State of Maine
Board of Licensure in Medicine
137 SHS, 161 Capitol Street
Augusta, Maine 04333-0137
May 12, 2015
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APPROVED JUNE 9, 2015

State of Maine
Board of Licensure in Medicine
137 SHS, 161 Capitol Street
Augusta, Maine 04333-0137
Minutes of May 12, 2015

Board Members Present
Maroulla S. Gleaton, M.D., Board Chairman
David D. Jones, M.D., Board Secretary
David R. Andrews, M.D.
M. Louisa Barnhart, M.D.
Cheryl Clukey, M.Ed.
David H. Dumont, M.D.
David Nyberg, Ph.D.
Christopher R. Ross, P.A.-C
Peter J. Sacchetti, M.D.

Board Staff Present
Dennis E. Smith, Executive Director
Timothy E. Terranova, Assistant Executive Director
Julie A. Best, Consumer Outreach Specialist
Kathryn Levesque, Investigator
Maureen S. Lathrop, Administrative Assistant

Attorney General's Office Staff Present
Michael Miller, Assistant Attorney General
Detective James Gioia

The Board met in public session, with the exception of the times listed below, which were held in executive session. Executive sessions are held to consider matters which, under statute, are confidential (1 M.R.S. §405, 405(4), 405(6)(E); 10 M.R.S. §8003-B; 22 M.R.S. §1711-C; and 24 M.R.S. §2510). The Board moved, seconded, and voted the following executive session times. During the public session of the meeting, actions were taken on all matters discussed during executive session.

EXECUTIVE SESSIONS	**PURPOSE**
9:02 A.M. – 10:40 A.M.	Complaints/Assessment and Direction

I. Call to Order

Dr. Gleaton called the meeting to order at 9:00 a.m.

A. Amendments to Agenda

1. AD15-62 under Assessment and Direction

B. Scheduled Agenda Items

1. 10:00 a.m. Adjudicatory Hearing CR15-49 David R. Austin, M.D. – **Continuance granted.**
2. 1:00 p.m. Maine Independent Clinical Information Service presentation

II. Complaints

1. CR12-225 E. Victoria Grover, P.A.-C

Dr. Andrews moved to approve the letter of guidance as amended. Dr. Sacchetti seconded the motion, which passed 8-0-0-1 with Dr. Jones recused.

MOTION: A former employee's complaint regarding a physician assistant's opioid prescribing practice prompted an investigation by the Board. Review of medical records revealed multiple shortcomings in opioid prescribing practice, patient oversight and medical record documentation. The physician assistant acknowledged these deficiencies, engaged in educational programs, and made improvements in her office EMR system. Her subsequent presentation to the Board at informal conference was reassuring. Improvements in record keeping and prescribing practice were evident with further medical record reviews.

The letter of guidance will encourage the physician assistant to: 1) recognize the importance of diligent oversight of any patient managed with controlled substances using all the elements of universal precautions as outlined in Board Rule Chapter 21 and FSMB publications on responsible opioid prescribing; and 2) recognize the need to consistently document these elements in the patient's medical record.

2. CR13-112

Dr. Jones moved to investigate further. Dr. Dumont seconded the motion, which passed unanimously.

3. CR15-4

Dr. Jones moved to dismiss the complaint. Dr. Dumont seconded the motion, which passed unanimously.

MOTION: The complainant had a recognized complication of colonoscopy and underwent a subsequent exploratory laparotomy. She was found to have two cecal micro-perforations due to barotrauma. Her lawyer describes her subsequent health and blames multiple future issues on this initial event. The micro-perforations and subsequent surgery were not outside the standard of care. The recovery sought in this complaint is not available through the Board of Licensure in Medicine.

4. CR14-125

Dr. Barnhart moved to investigate further. Dr. Jones seconded the motion, which passed unanimously.

5. CR14-186

Dr. Andrews moved to investigate further. Dr. Dumont seconded the motion, which passed unanimously.

6. CR15-14

Dr. Dumont moved to dismiss the complaint. Dr. Jones seconded the motion, which passed unanimously.

MOTION: This complaint involves the care a patient received for two separate orthopedic injuries over the past five years. Both injuries were managed according to usual practices and although both required subsequent trips to the operating room, there is nothing to suggest that these could have been prevented. In both cases the care was appropriate.

7. CR15-16

Dr. Nyberg moved to dismiss the complaint. Dr. Andrews seconded the motion, which passed unanimously.

MOTION: This Board complaint was based on partial information, which, taken in isolation was misleading. The physician has provided an extensive, detailed, well-documented response that clarifies the problematic situation so that it is no longer problematic. Far from being dubious, the medical marijuana certification practice he has established could serve as a model for others.

8. CR15-1

Mr. Ross moved to dismiss the complaint. Dr. Jones seconded the motion, which passed unanimously.

MOTION: A patient complains that the physician at the institution where he resides did not provide appropriate care. The physician responded that he believed the care provided was appropriate. A review of the medical record reveals that the patient received reasonable care and his medical issues seem to have been addressed.

9. CR15-2

Mr. Ross moved to dismiss the complaint. Dr. Dumont seconded the motion, which passed unanimously.

MOTION: A patient complains that the physician at the institution where he resides did not provide appropriate care. The physician responded that he believed the care provided was appropriate. A review of the medical record reveals that the patient received reasonable care and his medical issues seem to have been addressed.

10. CR15-7

Dr. Sacchetti moved to dismiss the complaint. Dr. Jones seconded the motion, which passed 8-0-0-1 with Dr. Andrews recused.

MOTION: The daughter of a patient claims that a pulmonologist who assisted in the diagnosis, staging, and treatment of her mother's lung cancer caused complications that hastened her mother's death. The physician acknowledges his involvement in the patient's care, but not to the extent mentioned in the complaint. Moreover, the complainant's interpretation of the procedural history is inaccurate, and her assertion that

complications ensued as a result of a diagnostic procedure is unfounded when compared to the medical record. The care provided by the specialist was commendable.

11. CR15-8

Dr. Sacchetti moved to dismiss the complaint. Dr. Jones seconded the motion, which passed unanimously.

MOTION: A daughter complains about her mother's primary care physician. She alleges that the physician ignored or did not appreciate clinical information that was relevant in the proper management of the patient's hip fracture and timely diagnosis of her lung cancer. The physician provides an account of events that contrasts with the complainant's narrative and is supported by the medical record. The physician made appropriate medical decisions as the patient's condition changed. Unfortunately, the cancer symptoms escaped early detection on account of their insidious yet aggressive nature.

12. CR14-190

Dr. Barnhart moved to dismiss the complaint. Dr. Dumont seconded the motion, which passed unanimously.

MOTION: A patient complains of multiple, atypical complaints and accuses the primary care physician of abandoning her and stopping a medication that she found helpful. The physician evaluated this patient repeatedly and thoroughly, and the exams were well-documented in the medical record. Appointments were offered but not kept by the patient during the period in question. The patient was referred to appropriate specialists, but the patient disagreed with these recommendations and demanded more referrals. Appropriate second opinions were eventually obtained and appropriate follow-up was strongly urged by the primary care physician. The medication was discontinued on the advice of a specialist. The physician responded to a difficult situation appropriately.

13. CR15-17

Ms. Clukey moved to dismiss the complaint. Dr. Sacchetti seconded the motion, which passed 8-0-0-1 with Dr. Jones recused.

MOTION: The patient complains the physician discontinued medication he had been taking for ten years that worked very well to reduce pain and prescribed new medications that caused severe side effects. The physician responded sharing her concern for long-term prescriptions of this nature and explained the plan of alternative medications and other modalities she offered the patient for his pain. Review of the medical record indicates the patient received regular medical care with no complaints of alternative medications being ineffective or causing severe side effects. It was difficult for the patient to communicate with this physician due to additional medical care throughout the year.

14. CR15-15

Dr. Nyberg moved to investigate further. Dr. Jones seconded the motion, which passed unanimously.

15. Intentionally left blank

III. Assessment and Direction

16. AD15-44

Dr. Barnhart moved to issue a complaint (CR15-66). Dr. Jones seconded the motion, which passed unanimously.

17. AD15-54

Dr. Jones moved to issue a complaint (CR15-67). Dr. Andrews seconded the motion, which passed 8-0-0-1 with Dr. Sacchetti recused.

18. AD15-47

Dr. Dumont moved to issue a complaint (CR15-68). Dr. Jones seconded the motion, which passed unanimously.

19. AD15-58

Dr. Jones moved to issue a complaint (CR15-69) and require the physician to undergo a §3286 evaluation. Ms. Clukey seconded the motion, which passed 7-2-0-0.

20. AD15-62

Dr. Barnhart moved to issue a complaint (CR15-65). Dr. Jones seconded the motion, which passed unanimously.

21. Pending Adjudicatory Hearings and Informal Conferences report

The report was provided as an informational update. No Board action was required.

22. Consumer Outreach Specialist Feedback (none)

23. Physician Feedback (none)

IV. Informal Conference (none)

V. Minutes for Approval

Dr. Dumont moved to approve the minutes of the April 14, 2015 meeting. Dr. Sacchetti seconded the motion, which passed unanimously.

VI. Board Orders & Consent Agreement Monitoring and Approval

A. Board Orders (none)

B. Consent Agreement Monitoring and Approval

1. Fred D. Risser, M.D. [Appendix A]

Dr. Jones moved to accept the signed Consent Agreement. Dr. Nyberg seconded the motion, which passed unanimously.

2. David R. Austin, M.D. [Appendix B]

Dr. Jones moved to accept the signed Interim Consent Agreement. Dr. Sacchetti seconded the motion, which passed 7-0-0-2 with Dr. Barnhart and Dr. Dumont recused.

VII. Adjudicatory Hearing – CR15-49 David R. Austin, M.D.

A continuance was granted. The Adjudicatory Hearing will be scheduled for an upcoming meeting.

VIII. Remarks of Chairman

A. Alternative Discipline

The Board discussed information presented by staff regarding different types of Consent Agreements utilized by the State of Oregon. After discussion, the Board decided that it will utilize Non-disciplinary Consent Agreements when their intent is to require additional training and/or education for a licensee.

B. Ulrich B. Jacobsohn, M.D.

Dr. Gleaton reported that former Board member Ulrich B. Jacobsohn, M.D., recently passed away. She commended Dr. Jacobsohn for his service to the Board, the care he provided to his patients, and his contributions to the medical community of Maine.

IX. Executive Director's Monthly Report

The Board reviewed and accepted the Executive Director's report.

A. Complaint Status Report

As of May 1, 2015 there are sixty-nine complaints outstanding. Forty-five complaints have been received year-to-date and fifty-nine have been closed so far this year.

X. Medical Director's Report (none)

XI. Remarks of Assistant Attorney General

A. Recent Antitrust Complaints

AAG Miller reported on two antitrust lawsuits recently filed, one against the Mississippi Board of Medical Licensure regarding restrictions placed on ownership of practices and one against the Texas Medical Board regarding the practice of telemedicine.

XII. Secretary's Report

A. Licenses for Ratification

1. M.D. Licenses for Ratification

Dr. Dumont moved to ratify the Board Secretary's approval of the following physician license applications. Ms. Clukey seconded the motion, which passed unanimously.

The following license applications have been approved by Board Secretary David D. Jones, M.D. without reservation.

NAME	SPECIALTY	LOCATION
Al-Khalil, Ihsan	Pediatrics	not listed
Buzanoski, David J.	Internal Medicine	Portland
Chang, Jesse L.	Internal Medicine	Lewiston
Chemmanam, Isaac	Anesthesiology	Portland
Dangayach, Priti	Internal Medicine	Portland
Desgranges, Patrick Z.	Internal Medicine	not listed
Dy, Rodolfo	Surgery	not listed
Engelbrecht, David B.	Rheumatology	Ellsworth
Farrell-Starbuck, Joshua C.	Internal Medicine	Portland
Georges, Peter	Medical Oncology	York
Gharwan, Helen	Internal Medicine	Waterville
Gowani, Nausheen	Internal Medicine	not listed
Grange, Cameron L.	Family Medicine	Fort Kent
Griffin, Matthew P.	Internal Medicine	Telemedicine
Hodestrand, Pip	Pediatrics	Bangor
Jacks, Maryann	Family Medicine	not listed
Jarawan, Hani T.	Internal Medicine	Portland
Katzin, Roy C.	Neurology	Telemedicine
Kelley, Toya H.	Family Medicine	Telemedicine
Kerson, Don	Psychiatry	Bangor
Khadka, Poonam	Internal Medicine	Bangor
Lang, Christopher D.	Internal Medicine	Bangor
Lopez-Osma, Fernando A.	Internal Medicine	Lincoln County
Maenza, Richard L.	Emergency Medicine	not listed

McGillicuddy, Edward A.	Surgery	Lewiston
Mubashir, Asia	Rheumatology	Lewiston
Myers, Wendell S.	Diagnostic Radiology	Teleradiology
Raulji, Chittalsinh M.	Pediatrics	Bangor
Rosenthal, Sharon K.	Anatomic & Clinical Pathology	not listed
Seay, Thomas M.	Diagnostic Radiology	Teleradiology
Srinivasan, Sriraman	Internal Medicine	Lewiston
Stein, Seth A.	Family Medicine	Lewiston
Stiles, Linda E.	Family Medicine	not listed
Thompson, Donovan A.	Emergency Medicine	not listed
Tye, Georgia K.	Emergency Medicine	Augusta
Valdez, Joseph M.	Family Practice	Westbrook
Vesa, Allin C.	Emergency Medicine	not listed
Zaidi, Nisar A.	General Surgery	Lewiston
Zarookian, Emily L.	Internal Medicine	Portland

2. P.A. Licenses for Ratification

Dr. Dumont moved to ratify the Board Secretary's approval of the following physician assistant license applications. Ms. Clukey seconded the motion, which passed unanimously.

The following physician assistant license applications have been approved by Board Secretary David D. Jones, M.D. without reservation.

NAME	LICENSE	PSP	LOCATION
Coates, Lenia	Inactive	none	none
Moneghan, Kathleen	Active	Sullivan, Michael	Fort Kent
Mejia, Alejandro	Active	Pringle, Dwight	Sanford
Silcox, Erik	Active	Hulefield, Robert	York

B. Applications for Individual Consideration

1. John Pelliccia, M.D.

The Licensure Committee moved to approve the license application. The motion passed unanimously.

2. Olugbenga Adedipe, M.D.

The Licensure Committee moved to: 1) grant the applicant's waiver request for more than three attempts to pass the USMLE Step 3 examination; and 2) preliminarily deny the license application and offer Dr. Adedipe a Consent Agreement. The motion passed unanimously.

3. Cameron R. Bonney, M.D.

The Licensure Committee moved to preliminarily deny the license application and offer Dr. Bonney a Consent Agreement. The motion passed 8-0-0-1 with Dr. Nyberg recused.

4. Paul A. Dowsett, M.D.

The Licensure Committee moved to table the license application pending further information. The motion passed unanimously.

C. Applications for Reinstatement

1. Applications for Reinstatement for Ratification (none)

2. Applications for Reinstatement for Individual Consideration (none)

D. Withdrawals

1. Withdraw License Application (none)

2. Withdraw License from Registration

Dr. Dumont moved to approve the licensees' requests to withdraw from registration. Ms. Clukey seconded the motion, which passed unanimously.

NAME	LICENSE NUMBER
Bryant, Leslie Ray	MD19182
Day, Daniel H.	MD13978
Garcia-Janis, Elizabeth A.	MD20059
Huggett, Jeffrey M.	MD17562
Love, James R.	PA155
Maginnis, Michael A.	MD15501
Ottenstein, Karen L.	MD12409
Sateriale, Mark	MD15759
Treon, Brian M.	MD19932

3. Withdraw License from Registration – Individual Consideration (none)

E. Licenses to Lapse by Operation of Law

The following licenses lapsed by operation of law effective April 15, 2015.

NAME	LICENSE NUMBER
Buckley, Peter	MD14466
Eddinger, Jonathan	MD16548
Freeman, Jeffrey J.	MD19210

Gadikota, Kishore	MD18839
Greywoode, Beryl	MD20125
Hall, Anne	PA1373
Heinzelmann, Paul	MD19723
Khalil, Edward C.	MD17256
Khan, Naeem	MD9534
Matsuura, Ian	MD15939
McAleer, James K.	MD17825
McClain, Linda	MD19719
Mendros, Harry	MD15499
Nicolescu, Ada	MD8817
Oppenheimer, Jonathan R.	MD19636
Patel, Neelam	MD17515
Petrova, Ekaterina N.	MD19587
Sanke, Robert F.	MD9470
Serpell, Barry W.	MD8002
Weiss, Elizabeth T.	MD11748
Younger, M. Donna	MD6306

F. Licensees Requesting to Convert to Active Status (none)

G. Renewal Applications for Review (none)

H. Physician Assistant Schedule II Authority Requests for Ratification

1. Applications to Renew Schedule II Authority

Dr. Dumont moved to ratify the Board Secretary's approval of the following renewal requests for Schedule II prescribing authority. Mr. Ross seconded the motion, which passed unanimously.

The following renewal requests for Schedule II prescribing authority have been approved by Board Secretary David D. Jones, M.D. without reservation.

NAME	PSP	LOCATION
Anson, Courtney	Jumper, Brian	South Portland
Babbs, Garrett	White, Christine	Princeton
Buergin, Steven	Ricci, Michael	Lewiston
Caldwell, Amy	Dionne, Andrew	Augusta
Curtis, Kevin	Botler, Joel	Portland
Drouin, Jennifer	Turner, James	Bangor
Dunn, John	Bowe, Christopher	Lewiston
Hussar, Gerald	Pattavina, Charles	Bangor
Hoffman, Sara	Buchanan, Scott	Portland
Heyl, Barbara	Quinn, Reed	Portland

Marian, Albert	Kotas, Kathleen	Trenton
Melchionda, Lara	Thurlow, Jeffrey	York
Niland, Lori	Cushing, Brad	Portland
Preneta, Gretchen	Barth, Konrad	Scarborough
Preneta, Gretchen	Weisberg, Tracey	Scarborough
Rice, Erica	Nicolosi, Alfred Carl	Portland
Rolland, Joseph	Bloch, Rebecca	Portland
Roth, Charles	Binnette, Michael	Portland
Sagers, Karen	Glass, Linda	Lewiston
Smith, Eric	Dollard, Peter	Biddeford
Trosper, Ryan	Bowe, Christopher	Lewiston
Trosper, Ryan	Panozzo, Shashi	Lewiston

2. Applications for New Schedule II Authority

Dr. Dumont moved to ratify the Board Secretary's approval of the following new requests for Schedule II prescribing authority, with the correction of a typographical error on the list. Ms. Clukey seconded the motion, which passed unanimously.

The following new requests for Schedule II prescribing authority have been approved by Board Secretary David D. Jones, M.D. without reservation.

NAME	PSP	LOCATION
Guppy, Andrew	Van Summern, John	Gardiner
Jackson, Lori	Bani Hani, Murad G.	Caribou
Jackson, Randy	Herbert, Daniel	Millinocket
Konesni, Edith	Maycock, Thomas	Belfast
Moneghan, Kathleen	Sullivan, Michael	Fort Kent
O'Connor, Shaun	Herbert, Daniel	Millinocket
Olsen, Kevin	Cornelio, Marco	Lincoln
Olsen, Kevin	Herbert, Daniel	Millinocket
Parent, Andre'	Herbert, Daniel	Millinocket
Rhoda, Douglas	Herbert, Daniel	Millinocket
Roberts, Paul	Smith, Curtis	Belfast
Ronsivalli, Abby	Upham, Susan	Portland
Rousseau, Christy	Klein, Michael	Augusta
Stuart, John	Blank, Seth	Bangor
Susen, Andrew	Mullen, James	South Freeport
Wagner, Ashley	Nicolosi, Alfred Carl	Portland
Wilson, Kathleen	Reddy, Sandeep	Sanford

XIII. Rulemaking

A. Collaborative Practice (Medical Board/Pharmacy Board)

The Board reviewed a draft rule regarding collaborative drug therapy management. Geraldine Betts from the Department of Professional and Financial Regulation participated in the discussion on behalf of the Board of Pharmacy.

B. Chapter 2 Rules

The Board received an update on the status of joint rulemaking with the Board of Osteopathic Licensure.

XIV. Standing Committee Reports

A. Licensure and CME Committee

1. License application questions

Dr. Jones moved to accept the revised license application questions as amended. Ms. Clukey seconded the motion, which passed unanimously.

B. Nomination Committee

The Nomination Committee met to discuss methods of notifying potential candidates when vacancies occur on the Board.

XV. Board Correspondence

A. Schedule II ordering

This material was presented for informational purposes. No Board action was required.

B. Telemedicine

This material was presented for informational purposes. No Board action was required.

C. Correspondence regarding Dr. Donahue

The Board reviewed correspondence from a deceased physician's family requesting that information regarding a disciplinary action against him be removed from the Board's website.

After discussion, Dr. Jones moved that disciplinary information on the Board's website will be removed when the Board receives notification that a licensee is deceased. Dr. Barnhart seconded the motion, which passed unanimously.

Dr. Barnhart moved to remove disciplinary information from the Board's website ten years after the conclusion of the discipline. Dr. Jones seconded the motion, but upon further consideration, Dr. Barnhart withdrew the motion.

D. TAMC correspondence regarding P.A. supervision

The Board reviewed correspondence from The Aroostook Medical Center regarding supervision of physician assistants and the role of primary and secondary supervising physicians. The Board will review this issue further at an upcoming meeting.

E. Physician supervision of unlicensed assistive personnel

The Board reviewed correspondence from Frank Korn, R.N., from Medical Mutual Insurance Company of Maine asking if physicians may delegate the insertion of an IV to unlicensed hospital personnel. After discussion, the Board declined to offer a formal opinion.

XVI. FSMB Material

A. Annual meeting notes from the Assistant Executive Director

The Assistant Executive Director reported on his recent attendance at the Federation of State Medical Board's annual meeting.

XVII. FYI

A. FY2015 General funds transfer

This information was presented for informational purposes. No Board action was . required.

XVIII. Other Business

A. 12:00 p.m. Legislative update

Gordon Smith, Esq. from the Maine Medical Association provided the Board with an update on current legislative issues.

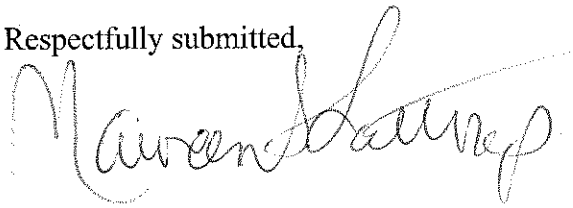
B. 1:00 p.m. Maine Independent Clinical Information Service presentation

Erika Pierce, P.A.-C presented information to the Board regarding the Maine Independent Clinical Information Service.

XIX. Adjournment 3:10 p.m.

Dr. Jones moved to adjourn the meeting. Dr. Andrews seconded the motion, which passed unanimously.

Respectfully submitted,



Maureen S. Lathrop
Administrative Assistant

APPENDIX A

STATE OF MAINE
BOARD OF LICENSURE IN MEDICINE

IN RE:	)	
	)	
FRED D. RISSER, M.D.	)	CONSENT AGREEMENT
	)	
Complaint Nos. CR12-51, CR14-95, CR14-106	)	

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

FACTS

1. The Board first issued Dr. Risser a license (MD14652) to practice as a physician in the State of Maine on December 16, 1997. Dr. Risser specializes in psychiatry.

2. In July 2009, Patient 1, a 30-year old female, began treatment with Dr. Risser on a weekly basis at his private practice in Bangor, Maine.

3. Beginning in February 2010, Patient 1 was treated by Dr. Risser at Community Health and Counseling Services in Ellsworth, Maine.

4. While Patient 1 was a patient of Dr. Risser, Dr. Risser drove her to the pharmacy in his personal vehicle, advocated for her while she was incarcerated in jail, deposited money into her jail bank account, allowed her to store personal property at his residence, and allowed her access to his residence when he was not present.

5. On February 7, 2012, the Board received a report that Dr. Risser had committed

boundary violations with Patient 1. The Board docketed this matter as Complaint CR12-51.

6. On June 11, 2013, the Board held an informal conference with Dr. Risser regarding Complaint No. CR12-51 to discuss the following issues: (1) medical record documentation; (2) prescribing practices; and (3) physician-patient boundary issues. At the conclusion of the informal conference, Dr. Risser agreed to voluntarily complete continuing medical education courses in medical record keeping, medical ethics, boundaries and professionalism, and psychopharmacology. In addition, Dr. Risser agreed to transfer Patient 1's care to another psychiatrist. Dr. Risser subsequently provided the Board with documentary proof of his completion of the continuing medical education courses.

7. In April 2014 Community Health and Counseling Services issued Dr. Risser a written warning for failing to follow medication prescribing protocols by prescribing benzodiazepines to patients on opioid replacement therapy.

8. In 2014 Patient 2, a 51-year old female was a patient of Dr. Risser at Community Health and Counseling Services in Ellsworth, Maine.

9. On April 3, 2014, Dr. Risser saw Patient 2 speaking with someone in the parking lot at the rear of the Ellsworth facility just prior to her scheduled appointment with him. Dr. Risser then went downstairs and outside through the facility's rear exit and called out to Patient 2 reminding her of her appointment with him. He then led her inside through the facility's rear entrance, which could only be accessed by staff with a key and followed her up the stairs.

10. By letter dated May 19, 2014, Community Health and Counseling Services notified the Board pursuant to Title 24 M.R.S. § 2506 that it had terminated Dr. Risser's employment on May 15, 2014, as a result of his unprofessional conduct. The Board docketed this matter as Complaint CR14-106.

11. On May 23, 2014, the Board received a complaint from Patient 2 alleging professional misconduct by Dr. Risser. The Board docketed this complaint as Complaint No. CR14-95.

12. On February 10, 2015, following its review of all information gathered to date with regard to Complaint Nos. CR12-51, CR14-95, and CR14-106, the Board voted to schedule the matters for an adjudicatory hearing. In addition, the Board authorized its assigned legal counsel to offer this Consent Agreement to Dr. Risser to resolve all of the pending complaints without any further proceedings.

13. Absent Dr. Risser's acceptance of this Consent Agreement by signing and dating it before a notary and mailing it to Maine Board of Licensure in Medicine, 137 State House Station, Augusta, Maine 04333-0137 on or before April 30, 2015, the complaints will be scheduled for a consolidated adjudicatory hearing.

ALLEGATIONS

14. While Patient 1 was his patient, Dr. Risser committed boundary violations by improperly:

a. Soliciting a relationship with her outside of the physician-patient relationship;

b. Visiting her at her residence;

c. Purchasing a laptop for her; and

d. Failing to document in the record that Patient 1 told Dr. Risser that she "loved" him and then failing to clearly and immediately process with the patient.

15. Dr. Risser's progress notes for Patient 1 were deficient as follows:

a. They failed to identify the nature, duration, and/or procedure code for each

visit;

b. They lacked sufficient formal and detailed mental status documentation;

c. They lacked sufficient regular updating of diagnoses; and

d. They lacked sufficient explanation of the rationale behind changes in medication.

16. Dr. Risser's medication management of Patient 1 was deficient as follows:

a. He failed to sufficiently document his rationale for prescribing her higher doses of Suboxone;

b. He prescribed benzodiazepines to her without sufficiently documenting his rationale for the changes and doses prescribed;

c. He prescribed both Suboxone and benzodiazepines to her; and

d. He did not initially prescribe her an SSRI medication.

17. While Patient 2 was his patient, Dr. Risser committed a boundary violation by slapping her on the butt when he escorted her up the back stairs to her appointment with him on April 3, 2014.

COVENANTS

In lieu of further proceedings regarding Complaint Nos. CR12-51, CR14-95, CR14-106, Dr. Risser and the Board agree to the following:

18. Dr. Risser admits to the facts as stated in paragraphs 1 to 13 above and neither admits nor denies the allegations stated in paragraphs 14 to 17 above.

19. Dr. Risser, however, concedes and acknowledges that if these matters were to go to hearing there would be sufficient admissible evidence that would allow the Board to find by a

preponderance of the evidence that the Allegations, in fact, occurred, and that the Board hereby makes those findings.

20. Dr. Risser further acknowledges the Board's conclusion that the conduct described in the Facts and Allegations and as found in paragraph 19 above constitutes conduct for which the Board may impose discipline against him pursuant to 32 M.R.S. § 3282-A(2)(F) for engaging in unprofessional conduct by engaging in aberrant behavior that interferes with or is likely to interfere with the delivery of care.

21. Dr. Risser further agrees to accept the following disciplinary action:

a. **Practice Limitation.** Dr. Risser's Maine medical practice shall be limited solely to male patients. Dr. Risser shall neither assess nor treat (including prescribing drugs to) any female patients. **Limited Exception:** For female patients that as of April 23, 2015 are currently prescribed Suboxone and have not already been referred or transferred to another health care provider, Dr. Risser shall have until no later than July 1, 2015, to transition those patients out of his medical practice.

b. **Practice Monitor.** Within thirty (30) days of the effective date of this Consent Agreement Dr. Risser must obtain a practice monitor approved by the Board. The practice monitor shall be an agent of the Board pursuant to Title 24 M.R.S. § 2511. In complying with this section, Dr. Risser shall submit the name and professional credentials of a proposed practice monitor. The Board shall retain the sole discretion to approve or deny any practice monitor proposed by Dr. Risser. Dr. Risser shall provide the approved practice monitor with a copy of this Consent Agreement and any other

documents the Board deems relevant in this case. Dr. Risser shall ensure that the practice monitor notifies the Board, in writing, within ten (10) days of the Board's approval of his/her acceptance of his/her supervisory role. The practice monitor shall meet with Dr. Risser at Dr. Risser's office and shall hold face-to-face meetings with him on a monthly basis, at which time the practice monitor shall choose a random sample of medical record charts of at least ten (10) active patient medical cases/charts/records to review. The practice monitor shall review the charts to determine Dr. Risser's compliance with prescribing quality of care and recordkeeping standards. In addition, the practice monitor shall discuss the cases with Dr. Risser to evaluate Dr. Risser's understanding of the conditions he is treating and his compliance with quality of care and recordkeeping standards. Dr. Risser shall ensure that the practice monitor submits quarterly written reports to the Board on or before the following dates: June 1st; September 1st; December 1st; and March 1st of each year. The written reports shall include but not be limited to the number and types of cases he/she reviewed, medical issues he/she discussed with Dr. Risser, and his/her assessment of Dr. Risser's understanding of the conditions he is treating and his compliance with quality of care and recordkeeping standards. In addition to the quarterly reporting requirement, the practice monitor shall immediately inform the Board if Dr. Risser is unable to meet the applicable standards of medical care and recordkeeping. Dr. Risser shall promptly execute/obtain any and all necessary release forms and/or waivers of confidentiality to allow the Board, Board Investigator, or an

Assistant Attorney General to: (i) obtain copies of any medical or treatment records of concern to the practice monitor; and (ii) contact/communicate with the practice monitor. In the event that the practice monitor discontinues supervising Dr. Risser for any reason, Dr. Risser shall immediately notify the Board. Dr. Risser shall be solely responsible for submitting a replacement candidate to serve as his practice monitor under the terms specified above. Dr. Risser shall be responsible for all costs associated with supervision of his practice and his compliance with the terms and conditions of this Consent Agreement.

c. **Warning**. As a licensed physician and psychiatrist, Dr. Risser must be aware of the importance of maintaining appropriate physician-patient boundaries, the significance of prescribing combinations of medications, and the importance of appropriate medical record documentation.

d. **Costs**. Dr. Risser shall be responsible for all costs associated with his compliance with the terms and conditions of this Consent Agreement. In addition, Dr. Risser shall reimburse the Board four thousand three hundred forty-four dollars ($4,344.00) as the actual costs for the investigation of Complaint Nos. CR12-51, CR14-95, and CR14-106. Dr. Risser shall ensure that he completes the reimbursement to the Board within one (1) year of the effective date of this Consent Agreement.

22. Violation by Dr. Risser of any of the terms or conditions of this Consent Agreement shall constitute grounds for discipline, including but not limited to modification, suspension, or revocation of licensure or the denial of re-licensure.

23. Pursuant to 10 M.R.S. § 8003(5) the Board and Dr. Risser agree that the Board has the authority to issue an order, following notice and hearing, imposing further discipline, including revocation or suspension of his license, in the event that he fails to comply with any of the terms or conditions of this Consent Agreement.

24. Dr. Risser waives his right to a hearing before the Board or any court regarding all findings, terms, and conditions of this Consent Agreement. Dr. Risser agrees that this Consent Agreement is a final order resolving Complaint Nos. CR12-51, CR14-95, and CR14-106. This Consent Agreement is not appealable and is effective until modified or terminated in writing by agreement of all of the parties hereto.

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

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

27. This Consent Agreement constitutes discipline and is an adverse licensing action that is reportable to the National Practitioner Data Bank (NPDB) and the Federation of State Medical Boards (FSMB).

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

29. The Board and Dr. Risser agree that no further agency or legal action will be initiated against him by the Board based upon the facts admitted to or found herein except or unless he fails to comply with the terms and conditions of this Consent Agreement. The Board may however consider the conduct described above as evidence of a pattern of misconduct in the event that similar allegations are brought against Dr. Risser in the future. The Board may also

consider the fact that discipline was imposed by this Consent Agreement in determining appropriate discipline in any further complaints against Dr. Risser's Maine physician license.

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

31. Dr. Risser has been represented by M. Thomasine Burke, Esq. regarding Complaint Nos. CR12-51, CR14-95, and CR14-106, and for the purposes of negotiating this Consent Agreement.

32. The effective date of this Consent Agreement shall be the date on which the final signature is affixed to this Consent Agreement.

I, FRED D. RISSER, 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: 4/25/15

FRED D. RISSER, M.D.

STATE OF MAINE
PENOBSCOT, S.S. (County)

Personally appeared before me the above-named, Fred D. Risser, 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.

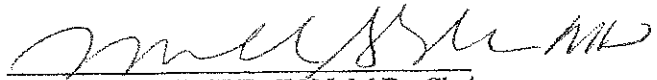
DATED: 4/25/15

NOTARY PUBLIC/ATTORNEY
MY COMMISSION ENDS: JAN 1, 2022

KEVIN M. FOSTER
Notary Public State of Maine
My Commission Expires January 1, 2022

STATE OF MAINE
BOARD OF LICENSURE IN MEDICINE

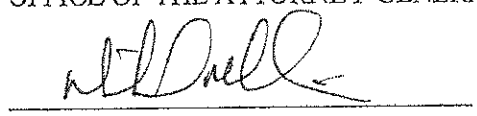
DATED: 5/12/15



MAROULLA S. GLEATON, M.D., Chairman

OFFICE OF THE ATTORNEY GENERAL

DATED: May 12, 2015



MICHAEL MILLER
Assistant Attorney General

Effective Date: May 12, 2015

APPENDIX B

STATE OF MAINE
BOARD OF LICENSURE IN MEDICINE

In Re: David R. Austin, M.D. Complaint No. CR-15-49	))))	**INTERIM CONSENT AGREEMENT**

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

STATEMENT OF FACTS

1. The Board first issued Dr. Austin a license to practice medicine in Maine on March 31, 1989 (License number MD12687). Dr. Austin specializes in Family Practice.

2. On April 14, 2015, the Board issued an Order of Immediate Suspension of Dr. Austin's Maine medical license for a period of thirty days, pursuant to 5 M.R.S. §10004(3). By letter dated April 16, 2015 the Board directed Dr. Austin to undergo a substance abuse evaluation pursuant to 32 M.R.S. §3286, which evaluation was to be performed by an independent evaluator chosen by the Board. Subsequently, by letter

dated April 22, 2015, the Board notified Dr. Austin that an adjudicatory hearing concerning his medical license would be held on May 12, 2015.

3. The independent evaluator chosen by the Board, Dr. Christine Gray, began her evaluation of Dr. Austin on April 24, 2015. The parties anticipate that Dr. Gray's written evaluation report regarding Dr. Austin will not be available until just prior to the scheduled hearing on May 12, 2015. As a result, the parties will not have sufficient time prior to hearing to prepare and/or address statements and/or opinions contained in Dr. Gray's written evaluation report.

4. Because of the foregoing circumstances, the parties have agreed to continue the adjudicatory hearing previously scheduled for May 12, 2015 to June 9, 2015. On May 1, 2015, pursuant to the agreement of the parties, the Hearing Officer issued a scheduling order continuing the adjudicatory hearing in this matter to June 9, 2015.

5. Although Dr. Austin disputes that there are grounds for licensure discipline against him, he agrees that the suspension of his medical license will remain in effect until June 9, 2015, on which date the Board will take further action concerning Complaint No. CR-15-49. Dr. Austin understands and agrees that until such time he will not practice medicine or render any professional healthcare services under the authority of his Maine medical license.

6. Violation of any of the terms or conditions of this Interim Consent Agreement by Dr. Austin shall constitute unprofessional conduct and grounds for additional discipline of his Maine medical license by the Board, including but not limited to possible civil penalties, additional period(s) of suspension, and revocation of

licensure.

7. Dr. Austin has been represented by legal counsel, Peter B. Bickerman, Esq. with respect to the terms of this Interim Consent Agreement.

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

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

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

I, DAVID R. AUSTIN, M.D., HAVE READ AND UNDERSTAND THE FOREGOING INTERIM CONSENT AGREEMENT. I UNDERSTAND THAT BY SIGNING IT, THAT I WAIVE CERTAIN RIGHTS. I SIGN THIS INTERIM CONSENT AGREEMENT VOLUNTARILY, WITHOUT ANY THREAT OR PROMISE. I

UNDERSTAND THAT THIS INTERIM CONSENT AGREEMENT CONTAINS THE ENTIRE AGREEMENT AND THERE IS NO OTHER AGREEMENT OF ANY KIND, VERBAL, WRITTEN OR OTHERWISE.

DATED: 5/13/15

DAVID R. AUSTIN, M.D.

STATE OF MAINE
YORK, S.S. (County)

Personally appeared before me the above–named David R. Austin, 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: 5/13/15

NOTARY PUBLIC
MY COMMISSION ENDS: 2/28/2016

REBECCA RICHARDSON
Notary Public, State of Maine
My Commission Expires 2/28/2016

DATED: 5/17/2015

PETER B. BICKERMAN, ESQ.
Attorney for Dr. Austin

DATED: 5/26/15

MAROULLA S. GLEATON, M.D., Chairman
MAINE BOARD OF LICENSURE IN MEDICINE

DATED: May 19, 2015

MICHAEL MILLER, Assistant Attorney General DEPARTMENT OF THE ATTORNEY GENERAL

APPROVED
EFFECTIVE: