APPROVED FEBRUARY 9, 2010

Board of Licensure in Medicine
137 State House Station, (mailing)
161 Capitol Street (physical address
Augusta, Maine 04333-0137
Minutes of January 12, 2010
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APPROVED FEBRUARY 9, 2010

State of Maine
Board of Licensure in Medicine
137 SHS, 161 Capitol Street
Augusta, Maine 04333-0137
Minutes of January 12, 2010

BOARD MEMBERS PRESENT
Sheridan R. Oldham, M.D.
Gary R. Hatfield, M.D., Board Secretary
Cheryl Clukey
Bettsanne Holmes
George K. Dreher, M.D.
David H. Dumont, M.D.
Maroulla Gleaton, M.D.
David D. Jones, M.D.
David Nyberg, Ph.D.

BOARD STAFF PRESENT
Randal C. Manning, Executive Director
Mark C. Cooper, M.D.
Dan Sprague, Assistant Executive Director
Jean M. Greenwood, Board Coordinator
Tim Terranova, Consumer Assistant
Maria MacDonald, Board Investigator

ATTORNEY GENERAL'S OFFICE
Dennis Smith, Assistant Attorney General
Detective Peter Lizanecz

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) and 10 M.R.S.A. §8003-B, and 22 M.R.S.A. § 1711-C.) The Board moved, seconded, and voted the following executive session times. During the public session portions of the meeting actions are taken on all matters discussed during executive session. Discussions are projected on a screen by POWERPoint projection.

PUBLIC SESSIONS	**PURPOSE**
9:32 a.m. – 9:35 a.m.	Call to order.
10:49 a.m. – 10:50 a.m.	Motions on Assessment & Direction
11:27 a.m. – 11:29 a.m.	Motion on Informal Conference
11:34 a.m. – 11:35 a.m.	Preliminary to Informal Conference
12:26 p.m. – 12:27 p.m.	Public Session
1:21 p.m. -1:23 p.m.	Preliminary to Informal Conference
2:18 p.m. – 2:19 p.m.	Motion on Informal Conference
2:34 p.m. – 3:38 p.m.	Motions on Informal Conferences & Public Business
3:46 p.m. – 3:47 p.m.	Public Session
5:14 p.m. – 5:23 p.m.	Motions on New Complaints & Adjournment
EXECUTIVE SESSION	
9:35 a.m. – 10:49 a.m.	Assessment & Direction
11:09 a.m. – 11:27 a.m.	Informal Conference
11:35 a.m. – 12:26 a.m.	Informal Conferences
1:23 p.m. – 2:18 p.m.	Informal Conference
3:47 p.m. – 5:14 p.m.	New Complaints
RECESS	
10:51 A.M. – 11:09 A.M.	Recess
11:29 a.m. – 11:34 a.m.	Recess
12:27 p.m. – 1:21 p.m.	Noon Recess

2:19 p.m. – 2:34 p.m. Recess
3:38 p.m. – 3:46 p.m. Recess

I. CALL TO ORDER: Dr. Oldham called the public meeting to order at 9:32 a.m.

A. AMENDMENTS TO AGENDA:

Amend to Section VIII (B)(5) Consent Agreement for Approval
CR 07-197 Daniel Bobker, M.D.

B. SCHEDULED AGENDA ITEMS:
V. INFORMAL CONFERENCE(S)
11:00 a.m. CR 08-235/258
11:30 a.m. CR 09-175
11:30 a.m. CR 09-236
1:00 p.m. CR09-187
IX. ADJUDICATORY HEARING 2:00 p.m. CR 04-056 Holly G. Arato, M.D.

EXECUTIVE SESSION

II. ASSESSMENT & DIRECTION

1. AD 09-322

Dr. Dreher moved to issue a complaint in the matter of CR 10-034. Dr. Nyberg seconded the motion, which passed unanimously.

2. AD 09-474

Dr. Dumont moved to issue a complaint in the matter of CR 10-035. Dr. Nyberg seconded the motion, which passed unanimously.

3. AD 09-518

Dr. Hatfield moved to issue a complaint in the matter of CR 10-036. Dr. Dumont seconded the motion, which passed unanimously.

4. AD 09-521

Dr. Jones moved to issue a complaint in the matter of CR 10-037. Ms. Clukey seconded the motion, which passed unanimously.

5. AD 09-526

Dr. Dreher moved to issue a complaint in the matter of CR 10-038. Ms. Holmes seconded the motion, which passed unanimously.

6. AD 09-535

Dr. Dreher moved to issue a complaint in the matter of CR 10-039. Dr. Jones seconded the motion, which passed unanimously.

7. AD 09-548

Dr. Gleaton moved to issue a complaint in the matter of CR 10-040. Dr. Hatfield seconded the motion, which passed unanimously.

III. PROGRESS REPORTS

9. CR 08-379GEORGE E. NORTHROP, M.D.

Dr. Dumont moved to order an Adjudicatory Hearing in the matter of CR 08-379 George E. Northrop, M.D. and to preliminarily deny his permanent license application. Dr. Hatfield seconded the motion, which passed unanimously.

10. CR 09-178

Dr. Jones moved to order an Informal Conference in the matter of CR 09-178. Dr. Gleaton seconded the motion, which passed 7-0-0-2 with Dr. Dumont and Dr. Hatfield recused.

11. CR 09-203 EICK MUKAI, M.D.

Ms. Holmes moved to dismiss CR 09-203 Eric Mukai, M.D. with a letter of guidance. Dr. Jones seconded the motion, which passed unanimously.

In this matter the patient complained about repeated harassment from a medical assistant. The medical assistant was subsequently fired from the practice and the practice has taken steps to fast track similiar patient complaints.

The letter of guidance will address the physician's responsibility for their unlicensed medical assistant's behavior.

12. CR 09-214

Dr. Gleaton moved to dismiss CR 09-214. Dr. Dumont seconded the motion, which passed unanimously.

A patient's daughter complained that an ophthalmologist did not diagnose and treat her mother appropriately; she felt he did not possess enough expertise to do so. The daughter was also concerned that her mother was not admitted to the hospital on her initial Emergency Room visit. The mother presented with sudden, painless loss of vision in her left eye. The ophthalmologist was called in and did a thorough, reasonable evaluation with knowledgeable diagnosis and

scheduled follow-up. Unfortunately, the patient returned the following day with further visual difficulty in her other eye along with mental confusion. Further vascular work-up and admission to the Intensive Care Unit ensued. The ophthalmologist was not notified until the following day, and he immediately and appropriately altered his previous diagnosis and recommended necessary treatment. He certainly could have visited the patient and family to offer succor and support given the devastating bilateral profound visual loss the patient was experiencing; however, he had not been formally asked to consult by the admitting doctor. He eventually was consulted to follow the patient and did so faithfully until he was dismissed by the patient. The physician regrets the poor visual outcome for the patient and stated that he has learned from this clinical situation.

13. CR 09-300

Dr. Dreher moved to investigate further CR 09-300 and order a 3286 substance abuse and cognitive evaluation by the same examiner who did his previous evaluation. Dr. Dumont seconded the motion, which passed unanimously.

14. CR 09-306

Dr. Hatfield moved to dismiss CR 09-306. Dr. Jones seconded the motion, which passed 6-0-0-3 with Ms. Clukey, Dr. Gleaton and Dr. Dumont recused.

The complainant states that the physician was rude to her when she stated to the patient, her grandmother, that the care she was receiving was inappropriate and that they should go to another hospital. She also feels the physician was rude to the patient. The physician feels he communicated clearly with the patient and family, and does not recall any difficulties during these interactions. A review of the records shows that the patient's clinical care was appropriate. A representative of the hospital stated to the Board Investigator there were no complaints about this physician from the Emergency Room nursing staff or nursing supervisor. A hospital investigation of complaints from the family showed no evidence of inappropriate care. It is not possible for the Board to know the conversation that took place between the physician and complainant.

15. CR09-307

Dr. Hatfield moved to investigate further CR 09-307. Dr. Jones seconded the motion, which passed which passed 8-0-0-1 with Ms. Holmes recused.

16. CR 09-314

Ms. Holmes moved to investigate further CR 09-314. Dr. Jones seconded the motion, which passed unanimously.

17. CR 09-359 STEPHEN G. WOOD, M.D

Dr. Dreher moved to dismiss CR 09-359 Stephen G. Wood, M.D. with a letter of guidance. Ms. Holmes seconded the motion which passed 8-0-0-1 with Dr. Jones recused.

The patient was concerned that her calls to her primary physician regarding continuing symptoms were not returned and she later learned these were not recorded in her chart and her physician was not informed by the receptionist of her current symptoms. A review of the records and further information provided by the physician and his staff member indicates their belief her calls were in regard to a referral which was in progress. Unfortunately without any documentation in the chart it is not possible to verify their comments. The patient also complained about not being able to get a copy of her records promptly though they were provided within several days.

The letter of guidance will emphasize the importance of all patient calls regarding medical matters being brought to the attention of the physician and documented in the chart appropriately.

18. COMPLAINT STATUS REPORT (FYI)

19. REVIEW DRAFT LETTERS OF GUIDANCE

A. MARSHALL T. CHAMBERLIN, M.D.

Dr. Gleaton moved to approve the letter of guidance to Marshall T. Chamberlin, M.D. Dr. Dreher seconded the motion which passed 7-0-0-2 with Ms. Clukey and Dr. Dumont recused.

B. PAUL M. LABAND, M.D.

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

20. CONSUMER ASSISTANT FEEDBACK FYI

IV. NEW COMPLAINTS

A. CR 09-296 ROBERT T. LAFARGUE, M.D.

Dr. Gleaton moved to order an Adjudicatory Hearing in the matter of Robert T. Lafargue, M.D. CR 09-296. Dr. Dreher seconded the motion, which passed unanimously.

B. CR 09-341

Dr. Jones moved to order an Informal Conference in the matter of CR 09-341. Dr. Hatfield seconded the motion, which passed unanimously.

C. CR 09-348

1. Dr. Dumont moved to investigate further CR 09-348. Dr. Jones seconded the motion, which passed unanimously.

2. Dr. Dumont moved to issue complaint CR 10-041. Dr. Jones seconded the motion, which passed unanimously.

3. Dr. Dumont moved to issue complaint CR 10-042. Dr. Jones seconded the motion, which passed unanimously.

4. Dr. Dumont moved to issue complaint CR 10-043. Dr. Jones seconded the motion, which passed unanimously.

D. CR 09-349

Dr. Jones moved to dismiss CR 09-349. Dr. Nyberg seconded the motion, which passed unanimously.

The patient, who resides in an institution, complains of inadequate treatment of chronic pain. Review of the medical record shows appropriate decision making and treatment. There is evidence in the medical record of drug hoarding, IV drug use, and drug seeking behavior by the patient.

E. CR 09-369

Ms. Clukey moved to dismiss CR 09-369. Dr. Jones seconded the motion, which passed unanimously.

The complainant is confused; she thinks her physician is a dentist who has denied her dental treatment, four extractions, or a referral to an oral surgeon who would do the extractions, and called her a liar. (The patient insisted on her own diagnosis of her condition.) The physician explains that he did examine the patient's teeth and gums, determined that the troublesome teeth could be saved with restorative work and referred her to a clinic that provides such services on a sliding-scale cost basis. The physician made the correct diagnosis and referral.

F. CR 09-373

Dr. Dreher moved to dismiss CR 09-373. Dr. Nyberg seconded the motion, which passed unanimously.

The complainant is the son of a now deceased patient, who had surgery for a broken hip performed by the physician named in the complaint. The patient suffered post-operative complications which were managed by another medical team independent of the physician named in this complaint. This separate medical team eventually placed the patient on comfort care after obtaining consent from the patient's power of attorney (who is the complainant's wife.) The complainant feels he was left out of this process.

There is nothing in the medical record to suggest the named physician was delinquent or remiss in his conduct. The physician has previously offered to talk with the complainant regarding the surgical aspects of care but has not yet been contacted.

G. CR 09-410

Dr. Dumont moved to dismiss CR 09-410. Dr. Jones seconded the motion, which passed unanimously.

In this case the patient was seen by Dermatology for excision of a recurrent mole. A shave biopsy was performed with pathology report confirming the lesion to be benign. The patient went back to the physician 4 months later with recurrent pigmentary changes which were again felt to be benign clinically. The lesion continued to enlarge and the patient was dissatisfied that it had recurred. She was subsequently seen by another Dermatologist in the same practice who agreed with the initial care and offered re-excision. The patient felt that all subsequent surgery should be done for free since her initial request was to have the lesion removed and although this had been done the lesion recurred. Care appears to have been appropriate and the recurrence was not a fault of the initial surgery but more a result of the type of lesion the patient had. A larger excision initially might have been more successful but would have lead to increased scarring and greater chance of infection. Fee disputes do not fall under the Board's purview.

H. CR 09-440

Dr. Dreher moved to dismiss CR 09-440. Ms. Holmes seconded the motion, which passed unanimously.

The complainant alleges that the physician ignored his pain, failed to provide follow-up care and that certain portions of his medical record have vanished. The physician denied that he ignored the patient's complaint, and provided timely follow-up care, diagnostic studies and treatment when appropriate conservative measures did not produce adequate improvement. A review of the record corroborates the physician's response with an ongoing treatment plan in place. There was no indication of missing notes.

I. CR 09-441

Dr. Dumont moved to investigate further CR 09-441. Dr. Jones seconded the motion, which passed unanimously.

J. CR 09-443

Dr. Dumont moved to dismiss CR 09-443. Ms. Holmes seconded the motion, which passed 8-1.

This is a very complicated and sad case involving the patient's daughter, who has been Guardian to the patient since 2005, alleging poor treatment by the patient's doctor over the past 40 years, when in fact he has cared for her for 24 years. The Daughter alleges longstanding overuse of medications, unnecessary testing, and refusal to address the patient's alcohol issues. Physician

replies and chart review verifies that he only used appropriate medications with clear cut indications, only ordered appropriate tests, and made several attempts to address the patient's drinking. Unfortunately the patient experienced a CVA with progressive decline and this resulted in further dispute about which medications were necessary to maintain patient comfort.

It appears that both the daughter and the physician had only the patient's best interests in mind and both deeply cared about her and her well-being. Neither, however, seemed to completely comprehend all of the issues the other person was involved in while taking care of this woman. As in most complicated medical cases improved communication clearly would have helped this situation but there is no indication of unprofessional behavior of inappropriate medical care.

K. CR 09-450

Dr. Hatfield moved to dismiss CR 09-450. Dr. Nyberg seconded the motion, which passed unanimously.

The complainant, who is the patient's attorney, feels that the physician misstated facts in an intentional effort to mislead the Worker's Compensation Board. A review of the record shows no evidence of such deception, and in fact appears to show the complainant attempting to mislead the Board with a statement intentionally taken out of the context of a full sentence written by the physician. This same out of context statement is seen in a letter written by the complainant to a different physician just before that physician evaluated the patient for the first time.

L. CR 09-459

Dr. Gleaton moved to investigate further CR 09-459. Dr. Nyberg seconded the motion, which passed unanimously.

M. CR 09-460

Dr. Gleaton moved to investigate further CR 09-460. Dr. Nyberg seconded the motion, which passed unanimously.

N. CR 09-461

Dr. Gleaton moved to investigate further CR 09-461. Dr. Nyberg seconded the motion, which passed unanimously.

O. CR 09-462

Dr. Gleaton moved to investigate further CR 09-462. Dr. Nyberg seconded the motion, which passed unanimously.

P. CR 09-468

Dr. Jones moved to order an Informal Conference in the matter of CR 09-468. Dr. Dreher seconded the motion, which passed unanimously.

Q. CR 09-482

Ms. Holmes moved to investigate further CR 09-482 and order a 3286 substance abuse evaluation. Dr. Hatfield seconded the motion, which passed unanimously.

R. CR 09-483

Ms. Clukey moved to investigate further CR 09-483. Ms. Holmes seconded the motion, which passed unanimously.

V. INFORMAL CONFERENCE(S)

A. CR 08-235/258

Ms. Holmes moved to dismiss CR 08-235/259. Dr. Dumont seconded the motion, which passed 8-0-0-1 with Dr. Jones recused.

In this case the physician's attention to the patient's needs and communication with the patient were of concern. The physician has attended a course to improve these abilities and has demonstrated an enthusiastic engagement in the process. The physician is also aware of the mistakes he made in working with the patient and is planning to apologize to her.

B. CR 09-175 ERIC I. MITCHELL, M.D.

Ms. Holmes moved to dismiss CR 09-175 in the matter of Eric I. Mitchell, M.D. with a letter of guidance. Dr. Gleaton seconded the motion, which passed unanimously.

In this case Dr. Mitchell performed an evaluation on a patient to consider post-operative function and rule out associated medical problems. The patient complained of being roughly treated causing more pain and being slapped on the face by the physician. The physician denied he caused any significant pain being careful to monitor the patient's response to his exam. The physician states he gave the patient "a Rocky-like tap" on the jaw as reassuring gesture. The patient did not provide a rebuttal to the physician's response nor did he choose to appear for an informal conference held by the Board to attempt to adequately review these differing views.

There was a concern the physician could be more aware of his interactions with the patient and their perceptions of the exam and the letter of guidance will reflect this.

C. CR 09-236

Dr. Jones moved to dismiss CR 09-236. Dr. Nyberg seconded the motion, which passed 8-0-0-1 with Dr. Dumont recused.

The complaint centered on the patient's frustration with her care and complications related to this. The communication between physician and patient was less than adequate. The care was appropriate under the circumstances. After an informal conference the physician understands the importance of clear informed consent and good communication. The patient is pleased with the outcome of the informal conference.

D CR09-187 GREGOARY VAN GUNDY, M.D

Dr. Hatfield moved to dismiss CR 09-187 in the matter of Gregory Van Gundy, M.D. with a letter of guidance. Dr. Dreher seconded the motion, which passed unanimously.

The complainant feels that the physician did not follow a plan of care already in place for the delivery of her baby, subjected her to a procedure that could have been done in a less painful way, and was inappropriate with his behavior leading to an environment that was both confrontational and anxiety provoking.

A review of the case indicates that these complaints are generally accurate although the Board feels that the clinical care was appropriate. It is clear that both communication and the environment were poor.

The Board reminds the physician that the environment created by his behavior influences the patient's perception of care to a large extent and that the physician needs to control his anger and frustration in order to keep the environment therapeutic.

NOON MEAL

PUBLIC SESSION

VI. MINUTES OF DECEMBER 8, 2009

Dr. Gleaton moved to accept the minutes. Dr. Dreher seconded the motion, which passed unanimously.

VII. NEW BUSINESS

VIII. BOARD ORDERS & CONSENT AGREEMENT MONITORING &AND APPROVAL

A. BOARD ORDERS (NONE)

B. CONSENT AGREEMENT MONITORING & APPROVAL

1. MONITORING COMPLIANCE REPORT (FYI)

2. CR 05-079/06-183 THOMAS DeFANTI, M.D.

Ms. Holmes moved to deny Dr. DeFanti's request to personally meet with the Board as the Board has no interest in changing his Consent Agreement. Dr. Hatfield seconded the motion, which passed unanimously.

3. CR 08-377/08-409 ROGELIO J. NARANJA, M.D. (COURSE APPROVAL)

Dr. Dreher moved to approve the course Dr. Naranja proposed through the International Congress on Joint Replacement. Dr. Nyberg seconded the motion, which passed 8-0-0-1 with Dr. Jones recused.

4. JENIE M. SMITH, M.D. (MONITORING UPDATE)

Dr. Dreher moved to allow Dr. Smith to terminate her participation in the Maine Medical Professional's Health Program. Dr. Nyberg seconded the motion which passed 8-0-0-1 with Dr. Hatfield recused.

5. DANIEL BOBKER, M.D. CR 07-197
(PROPOSED SECOND CONSENT AGREEMENT) [SEE APPENDIX A ATTACHED]

In lieu of proceeding to an Adjudicatory Hearing the Board was presented with a Second Consent Agreement for approval which was signed by Dr. Bobker.

Dr. Dreher moved to approve the Second Consent Agreement in the matter of CR 07-197 Daniel Bobker, M.D. The motion was seconded by Dr. Jones and passed 8-0-0-1 with Dr. Hatfield recused.

IX. ADJUDICATORY HEARING

A CR 04-056 HOLLY G. ARATO, M.D. [SEE APPENDIX B ATTACHED]

In lieu of proceeding to an Adjudicatory Hearing the Board was presented with a Consent Agreement for approval which was signed by Dr. Arato in which she agrees to the Immediate and Voluntary Surrender of her license to practice medicine in the State of Maine.

Dr. Dreher moved to approve the Consent Agreement in the matter of CR 04-056 Holly G. Arato, M.D. Dr. Dumont seconded the motion which passed 8-0-0-1 with Dr. Jones recused.

X. REMARKS OF CHAIRMAN

A FSMB 2010 ANNUAL MEETING VOTING DELEGATE APPOINTMENT

Dr. Gleaton moved to appoint Dr. Nyberg to represent the Board as the voting delegate to the 2010 Annual Meeting of the Federation of State Medical Boards. Dr. Dreher seconded the motion, which passed unanimously.

Dr. Dreher moved to authorize the Executive Director to attend the 2010 Annual Meeting of the Federation of State Medical Boards. Dr Gleaton seconded the motion, which passed unanimously.

B ESSENTIAL ASPECTS OF PROFESSIONALISM IN MEDICINE

Dr. Nyberg and Dr. Dreher presented a draft paper on the Essential Aspects of Professionalism in Medicine and requested feedback from Board members.

XI. EXECUTIVE DIRECTOR'S MONTHLY REPORT

The Board accepted the report of the Executive Director.

A COMPLAINT STATUS REPORT (FYI)

B AUTHORIZATION TO HIRE A SUMMER INTERN

Ms. Holmes moved to authorize the Board to hire a summer intern. Dr. Dreher seconded the motion, which passed unanimously.

C. SECRETARY OF STATE BOARDS AND COMMISSIONS ANNUAL REPORT (FYI)

D. PAIN MANAGEMENT CME REPORT (FYI)

XII. REMARKS OF ASSISTANT ATTORNEY GENERAL (NONE)

XIII SECRETARY'S REPORT

A, LIST A

1. M.D. LIST A LICENSES FOR RATIFICATION

Dr. Gleaton moved to ratify the physicians on List A below for licensure. Ms. Clukey seconded the motion, which passed unanimously.

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

NAME	SPECIALTY	LOCATION
Bansal, Ankush K	Internal Medicine	Waterville
Baker, Christopher B	Diagnostic Radiology	Portland
Blake, Arthur F	Family Medicine	Bucksport
Ewing, Thomas E	Emergency Medicine	Not Listed
Greger, Stephanie C	Internal Medicine	Portland
Harris, Laura G	Pathology Anatomic/Clinical	Cumberland/York Counties

Henderson, Daryl S	Diagnostic Radiology	Teleradiology
Katanyutanon, Sakdhisapol	Internal Medicine/Gastroenterology	Waterville
Kim, Donna C	Family Medicine	Not Listed
Lee, Norris K J	Otolaryngology	Lewiston
Lepak, Keith A	Emergency Medicine	Locum Tenens
Little, Patricia L	Anesthesiology	Not Listed
McKenna, Jennifer C	OB/GYN	York
Mosher, Jodee L	Internal Medicine	Not Listed
Schommer, Susan S	General Surgery	Locum Tenens
Singla Vikas	Internal Medicine	Biddeford
Subramanian, Vinodhini M	Internal Medicine	Biddeford
Tolani, Kishore A	Anesthesiology	Bangor
Tweedie, Eric L.	Anesthesiology	EMMC
Wagner, Rachel M	Family Practice	Kennebunk
Wei, Stephen C	Diagnostic Radiology	Not Listed
Zartarian, Gary M	Internal Medicine/Gastroenterology	Brunswick

2. P.A. LIST A LICENSES FOR RATIFICATION

Dr. Gleaton moved to ratify the physician assistants on List A below for licensure. Dr. Dumont seconded the motion, which passed unanimously.

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

NAME	LICENSE	PSP	LOCATION
David Duchin, PA-C	Active	Robert Verosloff, M.D.	Bangor
James Corbett, PA-C	Active	Kina Hill-Francis, M.D.	Presque Isle
Michael Verville, PA-C	Inactive	None	None

B. LIST B – APPLICATIONS FOR INDIVIDUAL CONSIDERATION

1. JAMES C. COOPER, M.D.

The Licensure Committee moved to preliminarily deny the permanent license application of James C. Cooper, M.D. based on allegations in an outstanding complaint with the Board. The motion passed unanimously.

