

State of Maine
 Board of Licensure in Medicine
 137 State House Station (Mailing Address)
 Location: 161 Capitol Street
 Augusta, Maine 04333-0137
 Meeting of June 10, 2008
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State of Maine
Board of Licensure in Medicine
137 State House Station (Mailing Address)
Location: 161 Capitol Street
Augusta, Maine 04333-0137
Meeting of June 10, 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 Peter Lizanecz, Attorney General's Office

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 SESSIONS PURPOSE

9:10 a.m. – 10:18 a.m. Assessment & Direction, Progress Reports and New Complaints
10:30 a.m. – 12:01 p.m. Assessment & Direction, Progress Reports and New Complaints
2:57 p.m. – 3:14 p.m. Assessment & Direction, Progress Reports and New Complaints
5:13 p.m. – 5:45 p.m. Assessment & Direction, Progress Reports and New Complaints

PUBLIC SESSIONS

9:07 a.m. – 9:10 a.m.
1:15 p.m. – 2:57 p.m.
3:14 p.m. – 3:59 p.m.
4:14 p.m. – 5:06 p.m.
5:13 p.m. – 5:45 p.m.

RECESS/LUNCH

10:18 -10:30 a.m.
12:01 p.m. – 1:15 p.m. Noon Recognition of Dr. Kimberly Gooch's service on the Board of Licensure in Medicine from July 2, 1997 to June 30, 2008.
3:59 p.m. – 4:14 p.m.
5:06 p.m. – 5:13 p.m.

I. CALL TO ORDER

Dr. Oldham called the meeting to order at 9:07 a.m.

A. Amendments to Agenda

1. Amend on Section II, Assessment & Direction AD 08-193
2. Amend on Section VIII (b) Consent Agreements - Signed CR 07-239 William E. Tiemann, M.D.
3. Amend on Section VIII (b) Consent Agreements – Andrew Fletcher, M.D. request for payment extension.

B. Scheduled Agenda Items

1. Review of Board Orders

- Wilner Bonhomme, M.D.
- Carlos A. Ahumada, M.D. CR 07-391

II. Assessment and Direction

A. AD 08-008

MOTION was made by Dr. Dreher to merge AD 08-008 with CR 08-095. Dr. Nyberg seconded the motion which passed 9-0.

B. AD 08-072

MOTION was made by Dr. Dreher to file AD 08-072. Dr. Nyberg seconded the motion which passed 9-0.

C. AD 08-088 (CR 08-195)

MOTION was made by Dr. Dreher to issue a complaint in the matter of AD 08-088. Dr. Nyberg seconded the motion which passed 9-0.

D. AD 08-119 (CR 08-197)

MOTION was made by Dreher to issue a complaint in the matter of AD 08-119. Dr. Nyberg seconded the motion which passed 9-0

E. AD 08-176 CR 08-198)

MOTION was made by Dr. Gooch to issue a complaint in the matter of AD 08-176. Ms. Holmes seconded the motion which passed 8-0-0-1. Dr. Dreher was recused.

F. AD 08-177 (CR 08-199)

MOTION was made by Dr. Gooch to issue a complaint in the matter of AD 08-177. Ms. Holmes seconded the motion. The motion passed 8-0-0-1 with Dr. Dreher recused.

G. AD 08-181 (CR 08-200)

MOTION was made by Dr. Dreher to issue a complaint in the matter of AD 08-181. Dr. Nyberg seconded the motion which passed 9-0.

H. AD 07-204

MOTION was made by Dr. Dreher to file AD 07-204. Dr. Gooch seconded the motion which passed 9-0.

I. AD 08-193 (CR 08-193)

MOTION was made by Dr. Gooch to issue a complaint in the matter of AD 08-193 (CR 08-193). Dr. Dreher seconded the motion. The motion passed 9-0.

III. PROGRESS REPORTS

A. CR 07-243

MOTION was made by Ms. Holmes to order an informal conference in the matter of CR 07-243. Dr. Hatfield seconded the motion which passed 5-4.

B. CR 07-331 Shawn L. Willson, M.D.

MOTION was made by Dr. Gleaton to dismiss with a letter of guidance. Ms. Holmes seconded the motion.

The Board received a report from law enforcement about the physician's unusual behavior during a traffic stop. After investigation, the Board recommends the physician continue to participate in the Maine Physician Health Program.

The motion passed 9-0.

C. CR 07-341

MOTION was made by Dr. Dreher to order an informal conference. Ms. Holmes seconded the motion which passed 9-0.

D. CR 07-369 John R. Larson, M.D.

MOTION was made by Dr. Dreher to order an Adjudicatory Hearing in the matter of John R. Larson, M.D. Dr. Nyberg seconded the motion which passed 9-0.

E. CR 07-390 Joseph D. Ruffner, M.D.

MOTION was made by Dr. Dreher to order an Adjudicatory Hearing in the matter of Joseph D. Ruffner, M.D. Dr. Nyberg seconded the motion which passed 9-0.

F. CR 07-378

MOTION was made by Dr. Gooch to investigate further CR 07-378. Ms. Holmes seconded the motion which passed 9-0.

G. CR 07-383

MOTION was made by Dr. Hatfield to order an informal conference in the matter of CR 07-383. Dr. Dreher seconded the motion which passed 8-1.

H. CR 07-384

MOTION was made by Dr. Gleaton to dismiss CR 07-384. Ms. Holmes seconded the motion.

The patient complains of an inadequate assessment of her foot pain by her physician. The physician saw the patient promptly and performed an examination. However, he recommended treatment for the wrong diagnosis; as the wrong diagnosis is often made early in this condition. With time, the patient's condition became more obvious and she sought treatment elsewhere; her condition improved.

The motion passed 8-1

I. CR 07-386

MOTION was made by Dr. Dreher to order an informal conference in the matter of CR 07-386. Ms. Holmes seconded the motion which passed 9-0.

J. CR 07-392

MOTION was made by Ms. Holmes to dismiss CR 07-392. The motion was seconded by Dr. Nyberg.

The complaint was filed against a cardiologist who did not get a signed informed consent prior to a procedure. The doctor responded to the Board's request to provide an addendum to the patient's medical record stating the informed consent was obtained following the procedure. The doctor also discussed the positive changes in his office policy regarding informed consent.

The motion passed 9-0.

K. CR 07-400

MOTION was made by Dr. Dreher to order an informal conference in the matter of CR 07-400. Dr. Nyberg seconded the motion. The motion passed 9-0.

L. Complaint Status Report (FYI)

M. Review Draft Letters of Guidance (none)

N. Consumer Assistant Feedback (FYI)

IV. NEW COMPLAINTS

COMPLAINT REVIEW COMMITTEE

A. CR-08-019

MOTION was made by Dr. Nyberg to dismiss CR-08-019. Ms. Holmes seconded the motion.

This patient, who lives in an institution, complains of poor responses to his requests for medical care. Review of the medical records shows appropriate care of these non-emergent medical problems. The motion passed 9-0.

B. CR 08-061

MOTION was made by Dr. Nyberg to dismiss CR 08-061. Dr. Hatfield seconded the motion.

The patient, who lives in an institution, alleged that the physician refused him reasonable medical care by not treating his hernia, not sending him to a specialist, and not prescribing him narcotics for alleged pain. Investigation revealed that the physician stopped prescribing narcotics when the patient was caught diverting them. In addition, the physician ceased the referral to a pain specialist because the patient was reportedly seen walking without the aid of crutches, and hence not in as much pain as he alleged. The patient is reportedly manipulative and dishonest about his alleged pain issues.

The motion passed 9-0.

C. CR 08-065

MOTION was made by Dr. Nyberg to dismiss CR 08-065. Dr. Dreher seconded the motion.

The patient, who is diabetic, alleged that the physician did not provide appropriate treatment or follow-up. A review of the medical records documents poor patient compliance. The records support the medical decisions made by the physician.

The motion passed 9-0.

D. CR08-067

MOTION was made by Dr. Nyberg to dismiss CR 08-067. Dr. Hatfield seconded the motion.

The patient and his sister allege improper care of the patient's left knee injury. The sister believes the doctor is not treating her brother properly because she had previously complained about care given by this doctor to another relative. Review of the medical records shows appropriate care and physical therapy consultation. There is no documentation that specialty referral has been requested.

The motion passed 9-0.

E. CR 08-057

MOTION was made by Dr. Nyberg to dismiss CR 08-057. Ms. Holmes seconded the motion.

The patient alleged that the physician performed unauthorized medical procedures on her by entering her residence surreptitiously with others. Investigation revealed that the physician has never provided the patient with any medical care.

The motion passed 9-0.

