writing that the physician's exam was appropriate and professional and that the physician neither humiliated nor yelled at the complainant publicly.

The motion passed unanimously.

E. CR 07-368

MOTION was made by Ms. Holmes to order a 3286 evaluation in the matter of CR 07-368. Dr. Nyberg seconded the motion which passed 7-0-0-1. Dr. Hatfield was recused.

F. CR 07-369

MOTION was made by Dr. Dreher to table until the next scheduled meeting of the Board. Ms. Holmes seconded the motion which passed by unanimous vote.

G. CR 07-366

MOTION was made by Dr. Hatfield to investigate further CR 07-366. The motion was seconded by Dr. Gooch and passed by unanimous vote.

VI. INFORMAL CONFERENCE 11:00 a.m.

A. CR 07-193 MICHAEL MAKARETZ, M.D.

MOTION was made by Ms. Holmes to dismiss the complaint with a letter of guidance in the matter of Michael Makaretz, M.D. (CR 07-193). Dr. Gleaton seconded the motion.

The patient and her parents had the impression they were not listened to by the physician when they asked several times to alter the patient's post-operative pain management. They complained that the physician was unsympathetic and somewhat rigid about what he was willing to do. The physician replied that he was offended by the accusation he did not listen, and that he was always concerned with a balance between the patient's comfort and any danger to the patient that might follow his prescribing pain medications in excess of the norms he had established. The Board acknowledged both sides of the dispute and offered the following remedy. While the physician may be scrupulous in his manner of listening, which is focused on objective clarity with an aim to place the patient appropriately within the parameters of his experience and his knowledge of normative profiles of similar patients, he might do well to consider learning the skills of another kind of listening. That other kind is commonly described as "empathetic understanding." Listening for empathetic understanding is focused on assuming (at *this* time, on *this* issue) the patient's point of view in order to get a more detailed and complete perspective on the problem as experienced by the patient. Achieving this perspective allows the physician access to more information about the patient's unique characteristics, information that might well be useful in tailoring an alternative treatment plan for the "anomalous" patient who does not fit easily within the parameters of the physician's expectations. The Board also recommended the physician pursue a course or some other avenue that would afford him information about the most recent recommendations for pain management.

The motion passed 6-2-0-1, with Dr. Dreher recused.

VII. BOARD ORDERS AND CONSENT AGREEMENT MONITORING AND APPROVAL

A. BOARD ORDERS (none)

B. CONSENT AGREEMENT MONITORING AND APPROVAL

1. CONSENT AGREEMENT REPORT

2. MICHELLE LEE, M.D.

Dr. Lee's Consent Agreement, dated August 29, 2006, states that within one year from the date of the Consent Agreement she must enroll in and successfully complete a Board approved course in diagnosing and treating critically ill patients. Dr. Lee completed an online course in Encephalitis at the University of Nebraska on September 24, 2007.

The Board did not pre-approve this course and upon review, required Dr. Lee to participate in an in-person course dealing with "critically ill" patients, and authorized a six-month extension to complete the course. Dr. Lee has submitted a course for the Board's preapproval from the American Academy of Neurology's Winter Conference, which addresses a range of issues in neurology. The conference will include topics such as meningitis which were relevant to the case leading to the Consent Agreement.

MOTION was made by Dr. Gleaton to approve the proposed course from the American Academy of Neurology's Winter Conference which must include Neurology 1, 2 and 3. Dr. Dreher seconded the motion which passed 6-1-0-1. Dr. Hatfield was recused.

3. BRUCE HANSEN, PA-645

Mr. Hansen's Consent Agreement became effective February 8, 2005. The Agreement states that Mr. Hansen could continue medication management and participate in professional therapy and counseling, work in an employment situation which provides on-site supervision, working no more than forty (40) hours per week with no overnight shifts.

Mr. Hansen requested a termination of his Consent Agreement in March of 2007. Upon review, the Board approved termination of probation and denied the termination of the Agreement due to concerns voiced by his medication manager and his treating therapist that he was not yet ready to return to work as a Physician Assistant.

In a letter from Mr. Hansen dated December 13, 2007, Mr. Hansen requested to resign his Physician Assistant license immediately as of the date of the letter.

MOTION was made by Dr. Dreher to accept the voluntary surrender of Mr. Hansen's Physician Assistant License (PA-645). Dr. Gleaton seconded the motion which passed by unanimous vote.

4. ROBERT STRUBA, M.D.

Dr. Struba's Consent Agreement became effective October 12, 2004. The term of the Agreement is five years from December 31, 2002. Dr. Struba has complied with the terms of his Consent Agreement. Dr. Struba has also complied with the terms of his criminal probation and with support from his probation officer, Eric Harvey; he has filed for early termination.

MOTION was made by Dr. Gleaton to release Dr. Struba from the terms of his Consent Agreement. Dr. Gooch seconded the motion which passed by unanimous vote.

5. ROBERT CHAGRASULIS, M.D.

Dr. Chagrasulis signed a Consent Agreement on December 3, 2002. In a letter dated December 24, 2007, Dr. Chagrasulis is requesting a release from the Agreement. Dr. Chagrasulis plans to continue voluntarily participation in the Physicians Health Program, Alcoholics Anonymous Caduceus. Dr. Chagrasulis has complied with the terms of his Consent Agreement.

MOTION was made by Ms. Holmes to approve termination of Dr. Robert Chagrasulis' Consent Agreement. The motion was seconded by Dr. Gleaton and passed 6-1-0-1. Dr. Dreher was recused.

6. CR 06-077 & 07-012 TAKEO KAWAMURA, M.D. [SEE ATTACHED APPENDIX A]

A Consent Agreement was presented for approval in which Dr. Kawamura agrees to the immediate, voluntary, and permanent surrender of his Maine medical license.

MOTION was made by Dr. Dreher to accept the immediate, voluntary, and permanent surrender of the Maine medical license of Takeo Kawamura, M.D. Ms. Holmes seconded the motion which passed by unanimous vote.

7. CR 07-197 DANIEL BOBKER, M.D. [SEE ATTACHED APPENDIX B]

A Consent Agreement was presented for approval in which Dr. Daniel Bobker agrees that this Consent Agreement is a final order resolving all outstanding matters, including CR 07-197, in lieu of the ordered Adjudicatory Hearing.

MOTION was made by Dr. Dreher to approve the proposed Consent Agreement in the matter of Daniel Bobker. Dr. Gleaton seconded the motion which passed 7-0-0-1. Dr. Hatfield was recused.

8. CR 02-104 & 07-145 MARC S. SHINDERMAN, M.D [SEE ATTACHED APPENDIX C]

On April 18, 2007, the Board notified Marc S. Shinderman, M.D. via certified mail of its decision to preliminarily deny his application for a permanent Maine medical license. On May 1-, 2007, the Board received notice of Dr. Shinderman's appeal of the Board's decision to preliminarily deny his application.

On January 8, 2008, the Board received a letter from Dr. Shinderman's legal counsel, James M. Bowie. What follows is quoted from Mr. Bowie's letter dated January 7, 2008.

Dr. Shinderman has advised me that in order to resolve all issues currently pending before the Board of Licensure in Medicine he is prepared to withdraw his appeal of the Board's preliminary denial of his application for a permanent Maine medical license dated April 18, 2007, and to allow that denial to become final based solely upon Dr. Shinderman's federal criminal convictions entered on March 27, 2007, in the United States District Court for the District of Maine as outlined in the Board's letters of December 17, 2007. Dr. Shinderman acknowledges that those convictions constitute grounds for denial of licensure pursuant to Title 5 M.R.S. §§ 5301-5304 and Title 32 M.R.S. § 3282-A(2).

In addition, Dr. Shinderman acknowledges that the withdraw[a] of his appeal of the Board's decision to preliminarily deny his application for a permanent Maine medical license will result in a **final**, non-appealable decision to deny his application, which is reportable to all appropriate data banks, including but not limited to the National Practitioner Data Bank (NPD[B]P) and the Federation of State Medical Boards (FSMB). Dr. Shinderman also understands and acknowledges that the Board's final decision of denial constitutes a public record pursuant to Title 1 M.R.S. § 402, and must be made available for inspection and copying to the public pursuant to Title 1 M.R.S. §408.

Such a withdrawal of Dr. Shinderman's appeal would be predicated upon the Board's dismissal of complaint CR 02-104, relating to alleged inappropriate treatment of patient SP, currently consolidated for an adjudicatory hearing with the license denial.

a. MARC S. SHINDERMAN, M.D. PROPOSED PROCESS

MOTION was made by Dr. Nyberg to accept the concept of the solution proposed by Dr. Shinderman. Dr. Dreher seconded the motion which passed unanimously.

b. MARC S. SHINDERMAN, M.D. PROPOSED WITHDRAWAL OF HIS APPEAL

MOTION was made by Dr. Gleaton to accept Dr. Shinderman's withdrawal of his appeal of the preliminary denial of his Maine medical application. The Motion passed by unanimous vote. The result is that the license application is permanently denied.

c. CR 02-104

MOTION was made by Dr. Dreher to dismiss CR 02-104. Dr. Gleaton seconded the motion which passed unanimously.

In this case the physician who was running a Methadone clinic was alleged to have over-medicated the patient to the extent to which it caused her difficulties in several aspects of her life. A review of the records raises questions in this regard yet the fact that the physician has been denied permanent licensure in the State Of Maine is felt to be sufficient resolution of the case.

The motion passed unanimously.

MOTION was made by Dr. Gleaton to approve the documents being used to accomplish the process. Dr. Dreher seconded the motion which passed unanimously.

VIII. ADJUDICATORY HEARING

A. (CR 07-112) SCOTT L. DIERING, M.D.

An Adjudicatory Hearing was held to in the matter of Scott L. Diering, M.D. A Board Order will issue as a result of the hearing and be presented to the Board for approval in February.

IX. REMARKS OF THE CHAIRMAN (none)

X. EXECUTIVE DIRECTOR'S REPORT

A. MONTHLY REPORT

The Board accepted the report of the Executive Director.

B. PA SCHEDULE II APPLICATION

The Physician Assistant Advisory Committee was unable to meet in December due to a snow storm. An attempt to reschedule the meeting for January 9 failed for lack of a quorum

The PA Advisory Committee will meet March 4, 2008. Dr. Onion will attend, replacing Dr. Gooch as the representative from the Board.

The PA Committee has requested approval of the amended P.A. Schedule II Application.

MOTION was made by Dr. Dreher to approve the amendments to the PA Schedule II Application. Dr. Gooch seconded the motion which passed unanimously.

C. P.A. SCHEDULE II RENEWAL TIMING

The Board reviewed a proposal from the PA Committee which would make the PA license expiration date concurrent with the PA Schedule II expiration date and renew both licenses at the same time. The process would begin with the regular upcoming March 2008 expiration date.

MOTION was made by Dr. Dreher to approve the proposal from the PA Committee to make the PA license expiration date concurrent with the PA Schedule II expiration date and renew both licenses at the same time with the process beginning with this March. Dr. Gleaton seconded the motion which passed unanimously.

D. LICENSURE EXAMINATION REVISION

MOTION was made by the Licensure Committee to approve the amendments to the Maine State Licensing Exam and remove proposed question 31. The motion passed unanimously.

XI. REMARKS OF ASSISTANT ATTORNEY GENERAL (none)

XII. SECRETARY'S REPORT

A. LIST A NEW LICENSES FOR RATIFICATION

1. M.D. LIST A

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

<u>NAME</u>	<u>SPECIALTY</u>	<u>LOCATION</u>
Abell, Creed W	Diagnostic Radiology	Teleradiology
Abney-Lidahl, Deborah L	Emergency Medicine	Rockport
Aierstok, Mark D	Orthopedic Surgery	Bangor
Al-Sawalha, Leith	Internal Medicine	Bangor
Andrada, Elizabeth C	Emergency Medicine	Portland/Waterville
Ardao, Albert D	Physical Medicine & Rehabilitation	Waterville
Aubertine, Cheri L	Pathology	Central ME/Augusta/Waterville
Bowker-Kinley, Melissa	Psychiatry	Portland
Darabi, Kamran	Internal Medicine	Lewiston
Dayal, Yogeshwar	Anatomic Pathology	Not Listed
Dunnington, Glenn W	Urology	Undecided
Feske, Steven K	Neurology	York Hospital
Gandev, George N	Internal Medicine	Lewiston
Golden, Nicholas	Gastroenterology	Portland
Hare, Susan M	Internal Medicine	Lincoln
Harrod-Kim, Katherine	Pediatrics	Portland Area
Kaneriya, Perry P	Diagnostic Radiology	Telemedicine
Kerekes, Jill Marie	Internal Medicine	Old Orchard Beach
Krainin, James	Psychiatry	Naples
Prasad, Sridhar K	Internal Medicine	Lewiston
Raque, James D	Diagnostic Radiology	Waterville
Rost, Natalia S	Neurology	York Hospital
Schwamm, Lee H	Neurology	York Hospital

Skillings, John C	Surgery	Not Listed
Smith, Eric E	Neurology	York Hospital
Stulc, Jaroslav P	General Surgery	Skowhegan
Takeuchi, Sean Y	Diagnostic Radiology	Teleradiology
Viswanathan, Anand	Neurology	York Hospital
Wigfall, Preston A	Emergency Medicine	Bangor

MOTION was made by Dr. Nyberg and seconded by Dr. Dreher to approve the applications of the physicians listed above for licensure. The motion passed unanimously.

2. PA.LIST A (none)

B. LIST B APPLICATIONS FOR INDIVIDUAL CONSIDERATION

1. MARISSA A CAMRUD, M.D.

Dr. Camrud's application was presented to the Board for consideration of her yes answer to question 1, which asks: "Have you EVER had ANY licensing authority (INCLUDING MAINE) deny your application for any type of license, or take any disciplinary action against the license issued to you in that jurisdiction, including but not limited to warning, reprimand, fine, suspension, revocation, restrictions in permitted practice, probation with or without monitoring?"

Dr. Camrud responded that she discovered while applying for additional state licensure, including renewal of her West Virginia (WV) license, she learned that her license in West Virginia had been in "suspended" status since June 30, 1998. Dr. Camrud was informed that their office never received the form she submitted in 1998 and stated that it is the policy of the WV Board that any file with incomplete paperwork of this nature is automatically and without exception placed in "suspended" category rather than expired or lapsed.

MOTION was made by the Licensure Committee to approve the license application of Marissa A. Camrud, M.D. because the misunderstanding with WV was more clerical than anything else. The motion passed unanimously.

2. LARRY M. FRALEY, M.D.

Dr. Fraley's permanent application was presented to the Board for consideration due to a yes answer on question 1 which asks: "Have you EVER had ANY licensing authority (INCLUDING MAINE) deny your application for any type of license, or take any disciplinary action against the license issued to you in that jurisdiction, including but not limited to warning, reprimand, fine, suspension, revocation, restrictions in permitted practice, probation with or without monitoring?"

Dr. Fraley responded that the Kentucky Medical Board of Medical Licensure fined him for not having his CME certificates submitted in time during an audit.

MOTION was made by the Licensure Committee to approve the permanent license application of Larry M. Fraley, M.D. The motion passed unanimously.

3. PAUL D. LESKO, M.D.

Dr. Lesko's permanent application was presented for review because of a yes answer to question #6 which asks: "Have you EVER been denied registration or had your ability to prescribe or dispense controlled substances modified, restricted, suspended, revoked, or voluntarily suspended by (a) U.S. Drug Enforcement Administration (DEA)? (b) Any state/territory of U.S. INCLUDING MAINE?"

The Committee reported that Dr. Lesko had had no indication of a problem since 1989. There were some malpractice cases but did not seem excessive for his specialty as an orthopedic surgeon.

MOTION was made by the Licensure Committee to approve the permanent license application of Paul D. Lesko, M.D. The motion passed unanimously.

4. EDWARD F. SBARDELLA, M.D.

Dr. Sbardella's application was presented for review because of a yes answer to question # 7 which asks: "Have you EVER been charged, summonsed, indicted, arrested, or convicted of a criminal offense (including motor vehicle offenses but not including minor traffic or parking violations)?"

Dr. Sbardella stated that he took the appropriate professional steps to resolve his problem and has had not further problems since 1989.

MOTION was made by the Licensure Committee to approve the permanent license application of Edward F. Sbardella, M.D. The motion passed unanimously.

5. BENJAMIN W. STRONG, M.D.

Dr. Strong's permanent application is being presented for review because of a yes answer to question #1 which asks: "Have you EVER had ANY licensing authority (INCLUDING MAINE) deny your application for any type of license, or take any disciplinary action against the license issued to you in that jurisdiction, including but not limited to warning, reprimand, fine, suspension, revocation, restrictions in permitted practice, probation with or without monitoring?"

Dr. Strong was asked to appear before the Florida Board of Medicine in June of 2005 to explain a leave of absence during his residency training at the University of Arizona Health Sciences Center. He appeared and answered all questions that were asked and returned to Arizona. The Florida board subsequently issued a \$1000 fine owing to a misinterpretation of an application question, and requested a new application fee of \$500. Payment was sent and the Florida license was issued. The fine and administrative fee were reported to the FSMB but were not considered a disciplinary action.

MOTION was made by the Licensure Committee to approve the permanent application of Benjamin w. Strong, M.D. The motion passed unanimously.

C. LIST C APPLICATIONS FOR REINSTATEMENT

1. The following license reinstatement applications have been approved by Board Secretary Gary R. Hatfield, M.D. without reservation.

<u>NAME</u>	<u>SPECIALTY</u>
Reed, Mark A	Anesthesiology
Hallee, Thomas A.	Psychiatry

MOTION was made by Dr. Gleaton and seconded by Dr. Dreher to grant reinstatement for the physicians appearing on List C above. The motion passed unanimously.

2. ANDREW J. FLETCHER, M.D. REINSTATEMENT APPLICATION FOR INDIVIDUAL CONSIDERATION [SEE APPENDIX B ATTACHED]

Dr. Fletcher's application for reinstatement was presented at the December 11, 2007 Board meeting. His reinstatement application was approved for a conditional license, with conditions to be negotiated.

The Consent Agreement for conditional license reinstatement was presented for review with the following conditions: the licensee will abstain from the use of any and all prohibited substances as outlined in the Consent Agreement; the licensee will obtain all prescription medications from a single primary care physician approved by the Board; the licensee will be subject to substance abuse monitoring to be performed by a Board approved supervising physician; the licensee will engage in Board approved substance abuse counseling; the licensee will engage a Board preapproved physician who will monitor the licensee's medical practice; the licensee will attend AA and/or NA and will enter into a contract with the Maine Physician's Health Program. This action is based on substance abuse issues.

MOTION was made by the Licensure Committee to approve the conditioned license for Andrew J. Fletcher, M.D. The motion passed 6-0-0-2 with Dr. Gleaton and Dr. Onion recused.

D. LIST D WITHDRAWALS

1. LIST D-1 WITHDRAW LICENSE APPLICATION (none)
2. LIST D-2 WITHDRAW LICENSE FROM REGISTRATION (none)
3. LIST D-3 WITHDRAW LICENSE FROM REGISTRATION- INDIVIDUAL CONSIDERATION (none)

E. LIST E LICENSES TO LAPSE BY OPERATION OF LAW

1. MD LICENSE LAPSE LIST (FYI)

The following physician licenses lapsed by operation of law effective January 3, 2007

<u>NAME</u>	<u>LICENSE NO.</u>
Bajaj, Parvesh	008547
Bohlman, Lyle G.	016877
Duval-Arnould, Bertrand J.	009441
Engstrom, Lincoln L.	015473
Gluck, Charles	010059
Gossart, Robert M.	014420
Griffey, Eric C.	012002
Malapira, Amelito Benedicto R.	016027
Mazzaglia, Peter	014434
Roberts, James	013620
Sriharan, Selvarajah	017205
Wallace, Diane S.	015075

2. PA LAPSE LIST (none)

F. LIST F LICENSEES REQUESTING TO CONVERT TO ACTIVE STATUS (none)

G. LIST G RENEWAL APPLICATIONS FOR REVIEW

1. ELMER H. LOMMLER, M.D.

MOTION was made by the Licensure Committee to investigate further and order a 3286 and to place Dr. Lommler's license renewal on hold. The motion passed 7-1.

2. MAHMOUD MAHAMED, M.D.

MOTION was made by the Licensure Committee to investigate further and place Dr. Mahamed's license renewal on hold until the legal process plays out. The motion passed unanimously.

3. SHARON KELLEY, M.D.

Dr. Kelley's renewal application is being reviewed by the Licensure Committee for review because of a yes answer to question 14.6 which asks: "Have you suffered from any physical, psychiatric, or addictive disorder that would impair or require limitations on your functioning as a physician or that resulted in the inability to practice medicine for more than 30 days?"

Dr. Kelley voluntarily reported that she has had the onset of a complex neurological illness and has received a release for part time work from her neurologist.

MOTION was made by the Licensure Committee to grant the renewal of Sharon Kelley's license and request an updated "fit for duty" report from her neurologist in six months. The motion passed unanimously.

H, LIST H – DELEGATED PRACTITIONERS SCHEDULE II

1. LIST H DELEGATED PRACTITIONERS TO RATIFY

The following requests for Schedule II prescribing authority have been approved by the Board Secretary Gary R. Hatfield, MD.

<u>NAME</u>	<u>PSP</u>	<u>LOCATION</u>
Amy Bosinske, PA-C	G.F. Guernelli, MD	Lewiston
Dixie Knoll, NP	Daniel Hayes, MD	Scarborough
Danielle Bowen, ANP	Daniel Hayes, MD	Scarborough
Hans Bowder, ANP	Daniel Hayes, MD	Scarborough
John Nowak, PA-C	D. Thompson McGuire, MD	Bangor
Julie Baither, FNP	Daniel Hayes, MD	Scarborough
Dara Knapp, PA-C	H. Hollis Caffee, MD	Bangor

MOTION was made by the Licensure Committee to ratify to Board Secretary Hatfield's approval for Schedule II prescribing authority for the clinicians listed above. The motion passed 7-0-1 with Dr. Onion abstaining.

XIII. STANDING COMMITTEE REPORTS

A. PERSONNEL & ADMINISTRATION COMMITTEE (none)

B. LEGISLATIVE & REGULATORY (no report)

C. PUBLIC INFORMATION COMMITTEE

The 2008 Winter Newsletter will be ready to go to the printers in January for publication in early February.

D. LICENSURE COMMITTEE (see Secretary's Report)

E. PHYSICIAN ASSISTANT ADVISORY COMMITTEE (no report)


F. CME COMMITTEE

Dr. Dreher reported that the only thing that was pending is that Maine Medical Center was waiting for us to get back to them about which specialty seems to need the most retraining so they can begin their pilot project. Mr. Manning will send that information by email.

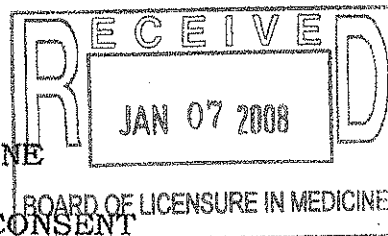
- G. ETHICS COMMITTEE (none)
- H. SPECIAL PROJECTS COMMITTEE (no report)
- XIV. BOARD CORRESPONDENCE
- XV. FYI
- XVI. FSMB MATERIAL
- XVII. OTHER BUSINESS
- XIX. ADJOURNMENT (7:09 P.M.)

MOTION was made by Dr. Gleaton to adjourn. Dr. Nyberg 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:)
Takeo Kawamura, M.D.)
Complaint Nos. CR06-077/07-012)

BOARD OF LICENSURE IN MEDICINE
CONSENT
AGREEMENT

This document is a Consent Agreement, effective when signed by all parties, regarding disciplinary action against the license to practice medicine in the State of Maine held by Takeo Kawamura, M.D. The parties to the Consent Agreement are: Takeo Kawamura, M.D. ("Dr. Kawamura"), the State of Maine Board of Licensure in Medicine ("the Board") and the State of Maine Department of the Attorney General. This Consent Agreement is entered into pursuant to 10 M.R.S.A. § 8003(5)(B) and 32 M.R.S.A. § 3282-A.

STATEMENT OF FACTS

1. Dr. Kawamura has held a license to practice medicine in the State of Maine since 1962. Since that time, he has practiced in the Bangor area, and specialized in psychiatry.

2. On or about March 27, 2006, the Board received a complaint filed against Dr. Kawamura's medical license from LR, a patient of Dr. Kawamura. The Board docketed the complaint as CR-06-077. The complaint alleged that Dr. Kawamura failed to adequately monitor her medication levels, resulting in LR suffering side-effects.

3. On or about May 17, 2006, the Board received a response from Dr. Kawamura to complaint CR06-077. In that response, Dr. Kawamura asserted that he adequately monitored patient LR's medications and treated patient LR appropriately.

4. On or about October 16, 2006, the Board reviewed a report regarding the treatment of patient LR by Dr. Kawamura.

5. On November 14, 2006, the Board conducted a review of complaint CR06-077. Following its review, the Board voted to set the complaint CR06-077 for an adjudicatory hearing.

6. On or about January 22, 2007, the Board initiated reviewed information concerning DG, a patient of Dr. Kawamura, who committed suicide while under treatment. Following its review, the Board voted to initiate a complaint against Dr. Kawamura's medical license alleging incompetence in the care of patient DG. The Board docketed the complaint as CR07-012.

7. On or about March 26, 2007, the Board received a response from Dr. Kawamura to complaint CR07-012. In his response, Dr. Kawamura denied providing incompetent care to patient DG.

8. On November 29, 2007, the Board reviewed a report regarding the treatment of patient DG by Dr. Kawamura.

9. On December 11, 2007, the Board conducted a review of complaint CR07-012. Following its review, the Board voted to set the complaint CR07-012 for an adjudicatory hearing with complaint CR06-077.

10. This Consent Agreement has been negotiated between legal counsel for Dr. Kawamura, who represents that Dr. Kawamura retired from the active practice of medicine in October 2007, and the Board's legal counsel in order to resolve complaints CR06-077 and CR07-012 without further proceedings.

11. By signing this Consent Agreement, Dr. Kawamura 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 Consent Agreement to the Board for possible ratification. Dr. Kawamura 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 Consent Agreement.

12. Absent ratification of this Consent Agreement by a majority vote of the Board, the matters will proceed to an adjudicatory hearing.

COVENANTS

13. Dr. Kawamura neither admits nor denies the allegations in complaints CR06-077 and CR07-012. However, Dr. Kawamura concedes that: the Board has sufficient evidence from which it could reasonably conclude that he failed to adequately monitor patient LR's medical care and medications; and failed to adequately monitor patient DG's medical care and medications. Dr. Kawamura admits that such conduct could amount to incompetence and unprofessional conduct, and constitutes grounds for discipline of his Maine license pursuant to 32 M.R.S.A. § 3282-A(2)(E) & (F).

14. As discipline for the conduct identified in paragraph 13 above, Dr. Kawamura agrees to the immediate, voluntary, and permanent surrender of his Maine medical license.

15. Dr. Kawamura waives his right to a hearing before the Board or any court regarding all findings, terms and conditions of this Consent

Agreement. Dr. Kawamura agrees that this Consent Agreement and Order is a final order resolving complaints CR06-077 and CR07-012. This Consent Agreement is not appealable and is effect 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 Department of Attorney General. Requests for amendments by Dr. Kawamura shall be made in writing and submitted to the Board. The Board shall have the sole discretion to grant or deny any requests to modify this Consent Agreement. The parties agree that any decision by the Board made pursuant to a request to modify this Consent Agreement does not require a hearing and is not appealable.

16. The Board and the Office of the Attorney General may communicate and cooperate regarding Dr. Kawamura or any other matter relating to this Consent Agreement.

17. This Consent Agreement is a public record within the meaning of 1 M.R.S.A. § 402 and will be available for inspection and copying by the public pursuant to 1 M.R.S.A. § 408.

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

19. The Board and Dr. Kawamura 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.

20. Dr. Kawamura has been represented by an attorney, Kenneth W. Lehman, Esq., who has participated on his behalf in the negotiation of this Consent Agreement.

21. Dr. Kawamura acknowledges by his signature hereto that he has read this Consent Agreement, that he has had an opportunity to consult with an attorney before executing this Consent Agreement, that he executed this Consent Agreement of his own free will and that he agrees to abide by all terms and conditions set forth herein.

I, TAKEO KAWAMURA, M.D., HAVE READ AND UNDERSTAND THE FOREGOING CONSENT AGREEMENT AND AGREE WITH ITS CONTENTS AND TERMS. I FURTHER UNDERSTAND THAT BY SIGNING THIS 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: Jan 3 2008

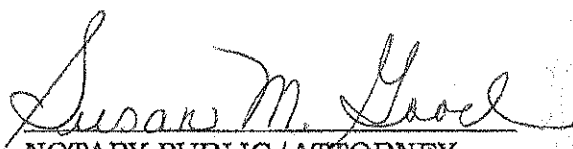

TAKEO KAWAMURA, M.D.

STATE OF _____

_____, S.S.

Personally appeared before me the above-named Takeo Kawamura, 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: 1-3-2008


NOTARY PUBLIC/ATTORNEY

MY COMMISSION ENDS: 3-09-2010

DATED:

January 3, 2008


KENNETH W. LEHMAN, ESQ.
Attorney for Takeo Kawamura, M.D.

STATE OF MAINE
BOARD OF LICENSURE IN MEDICINE

DATED:


1/8/08


SHERIDAN R. OLDHAM, M.D., Chairman

STATE OF MAINE DEPARTMENT
OF THE ATTORNEY GENERAL

DATED:

1/8/08


DENNIS E. SMITH
Assistant Attorney General

Effective Date:

STATE OF MAINE
BOARD OF LICENSURE IN MEDICINE

APPENDIX B

In re:) CONSENT
Daniel Bobker, M.D.) AGREEMENT
Complaint No. CR07-197)

This document is a Consent Agreement, effective when signed by all parties, regarding disciplinary action against and conditions imposed upon the license to practice medicine in the State of Maine held by Daniel Bobker, M.D. The parties to the Consent Agreement are: Daniel Bobker, M.D. ("Dr. Bobker"), 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. Bobker has held a license to practice medicine in the State of Maine since February 15, 1995. Dr. Bobker specializes in Neurology.
2. On June 12, 2007, the Board reviewed information indicating that Dr. Bobker had been abusing benzodiazepine and sedatives. Following its review, the Board voted to summarily suspend Dr. Bobker's Maine medical license for thirty (30) days pursuant to Title 5 M.R.S.A. § 10004 based upon the imminent threat that his continued practice of medicine posed to the public. In addition, the Board ordered Dr. Bobker to undergo a physical and mental evaluation by a Board-approved physician pursuant to Title 32 M.R.S.A. § 3286, and scheduled the matter for an adjudicatory hearing on July 10, 2007.
3. On June 25, 2007, the Board received a request from Dr. Bobker to continue the adjudicatory hearing based upon his participation in an in-patient treatment facility for chemical dependence. Based upon this request, and with the understanding that Dr. Bobker's license would remain under suspension until the adjudicatory hearing took place, the Board continued the adjudicatory hearing.
4. On December 5, 2007, the Board and Office of Attorney General received medical information regarding Dr. Bobker, including records pertaining to his in-patient treatment for chemical dependency.
5. This Consent Agreement has been negotiated by counsel for Dr. Bobker and counsel for the Board in order to resolve complaint CR07-197 without an adjudicatory hearing. Absent ratification of this proposed Consent Agreement by a majority vote of the Board, the matter will proceed to an adjudicatory hearing.
6. By signing this Consent Agreement, Dr. Bobker 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. Dr. Bobker 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

7. Dr. Bobker admits that with regard to complaint CR07-197 the Board has sufficient evidence from which it could reasonably conclude that he engaged in habitual substance abuse that was “foreseeably likely to result in his performing services in a manner that endangers the health or safety of patients.” Dr. Bobker admits that such conduct constitutes habitual substance abuse and unprofessional conduct and grounds for discipline of his Maine medical license pursuant to 32 M.R.S.A. § 3282-A(2)(B) & (F).

CONDITIONS OF LICENSURE

8. As discipline for the conduct admitted in paragraph 7 above, Dr. Bobker agrees to accept modifications¹ to and conditions imposed on his Maine medical license. Based on Dr. Bobker’s acceptance of responsibility for his actions, his continuing treatment of his substance abuse problems, as well as the understanding and agreement between Dr. Bobker and the Board, that any future use of any prohibited substance by Dr. Bobker may result in revocation of his license, the Board Dr. Bobker agree to the following conditions imposed upon his Maine medical license:

a. ABSTINENCE. Dr. Bobker agrees that, following the execution² of this Consent Agreement, he shall completely abstain from the use of any and all Prohibited Substances. “Prohibited Substances” as used throughout this Consent Agreement shall mean: benzodiazepines, sedatives (*i.e.* Ambien), hypnotics or similar drugs; opiates; alcohol; cocaine; fentanyl; 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. Bobker’s medical history, including his misuse of benzodiazepine and sedatives, unless the circumstances constitute a genuine medical or surgical emergency. Dr. Bobker understands and agrees that the single primary care physician approved by the Board shall not prescribe to Dr. Bobker any benzodiazepines, barbiturates, or prescription sedative-hypnotic medications, without obtaining prior approval from the Board. The Board shall retain the sole discretion, without hearing, to grant or deny any request to prescribe such medications. Dr. Bobker acknowledges that any decision by the Board concerning this issue is not appealable.

¹ Title 32 M.R.S.A. § 3282-A(2) gives the Board the authority to “modify” Dr. Bobker’s Maine medical license by imposing conditions upon it. The “modifications” to Dr. Bobker’s Maine medical license are the conditions imposed upon it pursuant to this Consent Agreement.

² For purposes of this Consent Agreement the term “execution” means the date on which the final signature is affixed to the Consent Agreement.

i. Prescription Medication. If any controlled drug is dispensed or prescribed for Dr. Bobker for a personal medical condition, Dr. Bobker 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.

ii. Future Use of Prohibited Substances Shall Result in Loss of Licensure. Dr. Bobker agrees and understands that any reliable evidence of use at any time in the future, whether in Maine or elsewhere, of any Prohibited Substance, including but not limited to benzodiazepines, sedatives (*i.e.* Ambien), hypnotics or similar drugs 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 REVOCATION/NON-RENEWAL OF LICENSURE.

b. POSSESSION OF CONTROLLED DRUGS. Dr. Bobker agrees that, following the execution of this Consent Agreement, he shall completely abstain from the possession of Prohibited Substances, including but not limited to benzodiazepines, sedatives (*i.e.* Ambien), hypnotics or similar drugs. In complying with this provision, Dr. Bobker agrees that his home or office medical practice shall not order or accept samples or stocks of any Prohibited Substances. Dr. Bobker agrees to permit the Board or its agent(s) complete access to his office medical practice to ensure his compliance with this provision.

c. SINGLE PHYSICIAN. Dr. Bobker agrees and understands that he shall only obtain his prescription medication(s) from a single primary care physician approved by the Board. Dr. Bobker agrees and understands that he will not make any unilateral changes to the medication regimen prescribed for him by his primary care physician. In complying with this provision, Dr. Bobker agrees that he will not self-diagnose or self-treat himself for any medical issues, including somatic or anxiety disorders. In addition, Dr. Bobker agrees that he will not attempt to pressure his primary care physician towards specific types of treatment.

d. SUBSTANCE MONITORING. Dr. Bobker understands and agrees that he may, for the remainder of his career as a Maine licensed physician, 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. Bobker irrevocably agrees that the Board and the Maine Department of Attorney General will have full access to all test data and reports. Dr. Bobker 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.

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

ii. 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 benzodiazepines, sedatives (*i.e.* Ambien), hypnotics or similar drugs.

iii. Frequency of Urine Testing. It is Dr. Bobker'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. Bobker 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. Bobker's Maine medical license, unless proof of genuine emergent medical circumstances (for Dr. Bobker or a patient) exist which warrant less serious disciplinary actions being taken by the Board.

(a). For the period following the execution of this Consent Agreement until Dr. Bobker's return to the active practice of medicine, urine samples shall be provided once a week;

(b). For the period following Dr. Bobker's return to the active practice of medicine and for one year thereafter, urine samples shall be provided once a week. In complying with this provision of the Consent Agreement, Dr. Bobker shall notify the Board, his Supervising Physician, and his Treatment Provider(s) immediately upon his return to the active practice of medicine;

(c). For the remainder of the term of this Consent Agreement, urine samples will be provided at a minimum of once a month. The frequency of urine testing shall continue as outlined herein even while Dr. Bobker is on vacation or on a leave of absence in the continental United States. Dr. Bobker shall be responsible for making arrangements to ensure that the testing is carried out with the frequency and standards outlined in this Consent Agreement.

iv. Reporting Test Results. It is Dr. Bobker's responsibility to ensure that all test results are reported promptly to the Board.

(a). 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.

(b). 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. Bobker shall ensure that all reports are made to the Board in a timely fashion.

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

v. Rebuttable Presumption Raised by Positive Test. It is agreed and understood that a test evidencing the presence of any Prohibited Substance, when confirmed, shall raise a rebuttable presumption that such substance was in fact used by Dr. Bobker. Such a positive test result shall alone be sufficient to prove the use of the Prohibited Substance by Dr. Bobker. Dr. Bobker 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. The confirmatory test shall be performed immediately upon any initial positive test result and it may also be admitted into evidence in any proceeding regarding Dr. Bobker's Maine license

vi. 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. Bobker'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 begin the moment Dr. Bobker first learns of a positive test or report of a positive test to the Board, whether from the Supervising Physician or his designee, from the Board or from any other source in writing, orally or by any other means. This shall include non-confirmed, positive tests.

vii. Board Hearing to Determine if Dr. Bobker Used Any Prohibited Substance. After receiving a positive report evidencing use by Dr. Bobker of any Prohibited Substance, the Board shall investigate the situation, including demanding a response from Dr. Bobker. The Board will hold a hearing within 60 days of the automatic suspension or as soon thereafter as practicable (unless both Dr. Bobker and the Board agree to hold the hearing later) and it shall be held pursuant to the Maine Administrative Procedure Act.

viii. Failure to Maintain Sampling Schedule or Failure to Appear or to Provide Sample. Failure by Dr. Bobker: 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:

(a). Report. If Dr. Bobker 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. Bobker must telephone the Board as soon as possible and send to the Board a written report of such failure within 48 hours.

(b). Second Opportunity to Provide Urine Sample. If Dr. Bobker 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.

(c). Suspension. An immediate, indefinite suspension of licensure shall result from any failure by Dr. Bobker 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. Bobker actually learns a report has been made or sent to the Board.

(d). Meeting with Board. Both Dr. Bobker 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.

(e). Board Action. The Board may order Dr. Bobker'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.

ix. Amendment of Testing Provisions. Upon written application by Dr. Bobker to the Board, the Board may amend the above agreed conditions for testing as long as such changes are otherwise consistent with the schedule set forth in this Consent Agreement. Amendment from the conditions shall be in the sole discretion of the Board and shall be based upon such information as the Board deems pertinent. A decision may be made by the Board, in its sole discretion, with or without providing a hearing. Any decision by the Board to amend the testing provisions is not appealable. The Board can propose Amendment(s), which may or may not be agreed to by Dr. Bobker.

x. 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.

e. PROFESSIONAL MANAGEMENT.

i. Substance Abuse Treatment. Within thirty (30) days following the execution of this Consent Agreement, Dr. Bobker shall submit for Board approval the name of a licensed individual or agency in the treatment of substance abuse with whom Dr. Bobker shall consult and counsel for the purpose of working on all issues pertaining to his substance abuse

issues, including Dr. Bobker's compliance with this Consent Agreement, which consultations shall be at least twice monthly following the execution of this Consent Agreement.

ii. Mental Health Treatment. Within thirty (30) days following the execution of this Consent Agreement, Dr. Bobker shall submit for Board approval the name of a licensed individual or agency in the treatment of mental health issues with whom Dr. Bobker shall consult and counsel for the purpose of working on all issues pertaining to his mental health issues. Dr. Bobker agrees to participate in psychotherapy with a Board approved therapist in order to address mental health issues. Therapy should include consideration of all recognized therapeutic modalities involved in the treatment of insomnia and anxiety, including but not limited to cognitive behavioral therapy (CBT). The Board in its discretion may approve the same individual approved by the Board to provide Dr. Bobker with substance abuse treatment to provide him with mental health treatment pursuant to this paragraph. The therapy sessions shall occur at least monthly and continue until the therapist notifies the Board that treatment is no longer necessary or useful. The Board, in its sole discretion, will determine whether cessation of therapy is appropriate. The Board shall retain the sole discretion, without hearing, to grant or deny such application. Dr. Bobker acknowledges that any decision by the Board concerning this issue is not appealable.

iii. Prior Evaluation and Treatment Records. The Board and Dr. Bobker agree that the Board shall transmit/disclose all records received by it concerning Dr. Bobker to the approved treatment provider(s).

iv. Communication of Treatment Providers. The Board and Dr. Bobker agree that all treatment providers involved in his care shall have full communication allowed among themselves, and, when requested, with the Board or its agent(s).

v. Amendment of Aftercare Treatment Requirements. After two years of successful compliance with the terms and conditions of this Consent Agreement, Dr. Bobker may file a written application with the Board to amend the schedule of his substance abuse and/or mental health treatment. The Board shall retain the sole discretion, without hearing, to grant or deny such application. Dr. Bobker acknowledges that any decision by the Board concerning this issue is not appealable.

vi. Change of Treatment Provider(s). If Dr. Bobker desires to change his 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 treatment provider(s) and the proposed new 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. Bobker acknowledges that any decision by the Board concerning this issue is not appealable. If the request is denied, nothing precludes Dr. Bobker from proposing another treatment provider for approval. In requesting a change of treatment provider, Dr. Bobker understands that the Board may inquire into any issues it deems pertinent with any person, including, without limitation, the current treatment provider(s).

vii. Reports from Treatment Providers. Commencing one month following the execution of this Consent Agreement, and continuing for one (1) year thereafter, within a month after every session, Dr. Bobker shall ensure that the Board-approved treatment provider(s) submit(s) to the Board a written report regarding: Dr. Bobker's compliance with his schedule of meetings; Dr. Bobker's ability to continue practicing medicine; and the prognosis of Dr. Bobker's continued recovery. Following one (1) year, Dr. Bobker shall ensure that his treatment provider(s) submit(s) such reports to the Board quarterly.

viii. Board Investigation. At any time the Board may deem appropriate, the Board or its agent may contact Dr. Bobker and/or the Board-approved treatment providers to obtain further information relative to Dr. Bobker. In addition, if the Board deems it appropriate, it may directly contact the treatment providers regarding any issues concerning Dr. Bobker's treatment. In complying with this requirement, Dr. Bobker 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.

f. PROFESSIONAL OVERSIGHT.

i. Work Hours. Upon return to the active practice of medicine, Dr. Bobker agrees to work no more than twenty (20) hours per week (daytime hours only). Dr. Bobker agrees to permit the Board or its agent(s) complete access to his medical practice to ensure his compliance with this provision. Dr. Bobker may file an written application with the Board to increase the number of hours he may work per week. The Board shall retain the sole discretion to grant or deny such a request without hearing. Dr. Bobker acknowledges that any decision by the Board concerning this issue is not appealable.

ii. Physician Monitor. Within thirty (30) days following the time that Dr. Bobker returns to the active practice of medicine, Dr. Bobker shall submit for Board approval the name of a licensed Maine physician who shall monitor his medical practice pursuant to a written plan of supervision approved by the Board. In complying with this provision of the Consent Agreement, Dr. Bobker shall notify the Board, his Supervising Physician, and his Treatment Provider(s) immediately upon his return to the active practice of medicine. Dr. Bobker shall submit a written plan of supervision to the Board for approval prior to his return to the active practice of medicine. The plan must include direct contact with and observation of Dr. Bobker within his medical practice at least once a week. The monitoring physician shall inform the Board if Dr. Bobker demonstrates any issues with regard to isolation, inappropriate boundaries or decision-making, ability to concentrate or any other concerns. The monitoring physician shall report such information by telephone and in writing within 24 hours or as soon thereafter as possible. Dr. Bobker understands that the monitoring physician will be an agent of the Board pursuant to Title 24 M.R.S. § 2511. Dr. Bobker shall permit the monitoring physician full access to his medical practice, including but not limited to all patient information.

iii. Board Access to Medical Practice. Dr. Bobker shall permit the Board or its agent(s) complete access to his office based medical practice, including but not limited to all patient records, employee records, office records, and office equipment. In addition, Dr. Bobker shall permit the Board or its agent(s) to conduct random and/or announced inspections of his office based medical practice. Dr. Bobker shall bear the cost of any such inspection(s) by the Board or its agent(s).

g. SELF-HELP GROUP MEETINGS.

i. Attendance at AA and NA. Dr. Bobker agrees to attend Alcoholics Anonymous ("AA") and/or Narcotic Anonymous ("NA") a minimum of twice per week through one year from the effective date of this agreement and at least once each month through four years thereafter.

ii. Impaired Physicians Self-Help Group. Dr. Bobker 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 agreement. Meetings of the impaired professional self-help groups may be substituted on a one-for-one basis with meetings of AA or NA.

iii. Reports of Attendance. Dr. Bobker 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. In complying with this provision, Dr. Bobker agrees to maintain an attendance log his meetings, and to have the Chairperson of the group meeting verify the attendance log. Any instances of failure to attend the required numbers of meetings shall be noted, together with specific explanation detailing reasons.

iv. 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 of the Consent Agreement 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, probation or revocation of Dr. Bobker's conditional Maine medical license.

h. MAINTENANCE OF OBLIGATIONS WHEN AWAY FROM MAINE OR HOME.

i. General. Dr. Bobker 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. Bobker will notify the Director of the Physician's Health Program sufficiently in advance of travel to make whatever arrangements the Director deems appropriate for monitoring before he leaves. It shall be Dr. Bobker'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. Bobker explaining the arrangements made and how the arrangements were carried out.

ii. Failure to Comply. Any failure by Dr. Bobker 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. Bobker'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.

i. INVOLVEMENT IN THE MAINE COMMITTEE ON PHYSICIANS' HEALTH.

Dr. Bobker shall enter into a contract with the Maine Committee on Physicians' Health and fully participate in that program as long as this Consent Agreement remains in force.

j. MAINTAINENCE OF LICENSE.

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

k. WAIVER OF CONFIDENTIALITY AND RELEASE OF RECORDS.

Dr. Bobker 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. Bobker for substance abuse and mental health issues.

9. SANCTION FOR VIOLATION OF LICENSE CONDITIONS.

a. Automatic Suspension. Any reliable oral or written report to the Board of violation(s) of the conditions of licensure as described above shall result in the immediate, indefinite and automatic suspension of Dr. Bobker's Maine medical license. The automatic suspension of Dr. Bobker'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. Bobker'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. Bobker 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. Bobker 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 additional disciplinary action against his Maine medical license, including but not limited to an order, after hearing, modifying, suspending, or revoking his license.

10. DESIGNATED COPY OF CONSENT AGREEMENT.

Dr. Bobker 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. Bobker shall retain a copy of the Consent Agreement signed by all of the aforementioned individuals at his office 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. Bobker 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.

11. BOARD'S JURISDICTION.

Dr. Bobker acknowledges that the Board has jurisdiction over his license. Dr. Bobker 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. Bobker 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. Such revocation by the Board shall be deemed final agency action appealable only to the Superior Court pursuant to 5 M.R.S. § 11001, and *not* be reviewable de novo in the District Court pursuant to 10 M.R.S. § 8003(5)F.

12. 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:
Daniel Bobker
5 Spruce Lane
Topsham, ME 04086

b. Address Change. If Dr. Bobker changes jobs, moves his residence or practice, changes telephone numbers at work or at home, or secures privileges at a hospital, he shall provide notice to the Board.

c. Costs. All costs incurred in performance of the Modifications and Conditions of this Consent Agreement shall be borne by Dr. Bobker. If a violation of this Consent Agreement is proven to have occurred, regardless of the sanctions imposed, the Board may require Dr. Bobker 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.

13. DURATION OF CONSENT AGREEMENT. Dr. Bobker understands and agrees that the duration of this Consent Agreement is indefinite. The modifications and conditions imposed by this Consent Agreement shall remain in effect until amended or rescinded in writing by the parties hereto. After the successful completion of five (5) years under the Consent Agreement, Dr. Bobker may petition the Board to terminate the Consent Agreement. The Board shall have the sole discretion to: (a) deny Dr. Bobker's petition; (b) grant Dr. Bobker's petition; and/or (c) grant Dr. Bobker'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. Bobker's request to terminate this Consent Agreement need not be made pursuant to a hearing and is not appealable to any court.

14. AMENDMENT OF CONSENT AGREEMENT.

Dr. Bobker waives his right to a hearing before the Board or any court regarding all findings, terms and conditions of this Consent Agreement. Dr. Bobker agrees that this Consent Agreement is a final order resolving all outstanding matters, including complaint CR07-197. This Consent Agreement 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. Bobker shall be made in writing and submitted to the Board. Dr. Bobker may, at reasonable intervals, petition the Board for amendment of the terms and conditions of this Consent Agreement. Upon making such a petition, Dr. Bobker 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. Bobker's petition; (b) grant Dr. Bobker's petition; and/or (c) grant Dr. Bobker'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. Bobker's request to modify this Consent Agreement need not be made pursuant to a hearing and is not appealable to any court.

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

16. PUBLIC RECORD. This Consent Agreement is a public record within the meaning of 1 M.R.S.A. § 402 and will be available for inspection and copying by the public pursuant to 1 M.R.S. § 408.

17. ADVICE OF COUNSEL. The Licensee has been represented by an attorney, Mark G. Lavoie, Esq., who has participated in the negotiation of this Consent Agreement on his behalf.

18. WAIVER OF RIGHT TO APPEAL CONSENT AGREEMENT.

Dr. Bobker waives his right to a hearing before the Board or any court regarding all facts, terms and conditions of this Consent Agreement. Dr. Bobker agrees that this Consent Agreement is a final order resolving all matters pending before the Board, including complaint CR07-197. This Consent Agreement is not appealable and is effective until modified or rescinded by the parties hereto. Nothing in this paragraph shall be deemed a waiver of Dr. Bobker's rights under rule, statute or the Maine or United States Constitutions, to appeal a decision or action later taken by the Board except as Dr. Bobker may have agreed herein, such as with discretionary decisions by the Board and which may occur with or without a hearing, and the increased jurisdiction of the Board to revoke his license for violation of this Consent Agreement. Dr. Bobker agrees that this Consent Agreement resolves his pending complaint, and understands that no further legal action will be initiated against him by the Board based upon the facts described herein, except that in the event that he does not fully comply with the terms and conditions of this Consent Agreement, that Board may initiate whatever action it deems necessary. In addition, Dr. Bobker agrees and understands that the Board may consider the conduct and facts described herein as evidence of a pattern of misconduct in the event that future allegations are brought against him, and that the Board may consider this Consent Agreement in determining appropriate future discipline should any future allegations be proven against him.


I, DANIEL BOBKER, M.D., HAVE READ AND UNDERSTAND THE FOREGOING CONSENT AGREEMENT AND AGREE WITH ITS CONTENTS AND TERMS. I FURTHER UNDERSTAND THAT BY SIGNING THIS 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: 1/9/08
STATE OF Maine
Cumberland County, S.S.

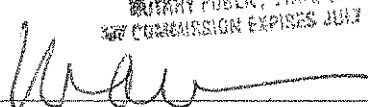

DANIEL BOBKER, M.D.

Personally appeared before me the above-named Daniel Bobker, M.D., and swore to the truth of the foregoing based upon her own personal knowledge, or upon information and belief, and so far as upon information and belief, she believes it to be true.

DATED: 01-09-08
NOTARY PUBLIC/ATTORNEY
MY COMMISSION ENDS: 07-29-09


MEGAN C. PERRY
NOTARY PUBLIC, STATE OF MAINE
MY COMMISSION EXPIRES JULY 29, 2009

DATED: 1/10/08
MARK G. LAVOIE, ESQ.
Attorney for Daniel Bobker, M.D.


MARK G. LAVOIE, ESQ.
Attorney for Daniel Bobker, M.D.


STATE OF MAINE
BOARD OF LICENSURE IN MEDICINE

DATED: 1/21/08
SHRIDAN R. OLDDHAM, M.D., Chairman


SHRIDAN R. OLDDHAM, M.D., Chairman

STATE OF MAINE DEPARTMENT
OF THE ATTORNEY GENERAL

DATED: 1/23/08
DENNIS E. SMITH
Assistant Attorney General


DENNIS E. SMITH
Assistant Attorney General

Effective Date:



JOHN ELIAS BALDACCI
GOVERNOR

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

SHERIDAN R. OLDHAM, M.D.
CHAIRMAN

RANDAL C. MANNING
EXECUTIVE DIRECTOR

APPENDIX C

**CERTIFIED MAIL 7006 0810 0002 6817 3111
RETURN RECEIPT REQUESTED**

January 8, 2008

Marc S. Shinderman, MD
181 Western Promenade
Portland, ME 04102

Re: Final denial of licensure

Dear Dr. Shinderman:

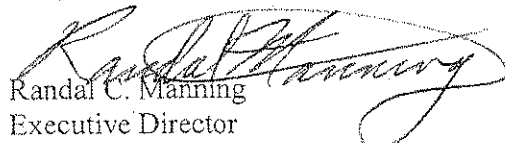
On April 18, 2007, the Board sent you a letter by certified mail notifying you of its decision to preliminarily deny your application for a permanent Maine medical license. On May 10, 2007, the Board received your appeal of the Board's decision to preliminarily deny your application for a permanent Maine medical license.

On January 8, 2008, the Board received a letter from your legal counsel, James M. Bowie, Esq., withdrawing, on your behalf, your appeal of the Board's decision to preliminarily deny your application for a permanent Maine medical license based upon your criminal convictions as entered on March 27, 2007, in the United States District Court for the District of Maine, and your acknowledgment that such convictions constitute grounds for the denial of licensure pursuant to Title 5 M.R.S. § 5301-5304 and Title 32 M.R.S. § 3282-A(2).

Based upon the withdrawal of your appeal, and your representation that you have no present intent of ever again applying for a Maine medical license, the Board's decision to preliminarily deny your application for a permanent Maine medical license based upon your criminal convictions as entered on March 27, 2007, in the United States District Court for the District of Maine is now **final**. This final decision to deny your application for licensure is reportable to all appropriate data banks, including but not limited to the National Practitioner Data Bank (NPD) and the Federation of State Medical Boards (FSMB).

In addition, this final decision is not appealable and constitutes a public record pursuant to Title 1 M.R.S. § 402, and must be made available for inspection and copying to the public pursuant to Title 1 M.R.S. § 408.

Respectfully,


Randal C. Manning
Executive Director

cc: Dennis Smith, AAG
James M. Bowie, Esq
CR 07-145