2. JOHN R. NICEFORO, M.D.

The Licensure Committee moved to approve the permanent license application of John R. Niceforo, M.D. The motion passed unanimously.

3. HARVEY A. KAHANER, M.D.

The Licensure Committee moved to approve the temporary license application of Harvey A. Kahaner, M.D. The motion passed unanimously.

C. LIST C APPLICATIONS FOR REINSTATEMENT (NONE)

D. LIST D WITHDRAWALS (NONE)

E. LIST E LICENSES TO LAPSE BY OPERATION OF LAW (FYI)

The following physician licenses lapsed by operation of law effective December 4, 2009.

NAME	LICENSE NO.
Bhatia, Harmohinder S.	007522
Bushhorn, Holly M.	018051
Carroll, Gregory S.	017865
Carroll, Matthew W.	014698
Ghani, Shahid J.	013404
Held, Jeffrey P.	017291
Henderson, Colin J.	018001
Huangthaisong, Pongsak	016733
Kinsler, Allen C.	017490
Luo, Pifu	017910
Lyons, Wilbert A.	015779
Mazzoleni, Alberto	004929
Rabinov, James D.	015614
Ralston, Tamiko A.	017553
Ramanujam, Paravasthu	008834
Sakbun, Ratheany	017539
Sweeney, Tara	017985
Vraney, George A.	013292
Wiper, Donald W.	015177
Zwartjes Jr, William J.	011793

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

G. LIST G RENEWAL APPLICATIONS FOR REVIEW.

1. PETER BEECKEL, M.D.

The Licensure Committee moved to grant renewal of the license of Peter Beeckel, M.D. The motion passed 7-0-0-2 with Dr. Dumont and Dr. Hatfield recused.

2. GARY WEAVER, M.D.

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

3. HUBERT CAPLAN, M.D.

The Licensure Committee moved to accept Dr. Caplan's offer to withdraw his license from registration. The motion passed unanimously.

H. LIST H – DELEGATED PRACTITIONERS SCHEDULE II REQUESTSS

Dr. Gleaton moved to ratify the physician assistants on List H below for Schedule II privileges. Ms. Holmes seconded the motion, which passed unanimously.

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

NEW APPLICATIONS

NAME	PSP	LOCATION
Lauren LaBrecque, PA-C	Howard Jones, M.D.	Belfast
Benjamin Tipton, PA-C	Sean Moran, M.D.	Damariscotta
William Newton, PA-C	Benedict Farino, M.D.	Scarborough
Jeff Nicoletti, PA-C	John Solari, M.D.	Biddeford
Scott Withers, PA-C	Deborah Ryan, M.D.	Machias
Elizabeth Frederick, PCNP	David Hallbert, M.D.	Bangor
David Duchin, PA-C	Robert Verosloff, M.D.	Bangor

XIV. STANDING COMMITTEE REPORTS

A. CME/CLINICAL EVALUATION/SPECIAL PROJECTS COMMITTEE

Dr. Gleaton reported the Special Projects Committee met to discuss the dissemination of the Informed Consent Document. The next step will be to Dr. Gleaton to work with the Medical Director on a timeline and specific educational venues to disseminate the document to the physicians in the community.

B. LEGISLATIVE & REGULATORY COMMITTEE

Mr. Manning reported on bills the Board will be following.

C PUBLIC INFORMATION COMMITTEE

Ms. Clukey reported the 2010 spring newsletter will be coming out early in February.

D. PHYSICIAN ASSISTANT ADVISORY COMMITTEE

Dr. Jones reported the PA Committee met in December and are discussing issues he will bring to the Board at a later date.

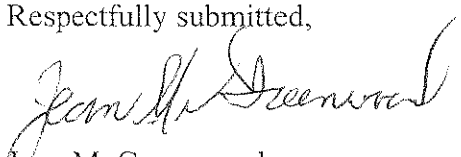
XV. BOARD CORRESPONDENCE (FYI)

XVI. FYI

XVII. FSMB MATERIAL (FYI)

XVIII. ADJOURNMENT 5:25 p.m.

Respectfully submitted,



Jean M. Greenwood
Administrative Assistant
Board Coordinator

APPENDIX A

STATE OF MAINE
BOARD OF LICENSURE IN MEDICINE

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

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

STATEMENT OF FACTS

1. Dr. Bobker has held a license to practice medicine in the State of Maine since February 15, 1995. Dr. Bobker specializes in Neurology.

2. On June 12, 2007, the Board reviewed information indicating that Dr. Bobker had been abusing benzodiazepine and sedatives. Following its review, the Board voted to summarily suspend Dr. Bobker's Maine medical license for thirty (30) days pursuant to Title 5 M.R.S.A. § 10004 based upon the imminent threat that his continued practice of medicine posed to the public. In addition, the Board ordered Dr. Bobker to undergo a physical and mental evaluation by a Board-approved physician pursuant to Title 32 M.R.S.A. § 3286, and scheduled the matter for an adjudicatory hearing on July 10, 2007.

3. On June 25, 2007, the Board received a request from Dr. Bobker to continue the adjudicatory hearing based upon his participation in an in-patient treatment facility for chemical dependence. Based upon this request, and with the understanding that Dr. Bobker's license would remain under suspension until the adjudicatory hearing took place, the Board continued the adjudicatory hearing.

4. On December 5, 2007, the Board and Office of Attorney General received medical information regarding Dr. Bobker, including records pertaining to his in-patient treatment for chemical dependency.

5. On January 23, 2008, Dr. Bobker entered into a consent agreement with the Board and the Office of Attorney General in order to resolve complaint CR07-197 without an adjudicatory hearing. In that consent agreement, Dr. Bobker agreed to accept modifications[1] and conditions imposed upon his Maine medical license, including: complete abstinence from the use of "Prohibited Substances", which included benzodiazepines, sedatives (*i.e.* Ambien), hypnotics

[1] Title 32 M.R.S.A. § 3282-A(2) gives the Board the authority to "modify" Dr. Bobker's Maine medical license by imposing conditions upon it.

or similar drugs; opiates; alcohol; cocaine; fentanyl; mood, consciousness or mind-altering substances, whether illicit or not; and all drugs which are dispensed to or prescribed for him by anyone other than a single primary care physician approved by the Board who is knowledgeable of Dr. Bobker's medical history, including his misuse of benzodiazepine and sedatives, unless the circumstances constitute a genuine medical or surgical emergency. Dr. Bobker understood and agreed that the single primary care physician approved by the Board shall not prescribe to Dr. Bobker any benzodiazepines, barbiturates, or prescription sedative-hypnotic medications, without obtaining prior approval from the Board.

6. On June 24, 2008, the Board received a letter from the Medical Professionals Health Program that Dr. Bobker had tested positive for Hydrocodone, an opiate analgesic, and that Dr. Bobker admitted to using that drug, which was not prescribed to him.

7. On June 25, 2008, the Board, pursuant to paragraph 8(d)(vi), sent Dr. Bobker a notice of the immediate suspension of his license to practice medicine, and advised him that the Board would schedule an adjudicatory hearing regarding the violation within sixty (60) days.

8. Following the suspension of his Maine medical license, Dr. Bobker returned for residential treatment, and the adjudicatory hearing, and Dr. Bobker's license suspension, was continued by agreement of the parties until Dr. Bobker could complete residential treatment and provide the Office of Attorney General with copies of the records of his residential treatment.

9. On July 22, 2009, the Board received an application from Dr. Bobker for the reinstatement of his Maine medical license. The Board has not yet taken action on that application in light of the pending violation of the consent agreement and the continuance of the adjudicatory hearing. To date, Dr. Bobker's Maine medical license has been suspended for 18 months, during which time he has not practiced medicine.

10. On August 12, 2009, legal counsel for the Board sent Dr. Bobker's legal counsel a letter, together with medical release forms, and requested that Dr. Bobker execute them so that he could obtain Dr. Bobker's out-patient and in-patient treatment records for review in order to assess Dr. Bobker's past, present, and future ability to practice medicine in a safe manner pursuant to a consent agreement that would obviate the need for an adjudicatory hearing.

11. Between October 13, 2009, and October 26, 2009, the Board staff received copies of Dr. Bobker's record of treatment from his treating psychiatrist, his treating addictionolgist, his substance abuse counselor, and his in-patient treatment for medical and substance abuse issues. Those records reflect the following relevant information:

a. On July 3, 2008, Dr. Bobker ingested Hydrocodone that was prescribed for his wife because he was having difficulty sleeping.

b. Between August 28, 2008 and October 13, 2008, during Dr. Bobker's in-patient treatment, Dr. Bobker was noted to have been confronted by staff for manipulating the dosage of medication prescribed to him.

c. Dr. Bobker was discharged from in-patient treatment on October 13, 2008.

d. In April 2009, Dr. Bobker returned to in-patient treatment for a recommended re-evaluation. At that time, it was determined that Dr. Bobker had not attended the number self-help groups recommended, only had seen an addictionologist once, continued to see his psychiatrist without consulting the Maine Physicians Health Program (MPHP), and only recently began seeing a therapist when weekly therapy had been recommended. In addition, Dr. Bobker was not in full compliance with the MPHP, and his therapist was concerned with Dr. Bobker's struggle to acknowledge his addiction. As a result of his non-compliance, Dr. Bobker was not cleared to return to medical practice.

e. In May 2009, Dr. Bobker continued to unilaterally adjust the dosage of the medication prescribed to him by increasing it without consulting the prescribing physician. As a result, his treating physician indicated that "taking call will be problematic, b/o the extent to which he sedates himself."

f. In July 2009, Dr. Bobker returned to in-patient treatment for a recommended re-evaluation. At that time, it was determined that Dr. Bobker was in compliance with the MPHP, was attending the number of self-help groups recommended, and had been seeing an addictionologist on a monthly basis. As a result of his compliance, Dr. Bobker was cleared to return to medical practice under the following conditions: (1) full compliance with the MPHP; (2) drug monitoring; (3) "reasonable work hours"; (4) "reasonable call schedule"; and (5) "no solo practice."

g. In July 2009, Dr. Bobker indicated that he believed that he could only sleep by heavily sedating himself, and recognized that this will pose a problem if he has to answer a call in the middle of the night when he returns to active medical practice.

h. In August 2009, Dr. Bobker continued to unilaterally adjust the medication prescribed to him by discontinuing its use, and then restarting it.

i. In September 2009, Dr. Bobker indicated that he was thinking about returning to medical practice and finding work with minimal on-call. At that time, Dr. Bobker indicated that he could tolerate a 1/10 day call schedule by not taking his prescribed medication on the night that he was on call, even if it meant being up most of the night.

12. This Second Consent Agreement has been negotiated by counsel for Dr. Bobker and counsel for the Board in order to resolve complaint CR07-197 without an adjudicatory hearing. Absent ratification of this proposed Second Consent Agreement by a majority vote of the Board, the matter will proceed to an adjudicatory hearing.

13. By signing this Second Consent Agreement, Dr. Bobker waives, in his personal capacity and through legal counsel, any and all objections to, and hereby consents to allow the Board's legal counsel to present this proposed Second Consent Agreement to the Board for possible ratification. Dr. Bobker waives, in his personal capacity and through legal counsel, forever any arguments of bias or otherwise against any of the Board members in the event that the Board fails to ratify this proposed Second Consent Agreement.

COVENANTS

14. Dr. Bobker admits that with regard to complaint CR07-197 the Board has sufficient evidence from which it could reasonably conclude that he: (a) violated the terms and conditions of his consent agreement with the Board by using a "Prohibited substance" in violation of paragraph 8(a); and (b) 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. Bobker admits that such conduct constitutes habitual substance abuse and unprofessional conduct and grounds for discipline of his Maine medical license pursuant to 32 M.R.S.A. § 3282-A(2)(B) & (F) and 10 M.R.S.A. § 8003(5)(A-1).

CONDITIONS OF LICENSURE

15. As discipline for the conduct admitted in paragraph 14 above, Dr. Bobker agrees to accept modifications[2] to and conditions imposed on his Maine medical license. Based on Dr. Bobker's acceptance of responsibility for his actions, his continuing treatment of his substance abuse problems, as well as the understanding and agreement between Dr. Bobker and the Board, that any future use of any prohibited substance by Dr. Bobker may result in revocation of his license, the Board Dr. Bobker agree to the following conditions imposed upon his Maine medical license:

a. ABSTINENCE. Dr. Bobker agrees that, following the execution[3] of this Second Consent Agreement, he shall completely abstain from the use of any and all Prohibited Substances. "Prohibited Substances" as used throughout this Second Consent Agreement shall mean: benzodiazepines, sedatives (*i.e.* Ambien), hypnotics or similar drugs; opiates; alcohol; cocaine; fentanyl; mood, consciousness or mind-altering substances, whether illicit or not; and all drugs which are dispensed to or prescribed for him by anyone other than a single primary care physician approved by the Board who is knowledgeable of Dr. Bobker's medical history, including his misuse of benzodiazepine and sedatives, unless the circumstances constitute a genuine medical or surgical emergency. Dr. Bobker understands and agrees that the single primary care physician approved by the Board shall not prescribe to Dr. Bobker any benzodiazepines, barbiturates, or prescription sedative-hypnotic medications, without obtaining

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

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

prior approval from the Board. The Board shall retain the sole discretion, without hearing, to grant or deny any request to prescribe such medications. Dr. Bobker acknowledges that any decision by the Board concerning this issue is not appealable.

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

ii. Future Use of Prohibited Substances Shall Result in Loss of Licensure. Dr. Bobker agrees and understands that any reliable evidence of use at any time in the future, whether in Maine or elsewhere, of any Prohibited Substance, including but not limited to benzodiazepines, sedatives (*i.e.* Ambien), hypnotics or similar drugs or alcohol, shall constitute a violation of this Second Consent Agreement, which SHALL RESULT IN THE IMMEDIATE, INDEFINITE AUTOMATIC SUSPENSION OF LICENSURE, AND PROOF OF USE MAY RESULT IN REVOCATION/NON-RENEWAL OF LICENSURE.

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

c. SINGLE PHYSICIAN. Dr. Bobker agrees and understands that he shall only obtain his prescription medication(s) from a single physician approved by the Board. Dr. Bobker agrees and understands that he will not make any unilateral changes to the medication regimen prescribed for him by his single physician. In complying with this provision, Dr. Bobker agrees that he will not self-diagnose or self-treat himself for any medical issues, including somatic or anxiety disorders. In addition, Dr. Bobker agrees that he will not attempt to pressure his single physician towards specific types of treatment nor make any unilateral adjustments to the dosages of medications prescribed to him (i.e. he will not increase, decrease, start or stop a medication without the advance approval of his physician).

d. SUBSTANCE MONITORING. Dr. Bobker understands and agrees that he may, for the remainder of his career as a Maine licensed physician, undergo some level of substance monitoring to test whether he has used a "Prohibited Substance." The monitoring shall be through urinalysis testing and/or blood testing, and any other reliable method which may later be developed and approved by the Board. Dr. Bobker irrevocably agrees that the Board and the Maine Department of Attorney General will have full access to all test data and reports. Dr. Bobker shall execute any and all releases necessary for the Board and/or the Attorney General to have full access to all data and reports pertaining to his substance monitoring.

i. Substance Abuse Monitor. Dr. Bobker shall propose a Substance Abuse Monitor to the Board, which shall have the sole discretion to approve/deny the individual proposed, who shall have Dr. Bobker provide urine samples for testing for the presence of Prohibited Substances. Under no circumstances shall Dr. Bobker fail to appear and/or provide a urine sample for testing as required by this Second Consent Agreement.

ii. Process. All urine and/or blood samples shall be handled through legal chain of custody methods. All samples provided shall be analyzed by a certified laboratory, which regularly handles drug monitoring tests. All samples shall be tested for the presence of Prohibited Substances, specifically including but not limited to benzodiazepines, sedatives (*i.e.* Ambien), hypnotics or similar drugs.

iii. Frequency of Urine Testing. It is Dr. Bobker's obligation to ensure that all the samples are given and tests occur as specified in this Second Consent Agreement. Testing shall be randomly scheduled. Notwithstanding any other provision of this Second Consent Agreement, the Board, the Substance Abuse Monitor, or the Board's agent may request Dr. Bobker to submit to testing at any time. Failure to maintain this schedule or the random nature of the tests shall be cause for suspension, non-renewal or revocation of Dr. Bobker's Maine medical license, unless proof of genuine emergent medical circumstances (for Dr. Bobker or a patient) exist which warrant less serious disciplinary actions being taken by the Board.

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

(b). For the period following Dr. Bobker's return to the active practice of medicine and for one year thereafter, urine samples shall be provided once a week. In complying with this provision of the Second Consent Agreement, Dr. Bobker shall notify the Board, his Substance Abuse Monitor, and his Treatment Provider(s) immediately upon his return to the active practice of medicine. The frequency of urine testing shall continue as outlined herein even while Dr. Bobker is on vacation or on a leave of absence in the continental United States. Dr. Bobker shall be responsible for making arrangements to ensure that the testing is carried out with the frequency and standards outlined in this Second Consent Agreement.

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

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

(b). Reporting Negative Test Results. Written reports of all tests shall be sent to the Board monthly, together with an explanation of the dates and times samples were provided and tests made, the type(s) of tests made, and the substances tested for

(together with detectable levels tested for), and the test results. Dr. Bobker shall ensure that all reports are made to the Board in a timely fashion.

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

v. Rebuttable Presumption Raised by Positive Test. It is agreed and understood that a test evidencing the presence of any "Prohibited Substance", when confirmed, shall raise a rebuttable presumption that such substance was in fact used by Dr. Bobker. Such a positive test result shall alone be sufficient to prove the use of the "Prohibited Substance" by Dr. Bobker. Dr. Bobker further agrees that the result of the test may be admitted into evidence in any proceeding regarding his Maine medical license, whether before the Board or before a Court of competent jurisdiction. The confirmatory test shall be performed immediately upon any initial positive test result and it may also be admitted into evidence in any proceeding regarding Dr. Bobker's Maine license. Dr. Bobker is hereby advised that the ingestion of poppy seeds, mouthwash and over the counter cough or cold medicines or remedies has from time to time been raised as a defense to a positive screen result for morphine, opiates and/or alcohol. For that reason, Dr. Bobker agrees to refrain from ingesting poppy seeds in any food substances, mouthwash and over the counter cough or cold medicines or remedies during the period of probation. In the event that Dr. Bobker has a positive screen for morphine, opiates and/or alcohol, Dr. Bobker agrees that the ingestion of poppy seeds and/or mouthwash and/or over the counter cough or cold medicines shall not constitute a defense to such a positive screen.

vi. Immediate, Indefinite, Automatic Suspension for Positive Test. If any urine or blood test is positive (i.e., in any manner evidences any use of any "Prohibited Substance"), then the result shall be the immediate, indefinite, automatic suspension of Dr. Bobker's Maine medical license, which shall continue until the Board holds a hearing on the matter, unless the Board, or the Board Secretary and the Department of Attorney General, earlier determine that the report is without merit. The suspension shall begin the moment Dr. Bobker first learns of a positive test or report of a positive test to the Board, whether from the Substance Abuse Monitor or his designee, from the Board or from any other source in writing, orally or by any other means. This shall include non-confirmed, positive tests.

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

viii. Failure to Maintain Sampling Schedule or Failure to Appear or to Provide Sample. Failure by Dr. Bobker: to maintain the sampling schedule; to appear when

demanded to provide a sample; or to provide samples upon being demanded to do so shall be dealt with as follows:

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

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

(c). Suspension. An immediate, indefinite suspension of licensure shall result from any failure by Dr. Bobker to comply with the mandated schedule of samples, failing to appear to provide a sample, or failing to provide a urine sample after given a second opportunity. The suspension shall begin the moment Dr. Bobker actually learns a report has been made or sent to the Board. The Board shall attempt to hold a hearing within 60 days of the automatic suspension, or as soon thereafter as practicable, at which time it may take such action as it deems appropriate, including without limitation, reinstatement, fines, probation, suspension, non-renewal and revocation.

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

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

e. PROFESSIONAL MANAGEMENT.

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

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

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

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

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

vi. Change of Treatment Provider(s). If Dr. Bobker desires to change his treatment provider(s), then he shall make written application to the Board, including among other things a letter regarding his reasons for requesting such change(s) and separate letters from the current treatment provider(s) and the proposed new treatment provider(s) relative to their understanding of the reasons for this request and, to the extent applicable, any concerns they may

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

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

viii. Board Investigation. At any time the Board may deem appropriate, the Board or its agent may contact Dr. Bobker and/or the Board-approved treatment providers to obtain further information relative to Dr. Bobker. In addition, if the Board deems it appropriate, it may directly contact the treatment providers regarding any issues concerning Dr. Bobker's treatment. In complying with this requirement, Dr. Bobker shall execute any and all releases necessary to enable the Board and/or the Attorney General to communicate directly with his treatment provider(s) and to obtain copies of any and all notes, records, and documentation concerning his treatment.

f. PROFESSIONAL OVERSIGHT.

i. Clinical Setting. During the period of probation, Dr. Bobker shall practice medicine in an office and practice that includes other physicians. Prior to engaging in the active practice of medicine pursuant to this Second Consent Agreement, Dr. Bobker must have a Board-approved practice location. In complying with this requirement, Dr. Bobker shall submit to the Board for its approval any proposed practice location(s) and settings, which locations/settings the Board has the sole discretion to approve or deny.

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

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

iv. On-Call. Upon return to the active practice of medicine, Dr. Bobker shall not participate in call coverage outside of his regularly scheduled clinical hours. After six (6) months of successful clinical practice in a Board-approved setting, Dr. Bobker may request modification of this restriction. At such time, Dr. Bobker must demonstrate that he is capable of taking call without altering his prescribed medication regimen. The Board has the sole discretion to grant or deny any request from Dr. Bobker to modify this restriction.

v. Physician Monitor. Prior to Dr. Bobker's return to the active practice of medicine, Dr. Bobker shall submit for Board approval the name of a licensed Maine physician who shall monitor his medical practice pursuant to a written plan of supervision approved by the Board. The Board shall have the sole discretion to approve or deny any individual proposed. In complying with this provision of the Consent Agreement, Dr. Bobker shall notify the Board, his Substance Abuse Monitor, and his Treatment Provider(s) immediately upon his return to the active practice of medicine. Dr. Bobker shall submit a written plan of supervision to the Board for approval prior to his return to the active practice of medicine. The plan must include direct contact with and observation of Dr. Bobker within his medical practice at least once a week. The monitoring physician shall inform the Board if Dr. Bobker demonstrates any issues with regard to isolation, inappropriate boundaries or decision-making, ability to concentrate or any other concerns. The monitoring physician shall report such information by telephone and in writing within 24 hours or as soon thereafter as possible. Dr. Bobker understands that the monitoring physician will be an agent of the Board pursuant to Title 24 M.R.S. § 2511. Dr. Bobker shall permit the monitoring physician full access to his medical practice, including but not limited to all patient information. The Board-approved monitor shall provide the Board with reports regarding Dr. Bobker's medical practice on or before April 30th, July 31st, October 31st, and January 31st of each year following the execution of this Second Consent Agreement.

g. SELF-HELP GROUP MEETINGS.

i. Attendance at AA and NA. Dr. Bobker agrees to attend Alcoholics Anonymous ("AA") and/or Narcotic Anonymous ("NA") a minimum of twice per week through one year from the effective date of this agreement and at least once each month for as long as this Second Consent Agreement remains in force.

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

iii. Reports of Attendance. Dr. Bobker shall submit a signed, written quarterly report of his attendance at AA, NA or impaired professional self-help group meetings to the Board beginning three months after the execution of this Consent Agreement. In complying with this provision, Dr. Bobker agrees to maintain an attendance log of his meetings, and to have the Chairperson of the group meeting verify the attendance log. Any instances of

failure to attend the required numbers of meetings shall be noted, together with specific explanation detailing reasons.

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

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

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

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

i. INVOLVEMENT IN THE MEDICAL PROFESIONALS HEALTH PROGRAM.

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

j. MAINTAINENCE OF LICENSE.

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

k. WAIVER OF CONFIDENTIALITY AND RELEASE OF RECORDS.

Dr. Bobker agrees and understands that the Board and the Department of Attorney General shall have complete access to his present and future personal medical and counseling records regarding chemical dependency and mental health issues and to all otherwise confidential data pertaining to treatment or monitoring of Dr. Bobker for substance abuse and mental health issues.

16. SANCTION FOR VIOLATION OF LICENSE CONDITIONS.

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

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

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

17. DESIGNATED COPY OF SECOND CONSENT AGREEMENT.

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

18. BOARD'S JURISDICTION.

Dr. Bobker acknowledges that the Board has jurisdiction over his license. Dr. Bobker understands that, at the time the Board is agreeing to issue him this Conditional, Modified License, the Board has the statutory jurisdiction to revoke licenses. Pursuant to 10 M.R.S. § 8003(5)B, in consideration for the Board's issuing Dr. Bobker his Maine medical license pursuant to this Second Consent Agreement, he agrees that, regarding any alleged violation of this Second 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.

19. MISCELLANEOUS PROVISIONS.

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

(i). Notice to the Board:
State of Maine Board of Licensure in Medicine
Attention: Board Investigator
137 State House Station
Augusta, Maine 04333-0137
Telephone: (207) 287-3601

(ii). Notice to the Licensee:
Daniel Bobker
5 Spruce Lane
Topsham, ME 04086

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

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

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

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

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

21. AMENDMENT OF SECOND CONSENT AGREEMENT.

Dr. Bobker waives his right to a hearing before the Board or any court regarding all findings, terms and conditions of this Second Consent Agreement. Dr. Bobker agrees that this Second Consent Agreement is a final order resolving all outstanding matters arising out of his violation of a prior consent agreement. This Second Consent Agreement is not appealable and is effective until modified or rescinded by the parties hereto. This Second 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 Second Consent Agreement by Dr. Bobker shall be made in writing and submitted to the Board. Unless otherwise specifically prohibited under this Second Consent Agreement, Dr. Bobker may, at reasonable intervals, petition the Board for amendment of the terms and conditions of this Second Consent Agreement. Upon making such a petition, Dr. Bobker shall bear the burden of demonstrating that the Board should amend the Consent Agreement. The Board shall have the sole discretion to: (a) deny Dr. Bobker's petition; (b) grant Dr. Bobker's petition; and/or (c) grant Dr. Bobker's petition in part as it deems appropriate to ensure the protection of the public. Any decision by the Board as a result of Dr. Bobker's request to modify this Second Consent Agreement need not be made pursuant to a hearing and is not appealable to any court.

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

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

24. ADVICE OF COUNSEL. The Licensee has been represented by an attorney, Emily A. Bloch, Esq., who has participated in the negotiation of this Second Consent Agreement on his behalf.

25. WAIVER OF RIGHT TO APPEAL SECOND CONSENT AGREEMENT.

Dr. Bobker waives his right to a hearing before the Board or any court regarding all facts, terms and conditions of this Second Consent Agreement. Dr. Bobker agrees that this Second Consent Agreement is a final order resolving all matters pending before the Board arising from his violation of a previous consent agreement. This Second Consent Agreement is not appealable and is effective until modified or rescinded by the parties hereto. Nothing in this paragraph shall be deemed a waiver of Dr. Bobker's rights under rule, statute or the Maine or United States Constitutions, to appeal a decision or action later taken by the Board except as Dr. Bobker may have agreed herein, such as with discretionary decisions by the Board and which may occur with or without a hearing, and the jurisdiction of the Board to revoke his license for violation of this Second Consent Agreement. Dr. Bobker agrees that this Second 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 Second Consent Agreement, that Board may initiate whatever action it deems necessary. In addition, Dr. Bobker agrees and understands that the Board may consider the conduct and facts described herein in the event that future allegations are brought against him, and that the Board may consider this Second Consent Agreement in determining appropriate future discipline should any future allegations be proven against him.

I, DANIEL BOBKER, M.D., HAVE READ AND UNDERSTAND THE FOREGOING SECOND 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 SECOND CONSENT AGREEMENT VOLUNTARILY, WITHOUT ANY THREAT OR PROMISE. I UNDERSTAND THAT THIS SECOND CONSENT AGREEMENT CONTAINS THE ENTIRE AGREEMENT AND THERE IS NO OTHER AGREEMENT OF ANY KIND, VERBAL, WRITTEN OR OTHERWISE.

DATED: 1/15/10

DANIEL BOBKER, M.D.

STATE OF Maine

Cumberland, S.S.

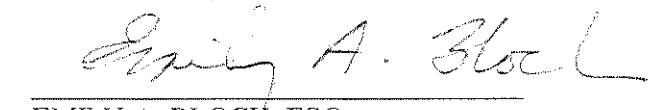
Personally appeared before me the above–named Daniel Bobker, M.D., and swore to the truth of the foregoing based upon his own personal knowledge, or upon information and belief, and so far as upon information and belief, he believes it to be true.

DATED: 1/15/2010

NOTARY PUBLIC/ATTORNEY

MY COMMISSION ENDS: TERESA A. THURLOW
NOTARY PUBLIC, STATE OF MAINE
MY COMMISSION EXPIRES JAN. 25, 2015

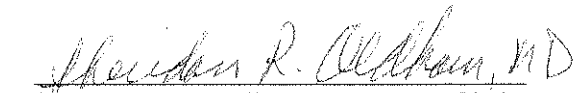
DATED: 1/19/10



EMILY A. BLOCH, ESQ.
Attorney for Daniel Bobker, M.D.

STATE OF MAINE
BOARD OF LICENSURE IN MEDICINE

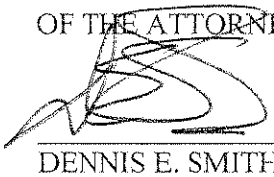
DATED: 1/22/10



SHERIDAN R. OLDHAM, M.D., Chairman

STATE OF MAINE DEPARTMENT
OF THE ATTORNEY GENERAL

DATED: 1/27/10



DENNIS E. SMITH
Assistant Attorney General

Effective Date:

APPENDIX B

STATE OF MAINE
BOARD OF LICENSURE IN MEDICINE

In re: Holly Arato, M.D. Complaint No. CR04-056	)))	SECOND CONSENT AGREEMENT

This document is a Second 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 Holly Arato, M.D. The parties to the Second Consent Agreement are: Holly Arato, M.D. ("the Licensee"), the State of Maine Board of Licensure in Medicine ("the Board") and the State of Maine Department of the Attorney General. This Second 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. Arato has held a license to practice medicine in the State of Maine since 1992. She has practiced medicine in Presque Isle, Maine, and specialized in family medicine. She has not practiced medicine since March of 2007.

2. In 1999, Dr. Arato sustained serious maxillofacial injuries, including maxillary shattering, loss of teeth, and a displaced palate fracture. These injuries caused significant pain, and required corrective dental and oral surgeries. Dr. Arato's recovery from these injuries was complicated by subsequent maxillofacial injuries she sustained in 2001. Those subsequent injuries resulted in the loss of teeth and damage to her maxilla and orbits. Since that time, Dr. Arato has undergone multiple medical and dental

procedures to reconstruct her dentition. The injuries and attempted dental reconstruction resulted in traumatically induced chronic facial and dental pain.

3. In 2003, Dr. Arato began attempting to manage her own need for narcotic pain medications when her oral surgeon stopped issuing prescriptions for narcotic pain medications, except after a specific dental procedure. Dr. Arato obtained narcotic pain medications from an independently certified Advanced Practical Registered Nurse (APRN) whom Dr. Arato supervised in her practice, and from another physician in the community who is an OB-GYN physician. This physician did not maintain history or exam notes for Dr. Arato, who was using a significant amount of narcotic pain medications per day.

4. In 2004, the Board received information from the Pharmacy Board concerning Dr. Arato's use of narcotic pain medication that she obtained from the nurse practitioner and the OB-GYN physician. In May 2004, the Board issued a complaint against Dr. Arato's license based upon this information. The Board docketed the complaint as CR04-056.

5. On June 21, 2004, the Board received Dr. Arato's response to the complaint. In her response, Dr. Arato described the maxillofacial injuries that she sustained in 1999 and 2001, as well as the subsequent treatment and pain and its significant impact upon her life. Dr. Arato admitted that she became tolerant of the narcotic pain medication which she used solely for diminution of lacinating pain. Dr. Arato admitted that she used poor judgment in trying to manage her own pain control by having the APRN whom she supervised

prescribe pain medication for her, and by having the OB-GYN physician prescribe narcotic pain medication for her.

6. In April 2004, Dr. Arato was evaluated at Portsmouth Pavilion. The evaluation report found no evidence of an addictive disorder but concluded that Dr. Arato was suffering from major depression and pseudoaddiction secondary to chronic dental pain, and inadequate pain management. The evaluation report recommended that: Dr. Arato be managed by a pain specialist; Dr. Arato have a primary care physician outside of her own practice; Dr. Arato not prescribe for herself or anyone else without a medical record; Dr. Arato receive treatment for depression, including therapy; and that Dr. Arato participate in the Maine Physician Health Program.

7. On May 10, 2005, the Board held an informal conference with Dr. Arato concerning Complaint CR04-056. Following that informal conference, the Board voted to offer Dr. Arato a consent agreement in order to resolve the complaint.

8. On December 13, 2005, Dr. Arato entered into a consent agreement with the Board. In that consent agreement, Dr. Arato agreed to a license probation for five (5) years with conditions, including:

a. Dr. Arato participating in the Maine Physician Health Program;

b. Dr. Arato continuing counseling;

c. Dr. Arato maintaining a patient relationship with Elizabeth T. Weiss, M.D. or such other individual approved in advance

by the Board who would provide all of Dr. Arato's medical care, prescriptions, and pain medications; and

d. Dr. Arato not prescribing any medication for herself.

9. On December 9, 2008, the Board reviewed information it received from Dr. Arato's treating physician and the Maine Physician Health Program, which indicated that Dr. Arato was not in compliance with the terms of her consent agreement because she was not fully cooperating with the Physicians Health Program, and that she was not fit to practice of medicine. Following its review of this information, the Board summarily suspended Dr. Arato's Maine medical license pursuant to 5 M.R.S.A. § 10004(3).

10. On December 12, 2008, the Board sent Dr. Arato a notice of adjudicatory hearing, which had been scheduled for January 13, 2009. Dr. Arato requested a continuance of the adjudicatory hearing, and sought an in-patient evaluation from the Farley Center.

11. On October 5, 2009, the Board staff received a copy of Dr. Arato's evaluation at the Farley Center. That evaluation indicated that Dr. Arato underwent a ten-(10)-day in-patient evaluation, which included an addiction medicine evaluation, psychological testing, and participation in group. According to the team evaluation, Dr. Arato suffers from opioid abuse with a high index of suspicion for opioid dependence, major depressive disorder, and posttraumatic stress disorder. In addition, the evaluation concluded that Dr. Arato's comorbidities are undertreated and that it is unlikely that she would be able to obtain adequate treatment of her conditions in an out-patient setting.

As a result, the team recommended that Dr. Arato not practice medicine until she completes residential treatment for opioid abuse and major depression and posttraumatic stress disorder at a program that specializes in the treatment of dually diagnosed health care professionals.

12. The Board staff issued an amended notice of adjudicatory hearing on December 3, 2009, which hearing has been scheduled for January 12, 2010.

13. On December 21, 2009, Dr. Arato's legal counsel provided the undersigned assistant attorney general with a copy of an evaluation report prepared by Dr. Mark Publicker, M.D. on July 17, 2009, regarding Dr. Arato. According to that report, Dr. Publicker spent eighty (80) minutes with Dr. Arato and "reviewed all available records."[1] According to the report, Dr. Arato admitted "using a friend's opioid medication on several occasions to allow her to travel." According to Dr. Publicker, Dr. Arato suffers from major depressive disorder, post traumatic stress disorder, and substance misuse. According to Dr. Publicker, he found "no evidence of opioid addiction or of drug abuse... [and that] her history of obtaining medication outside of a doctor-patient relationship is most consistent with medication misuse."

14. This Second Consent Agreement has been negotiated by the undersigned assistant attorney general and the legal counsel to Dr. Arato in order to resolve this matter without an adjudicatory hearing. Absent acceptance of this Consent Agreement by signing and dating it and returning it

[1] The report did not identify with any specificity the records Dr. Publicker reviewed.

to Maureen Lathrop, Maine Board of Licensure in Medicine, 137 State House Station, Augusta, Maine 04333-0137 on or before January 4, 2010, the matter will proceed to an adjudicatory hearing on January 9, 2010.

15. By signing this Consent Agreement, Dr. Arato waives any and all objections to, and hereby consents to the presentation of this proposed Consent Agreement to the Board for possible ratification. Dr. Arato also forever waives 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

16. Dr. Arato admits that the Board has sufficient evidence from which it could reasonably conclude that:

a. She violated the terms of her consent agreement by:

(i) failing to fully participate in the Physicians Health Program; (ii) failing to continue maintain relationship with a Board-approved physician, who would provide all of her pain medications and prescriptions; and (iii) obtaining opioid medication from a friend (self-prescribing) for her use outside of a Board-approved doctor-physician relationship;

b. She currently suffers from a mental or physical condition that may result in her ability to practice medicine in a manner that endangers either the health or safety of patients.

Dr. Arato concedes that the foregoing constitute grounds for discipline pursuant to 32 M.R.S.A. § 3282-A(2)(C), (E) & (F), and 10 M.R.S.A. § 8003(5).

17. As discipline for the conduct admitted in paragraph 16 above, Dr. Arato agrees to the IMMEDIATE AND VOLUNTARY SURRENDER of her license to practice medicine in the State of Maine.

18. Nothing in this Second Consent Agreement shall prohibit Dr. Arato from, at reasonable intervals, petitioning the Board for reinstatement of her Maine medical license. Upon petitioning the Board for reinstatement, Dr. Arato shall bear the burden of demonstrating that: (a) her Maine medical license should be reinstated; and (b) that the resumption of her practice of medicine would not pose a risk to herself or to the public; and (c) she is capable of practicing medicine without posing an unreasonable risk of inappropriate drug use; and (d) that no grounds exist for the Board to deny her application for reinstatement. The Board, upon receipt of any such petition for reinstatement from Dr. Arato, may grant or deny the petition and/or may grant Dr. Arato a license subject to restrictions and/or conditions pursuant to 10 M.R.S.A. § 8003(5).

19. Dr. Arato has been represented by Francis E. Bemis, Esq., who has participated in the negotiation of the terms of this Second Consent Agreement.

20. Dr. Arato waives her right to a hearing before the Board or any court regarding all findings, terms and conditions of this Second Consent Agreement.

21. This Second Consent Agreement is not appealable and is effective until modified or rescinded by the parties hereto.

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

23. This Second 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.

24. This Second Consent Agreement constitutes disciplinary action that is reportable to the Federation of State Medical Boards (F.S.M.B.), the National Practitioner Date Bank (N.P.D.B.), and the Healthcare Integrity and Protection Data Bank (H.I.P.D.B.).

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

I, HOLLY ARATO, M.D., HAVE READ AND UNDERSTAND THE FOREGOING SECOND 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 SECOND CONSENT AGREEMENT VOLUNTARILY, WITHOUT ANY THREAT OR PROMISE. I UNDERSTAND THAT THIS SECOND CONSENT AGREEMENT CONTAINS THE ENTIRE AGREEMENT AND THERE IS NO OTHER AGREEMENT OF ANY KIND, VERBAL, WRITTEN OR OTHERWISE.

DATED: 1-7-10 H.A. Holly Arato

HOLLY ARATO, M.D.

STATE OF Maine

Aroostook, S.S.

Personally appeared before me the above–named Holly Arato, 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: Jan 7, 2010

NOTARY PUBLIC/ATTORNEY

MY COMMISSION ENDS:

Francis E. Bemis
State of Maine, Notary Public
My Commission Expires 10/21/2014

DATED: Jan 7, 2010

FRANCIS E. BEMIS, ESQ.
Attorney for Holly Arato, M.D.

STATE OF MAINE
BOARD OF LICENSURE IN MEDICINE

DATED: 1/12/10

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

STATE OF MAINE DEPARTMENT
OF THE ATTORNEY GENERAL

DATED: 1/12/10

DENNIS E. SMITH
Assistant Attorney General

Effective Date: 11/12/10