F. CR08-059

MOTION was made by Dr. Nyberg to dismiss CR 08-059. Dr. Gooch seconded the motion.

The patient complains of pain in her right hand and arm following what she believes was an improperly performed EMG examination. Review of the medical records and records from a second neurologist shows no evidence of an improperly performed EMG. The patient's hand and arm pain is a known complication of the procedure.

The motion passed 9-0.

G. CR 08-060

MOTION was made by Dr. Nyberg to dismiss CR 08-060. Ms. Holmes seconded the motion.

The complaint alleged that the physician did not treat the complainant's father appropriately following falls at a nursing home. This patient's care is complicated by an apparent conflict within the patient's family as to the treatment the patient should be receiving. Review of the medical records shows appropriate care of the medical problems.

The motion passed 9-0.

H. CR08-066

MOTION was made by Dr. Nyberg to dismiss CR 08-066. Ms. Chukey seconded the motion.

The complainant alleged that the physician made inaccurate statements to him and to a secondary employer to the effect that he was not fit to work. Investigation revealed that the physician made a report to the Board pursuant to 24 M.R.S.A. § 2505 that the complainant, a physician assistant, was not fit to practice due to stress resulting from a physical altercation with a patient. The physician met with the complainant, who was placed on medical leave based upon a diagnosis of PTSD pending a "fit to work" evaluation. The physician recommended that the complainant have a psychiatric evaluation, provided him with a list of consultants, and advised him not to work until a "fit to work" evaluation was done. The complainant declined to follow the physician's recommendations, did not follow-up with an evaluation, and failed to execute a release to permit the physician to consult with his counselor. Therefore, the physician notified the Board of Licensure in Medicine and the complainant's current employer due to concerns for patient safety.

The motion passed 9-0.

I. CR 08-069

MOTION was made by Dr. Nyberg to dismiss CR 08-069. Dr. Hatfield seconded the motion.

The patient alleged that the physician inappropriately refused to discharge her home despite a discharge plan approved by her and the rehabilitation staff. Investigation revealed that the patient was admitted to residential rehabilitation following surgery to repair a broken ankle. The record indicates that the physician provided a thoughtful, reasoned, and legitimate explanation for his decision not to discharge the patient home – namely his concern for her safety.

The motion passed 9-0.

J. CR 08-070

MOTION was made by Dr. Nyberg to dismiss CR 08-070. Dr. Gleaton seconded the motion.

The physician would not fill a prescription for a patient unknown to him when a pharmacist voiced strong concerns. The physician's action was correct even if it caused patient inconvenience and an added trip to the emergency room to obtain the medication.

The motion passed 9-0.

K. CR 08-073

MOTION was made by Dr. Nyberg to dismiss CR 08-073. Dr. Gooch seconded the motion.

The patient complains he was improperly discharged from a medical practice for violation of a narcotics contract. Review of the medical records shows that the patient violated several parts of the narcotics contract and that discharge from the practice was justified.

The motion passed 9-0.

L. CR 08-074

MOTION was made by Dr. Nyberg to dismiss CR 08-074. Dr. Dreher seconded the motion.

The patient complains of a breach in confidentiality and improper discharge from this medical practice. Review of the medical records shows documentation of unacceptable behavior by the patient. The complaint of breach of confidentiality could not be substantiated.

The motion passed 9-0.

M. CR 08-075

MOTION was made by Dr. Nyberg to dismiss CR 08-075. Dr. Hatfield seconded the motion.

The patient alleged that the physician – to whom he was referred for an evaluation of pain – failed to provide an objective functionality assessment, which the patient sought as part of his effort to obtain disability benefits. Investigation revealed that the physician performed a review of the patient's records and an appropriate examination and submitted an accurate report.

The motion passed 9-0.

N. CR 08-078

MOTION was made by Dr. Nyberg to dismiss CR 08-078. Dr. Gleaton seconded the motion.

The patient complains of lack of informed consent and complications of a surgical procedure. Review of the medical records shows an appropriate signed informed consent form. The surgical care was appropriate. The post-op complication is common after this type of surgery and was managed appropriately.

The motion passed 9-0.

O. CR 08-090

MOTION was made by Dr. Nyberg to dismiss CR 08-090. Ms. Holmes seconded the motion.

The patient alleged that the physician's urine screen was not accurate and that the physician does not track the prescriptions she writes. Investigation revealed that the physician appropriately discharged the patient. There was a written controlled substances contract in place. A urine drug screen was positive for amphetamines, a medication that the physician had not prescribed to the patient.

The motion passed 9-0.

P. CR 08-098

MOTION was made by Dr. Nyberg to dismiss CR 08-098. Dr. Gooch seconded the motion.

The complainant is primarily concerned with an erroneous note in his medical record having to do with previous drug use. He has reason to be concerned because his previous drug use history is complex and is the reason he was denied any further narcotic prescriptions from the physician's practice. The error in question was a transcription mistake, which has been explained in a letter to the complainant and has been added to his medical record. Anyone who might have access to the transcription error will have simultaneous access to an explanation for it, with an apology to the complainant.

The motion passed 7-0-0-2 recused. Dr. Gleaton and Dr. Onion were recused.

Q. CR 08-141

MOTION was made by Dr. Nyberg to dismiss CR 08-141. Dr. Hatfield seconded the motion.

The patient complains that the doctor did not release his records and would not order an MRI. The patient did not sign a release so the doctor could not release the records. An examination of the patient before ordering MRI testing is a standard of good medical practice.

The motion passed 7-0-0-2. Dr. Gleaton and Dr. Onion were recused.

BOARD COMPLAINT REVIEW

R. CR 07-387

MOTION was made by Dr. Gleaton to order an Informal Conference in the matter of CR 07-387. The motion was seconded by Dr. Dreher and passed 9-0.

S. CR 07-399

MOTION was made by Dr. Gleaton to order an Informal Conference in the matter of CR 07-399. The motion was seconded by Ms. Holmes and passed 9-0.

T. CR 08-010

MOTION was made by Dr. Gooch to dismiss CR 08-010. Ms. Holmes seconded the motion.

A 35 year old patient complained that her dermatologist performed a less thorough total body skin cancer screening exam than had previously been performed by other physicians. The doctor felt her exam was adequate based on the patient's risk profile and the doctor's experience. A review of ten medical records from the doctor's practice documented similar screening exams during which lesions were appropriately identified and biopsied. The Board found the position taken by the doctor to be credible and in keeping with dermatologic standards.

The motion passed 9-0.

U. CR 08-013

MOTION was made by Dr. Hatfield to dismiss CR 08-013. Ms. Holmes seconded the motion.

The patient feels that the physician did not listen to her and did not record her complaints accurately in the medical record. As well, she feels the therapy given to her was not appropriate. Further, she complains that old medical records were not obtained despite the physician stating that he would do this and that the physician lied about obtaining an MRI for the patient by not contacting her insurance company to get approval.

The physician's response disputes each of these points as he feels he did give good clinical care and kept accurate records.

A review of the records shows that an entry was made that the patient's insurance had denied an MRI request but a letter from the insurance company was not found. No request for records was found although the progress notes do state that staff was asked to obtain records.

Of note the patient states in her rebuttal that when she obtained her records directly from her old practice that this practice told her that records had been faxed to her new physician's office. The remainder of the patient's care was appropriate.

The motion passed 9-0.

V. CR 08-014

MOTION was made by Dr. Dreher to investigate further CR 08-014. Dr. Nyberg seconded the motion... The motion passed 8-0-0-1. Dr. Onion was recused.

W. CR 08-058

MOTION was made by Dr. Dreher to dismiss CR 08-058. Ms. Holmes seconded the motion.

The complaint in this case focused on potential inadequate care for a patient who had overdosed, both regarding the duration of his inpatient stay and his subsequent follow-up.

A review of the records indicates that the treating physician made a strong effort to engage the patient in care and that he was cognitively functioning alertly and had future orientation and reasonable plans on discharge. When alerted that the patient was having problems after the discharge, the physician contacted him and arranged to meet with him several times to provide a therapeutic bridge to the planned aftercare. When he learned that the patient was worsening he contacted the Emergency Department and new admitting physician to facilitate further care. Once the patient was back in the hospital the physician urged him to work with his new physician rather than possibly confusing the situation by involving himself in the current care.

The motion passed 8-0-0-1. Dr. Onion was recused.

X. CR 08-032

MOTION was made by Dr. Onion to investigate further CR 08-032. Dr. Gleaton seconded the motion.

The motion passed 9-0.

Y. CR 08-033

MOTION was made by Dr. Onion to dismiss CR 08-033. Dr. Nyberg seconded the motion.

A patient complained of the care provided him by an Emergency Room Physician Assistant for an acute infectious syndrome. The Board reviewed the records and found the care was reasonable and appropriate.

The motion passed 9-0.

Z. CR 08-051

MOTION was made by Ms. Holmes to order a 3286 evaluation to ascertain if the doctor is physically and cognitively able to practice medicine. Dr. Hatfield seconded the motion which passed 9-0.

AA. CR 08-053 - Ann E. Traynor, M.D.

MOTION was made by Ms. Clukey to order an Adjudicatory Hearing in the matter of Ann E. Traynor, M.D. (CR 08-053) Ms. Holmes seconded the motion which passed 9-0.

BB. CR 08-062

MOTION was made by Dr. Hatfield to dismiss CR 08-062. Dr. Nyberg seconded the motion.

The complainant feels her clinical care was at times inappropriate, that clerical and clinical staff at the physician's office were not competent, that her phone calls were not answered, that she was told there was not coverage for her physician while he was away and that she was left alone in an examination rooms for long periods of time. She also complains the exam rooms often had windows left open making the exam rooms very cold and inappropriate for patients.

The physician replies that he is sorry for the patient being upset with all these aspects of her care and addresses each part of her complaints. A review of the records shows that clinical care was appropriate. The physician has taken steps to be sure a patient is never told that no coverage is available when he is away in the future. The issues involving the examination rooms and their windows, as well as clerical, clinical and other staff and phone call handling were satisfactorily addressed by the physician.

The motion passed 9-0.

CC. CR 08-068

MOTION was made by Dr. Gooch to dismiss CR 08-068. The motion was seconded by Dr. Nyberg.

A 40 year old patient with chronic pain due to cervical disc disease had been on narcotics since 2000. He was taken off these medications by the doctor, seemingly by mutual agreement, according to his medical records. When alternative therapies didn't work, the doctor wouldn't restart him on narcotics. Hence, it appears that there was a misunderstanding between them regarding the goals and consequences of the change in therapy. The patient ultimately transferred to a physician whose prescribing practice was more aligned with the patient's wishes. The doctor exercised his clinical judgment appropriately in declining to prescribe narcotics.

The motion passed 8-0-0-1. Dr. Dreher was recused.

DD.CR 08-077

MOTION was made by Dr. Onion to dismiss CR 08-077. Ms. Holmes seconded the motion.

A bus driver complained of care provided by a general surgeon when complications caused by denied chronic alcohol consumption developed post operatively. Accusations of abandonment were unsubstantiated. The Board found the surgeon's care appropriate.

The motion passed 8-1.

EE. CR 08-091

MOTION was made by Dr. Onion to dismiss CR 08-091. Dr. Hatfield seconded the motion.

A patient complained that a Physician Assistant noted in the patient's chart, when the patient came in to be seen for an unrelated problem, that the PA smelled marijuana on the patient's breath. The patient denied its use when asked by the PA, and both the observation and the denial were documented in the patient chart. While the Board recognizes that such clinical observations are not infallible, their notation in the medical records is common and reasonable.

The motion passed 9-0.

FF. CR 08-095

MOTION was made by Dr. Onion to order informal conference in the matter of CR 08-095. Dr. Hatfield seconded the motion which passed 8-0-0-1 with Dr. Dreher recused.

FF-1. (CR 08-203)

MOTION was made by Dr. Onion to issue a complaint against supervising physician in the matter of CR 08-095. The complaint record for the supervising physician will be (CR 08-203). Dr. Nyberg seconded the motion which passed 8-0-0-1 Dr. Dreher recused.

GG.CR 08-132

MOTION was made by Dr. Dreher to investigate further CR 08-132 with a 3286 evaluation in review of the current monitoring program at Mercy Hospital. Ms. Holmes seconded the motion which passed 9-0.

HH.CR 08-137 Jeffrey B. Fine, P.A.-C.

MOTION was made by Dr. Onion to order an Adjudicatory Hearing in the matter of CR 08-137 Jeffrey B. Fine, P.A.-C Dr. Nyberg seconded the motion which passed 9-0.

II. CR 08-117.

MOTION was made by Ms. Holmes to investigate further CR 08-117. Dr. Gooch seconded the motion which passed 8-0-0-1. Dr. Onion was recused.

V. INFORMAL CONFERENCE(S) (none)

PUBLIC SESSION

VI. MINUTES OF MAY 13, 2008

MOTION was made by Dr. Dreher to approve the minutes as amended. Dr. Nyberg seconded the motion which passed 8-0-1.

VII. NEW BUSINESS (motions in matters of A&Ds, Progress Reports and new Complaints.

VIII. BOARD ORDERS & CONSENT AGREEMENT MONITORING & AND APPROVAL

A. Board Orders

1. Wilner Bonhomme, M.D. [See Appendix A attached]

MOTION was made by Dr. Hatfield to accept the Board Order in the matter of Wilner Bonhomme, M.D. and authorize the chairman to sign the order. Dr. Nyberg seconded the motion which passed 8-0-1.

2. Carlos A. Ahumada, M.D. CR 07-391 [See Appendix B attached]

MOTION was made by Dr. Nyberg to accept the written Board Order in the matter of Carlos A. Ahumada, M.D., as amended, which resolves CR 07-391 and authorize the chairman to sign the order. Dr. Hatfield seconded the motion which passed 8-0-1.

MOTION was made by Dr. Dreher to authorize the Executive Director to exercise the authority to summarily suspend the license of Dr. Ahumada for not complying with the requirements of the Board Order. Dr. Nyberg seconded the motion. The motion passed 9-0.

B. Consent Agreement Monitoring and Approval

1. Andrew Fletcher, M.D.

Dr. Fletcher has written the Board to request a six month extension from July 11, 2008 to January 11, 2009 to pay the amount assessed to him for cost of hearing. Dr. Fletcher is in compliance with his Consent Agreement and states that he is not working.

MOTION was made by Dr. Dreher and seconded by Dr. Nyberg to grant Dr. Fletcher the six month extension to run from July 11, 2008 through January 11, 2009. The motion passed 8-0-0-1. Dr. Onion was recused.

2. CR 07-239 William E. Tiemann, M.D. [See Appendix C attached]

The Board reviewed a Consent Agreement in the matter of William E. Tiemann, M.D. in lieu of an ordered Adjudicatory Hearing. Dr. Tiemann has signed the Consent Agreement which would resolve CR 07-329.

MOTION was made by Dr. Dreher to accept a Consent Agreement in the matter of William E. Tiemann, M.D. The motion was seconded by Dr. Nyberg and passed 9-0.

IX. ADJUDICATORY HEARING (s) (none)

X. REMARKS OF CHAIRMAN

A. Proposed changes to Chapter 1 Rules

Mr. Manning reported the proposed Chapter 1 rules revisions show editorial changes and the addition of the administrative license status which was planned earlier to be written as a policy. Subsequently Board staff was given appropriate counsel that it should be written as an amendment to the Chapter 1 rules.

Staff made editorial changes and brought the proposed rule to the Board in the hope the rule would be approved to go forward through the remainder of the rulemaking process, however other issues were noted and it was agreed to investigate those issues further.

MOTION was made by Ms. Holmes to table the Chapter 1 rules and investigate further. Dr. Nyberg seconded the motion which passed 9-0.T

B. Northeast Regional Meeting July 14-15 (vote required)

MOTION was made by Dr. Gleaton to approve sending Dr. Oldham, Bettsanne Holmes, Randal Manning and Tim Terranova to attend the Northeast Regional Meeting July 14-15 in Manchester NH on behalf of the Board. Dr. Dreher seconded the motion.

The Northeast Region has been focusing on an "Emergency License" that can be used in the event of a national declared emergency.

The motion passed 9-0.

XI. EXECUTIVE DIRECTOR'S MONTHLY REPORT

The Board accepted the report of the Executive Director. Of note members of the Board were invited to meet with members of the FSMB delegation the evening prior to the July meeting when the FSMB delegation will make a presentation.

A. Emergency License Policy Update (FYI)

B. Report on LD 1986 (FYI)

XII. REMARKS OF ASSISTANT ATTORNEY GENERAL

A. Medical Examiner Delegation – AAG Smith advised the Board about his conversations with Dr. Margaret Greenwald, M.D., Chief Medical Examiner (CME), concerning the CME statute. More specifically, concerning the 2001 legislation, that granted to the CME the ability to hire an investigator to work under the direction of the CME to conduct an investigation into a case, manner and circumstances of death in a medical examiners case. Mr. Smith opined, based upon his review of the statutory history including the testimony before the legislative committee, that the CME statute did not appear to conflict with the Medical Board statute and that the person acting at the direction of the CME has not engaged in the unlawful practice of medicine. Mr. Smith advised the Board that the CME investigator would not be performing autopsies or making diagnosis, but would proceed to the scene, examine the body, take bodily fluids - in essence bring to the CME, feet on the ground in a remote location. Mr. Smith advised the Board that the investigator would not sign a death certificate, would sign an investigative report, and that the CME would be the one signing off of the cause of death.

XIII SECRETARY'S REPORT

A. M.D. List A

1. 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>
Barnard, Vaughn N	General Surgery	Not Listed
Bishop, John W	Anatomic Pathology	Read out-of-state specimens
Bulczak, Dariusz	Diagnostic Radiology	Teleradiology

Charnecki, Sara E	Family Practice	Gardiner/Winthrop
Chilukuri, Ananthakrishna	Diagnostic Radiology	Teleradiology
Chou, Sherry H	Neurology	York
Crawley, Daniel S	General Surgery	Rumford
Davis, Sarah M	Family Medicine	Not Listed
Ezeanuna, Prosperity U	IM/Nephrology	Portland
Graham, James W	Diagnostic Radiology	Bridgton
Halter, Jeffrey M	Pediatric Surgery	Portland
Handanos, Christine M	Internal Medicine	Biddeford
Hernandez, Pedro	General Surgery	Pittsfield
Hoo, Charles C	Diagnostic Radiology	Teleradiology
Horn, Thomas D	Dermatology	Not Listed
Jednacz, Jeffrey A	Diagnostic Radiology	Telemedicine
Kavookijian, Kevin	Psychiatry	Not Listed
Knowlton, Gregory B	Nephrology	Not Listed
Klisch, Gregory	Diagnostic Radiology	Not Listed
Knox, Anthony P	Neurology	York
Meada, Riad	Cardiothoracic Surgery	Portland
Meserve, Christopher W	Internal Medicine	Topsham/Brunswick
Nohr, Orion W E	Anesthesiology	Portland
Pershing, John J	IM/Emergency Medicine	Not Listed
Preston, Mark P	Diagnostic Radiology	Not Listed
Reynolds, Jessie	Family Practice	Rumford
Reza, Shabbir	Cardiology	Biddeford
Rivis, Liliana	Family Practice	Augusta
Rohrbacher, Anna H	Psychiatry	Augusta
Rosenthal, Seth I	Dermatopathology	Not Listed
Schmidt, William G	Hematology-Oncology	Bangor
Smith, Marjorie J	Psychiatry, Neurology	Brunswick
Smith, Michael D	Diagnostic Radiology	Telemedicine
Sparling, Joshua	Dermatology	Not Listed
Steen, Christopher J	Dermatology	Portland
Teng, Erwey A	Pulmonary Medicine	Lewiston
Twining, Christine L	Endocrinology/ Metabolism	Portland/Scarborough
Wissink, Theodore R	Family Medicine	Pen Bay Medical Ctr
Yang, Byoung W	Internal Medicine	Fort Kent

MOTION was made by Ms. Holmes to ratify the Board Secretary's approval of the physicians listed above for licensure. The motion was seconded by Dr. Gleaton and passed 9-0.

2. P.A. List A Licenses for Ratification

The following Physician Assistant license applications have been approved by the Board Secretary Gary R Hatfield, MD without reservation:

<u>NAME</u>	<u>LICENSE</u>	<u>PSP</u>	<u>LOCATION</u>
Gregory Schimmack, PA-C	Active	Desmond Donegan, MD	Portland

MOTION was made by Dr. Gleaton and seconded by Dr. Dreher to ratify the physician assistant listed above for licensure. The motion passed 9-0.

B. List B Applications for Individual Consideration

1. Stephen A Goldberg, MD – Temporary Application

Dr. Goldberg's Temporary application is being presented because of a yes answer to question 7 on the application which asks:

7. Have you EVER been charged, summonsed, indicted, arrested, or convicted of any criminal offense (including motor vehicle offenses but not including minor traffic or parking violations)?

Dr. Goldberg states that 15 years ago he pled to DWAI (driving while ability impaired).

The committee felt that since this was 15 years ago and there have been no further problems to grant Dr. Goldberg a license.

MOTION was made by the Licensure Committee to approve Dr. Goldberg's application for licensure. The motion passed 9-0.

2. Stephen C. James, MD

Dr. James's Permanent application is being presented because of a yes answer to question #6 on the license application which reads:

#. 6 Have you EVER 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. James reported he had been diagnosed with Type 1 Diabetes Mellitus since October 1983. He developed severe hypoglycemic reactions making him feel that he should not continue as an anesthesiologist so he trained to become a psychiatrist and is now requesting a license in the State of Maine. He has done well in his psychiatric residency with no problem however, in his letter to us he reports there were some slanderous accusations made in a family court in California but provides no further information.

MOTION was made by the Licensure Committee to investigate further about the accusations made in a family court in California and report the findings to the Board Secretary; and, to authorize the Board Secretary to grant the license if the investigation finds nothing of consequence.

The motion passed 9-0

3. George R. Kunhardt, MD

Dr. Kunhardt's Permanent application was presented at the January Board meeting. His application was denied preliminarily with leave to withdraw. Dr. Kunhardt withdrew his application. He then submitted a new application, which was presented at the February Board meeting. The new permanent application was reviewed and the Board ordered a 3286 psychological evaluation which the Licensure Committee reviewed.

MOTION was made by the Licensure Committee to approve the license application of George R. Kunhardt, M.D. The motion passed 8-1.

The motion passed 9-0.

4. James K McAleer, MD

The Licensure Committee reviewed additional information regarding possible malpractice payments in addition to the one reported on Dr. McAleer's application. Staff investigation revealed that due to the malpractice insurance companies inability to pay the one claim in one lump sum several payments were made on the same claim which had nothing to do with Dr. McAleer. Dr. McAleer fully acknowledges an

error he made and takes responsibility for it, has great recommendations otherwise and no history of problems.

MOTION was made by the Licensure Committee to approve the license application of James K. McAleer, M.D. The motion passed 9-0.

5. Peter F. Morrison, MD

Dr. Morrison's permanent application was presented to the Licensure Committee because of yes answers to questions #1 and #7 of the application which read:

1 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?

7 Have you EVER been charged, summonsed, indicted, arrested, or convicted of any criminal offense (including motor vehicle offenses but not including minor traffic or parking violations)?

Dr. Morrison was involved in an operating under the influence episode as a college student in 1994 and was granted a *deferred judgement*. His legal counsel explained that if he satisfied certain conditions as set forth by the judge his plea would be set as not guilty and all court records would be expunged. Thus when he answered *no* to questions on his California application for a medical license *had he ever been convicted of, or pled nono contendere to any violation of any local, state or federal law* the Medical Board of California felt he knowingly made a false statement and issued a probationary rather than a full medical license for 3 years. When the probation ended satisfactorily on 8/1/06 he was granted a full and unrestricted California medical license which he let expire 1/31/2007. He has had no problems since.

The Licensure Committee felt this was a case where Dr. Morrison didn't understand the legal versus the Board requirements and recommended approval of his application. The motion passed 9-0.

The Licensure Committee instructed staff that the next time the permanent application is updated to add the words "expunged" to questions 1 and 7 of the permanent application.

6. David B. Talmadge, MD

Dr. Talmadge's Permanent application was presented to the Licensure Committee because of yes answers to questions #1 and #7 of the application which read:

1 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?

7 Have you EVER been charged, summonsed, indicted, arrested, or convicted of any criminal offense (including motor vehicle offenses but not including minor traffic or parking violations)?

Dr. Talmadeg states that he was in an altercation with another individual and was charged with three misdemeanors in Albuquerque, NM in August of 2002 while a medical student at the University of New Mexico School of Medicine. The altercation involved another person making inappropriate, rude and derogatory remarks to his girlfriend. No one was hurt during the altercation and Dr. Talmadeg states he learned a valuable lesson and has not been involved in any such activity since then. The case was formally dismissed later that Fall and all charges fully resolved.

Dr. Talmadge voluntarily surrendered his privileges at Dartmouth-Hitchcock Medical Center Hospitalist Services in the Fall of 2007 because he was also moonlighting at other places at the same time and his wife didn't feel he was spending enough time with her.

MOTION was made by the Licensure Committee to approve the license application of David B. Talmadge, M.D. The motion passed 9-0.

7. Mark L. Thompson, MD – Education Certificate

Dr. Thompson's application was presented to the Licensure Committee because of a yes answer to question 7 which reads:

7 Have you EVER been charged, summonsed, indicted, arrested, or convicted of any criminal offense (including motor vehicle offenses but not including minor traffic or parking violations)?

