

STATE OF MAINE  
BOARD OF LICENSURE IN MEDICINE

In re: )  
Robert K. Desai, M.D. ) CONSENT AGREEMENT FOR  
Complaint No. CR13-86 ) SURRENDER OF LICENSE

This document is a Consent Agreement, effective when signed by all parties, regarding disciplinary action against the license to practice medicine in the State of Maine held by Robert K. Desai, M.D. The parties to the Consent Agreement are: Robert K. Desai, M.D. (“Dr. Desai”), 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. Pursuant to Title 32 Chapter 48 the Legislature endowed the Board with the power and duty to regulate the practice of physicians and physician assistants licensed by the Board, including setting standards of practice and investigating complaints. Pursuant to 10 M.R.S. § 8008 the Legislature provided that the sole purpose of the Board is to “protect the public health and welfare” and that “other goals or objectives may not supersede this purpose.”
2. The Board first issued Dr. Desai a license to practice medicine in Maine on December 13, 2000. Dr. Desai specializes in Radiology.
3. On or about May 8, 2013, the Board received information submitted to it pursuant to Title 24 M.R.S. § 2505<sup>1</sup> from an Emergency Department (“ED”) physician at Northern Maine

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<sup>1</sup> Title 24 M.R.S. § 2505 provides in relevant part:

Any professional competence committee within this State and any physician licensed to practice or otherwise lawfully practicing within this State shall, and any other person may, report the relevant facts to the appropriate board relating to the acts of any physician in this State if, in the opinion of the committee, physician or other person, the committee or individual has reasonable knowledge of acts of the physician amounting to gross or repeated medical malpractice, habitual drunkenness, addiction to the use of drugs,

Medical Center ("NMMC") regarding an incident on May 7, 2013, concerning Dr. Desai.

According to the report, on May 7, 2013, the NMMC ED physician performed a history, physical exam, and blood work on Dr. Desai, who was on duty as a radiologist at NMMC. According to the report, the history, physical exam and blood work supported the diagnosis of acute alcohol intoxication, which was present at the time Dr. Desai was actively involved in patient care. On May 8, 2013, Dr. Desai telephoned the Medical Director for the Board and indicated that the day prior NMMC had sent him home due to concerns that he was under the influence of alcohol. Dr. Desai confirmed that prior to being sent home he had patient responsibilities at NMMC. Dr. Desai indicated that he had been seeing an alcohol counselor since the spring of 2012, but was not enrolled in a physician health program.

4. On May 13, 2013, the Board received pursuant to a subpoena medical records from NMMC regarding Dr. Desai's evaluation and blood work at the NMMC ED on May 7, 2013. According to that information, at approximately 3:15 pm Dr. Desai was referred to the ED at NMMC because the radiology department staff was very concerned about his cognition and unusual manner, lack of coordination, and slurred speech. On May 7, 2013, at approximately 3:15 pm Dr. Desai underwent a history, physical examination, and blood work by the on-duty ED physician at NMMC, who diagnosed Dr. Desai with acute alcohol intoxication. Dr. Desai denied any use of substances until the lab results became available, at which point Dr. Desai only admitted drinking alcohol the previous evening. According to the lab results, Dr. Desai's blood alcohol content at 3:15 pm was 390 MG/DL, which is the equivalent to .39 grams per 100 milliliters of blood – almost five times the legal limit (.08) for being able to drive a motor vehicle – and indicative of tolerance to alcohol based upon chronic use.

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professional incompetence, unprofessional conduct or sexual misconduct identified by board rule. The failure of any such professional competence committee or any such physician to report as required is a civil violation for which a fine of not more than \$1,000 may be adjudged.

5. On May 14, 2013, the Board reviewed the foregoing information and voted to: immediately suspend Dr. Desai's Maine medical license pursuant to Title 5 M.R.S. § 10004(3) for a period of 30 days due to the immediate jeopardy that his continued practice of medicine posed to the public; issued a complaint against Dr. Desai's Maine medical license, which it docketed as Complaint No. CR13-86; scheduled the matter for an adjudicatory hearing on June 11, 2013; and offer Dr. Desai an Interim Consent Agreement in lieu of proceeding with the adjudicatory hearing on June 11, 2013.

6. On June 11, 2013, Dr. Desai entered into an Interim Consent Agreement with the Board and the Office of Attorney General regarding the incident that occurred at NMMC. In the Interim Consent Agreement, Dr. Desai agreed to the continued suspension of his license to practice medicine in the State of Maine until such time as the Board takes final action – either by hearing and decision and order or by Consent Agreement – regarding Complaint No. CR13-86. In complying with this provision, Dr. Desai agreed that he would not practice medicine or render any professional health care services to any person in the State of Maine or in any other location under his Maine medical license.

7. On May 13, 2014, the Board reviewed Complaint No. CR13-86, including all correspondence from Dr. Desai and his attorney and all investigative information obtained to date. Following its review, the Board voted to offer Dr. Desai this Consent Agreement to resolve Complaint No. CR13-86 without further proceedings.

8. This Consent Agreement has been negotiated by legal counsel for Dr. Desai and legal counsel for the Board. Absent acceptance of this Consent Agreement by Dr. Desai by signing it and dating it in front of a notary and returning it to the Maine Board of Licensure in

Medicine, 137 State House Station, Augusta, Maine 04333-0137 on or before February 10, 2015, the Board may take any action permitted by law regarding Complaint No. CR13-86.

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

#### COVENANTS

10. Dr. Desai admits that the foregoing facts constitute grounds to discipline his Maine medical license pursuant to the following subsections of 32 M.R.S. § 3282-A(2):

a. Subsection B: Habitual substance abuse that has resulted or is foreseeably likely to result in the licensee performing services in a manner that endangers the health or safety of patients; and

b. Subsection F: Unprofessional conduct. A licensee is considered to have engaged in unprofessional conduct if the licensee violates a standard of professional behavior, including engaging in disruptive behavior, that has been established in the practice for which the licensee is licensed. For purposes of this paragraph, "disruptive behavior" means aberrant behavior that interferes with or is likely to interfere with the delivery of care.

11. As discipline for the conduct described in paragraphs 1-10 above, Dr. Desai agrees to the IMMEDIATE SURRENDER of his Maine medical license effective upon the

execution of this Consent Agreement. In complying with this provision, Dr. Desai shall immediately return his Maine medical license to the Board.

12. Nothing in this Consent Agreement shall prohibit Dr. Desai from, at reasonable intervals, petitioning the Board for reinstatement of his Maine medical license. Upon petitioning the Board for reinstatement, Dr. Desai shall bear the burden of demonstrating that: (a) his Maine medical license should be reinstated; and (b) that the resumption of his practice of medicine would not pose a risk to the public; and (c) that no reasonable grounds exist for the Board to deny his application for reinstatement. The Board, upon receipt of any such petition for reinstatement from Dr. Desai, may direct that he undergo whatever testing and evaluations that it deems appropriate. In addition, Dr. Desai shall execute any and all releases so that the Board, Board staff, and Office of Attorney General may obtain copies of his medical, psychological, substance abuse, and counseling records and evaluations. Following its receipt of a petition for reinstatement from Dr. Desai, and its review of any records, evaluations and investigative information, the Board shall retain the authority to: (a) deny the petition; (b) grant the petition; or (c) grant Dr. Desai a license subject to restrictions and/or conditions pursuant to a consent agreement under the authority of 32 M.R.S. § 3282-A(2) and 10 M.R.S. 8003(5).

13. Dr. Desai has been represented by legal counsel, Christopher A. Wright, Esq. with respect to the terms of this Consent Agreement.

14. This Consent Agreement is not appealable, constitutes disciplinary action, is reportable to the National Practitioner Data Bank, the Federation of State Medical Boards, and other licensing jurisdictions, and is effective until modified or rescinded in writing by all of the parties hereto.

15. 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.

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

I, ROBERT K. DESAI, M.D., HAVE READ AND UNDERSTAND THE FOREGOING CONSENT AGREEMENT. I UNDERSTAND THAT BY SIGNING IT, I WAIVE CERTAIN RIGHTS. I SIGN THIS CONSENT AGREEMENT VOLUNTARILY, WITHOUT ANY THREAT OR PROMISE. I UNDERSTAND THAT THIS CONSENT AGREEMENT CONTAINS THE ENTIRE AGREEMENT AND THERE IS NO OTHER AGREEMENT OF ANY KIND, VERBAL, WRITTEN OR OTHERWISE.

DATED: 1/26/2015

[Signature]  
On this 26 day of January, 2015  
ROBERT K. DESAI, M.D.

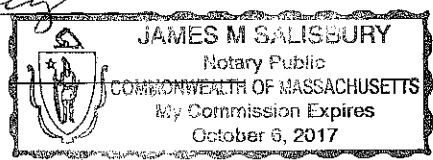
Before me, the undersigned Notary Public personally appeared Robert K. Desai proved to me through satisfactory evidence of identification, which were MA Drivers License to be the person whose name is signed on the preceding or attached document in my presence.

STATE OF Massachusetts  
Worcester, S.S. (County)

Personally appeared before me the above-named Robert K. Desai, 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: 26 January 2015

[Signature]  
NOTARY PUBLIC  
MY COMMISSION ENDS:



DATED: 2/3/2015

[Signature]  
CHRISTOPHER A. WRIGHT, ESQ.  
Attorney for Dr. Desai

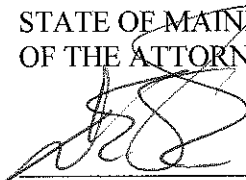
STATE OF MAINE  
BOARD OF LICENSURE IN MEDICINE

DATED: 2/11/15

[Signature]  
MAROULLA S. GLEATON, M.D., Chairman

STATE OF MAINE DEPARTMENT  
OF THE ATTORNEY GENERAL

DATED: 2/10/15

  
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DENNIS E. SMITH  
Assistant Attorney General

APPROVED  
EFFECTIVE: 2/10/15

STATE OF MAINE  
BOARD OF LICENSURE IN MEDICINE

In re: )  
Robert K. Desai, M.D. ) INTERIM CONSENT AGREEMENT  
Complaint No. CR13-86 )

This document is an Interim 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 Robert K. Desai, M.D. The parties to the Consent Agreement are: Robert K. Desai, M.D. ("Dr. Desai"), the State of Maine Board of Licensure in Medicine ("the Board") and the State of Maine Department of the Attorney General. This Consent Agreement is entered into pursuant to 10 M.R.S.A. § 8003(5)(B) and 32 M.R.S.A. § 3282-A.

STATEMENT OF FACTS

1. Dr. Desai has held a license to practice medicine in the State of Maine since December 13, 2000. Dr. Desai specializes in and is certified by the American Board of Medical Specialties in Diagnostic Radiology.

2. On or about May 8, 2013, the Board received information submitted to it pursuant to Title 24 M.R.S. § 2505<sup>1</sup> from an Emergency Department ("ED") physician at Northern Maine Medical Center ("NMMC") regarding an incident on May 7, 2013, regarding Dr. Desai.

According to the report, on May 7, 2013, the ED physician performed a history, physical exam,

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<sup>1</sup> Title 24 M.R.S. § 2505 provides in relevant part:

Any professional competence committee within this State and any physician licensed to practice or otherwise lawfully practicing within this State shall, and any other person may, report the relevant facts to the appropriate board relating to the acts of any physician in this State if, in the opinion of the committee, physician or other person, the committee or individual has reasonable knowledge of acts of the physician amounting to gross or repeated medical malpractice, habitual drunkenness, addiction to the use of drugs, professional incompetence, unprofessional conduct or sexual misconduct identified by board rule. The failure of any such professional competence committee or any such physician to report as required is a civil violation for which a fine of not more than \$1,000 may be adjudged.



and blood work on Dr. Desai, who was on duty as a radiologist at NMMC. According to the report, the history, physical exam and blood work supported the diagnosis of acute alcohol intoxication, which was present at the time Dr. Desai was actively involved in patient care.

3. On May 8, 2013, Dr. Desai telephoned the Medical Director for the Board and indicated that the day prior NMMC had sent him home due to concerns that he was under the influence of alcohol. Dr. Desai confirmed that prior to being sent home he had patient responsibilities at NMMC. Dr. Desai indicated that he had been seeing an alcohol counselor since the spring of 2012, but was not enrolled in a physician health program.

4. On May 13, 2013, the Board received pursuant to a subpoena medical records from NMMC regarding Dr. Desai's evaluation and blood work at the NMMC ED on May 7, 2013. According to that information, at approximately 3:15 pm Dr. Desai was referred to the ED at NMMC because the radiology department staff was very concerned about his cognition and unusual manner, lack of coordination, and slurred speech. On May 7, 2013, at approximately 3:15 pm Dr. Desai underwent a history, physical examination, and blood work by the on-duty ED physician at NMMC, who diagnosed Dr. Desai with acute alcohol intoxication. Dr. Desai denied any use of substances until the lab results became available, at which point Dr. Desai only admitted drinking alcohol the previous evening. According to the lab results, Dr. Desai's blood alcohol content at 3:15 pm was 390 MG/DL, which is the equivalent to .39 grams per 100 milliliters of blood – almost five times the legal limit (.08) for being able to drive a motor vehicle – and indicative of tolerance to alcohol based upon chronic use.

5. On May 14, 2013, the Board reviewed the foregoing information and voted to: immediately suspend Dr. Desai's Maine medical license pursuant to Title 5 M.R.S. § 10004(3) for a period of 30 days due to the immediate jeopardy that his continued practice of medicine

posed to the public; issued a complaint against Dr. Desai's Maine medical license; scheduled the matter for an adjudicatory hearing on June 11, 2013; and offer Dr. Desai this Interim Consent Agreement in lieu of proceeding with the adjudicatory hearing on June 11, 2013.

6. This Interim Consent Agreement has been negotiated by and between Dr. Desai and legal counsel for the Board. Absent acceptance of this Interim Consent Agreement by Dr. Desai by signing it and dating it in front of a notary and returning it to Maureen Lathrop, Investigative Secretary, Maine Board of Licensure in Medicine, 137 State House Station, Augusta, Maine 04333-0137 on or before June 3, 2013, the matter will proceed to an adjudicatory hearing on June 11, 2013.

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

#### COVENANTS

8. The Board and Dr. Desai agree that it would be in Dr. Desai's and the public's best interest for him to temporarily suspend his ability to practice medicine in the State of Maine prior to the Board's ultimate disposition of this complaint.

9. Dr. Desai neither admits nor denies the facts as outlined above. However, Dr. Desai concedes that should the matter proceed to an adjudicatory hearing on June 11, 2013, the Board has sufficient evidence from which it could reasonably conclude that the facts as outlined above are true, and that they constitute grounds for discipline pursuant to:

- a. 32 M.R.S. § 3282-A(2)(B) Habitual substance abuse that has resulted or is foreseeably likely to result in the licensee performing services in a manner that endangers the health or safety of patients.
- b. 32 M.R.S. § 3282-A(2)(F) – Unprofessional conduct. A licensee is considered to have engaged in unprofessional conduct if the licensee violates a standard of professional behavior, including engaging in disruptive behavior, that has been established in the practice for which the licensee is licensed. For purposes of this paragraph, "disruptive behavior" means aberrant behavior that interferes with or is likely to interfere with the delivery of care.
- c. 32 M.R.S. § 3282-A(2)(E)(1) – Incompetence. A licensee is considered incompetent in the practice of medicine if the licensee has engaged in conduct that evidences a lack of ability or fitness to discharge the duty owed by the licensee to a client or patient or the general public.

10. Dr. Desai agrees to the continued suspension of his license to practice medicine in the State of Maine until such time as the Board takes final action – either by hearing and decision and order or by Consent Agreement – regarding Complaint No. CR13-86. In complying with this provision, Dr. Desai understands and agrees that he will not practice medicine or render any professional health care services to any person in the State of Maine or in any other location under his Maine medical license. In the meantime, Dr. Desai shall return his Maine medical license to the Board pending final resolution of Complaint No. 13-86.

11. Violation of any of the terms or conditions of this Interim Consent Agreement by Dr. Desai shall constitute unprofessional conduct and grounds for additional discipline of his Maine medical license, including but not limited to possible fines, suspension, and revocation.

12. Dr. Desai understands and agrees that pursuant to Title 10 M.R.S. §8003(5) the Board has the authority, following hearing, to suspend or revoke his Maine medical license for violating any of the terms or conditions of this Interim Consent Agreement.

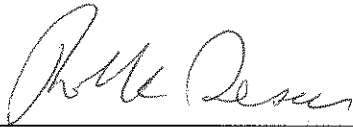
13. This Interim Consent Agreement is not appealable, constitutes interim disciplinary action, is reportable to the National Practitioner Data Bank, the Federation of State

Medical Boards, and other licensing jurisdictions, and is effective until the Board holds an adjudicatory hearing and/or fully and finally resolves this matter with a final Consent Agreement or by other lawful means.

14. This Interim 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.


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

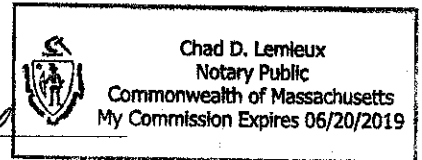
**I, ROBERT K. DESAI, M.D., HAVE READ AND UNDERSTAND THE FOREGOING INTERIM CONSENT AGREEMENT. I UNDERSTAND THAT BY SIGNING IT, I WAIVE CERTAIN RIGHTS. I SIGN THIS INTERIM CONSENT AGREEMENT VOLUNTARILY, WITHOUT ANY THREAT OR PROMISE. I UNDERSTAND THAT THIS INTERIM CONSENT AGREEMENT CONTAINS THE ENTIRE AGREEMENT AND THERE IS NO OTHER AGREEMENT OF ANY KIND, VERBAL, WRITTEN OR OTHERWISE.**

DATED: 6/3/2013   
ROBERT K. DESAI, M.D.

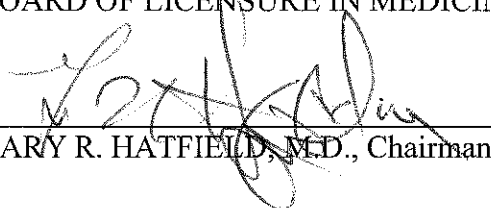
STATE OF Massachusetts, S.S.

Personally appeared before me the above-named Robert K. Desai, 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: 6/3/13   
NOTARY PUBLIC



STATE OF MAINE  
BOARD OF LICENSURE IN MEDICINE

DATED: 6/11/13   
GARY R. HATFIELD, M.D., Chairman

STATE OF MAINE DEPARTMENT  
OF THE ATTORNEY GENERAL

DATED:

6/11/13



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DENNIS E. SMITH  
Assistant Attorney General

Effective Date:

6/11/13