Dr. Thompson had on his record prior charges for aggravated battery and battery in Florida. Subsequently the individual who filed the charges was charged with filing a false police report and Dr. Thompson was cleared of all charges and his record was expunged.

MOTION was made by the Licensure Committee to approve the license application of Mark L. Thompson, M.D. The motion passed 9-0.

8. Jeffrey Wallis, MD – Temporary Application

Dr. Wallis's temporary application was presented to the Licensure Committee because of a yes answer to question #8 dealing with hospital membership denial in 1986. Question #8 reads:

Have you EVER applied for hospital, HMO or other health care entity privileges which were denied?

Dr. Wallis explains that her hospital application in 1986 to Naples Community Hospital (NCH) was extended by initial denial. Due to NCH's lack of any reason for denial, a Circuit Court judge's reprimand of NCH led to the objective reprocessing of the application and the subsequent approval for staff privileges without any further involvement of judge or attorney. In the 20 plus years since no other medical institution has denied his privileges.

MOTION was made by the Licensure Committee to approve the license application of Jeffrey Wallis, M.D. The motion passed 9-0.

9. Abdul Hadi Al Khalili, MD

Dr. Khalili, a neurosurgeon, has not practiced for 2 years but otherwise has an extremely stellar record. He worked in the United Kingdom with what appeared to be a limited license however staff investigation has revealed that a limited registration issued in the 1970's qualified him to practice medicine unsupervised.

MOTION was made by the Licensure Committee to approve the license application of Abdul Hadi Al Khalili, MD. The motion passed 9-0.

C. List C Applications for Reinstatement- Iris Silverstein, M.D

MOTION was made by the Licensure Committee to ratify the reinstatement of Iris Silverstein, M.D. The motion passed 9-0.

D. List D Withdrawals (none)

1. List D (1) Withdraw License Application (none)

- 2. List D (2) Withdraw License from Registration
- 3. List D (3) Withdraw License from Registration - Individual Consideration

D (3)(1) Henry Seilner, M.D.

MOTION was made by Dr. Dreher and seconded by Dr. Gleaton to allow Dr. Henry Seilner to withdraw his license from registration. The motion passed 9-0.

- E. List E Licenses to lapse by operation of law.

The following physician licenses lapsed by operation of law effective May 12, 2008.

<u>NAME</u>	<u>LICENSE NO</u>
Ashram, Mahboob	016229
Beaupre, Eugene M.	006382
Campbell, Dwight D.	011315
Cox, Jordy C.	016649
Esmiol, Pattison	016426
Farb, Amy	016868
Grimm, Beverley K.	014707
Horne, David F.	016935
Janes, John J III	012303
Katz, Catherine A.	016213
Krasuski, Andrew W.	008156
L'Heureux, Michelle M.	014159
Melby, James C.	012421
Navarro, Joaquin R.	009755
Patel, Chandulal M.	007407
Poliner, Irving J.	004998
Steeves, John H.	006181
Towne, John W.	06254
Wennberg, David E.	013349
Whiskin, Frederick	004358
Zollinger Jr., Robert M.	005198

- F. List F Licensees requesting to convert to active status

- G. List G Renewal applications for review

- 1. Ann Traynor, MD (amended off List G)

List H. Delegated Practitioner Schedule II Request Ratification

The following initial 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>
Paul Roberts, PA-C	Howard Jones, MD	Belfast
Marybess Skaletsky, PA-C	Konrad Barth, MD	Scarborough

MOTION was made by Dr. Gooch to approve List H Delegated Practitioner Schedule II Request Ratification. Dr. Dreher seconded the motion which passed 9-0.

XIV. STANDING COMMITTEE REPORTS

A. Personnel & Finance Committee

1. Third Quarter Financial Report

Ms. Holmes presented the Third Quarter Financial Report which indicates reserves are up. Payment of outstanding invoices prior to the close of the fiscal year will reduce the reserves.

2. Proposed 2009 Travel Proposal

MOTION was made by Dr. Gleaton to approve the Board's 2009 proposed travel schedule. Dr. Dreher seconded the motion which passed 9-0.

B. Public Information Committee (no report)

C. Legislative & Regulatory Committee (no report)

D. Physician Assistant Advisory Committee (no report)

Dr. Onion reported from the PA Advisory Committee the following:

1. A member of the PA Advisory Committee requesting a year's sabbatical raised the issue of whether the committee could make a quorum for every meeting if the request was granted. Alternatively, if a member needs to be away for a length of time and the committee is unable to make quorum the chairman will ask for their resignation and find a replacement to insure a quorum.
2. The PA Committee has created a sub committee to look at revising the generic plan of supervision format to provide more information and then report back to the full committee as to how they can review of plans of supervision when submitted by applicants to the Board

The committee is moving in the direction that the Board recommended to the PA Committee regarding plans of supervision.

The last issue was the categorizations of DEA prescriptions proposed by Mr. Sprague. Mr. Sprague will write a policy to present at the next meeting.

E. Licensure Committee

F. CME Committee

Dr. Dreher reported the program for helping to educate physicians regarding treatment of chronic pain and addiction issues is going forward and we have decided to move to next month a visit by Ms. Genova and Mr. Gordon Smith to discuss the program.

G. Ethics Committee

Dr. Nyberg continues to work an informed consent policy.

H. Special Projects Committee (no report)

XV. BOARD CORRESPONDENCE

XVI. FYI

XVII. FSMB MATERIAL - FYI

XVIII. OTHER BUSINESS - FYI

X. INFORMAL CONFERENCE(S) (none)

XV. BOARD CORRESPONDENCE (none)

XVI. FYI

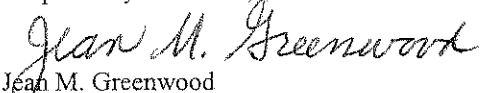
XVII. FSMB MATERIAL FYI

XVIII. OTHER BUSINESS

MOTION was made by Dr. Dreher and seconded by Dr. Gleaton to adjourn. The motion passed 9-0.

XIX. Adjournment 5:45 P.M.

Respectfully submitted,


Jean M. Greenwood
Administrative Assistant
Board Coordinator

MAINE STATE BOARD OF LICENSURE IN MEDICINE

IN RE: Licensure Disciplinary Action)
Wilner Bonhomme, M.D.) DECISION AND ORDER

I. PROCEDURAL HISTORY

Pursuant to the authority found in 32 M.R.S. Sec. 3263, *et seq.*, 5 M.R.S. Sec. 9051, *et seq.* and 10 M.R.S. Sec. 8001, *et seq.*, the Board of Licensure in Medicine (Board) met in public session at the Board's offices located in Augusta, Maine on May 13, 2008 at 9:30 a.m. The purpose of the meeting was to conduct an adjudicatory hearing to decide whether Wilner Bonhomme, M.D. violated Board statutes and Rules as alleged in the Notice of Hearing. A quorum of the Board was in attendance during all stages of the proceedings. Participating and voting Board members were Chairman Sheridan R. Oldham, M.D., Kimberly K. Gooch, M.D., Gary Hatfield, M.D., George Dreher, M.D., Cheryl Clukey (public member), David Nyberg, Ph. D., (public member), Daniel Onion, M.D., and Maroulla Gleaton, M.D.. Dennis Smith, Ass't. Attorney General, presented the State's case. Dr. Bonhomme was granted his request to appear by telephone due to extenuating circumstances. James E. Smith, Esq. served as Presiding Officer.

The Board convened the hearing and first determined that there were no conflicts of interest or bias on behalf of any Board member and then took administrative notice of its statutes and rules. The hearing proceeded forward and State's Exhibits 1-9 were admitted into the Record. Subsequent to the opening statement by the parties, the taking of testimony, exhibits, and closing arguments, the Board deliberated and made the following findings of fact by a preponderance of the credible evidence.

II. FINDINGS OF FACT

Dr. Wilner Bonhomme, 54 years of age, is currently a resident of Brooklyn, N.Y. He graduated from the Faculte De Medecine Ex De Pharmacie College in Haiti in 1979 and

specializes in the practice of internal medicine. On June 1, 2007, the Board received Dr. Bonhomme's application for a temporary license to practice medicine in the State of Maine from June 18, 2007 until December 18, 2007.

The application contained several questions which required either a "yes" or "no" response. One of the queries posed was: "Have you EVER had a claim or suit alleging malpractice liability in which you are/were named as a defendant, including nuisance suits settled, adjudicated by a court in favor of the other party, or settled by your insurance company/representatives without your express consent? If yes, a reporting form is enclosed. Photocopy as necessary." Another question asked whether the applicant had "any open malpractice claims?" Dr. Bonhomme responded "No" to each of these questions.

Dr. Bonhomme signed the Affidavit contained within the application pursuant to which he agreed that "should [he] furnish any false information in this application, I hereby agree that such act shall constitute cause for the denial, suspension or revocation of my license to practice medicine and surgery in the State of Maine..." Based on its reliance on the truthfulness of the above answers, the Board issued Dr. Bonhomme a temporary license on June 18, 2007 with an expiration date of December 18, 2007. Subsequently, the Board received information that there is currently pending a medical malpractice action in New York with Dr. Bonhomme named as one of the defendants. The action was captioned "*Wilner Bonhomme, M.D., Miller v. St. Mary's Hospital, et. al. Kings County, New York...*" and filed in court on January 15, 2004. The action alleged medical malpractice and wrongful death. The alleged malpractice occurred on January 27, 2002.

The Board notified Dr. Bonhomme by letter dated July 24, 2007 of the above information. Dr. Bonhomme responded that he had only received one document regarding the action and that he had explained to the attorney assigned to represent him that "the team didn't let me participate in this patient management, didn't want my advice." He asked her to remove him from the lawsuit and was told she would take care of it. Dr. Bonhomme subsequently received a status update from the attorney dated December 19, 2005. He was informed that the defendant hospital had filed for bankruptcy and, as a result, "all SVCMC matters, including this case, are currently stayed pursuant to Section 362 of the USC." Dr. Bonhomme was also informed in this correspondence that no discovery had taken place and that the attorney would "aggressively defend your case and treatment and seek to have the matter discontinued against you or look into making a motion for summary judgment."

At the hearing in this matter, Dr. Bonhomme basically restated the above and testified that he had completely forgotten about the matter since he had received nothing further regarding the malpractice action. He also reiterated that he was "right" in his actions regarding the malpractice claim since he had done nothing wrong and basically should not have been named in the lawsuit.

III. CONCLUSIONS OF LAW

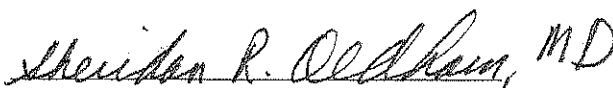
The Board, exercising its knowledge, experience, and training, concluded by a vote of 8-0 that Dr. Bonhomme violated the provisions of 32 M.R.S. Section 3282-A(2)(A) by engaging in fraud or deceit in obtaining his temporary license. He deliberately and knowingly provided an answer to the Board's application form which he knew was untrue. The fact that he thought that he would be found innocent or that the case against him would be dismissed does not remove the fact that a malpractice action was filed naming him as a defendant.

IV. SANCTION

The Board, exercising its knowledge, experience, and training, and having considered all of the evidence, ordered by the following votes that: Dr. Wilner Bonhomme shall receive a **WARNING** for the above noted violation. (7-1. The dissent would have issued a Reprimand.)

SO ORDERED:

Dated: June 10, 2008



Sheridan R. Oldham, M.D., Chairman

Maine Board of Licensure in Medicine

V. APPEAL RIGHTS

Pursuant to the provisions of 5 M.R.S.A. Sec. 10051.3 and 10 M.R.S.A. Sec. 8003, any party that appeals this Decision and Order must file a Petition for Review in the Superior Court within 30 days of receipt of this Order. The petition shall specify the person seeking review, the manner in which they are aggrieved and the final agency action which they wish reviewed. It shall

also contain a concise statement as to the nature of the action or inaction to be reviewed, the grounds upon which relief is sought and a demand for relief. Copies of the Petition for Review shall be served by Certified Mail, Return Receipt Requested upon the Maine State Board of Licensure in Medicine, all parties to the agency proceedings and the Attorney General.

Dakota beginning in 1980 for 26 years except for an interim practice in Maine¹ and Iowa during the late 1980's. More recently, he was hired as a staff pediatrician at the Calais Regional Hospital and clinic in September 2006.

Soon thereafter in October 2006, Dr. Ahumada was informed by Dr. Michael Kessler, the hospital's Chief of Staff, that he "may have smelled of alcohol while participating as a Neonatal Pediatrician, in a Cesarean-Section in Labor and Delivery." Two other incidences of suspected alcohol on Dr. Ahumada's breath have also been reported by nurses. However, there is nothing in the record to reveal that he has been the subject of any prior disciplinary action.

On Monday, December 15, 2006, Dr. Ahumada began seeing patients by 9:00 a.m. He was requested to report to Dr. Kessler at approximately 10:30 a.m. The request was based on a statement by a hospital employee in the pediatrics section that Dr. Ahumada had alcohol on his breath. Dr. Ahumada admitted that he had been drinking alcohol with friends until approximately 4:00 a.m. that morning. Dr. David Simmons, Medical Director of the Physicians' Health Program, was at the Calais Hospital at the time and joined Dr. Kessler and Dr. Ahumada in Dr. Kessler's office. Apparently, Dr. Ahumada believed that Dr. Simmons was the Medical Director of the clinic where Dr. Ahumada mostly practiced. Dr. Simmons smelled alcohol on Dr. Ahumada's breath. Dr. Kessler testified that he did not but was not physically close to the respondent. Dr. Ahumada consented to having his blood drawn by Dr. Simmons at approximately 11:00 a.m. that morning to determine his blood alcohol content (b.a.c). The b.a.c. result was .021² as of 11:00 a.m. Thereafter, Dr. Kessler offered to have the hospital pay for an out of state Chemical Dependency Evaluation which, according to Dr. Kessler, the respondent ultimately rejected after stating that it would violate his privacy.³

Robert Blaik, D.O., M.P.H., Ph.D, is a psychiatrist with a subspecialty in addiction psychiatry who has performed some 15,000 chemical dependency evaluations Dr. Blaik determined that Dr. Ahumada had a b.a.c. of .08 at 9:00 a.m. on December 15 when the latter arrived at the clinic and began treating patients. The estimated b.a.c. would mean that Dr. Ahumada was legally intoxicated at that time. If he did not appear to be impaired, the likelihood was that he had built up

¹ Dr. Ahumada was first issued a license to practice medicine in Maine on January 18, 1989. His most recent license was issued on February 21, 2007 and expires December 31, 2008.

² Dr. Simmons did not recall in testimony that he stated that b.a.c. to Dr. Ahumada. Unfortunately, a written report was not requested that day and as a result does not exist.

³ Dr. Ahumada attributed his decision not to follow through on this offer to an administrative problem.

a large tolerance to alcohol as a result of long time consumption. Following the blood test, the respondent demonstrated no signs of impairment and was permitted to continue treating patients.

Dr. Kessler then forwarded a written referral to Dr. Simmons at the Physicians' Health Program. Dr. Simmons sent a written request to the respondent to undergo a Chemical Dependency Evaluation (CDE). Dr. Ahumada did not agree at that time. Initially, Dr. Simmons decided to give the respondent the benefit of the doubt and did not advise Dr. Ahumada to cease his alcohol consumption but rather to limit it to 2 ounces every 24 hours, and no alcohol within 12 hours of reporting for duty as a physician. Dr. Ahumada continued to consume 2 glasses of wine at home on most days, and went on vacation to Chile for one month, returning to Calais in March 2007. The following month, Dr. Ahumada agreed to sign a one year contract with the PHP to cooperate with a once per week random Urine Drug Screen. Dr. Simmons advised Dr. Ahumada that he should not consume alcohol.

On October 17, 2007, Dr. Simmons contacted Dr. Ahumada after he had taken another trip to Chile. Dr. Simmons asked whether he had been drinking alcohol. The respondent replied that he drank no more than two glasses of wine 50% of the days that he was away. Dr. Simmons then informed Dr. Ahumada that the Urine Drug Screen performed on September 17, 2007, four days prior to his leaving for Chile, returned positive for ethyl glucuronide. The test results measured 1160 nanograms which is in excess of the 500 nanograms that require a report to be made to the Board. Dr. Ahumada admitted that he had consumed a glass of wine at the invitation of a relative on the evening of September 16. Dr. Simmons then reiterated his request for a CDE and Dr. Ahumada agreed to participate. Dr. Ahumada testified that he thought Dr. Simmons had advised him that he could consume alcohol when out of the United States. The Board did not find this part of the testimony credible.

The Chemical Dependency Evaluation on Dr. Ahumada was performed by Dr. Blaik on November 2, 3, 2007. In the "Formulation" section of his evaluation report, Dr. Blaik stated that:

"At the very least, Dr. Ahumada suffers from Alcohol Abuse, bordering on Alcohol Dependence, as elucidated below in the "Diagnosis" section. He is in absolute denial that he meets the criteria for either alcohol disorder. Even allowing for his explanation of "cultural differences in the use of alcohol, there can be no justification for any physician, while on duty, having alcohol on his breath, whether it be in his Country Of Origin, Chile, or in the U.S.A."

On December 19, 2007, the Board wrote to Dr. Ahumada and informed him that by letter dated December 4, 2007, Dr. Simmons had reported a positive test for ethyl glucuronide and had included Dr. Blaik's diagnosis of alcohol abuse and possible early dependence. The Board voted to initiate a complaint against the respondent alleging unprofessional conduct and habitual substance abuse based on alcohol abuse issues. Dr. Ahumada was told in the letter to respond, in writing, within 30 days. Two days later, a second letter from the Board was sent to Dr. Ahumada "directing [him to] undergo an inpatient psychological and substance abuse evaluation" based on Dr. Simmons's referral. Dr. Ahumada was given the choice of being evaluated at either a facility in Williamsburg, VA or Atlanta, GA.

Dr. Ahumada timely responded to the above cited Board's letters by correspondence dated January 23, 2008. He requested a review of the Board's requirement for an out of state evaluation and stated that "it would be extremely expensive and in view of my retirement on June 15, 2008 would not in my opinion be helpful." Dr. Ahumada subsequently sent several more letters to the Board alleging various improprieties primarily regarding Dr. Blaik, Dr. Simmons, and Dr. Kessler.

At this hearing, Dr. Ahumada acknowledged that he had been drinking alcohol during the evening and early morning hours on December 15, 2006. He disputed the .021 lab result reported by Dr. Simmons and acknowledged that he should have known better than to drink until 4:00 a.m. and report to the clinic with the remnants of alcohol on his breath. Dr. Ahumada did not agree that his actions should require him to attend counseling sessions and AA or CADUSEUS meetings. In short, he felt that the punishment did not fit the crime and that Dr. Blaik, rather than alcohol, was the reason for the Board's hearing.

Dr. Ahumada further testified that he has not consumed alcohol since November 2007. There have been no other related reports of substance abuse from the hospital staff. Additionally, on March 31, 2008, Chief of Staff Michael Kessler wrote a letter to the Board on behalf of the medical staff and executive committee. In that letter, Dr. Ahumada's skills and collegiality were vouched for, and he was described as "one of the most skilled [pediatricians] that we have encountered," especially when working in conjunction with ob/gyn staff. Dr. Kessler further stated that "there has never been an episode of impairment of behavior noted by any of our personnel or our medical staff on the part of Dr. Ahumada. This includes many times on call at night and on weekends." The letter also noted that the hospital would monitor Dr. Ahumada daily and urged Dr. Ahumada to cooperate with the recommendations of the Board.

III.

CONCLUSIONS OF LAW

The Board, exercising its knowledge, experience, and training, concluded by a vote of 7-1⁴ that Dr. Carlos Ahumada violated the provisions of 32 M.R.S. Sec. 3282-A(2)(F) by engaging in unprofessional conduct when he:

1. Practiced medicine while under the influence of alcohol;
2. Violated the terms of his PHP contract;
3. Returned to the use of alcohol on or about September 17, 2007;
4. Failed to submit to the Board ordered evaluation, which failure was not attributable to circumstances beyond his control.

The Board further concluded by a vote of 6-2⁵ that Dr. Carlos Ahumada violated the provisions of 32 M.R.S. Sec. 3282-A(2)(B) by engaging in habitual substance abuse that has resulted or is foreseeably likely to result in the licensee performing services in a manner that endangers the health or safety of patients. The Board reasoned that there is zero tolerance for alcohol in a physician's blood while on duty. The Board was concerned both that Dr. Ahumada appeared to have a major denial problem regarding his use of alcohol and that he had difficulty admitting that having alcohol on his breath in a practice setting was unprofessional conduct. Such conduct would most likely negatively affect Dr. Ahumada's relationship with fellow practitioners and staff and the perception by and treatment of his patients.

IV.

SANCTIONS

As a result of the above Findings and Conclusions, the Board by the vote of 8-0 orders the following sanctions.⁶

1. Dr. Ahumada shall immediately enroll and participate in the total Physicians' Health Program which shall require urine testing for substances including alcohol wherever Dr. Ahumada

⁴ The dissenting Board member had serious doubts regarding the validity of the blood test results.

⁵ One dissenting Board member was not persuaded that there was a violation due to Dr. Ahumada's unblemished record during his 30 years of practice. The second member required an out of state Sec. 3286 evaluation to help resolve issues surrounding Dr. Ahumada's consumption of alcohol.

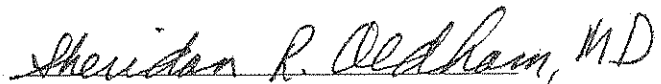
⁶ Additional sanctions are not warranted due to the large amount of support Dr. Ahumada has received from his colleagues.

may be located. In the event that Dr. Ahumada does not enroll forthwith, his license to practice medicine shall be immediately suspended.

2. Dr. Ahumada shall, at his own expense, undergo a psychological and substance abuse evaluation pursuant to 32 M.R.S. Sec. 3286, which shall be completed by June 13, 2008. The evaluation may occur at either The Farley Center, Williamsburg, VA. or the Talbott Recovery Campus, Atlanta, GA.

So Ordered.

Dated: June 10, 2008



Sheridan R. Oldham, M.D. Chairman

Maine Board of Licensure in Medicine

V.

APPEAL RIGHTS

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

STATE OF MAINE
BOARD OF LICENSURE IN MEDICINE

In re:)	CONSENT
William E. Tiemann, M.D.)	AGREEMENT
Complaint No. CR07-329)	

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 William E. Tiemann, M.D. The parties to the Consent Agreement are: William E. Tiemann, M.D. ("Dr. Tiemann"), 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.A. § 8003(5)(B) and 32 M.R.S.A. § 3282-A.

STATEMENT OF FACTS

1. Dr. Tiemann has held a license to practice medicine in the State of Maine since April 20, 2006. Dr. Tiemann specializes in Radiology.

2. On October 9, 2007, the Board reviewed information received from the Federation of State Medical Boards that indicated that the Kentucky Board of Medicine had restricted Dr. Tiemann's medical license for an indefinite period of time due to substance abuse. The Board also reviewed the order issued by the Kentucky Board of Medicine indicating that Dr. Tiemann had been diagnosed with opiate dependence, cannabis dependence, alcohol dependence and substance induced mood disorder. Following its review of this information, the Board voted to initiate a complaint against Dr. Tiemann's Maine medical license. The Board docketed that complaint as CR07-329.

3. On November 16, 2007, the Board received Dr. Tiemann's response to complaint CR07-329. In his response, Dr. Tiemann admitted that he was referred to the Kentucky Physician's Health Program following his May 2006 arrest for Driving Under the Influence in New Orleans. Dr. Tiemann admitted that, when drug tested by the Kentucky Physician's Health Program, his hair revealed the presence of Hydrocodone. According to Dr. Tiemann, he was referred to a substance abuse recovery center for addiction to alcohol, marijuana, and opiates, and completed a 90 day program on August 22, 2007. Dr. Tiemann indicated that he had contacted Dr. Simmons of the Maine Physicians Health Program, and that he is participating in the Louisiana Physicians' Health Program for aftercare and monitoring.

4. On April 8, 2008, the Board reviewed complaint CR07-329, and voted to schedule the matter for an adjudicatory hearing. In addition, the

Board authorized its legal counsel to negotiate a consent agreement with Dr. Tiemann regarding this matter.

5. This Consent Agreement has been negotiated by Dr. Tiemann and legal counsel for the Board in order to resolve all pending matters before the Board, including complaint CR07-329 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. Tiemann waives, in his personal capacity and through legal counsel, any and all objections to, and hereby consents to the presentation of this proposed Consent Agreement to the Board for possible ratification. Dr. Tiemann 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. Tiemann admits that with regard to complaint CR07-329 the Board has sufficient evidence from which it could reasonably conclude that he engaged in habitual substance abuse that was "forseeably likely to result in his performing services in a manner that endangers the health or safety of patients." Dr. Tiemann 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. Tiemann agrees to accept modifications¹ to and conditions imposed on his Maine medical license, which shall remain in full force and effect unless or until this Consent Agreement is amended or rescinded. Based on Dr. Tiemann's acceptance of responsibility for his actions, his continuing treatment of his substance abuse problems, as well as the understanding and agreement between Dr. Tiemann and the Board, that any future use of any prohibited substance by Dr. Tiemann may result in revocation of his license, the Board agrees to issue and Dr. Tiemann agrees to accept the following conditions imposed upon his Maine medical license:

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

a. ABSTINENCE. Dr. Tiemann 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: narcotics; 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. Tiemann's history of substance abuse, unless the circumstances constitute a genuine medical or surgical emergency.

i. Prescription Medication. If any controlled drug is dispensed or prescribed for Dr. Tiemann for a personal medical condition, Dr. Tiemann 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. Tiemann 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 alcohol, narcotics, opiates or similar drugs 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. SINGLE PHYSICIAN. Dr. Tiemann agrees and understands that he shall only obtain his prescription medication(s) from a single primary care physician approved by the Board, and who is aware of Dr. Tiemann's substance abuse history.

c. SUBSTANCE MONITORING. Dr. Tiemann 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. Tiemann irrevocably agrees that the Board and the Maine Department of Attorney General will have full access to all test data and reports. Dr. Tiemann shall execute any and all releases

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

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. Tiemann shall propose a Supervising Physician (the "Supervising Physician"), who shall be approved by the Board who shall have Dr. Tiemann appear and provide urine samples for testing for the presence of Prohibited Substances. Under no circumstances shall Dr. Tiemann fail to appear and/or provide a urine sample for testing as required by this Consent Agreement and his Supervising Physician. The Supervising Physician may be the Director of the Maine Medical Association Medical Professionals Health Program, who may coordinate Dr. Tiemann's monitoring with any other jurisdiction's physicians' health program. Dr. Tiemann shall execute any and all releases necessary to permit the Director of the Maine Medical Association Medical Professionals Health Program to communicate and coordinate regarding all issues regarding his substance abuse treatment and monitoring with any other jurisdiction's physicians' health program.

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 diphenhydramine or similar drugs and alcohol.

iii. Frequency of Urine Testing. It is Dr. Tiemann's obligation to ensure that all the samples are given and tests occur as specified in this Consent Agreement. Testing shall be randomly scheduled by the Board-approved Supervising Physician in coordination with any other jurisdiction's physicians' health program. The Board, the Supervising Physician, or the Board's agent may request a sample 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. Tiemann's Maine medical license, unless proof of genuine emergent medical circumstances (for Dr. Tiemann or a patient) exist which warrant less serious disciplinary actions being taken by the Board.

iv. Reporting Test Results. It is Dr. Tiemann's responsibility to ensure that all test positive 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). Confidentiality Waived. With regard to the Board and its agents and any process to be pursued by the Board, Dr. Tiemann hereby waives all claims of confidentiality and privilege with respect to all tests taken and test results pursuant to this Consent Agreement. Dr. Tiemann 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. Tiemann. Such a positive test result shall alone be sufficient to prove the use of the Prohibited Substance by Dr. Tiemann. Dr. Tiemann 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. Tiemann'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. Tiemann'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. Tiemann 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. Tiemann Used Any Prohibited Substance. After receiving a positive report evidencing use by Dr. Tiemann of any Prohibited Substance, the Board shall investigate the situation, including demanding a response from Dr. Tiemann. The Board will hold a hearing within 60 days of the automatic suspension or as soon thereafter as practicable (unless both Dr. Tiemann 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. Tiemann: 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). Suspension. An immediate, indefinite suspension of licensure shall result from any failure by Dr. Tiemann to comply

with the mandated schedule of samples, failing to appear to provide a sample, or failing to provide a urine sample as required by his Supervising Physician and this Consent Agreement. The suspension shall begin the moment Dr. Tiemann actually learns a report has been made or sent to the Board.

(b). Board Action. The Board may order Dr. Tiemann'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.

d. PROFESSIONAL MANAGEMENT.

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

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

iii. Change of Treatment Provider(s). If Dr. Tiemann 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 discretion to grant or deny such application without hearing. Dr. Tiemann acknowledges that any decision by the Board concerning this issue is not appealable. If the request is denied, nothing precludes Dr. Tiemann from proposing another treatment provider for approval. In requesting a change of treatment provider, Dr. Tiemann understands that the Board may inquire into any issues it deems pertinent with any person, including, without limitation, the current treatment provider(s).

iv. Reports from Treatment Provider(s). Following the execution of this Consent Agreement, Dr. Tiemann shall ensure that the Board-approved treatment provider(s) submit(s) to the Board a written report no later than July 1, October 1, January 1, and April 1 of each year that this Consent Agreement remains in effect regarding: The status of Dr. Tiemann's substance

abuse treatment - including his compliance with any recommended treatments(s); Dr. Tiemann's ability to continue practicing medicine; and the prognosis of Dr. Tiemann's continued recovery.

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

e. SELF-HELP GROUP MEETINGS.

i. Attendance at AA and NA. Dr. Tiemann agrees to attend Alcoholics Anonymous ("AA") and/or Narcotic Anonymous ("NA") a minimum of twice per month 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. Tiemann 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. Tiemann shall submit a signed, written report of his attendance at AA, NA or impaired professional self-help group meetings to the Board no later than July 1, October 1, January 1, and April 1 of each year that this Consent Agreement remains in effect. 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. Tiemann's conditional Maine medical license.

this Consent Agreement in writing. Within fifteen (15) days of the execution of this Consent Agreement, Dr. Tiemann shall provide the Board with written confirmation that he has notified all of the jurisdictions with whom he is currently licensed regarding this Consent Agreement.

j. WAIVER OF CONFIDENTIALITY AND RELEASE OF RECORDS.

Dr. Tiemann 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. Tiemann 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. Tiemann's Maine medical license. The automatic suspension of Dr. Tiemann'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. Tiemann'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. Tiemann 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. Tiemann acknowledges that, pursuant to Title 10 M.R.S.A. § 8003(5)(B), his failure to comply with any of the terms or conditions of this Consent Agreement or of her probation 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. Tiemann shall have his supervising physician and all treatment providers read, date, and sign a copy of the Consent Agreement (the "Designated Copy"). Dr. Tiemann 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. Tiemann 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. Tiemann acknowledges that the Board has jurisdiction over his license. Dr. Tiemann 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.A. § 8003(5)B, in consideration for the Board's issuing Dr. Tiemann 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.A. § 11001, and not be reviewable de novo in the District Court pursuant to 10 M.R.S.A. § 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:

William E. Tiemann, M.D.
3157 Tchoupitoulas Street
New Orleans, LA 70115

b. Address Change. If Dr. Tiemann 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. Tiemann. If a violation of this Consent Agreement is proven to have occurred, regardless of the sanctions imposed, the Board may require Dr. Tiemann 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. AMENDMENT OF CONSENT AGREEMENT.

Dr. Tiemann waives his right to a hearing before the Board or any court regarding all findings, terms and conditions of this Consent Agreement. Dr. Tiemann agrees that this Consent Agreement is a final order resolving all outstanding matters, including complaint CR06-127. 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. Tiemann shall be made in writing and submitted to the Board. Dr. Tiemann may, at reasonable intervals, petition the Board for amendment of the terms and conditions of this Consent Agreement. Upon making such a petition, Dr. Tiemann shall bear the burden of demonstrating that the Board should amend the Consent Agreement. The Board shall have the discretion to: (a) deny Dr. Tiemann's petition; (b) grant Dr. Tiemann's petition; and/or (c) grant Dr. Tiemann'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. Tiemann's request to modify this Consent Agreement need not be made pursuant to a hearing and is not appealable to any court.

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

15. 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.A. § 408.

16. ADVICE OF COUNSEL. Dr. Tiemann acknowledges that he has had the opportunity to consult with legal counsel prior to entering into this Consent Agreement.

17. WAIVER OF RIGHT TO APPEAL CONSENT AGREEMENT.

Dr. Tiemann waives his right to a hearing before the Board or any court regarding all facts, terms and conditions of this Consent Agreement. Dr. Tiemann agrees that this Consent Agreement is a final order resolving all matters pending before the Board, including complaint CR07-329. 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. Tiemann'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. Tiemann 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. Tiemann 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. Tiemann agrees and understands that the Board may consider the conduct and facts described herein 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, WILLIAM E. TIEMANN, 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: June 4, 2008

William E. Tiemann, M.D.
WILLIAM E. TIEMANN, M.D.

STATE OF Louisiana

438065718, S.S.

Personally appeared before me the above-named William E. Tiemann, 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: June 4, 2008

Dr. Joseph Tiemann
Bar # 12787

[Signature]
NOTARY PUBLIC/ATTORNEY
MY COMMISSION ENDS: at Death

STATE OF MAINE
BOARD OF LICENSURE IN MEDICINE

DATED: 6/10/2008

Sheridan R. Oldham, MD
SHERIDAN R. OLDHAM, M.D., Chairman

STATE OF MAINE DEPARTMENT
OF THE ATTORNEY GENERAL

DATED: 6/10/08

[Signature]
DENNIS E. SMITH
Assistant Attorney General

Effective Date: