

STATE OF MAINE BOARD OF LICENSURE IN MEDICINE

In Re: Alexandria E. Nesbit, P.A.-C. )  
 ) **DECISION AND ORDER**  
Suspension of licensure as physician assistant )

**I. PROCEDURAL HISTORY**

Pursuant to the authority found in 32 M.R.S. §§ 3269 and 3282-A and 10 M.R.S. § 8003(5), the State of Maine Board of Licensure in Medicine (“Board”) met in public session at its offices in Augusta, Maine, on July 8, 2014. The purpose of the meeting was to conduct an adjudicatory hearing to determine whether grounds existed to suspend the license of licensee Alexandria E. Nesbit, P.A.-C.

A quorum of the Board was in attendance during all stages of the proceedings. Participating and voting Board members were David Andrews, M.D.; Louisa Barnhart, M.D.; Dana Dyer, Public Member; David Jones, M.D.; David Nyberg, Ph.D.; Christopher Ross, P.A.-C; Peter Sacchetti, M.D.; and Chair Maroulla Gleaton, M.D. Ms. Nesbit was present and represented herself. Dennis Smith, Esq., Assistant Attorney General, represented the State of Maine. Rebekah Smith, Esq., served as Hearing Officer. The hearing was held in accordance with the requirements of the Administrative Procedures Act, 5 M.R.S. § 9051 et seq.

Joint Exhibits #1 to #25 were admitted without objection. The Board took notice of its statutes and rules and confirmed that no participating member had any conflict of interest or bias that would prevent him or her from rendering an impartial decision in this matter. The State presented an opening statement; the Licensee waived her right to present an opening statement. Amy Tardy, Ph.D., case manager at the Medical Professionals Health Program of the Maine

Medical Association, and the Licensee testified. Each party made a closing statement. The Board then deliberated and made the following findings of fact and conclusions of law by a preponderance of the credible evidence regarding the allegations against Ms. Nesbit.

## **II. FINDINGS OF FACTS**

1. The Licensee has held a license to practice as a physician assistant since September 9, 2005. (Joint Exhibit #18.)
2. In 2009, the Licensee sought the help of the Medical Professionals Health Program (“MPHP”) and entered into a five –year agreement to avoid alcohol. (Joint Exhibit #6.)
3. On July 12, 2011, the Licensee entered into a Consent Agreement with the Board regarding Complaint 10–524, alleging that the Licensee had relapsed to the use of alcohol and had been arrested and convicted of Operating Under the Influence. (Joint Exhibit #21.) The Consent Agreement required that the Licensee refrain from the use of any and all prohibited substances, including alcohol, except those dispensed by a single primary care physician, undergo substance monitoring, undertake substance abuse and mental health treatment, be monitored by a Board-approved physician, and attend self-help group meetings. (Joint Exhibit #21.) The Consent Agreement also stated that any reliable evidence of her use of any prohibited substances would result in the immediate, indefinite, automatic suspension of the Licensee’s license. (Joint Exhibit #21.)
4. The Consent Agreement was modified on October 28, 2011, to approve a physician assistant to be the Licensee’s primary care provider rather than a physician. (Joint Exhibit #20.) The Consent Agreement was again modified on October 23, 2012, to reduce the frequency of substance monitoring. (Joint Exhibit #19.)

5. Following several abnormal urine screens due to low creatinine levels and the Licensee's acknowledged consumption of alcohol and positive blood test, the Licensee entered into a new five-year monitoring contract with MPHP on September 5, 2013. (Joint Exhibit #17; Joint Exhibit #18.) In the contract, the Licensee agreed, among other conditions, to: abstain from any and all potentially addictive or psycho-active chemicals whether over the counter, scheduled, or unscheduled (including but not limited to alcohol); abstain from using alcohol in any form including over the counter drugs and sanitizing gels; meet with her MPHP case manager annually; submit monthly self-assessment reports to MPHP before the 10<sup>th</sup> day of each month; attend 12 step meetings and submit monthly meeting attendance logs to MPHP; and submit to urine toxicology screens four times a month for the first year, three times a month for the second year, and two times a month for the third year. (Joint Exhibit #17.) The Licensee cannot understand or explain why her creatinine level is often low in her urine toxicology screens. (Testimony of Licensee.)
6. Following a hearing on October 8, 2013, the Board issued a Decision and Order on November 25, 2013, in which the Board concluded that the Licensee had violated the conditions of probation required by the Consent Agreement by consuming alcohol and imposed several sanctions. (Joint Exhibit #18.) The Decision and Order imposed conditions of probation upon the Licensee, including a prohibition on the consumption of alcohol and compliance with the terms of the five-year Monitoring Contract she had entered into with MPHP on September 5, 2013. (Joint Exhibit #18.) The Decision and Order also required the Licensee to undergo additional substance abuse testing within 24 hours of any abnormal test results with such testing to be overseen by MPHP. (Joint Exhibit #18.) In addition, the Decision and Order also required the Licensee to maintain her obligations

regarding substance monitoring while she was away from home but within the continental United States. (Joint Exhibit #18.)

7. The Licensee receives treatment for an anxiety disorder. (Stipulation of Parties; Joint Exhibit #16.)
8. On December 12, 2013, the Licensee underwent a urine toxicology screen that was abnormal due to a low creatinine level. (Joint Exhibit #16.) No follow up test was ordered by MPHP or otherwise obtained within 24 hours. (Testimony of Tardy.)
9. On January 9, 2014, the Licensee underwent a urine toxicology screen that was abnormal due to a low level of creatinine. (Joint Exhibit #16.) No follow up test was ordered by MPHP or otherwise obtained within 24 hours. (Testimony of Tardy.)
10. On January 22, 2014, the Licensee underwent a urine toxicology screen that was abnormal due to a low level of creatinine. (Joint Exhibit #16.) No follow up test was ordered by MPHP or otherwise obtained within 24 hours. (Testimony of Tardy.)
11. At the end of February or early March 2014, case management of the Licensee's MPHP monitoring contract was transferred to Amy Tardy, Ph.D. (Testimony of Tardy.)
12. On April 23, 2014, a urine toxicology screen of the Licensee was found to be positive for alcohol. (Joint Exhibit #16.) The Licensee believed that the positive test result was due to her use of a dropper full of tincture of Echinacea the night before the test. (Joint Exhibit #6.) On April 27, 2014, the test result report was changed from positive to non-negative incidental exposure following a review by the MPHP Medical Review Officer. (Joint Exhibit #16.) A follow up urine toxicology screen which the Licensee underwent on April 28, 2014, was abnormal due to low creatinine. (Joint Exhibit #16; Testimony of Tardy.) On May 2, 2014, Ms. Tardy reported the non-negative incidental exposure to the Board by

letter. (Joint Exhibit #15.) The Licensee underwent a follow up PeTh blood test on April 29, 2014, which was negative. (Joint Exhibit #15; Joint Exhibit #16.) Ms. Tardy reported that although the incident was determined to be a non-negative incidental exposure, they had taken significant measures to address the situation, including the Licensee agreeing to a change in therapeutic service providers and the appointment of a mentor under the auspices of MPHP. (Joint Exhibit #15.)

13. On May 6, 2014, a urine toxicology screen of the Licensee was found to be positive for EtG and EtS. (Joint Exhibit #16.) Although the Licensee denied drinking alcohol, Ms. Tardy reported to the Board on May 14, 2014, that the MPHP Medical Review Officer did not feel the test result could have been caused by incidental exposure. (Joint Exhibit #14.) Ms. Tardy reported to the Board that she had recommended to the Licensee that she not practice until she completed several steps, including a PeTh test, an evaluation with Dr. Michael Curless, a medical consultation to determine if there were a medical cause for the test result, and an appointment with her therapist. (Joint Exhibit #14.) On May 19, 2014, Ms. Tardy reported to the Board that the follow up PeTh blood test was negative, but noted that blood testing would detect only what was referred to as “binges.” (Joint Exhibit #13.) Ms. Tardy informed the Board that the Licensee had obtained an evaluation from Dr. Curless, who concluded that the Licensee’s substance abuse disorder was in sustained remission, as well as a medical examination, which did not result in any medical concerns or causes for the positive result. (Joint Exhibit #12; Joint Exhibit #16.) Dr. Curless recommended that Ms. Nesbit stay enrolled in substance abuse treatment to better manage her stress and expected that over time her need for treatment would decrease. (Joint Exhibit #12.)

14. On May 20, 2014, the Board issued a letter to the Licensee indicating that pursuant to the Board's Decision and Order of November 25, 2013, the positive test result was grounds for the immediate suspension of her Maine physician assistant license. (Joint Exhibit #7.) The letter indicated that the Licensee's license was suspended immediately. (Joint Exhibit #7.) The letter informed the Licensee that the Board would be reviewing the information at its next meeting on June 10, 2014. (Joint Exhibit #7.)
15. On May 25, 2014, the Licensee emailed Ms. Tardy that she was experiencing a family emergency and would be driving her parents across the country from May 29 through June 10. (Joint Exhibit #11.) The Licensee indicated that she would try to stay in contact by email and would continue to call in for daily screens if required but noted that she had no longer had a license. (Joint Exhibit #11.)
16. At 5:50 a.m. on May 29, 2014, the Licensee emailed Ms. Tardy that she was required to test for a urine screen that day but was getting ready to drive her parents across the country and could not wait for the two local clinics to open. (Joint Exhibit #10.) She reported that she was on a tightly scheduled trip, the end result of which was her flight home on June 10. (Joint Exhibit #10.) The Licensee stated that she hoped that the Board would see the impossibility of screening across the country. (Joint Exhibit #10.) She noted that she would continue to call the urine screen testing number each morning, however. (Joint Exhibit #10.) Although Ms. Tardy offered to assist the Licensee to locate testing sites during her drive, the Licensee did not pursue such assistance. (Testimony of Tardy.)
17. Also on May 29, 2014, Ms. Tardy reported to the Board that the Licensee had temporarily suspended drug testing with MPHP, a decision she made after being fully informed that it would be inconsistent with what was required of her by the Board. (Joint Exhibit #9.) Ms.

Tardy noted that she believed that the Licensee planned to resume testing when she returned home. (Joint Exhibit #9.)

18. On June 9, 2014, a Notice of Hearing was issued by the Board to the Licensee informing her that a hearing would be held on July 8, 2014, regarding the suspension of her Maine physician assistance license. (Joint Exhibit #1.)
19. On June 12, 2014, the Licensee wrote to the Board to indicate that she believed the May 6 non-negative incidental screen was due to her use of a dropper full of Echinacea tincture the night before the test. (Joint Exhibit #6.) The Licensee stated that she had a positive urine test result the following week, for which she had no explanation, which was immediately followed by a negative blood test. (Joint Exhibit #6.) She noted that she had begun to question the purpose of all the testing, observing that she had voluntarily sought the help of MPHP in 2009 and entered into a five year contract stating that she would avoid alcohol. (Joint Exhibit #6.) She noted that she made a huge mistake in October 2010 by drinking alcohol, after which she received a charge of operating under the influence. (Joint Exhibit #6.) She then voluntarily admitted herself to a rehabilitation facility in Florida, which concluded that she was not an alcoholic because she did not have signs of withdrawal but was depending on alcohol to deal with stress, making her alcohol dependent. (Joint Exhibit #6.) The Licensee stated her belief that she had paid her social dues for the operating under the influence conviction. (Joint Exhibit #6.) The Licensee stated that after the operating under the influence charge, at the insistence of MPHP, she was automatically enrolled in another five year contract and her license was placed on probationary status. (Joint Exhibit #6.) She noted that had experienced a slip in August 2013 wherein she had wine with friends on a weekend and following the Board Decision and Order in the fall of 2013, she

was required to start the five year contract once again, with more strict mandates this time. (Joint Exhibit #6.) She noted the requirements, and costs, of maintaining her obligations under the MPHP monitoring contract. (Joint Exhibit #6.) She opined that the purpose of all the requirements was to ensure that she did not come to work with alcohol in her system but that she had never practiced medicine impaired. (Joint Exhibit #6.)

20. In her letter, the Licensee noted that she had been in the MPHP program for over five years and continued to provide patient care without impairment and with professionalism. (Joint Exhibit #6.) She expressed that the stresses of living with the specific mandates of the MPHP contract and Board Order were taking a toll on her health, leaving her feeling more anxious and frustrated. (Joint Exhibit #6.) She proposed a different monitoring system whereby a random alcohol Breathalyzer could be administered by the physician with whom she worked or his medical assistant. (Joint Exhibit #6.) She proposed that any positive Breathalyzer test would require an immediate urine screen or PeTh blood test. (Joint Exhibit #6.)

21. By undated letter, Pamela Allen, P.A.-C., sister of the Licensee, wrote to the Board indicating that her sister was experiencing a living hell trying to meet the new and rigorous standards imposed by the Board in its most recent Order. (Joint Exhibit #5.) She requested that the Board consider the purpose of the original agreement and allow the Licensee to practice without the incredible stress that she was experiencing. (Joint Exhibit #5.)

22. By letter dated June 10, 2014, Oleg Reznik, M.D., of St. Joseph's Family Medicine at Jackson Laboratory, reported to the Board that he had known the Licensee since October 2013 and had been one of her practice monitors. (Joint Exhibit #3.) Dr. Reznik shared his observation that the MPHP program had been detrimental to the Licensee's health by



putting undue pressure and stress on her everyday life. (Joint Exhibit #3.) He noted her significant weight loss and increasing anxiety and insomnia. (Joint Exhibit #3.) Dr. Reznik also observed that he saw the Licensee on an almost daily basis but had never observed her to be intoxicated or in any way impaired. (Joint Exhibit #3.) He concluded that her participation in nearly five years of MPHP programming seemed above and beyond what could reasonably be expected of a professional. (Joint Exhibit #3.)

23. By letter dated June 17, 2014, Laurie LaViolette, LCSW, CCS, reported to the Board concern that the Licensee had lost a tremendous amount of weight and was struggling more due to anxiety due to the demands placed on her by the Board Order. (Joint Exhibit #4.) Ms. LaViolette noted that the early morning screens interfered with her arrival at work and the lightness of her samples required more extensive and expensive blood tests. (Joint Exhibit #5.) Ms. LaViolette opined that the mandates of the program were creating and compounding problems that were jeopardizing the Licensee's health and well-being. (Joint Exhibit #5.)
24. By letter dated June 21, 2014, the Licensee requested that the Board focus on MPHP program mandates at the hearing scheduled for July 8, 2014. (Joint Exhibit #2.)
25. On June 30, 2014, the Licensee submitted an application for renewal of her license as a physician assistant. (Joint Exhibit #25.)
26. At hearing on July 8, 2014, the Licensee testified that she felt that she had paid her societal and professional dues over five years and that the continued monitoring requirements were overly harsh. (Testimony of Licensee.) She reiterated that she understood the Board's obligation to protect the public but had never gone to work impaired. (Testimony of Licensee.) The Licensee expressed her belief that continuing the required monitoring

program was not in her best interests physically or mentally. (Testimony of Licensee.)

The Licensee felt that she should not be subject to monitoring for behavior outside of the workplace. (Testimony of Licensee.) She proposed that if monitoring were a continued requirement of probation, she be allowed to undergo breathalyzer testing exclusively while at work. (Testimony of Licensee.)

### **III. GOVERNING STATUTES AND RULES**

1. The State of Maine Board of Licensure in Medicine may modify, restrict, suspend, revoke, or refuse to renew a license if the licensee engaged in habitual substance abuse that has resulted or is reasonably likely to result in the licensee performing services in a manner that endangers the health and safety of patients. 32 M.R.S. §3282-A(2)(B).
2. The Board may modify, restrict, suspend, revoke, or refuse to renew a license if the licensee engaged in unprofessional conduct. 32 M.R.S. § 3282-A(2)(F). A licensee is considered to have engaged in unprofessional conduct if she violates a standard of professional behavior that has been established in the practice for which she is licensed. 32 M.R.S. §3282-A(2)(F).
3. The Board may impose conditions of probation upon a licensee to run for such time period as the Board determines appropriate. 10 M.R.S. § 8003(5)(A-1)(4). Failure to comply with the conditions of probation is a ground for disciplinary action against a licensee. 10 M.R.S. § 8003(5)(A-1)(4).
4. For each violation of applicable laws, rules or conditions of licensure, the Board may issue a warning, censure, or reprimand. 10 M.R.S. § 8003(5)(A-1).

#### **IV. CONCLUSIONS OF LAW**

The Board, considering the above facts and those alluded to in the record but not referred to herein, determined that it had jurisdiction over Licensee Alexandria Nesbit and concluded as follows with regard to the allegations in the notice of hearing:

1. By unanimous vote, that Ms. Nesbit did not engage in the misuse of alcohol, drugs or other substances that resulted in or may have resulted in her performing services in a manner that endangered the health or safety of patients in violation of 32 M.R.S. § 3282-A(2)(B).
2. By vote of 7 to 1, that Ms. Nesbit engaged in unprofessional conduct by violating a standard of professional behavior that has been established in the practice for which the licensee is licensed in violation of 32 M.R.S. § 3282-A(2)(F).
3. By unanimous vote, that Ms. Nesbit failed to comply with a condition of probation imposed by the Decision and Order of the Board dated November 25, 2013, which constitutes grounds for discipline pursuant to 10 M.R.S. § 8003(5)(A-1)(4).
4. By unanimous vote, that Ms. Nesbit be reprimanded.
5. By unanimous vote, that Ms. Nesbit's application for renewal of her physician assistant license be denied and that a new application for licensure would not be considered for a minimum of six months.

The Board rendered its decision effective as of the date of hearing, July 8, 2014.

Dated: September 9, 2014



Maroulla S. Gleaton, M.D.

Chair, State of Maine Board of Licensure in Medicine

## **V. APPEAL RIGHTS**

Pursuant to the provisions of 10 M.R.S. § 8003(5) and 5 M.R.S. § 11002(3), any party that appeals this Decision and Order must file a Petition for Review in the Superior Court within 30 days of receipt of this Order. The petition shall specify the person seeking review, the manner in which they are aggrieved and the final agency action which they wish reviewed. It shall also contain a concise statement as to the nature of the action or inaction to be reviewed, the grounds upon which relief is sought and a demand for relief. Copies of the Petition for Review shall be served by certified mail, return receipt requested, upon the State of Maine Board of Licensure in Medicine, all parties to the agency proceedings, and the Attorney General.

STATE OF MAINE BOARD OF LICENSURE IN MEDICINE

In Re: Alexandria E. Nesbit, P.A.-C.

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Complaint No. 13-173

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**DECISION AND ORDER**

**I. PROCEDURAL HISTORY**

Pursuant to the authority found in 32 M.R.S. §§ 3269 and 3282-A and 10 M.R.S. § 8003(5), the State of Maine Board of Licensure in Medicine (“Board”) met in public session at its offices in Augusta, Maine, on October 8, 2013. The purpose of the meeting was to conduct an adjudicatory hearing to determine whether grounds existed to impose discipline on licensee Alexandria E. Nesbit, P.A.-C.

A quorum of the Board was in attendance during all stages of the proceedings. Participating and voting Board members were David Andrews, M.D., Louisa Barnhart, M.D., Cheryl Clukey, Public Member, David Dumont, M.D., Dana Dyer, Public Member, David Jones, M.D., David Nyberg, Ph.D., and Chair Maroulla S. Gleaton, M.D. Ms. Nesbit was present and represented herself. Dennis Smith, Esq., Assistant Attorney General, represented the State of Maine. Rebekah J. Smith, Esq., served as Hearing Officer. The hearing was held in accordance with the requirements of the Administrative Procedures Act, 5 M.R.S. § 9051 et seq.

Joint Exhibits #1 to #19 were admitted without objection. The Board took notice of its statutes and rules and confirmed that no participating member had any conflict of interest or bias that would prevent him or her from rendering an impartial decision in this matter. Each party presented an opening statement. The State presented the Licensee as a witness. The Licensee presented Jaime Spofford, a co-worker of the Licensee, and, via teleconference, Dr. Craig Curtis,

her supervising physician, as witnesses. Each party made a closing statement. The Board then deliberated and made the following findings of fact and conclusions of law by a preponderance of the credible evidence regarding the allegations against Ms. Nesbit.

## **II. FINDINGS OF FACTS**

1. The Licensee has held a license to practice as a physician assistant since September 9, 2005. (Joint Exhibit #16.)
2. On July 12, 2011, the Licensee entered into a Consent Agreement with the Board regarding Complaint 10-254, alleging that the Licensee had relapsed to the use of alcohol. (Joint Exhibit #15.) The Consent Agreement required that the Licensee refrain from the use of any and all prohibited substances except those dispensed by a single primary care physician, undergo substance monitoring, undertake substance abuse and mental health treatment, be monitored by a Board-approved physician, attend self-help group meetings, and participate in a contract with the Medical Professionals Health Program ("MPHP"). (Joint Exhibit #15.) The Consent Agreement also stated that any violation of the terms therein would result in the immediate, indefinite, automatic suspension of the Licensee's license. (Joint Exhibit #15.)
3. The Consent Agreement was modified on October 28, 2011, to approve a physician assistant to be the Licensee's primary care provider rather than a physician. (Joint Exhibit #14.) The Consent Agreement was again modified on October 23, 2012, to reduce the frequency of substance monitoring. (Joint Exhibit #13.)
4. Between July 2011 and October 2012, the Licensee had four test results that showed abnormally low levels of creatinine. (Joint Exhibit #10; Joint Exhibit #11; Joint Exhibit #12.) Follow-up tests were not ordered immediately after the four abnormal test results.

(Joint Exhibit #10; Joint Exhibit #11; Joint Exhibit #12.) On March 18, 2013, the Licensee had an additional test result that showed an abnormally low level of creatinine. (Joint Exhibit #12.) On August 6, 2013, the Licensee returned another urine test with low creatinine levels, which Dr. Margaret Palmer of MPHP characterized as having a dilute status. (Joint Exhibit #9.) On August 26, 2013, at the request of Dr. Palmer, the Licensee took a PEth test for Phosphatidyl Ethanol, which tested back 2 to 3 weeks and returned positive. (Joint Exhibit #9.) Dr. Palmer reported that the Licensee did not deny that she had had alcohol with dinner. (Joint Exhibit #9.) Dr. Palmer reported that she was in the process of revising the Licensee's monitoring contract regarding the frequency of substance testing, therapy, and attendance at Alcoholics Anonymous. (Joint Exhibit #9.)

5. Pursuant to the new five-year monitoring contract between the licensee and MPHP, dated September 5, 2013, the Licensee agreed to abstain from any and all potentially addictive or psychoactive chemicals; refrain from using alcohol in any form; meet with her MPHP case manager yearly; submit monthly self-assessment reports; attend self-help group meetings and submit monthly meeting attendance logs; enroll in the drug and alcohol screening program administered through the MPHP-approved laboratory; submit to urine testing four times a month for the first year, three times a month for the second year, and two times a month for the third year as well as blood testing once per quarter; notify MPHP immediately of any diagnosis or treatment changes in addition to the regularly scheduled monitoring reports of treatment service providers; and notify all treatment providers of her addiction and/or mental illness. (Joint Exhibit #7.)
6. On September 6, 2013, Board staff member Timothy Terranova reported in a memo to the Board that Dr. Palmer had indicated that the Licensee had admitted to having wine with

dinner on occasion. (Joint Exhibit #8.) Also on September 6, 2013, Mr. Terranova informed the Licensee that her license was being automatically suspended due to her violation of the Consent Agreement. (Joint Exhibit #8.)

7. By letter dated September 6, 2013, the Licensee informed the Board that her August 26 positive Phosphatidyl Ethanol test resulted from drinking alcohol with friends on the weekend of August 10 and 11. (Joint Exhibit #6.) She indicated she had not had a drink of alcohol since then and would not do so in the future. (Joint Exhibit #6.) She reported the steps she was taking to ensure that she would not take a drink of alcohol again such as: increasing her attendance at AA meetings to daily, avoiding the particular friends she had drunk wine with, and rereading all of her notes and documents from her six-week stay at Lakewood Rehabilitation Center in 2010. (Joint Exhibit #6.) She reported shame and regret about her actions and how they had impacted her colleagues and noted that she had signed a new contract with MPHP. (Joint Exhibit #6.)
8. On September 9, 2013, the Board notified the Licensee via first class and certified mail that her license had been suspended due to her violation of the Consent Agreement based upon the August 26, 2013, PEth test, which was positive for Phosphatidyl Ethanol, a marker for alcohol use. (Joint Exhibit #5.)
9. By letter dated September 12, 2013, the Board notified the Licensee that on September 10, 2013, the Board had reviewed the information regarding her violation of the Consent Agreement and voted to issue a complaint against her regarding her use of alcohol. (Joint Exhibit #4.)
10. By letter dated September 18, 2013, the Licensee responded to the complaint. (Joint Exhibit #3.) She agreed that her positive test result was a breach of the Consent Agreement



she had entered into with the Board. (Joint Exhibit #3.) She again expressed remorse, shame, and regret for her actions. (Joint Exhibit #3.) The Licensee expressed hope that the Board would give her another chance to avoid a relapse. (Joint Exhibit #3.) She indicated that she had learned a lot from the relapse and reiterated the steps she was taking to prevent another relapse. (Joint Exhibit #3.) She noted that she had not been able to work since September 6 due to her license suspension. (Joint Exhibit #3.) She reported that she was working on a return to work plan with Dr. Palmer and posited that she did not pose a hazard to her patients because she had never consumed alcohol before or during work hours. (Joint Exhibit #3.)

11. By letter dated September 19, 2013, the Licensee's supervising physician, Craig Curtis, MD-FAAFP, MRO, indicated that he had been the Licensee's supervising physician for several years in a previous practice and was currently her supervisor in his role as the Medical Director of St. Joseph Hospital Workwell Occupational Medicine Services. (Joint Exhibit #2.) Dr. Curtis indicated that the Licensee's professional and clinical performance under his supervision had been excellent and he had had no questions of impaired performance, absenteeism, lack of professional behavior, inadequacies of record keeping, timeliness of record keeping, or problems with interpersonal interactions. (Joint Exhibit #2.) Dr. Curtis reported that a 100% review of all of the Licensee's charts found her to be clinically talented and responsible regarding her patient care activities. (Joint Exhibit #2.) He reported no concerns about her ability to provide the highest quality of medical care to her patients and noted that he received no complaints from patients, employers, or other personnel involved with delivery of care by the Licensee. (Joint Exhibit #2.) Dr. Curtis indicated that he was very interested in preserving the Licensee's employment as a

physician assistant under his supervision with a structure that had been put in place for her to be able to perform her medical care delivery services while complying with her Consent Agreement. (Joint Exhibit #2.) Dr. Curtis concluded that it was his professional opinion in observing and supervising the Licensee's medical performance over the past several years that the Licensee's alcoholism had not impacted her performance of day-to-day patient care delivery services in any way, either by his observation or by those of her colleagues, co-workers, or patients. (Joint Exhibit #2.) Dr. Curtis noted that he was committed to continuing to supervise the Licensee, provide oversight for her to comply with any Board requirements, and document and report to the Board any issues that arose regarding her ability to provide the highest quality of patient care. (Joint Exhibit #2.)

12. By letter dated September 12, 2013, sent first class and certified mail, the Licensee was notified that a hearing regarding the automatic suspension of her license would be held on October 8, 2013. (Joint Exhibit #1.) The Notice of Hearing indicated that the Board would consider whether she had failed to comply with the condition of probation in the Consent Agreement dated July 12, 2011, by consuming alcohol, which was grounds for discipline pursuant to 10 M.R.S. § 8003(5)(A-1)(4).<sup>1</sup> (Joint Exhibit #1.)
13. At hearing, the Licensee explained that she had worked for the prior year and a half treating 10 to 12 patients a day at Jackson Lab in Bar Harbor, an occupational medicine satellite clinic of St. Joseph Workwell Occupational Medicine Services in Bangor. (Testimony of Licensee.) The Licensee reported that she had weekly telephone contact with Dr. Curtis as

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<sup>1</sup> The Notice of Hearing also indicated that the Board would be considering whether the Licensee had engaged in habitual substance abuse that had resulted in or was foreseeably likely to result in her performing services in a manner that endangered the health or safety of patients in violation of 32 M.R.S. § 3282-A(2)(B) and whether she had engaged in unprofessional conduct in violation of 32 M.R.S. § 3282-A(2)(F) by violating a standard of professional behavior, including engaging in disruptive behavior, that has been established in the practice for which she was licensed. (Joint Exhibit #1.) At hearing, the State declined to proceed on these two grounds.

her supervising physician and that he was in attendance at her worksite a couple of times per month. (Testimony of Licensee.) She reported that she had daily contact with her monitors under the Consent Agreement, Dr. Lee Haines and Ms. Merrill Nath, medical care providers who shared the St. Joseph's family medicine practice at Jackson Lab. (Testimony of Licensee.) The Licensee testified that although Ms. Nath and Dr. Haynes were in a separate building on the Jackson Lab campus, she went to talk to them each day and sometimes called them on the phone to discuss certain shared patients. (Testimony of Licensee.) The Licensee also explained that she had daily contact with her backup monitor, Jaime Spofford. (Testimony of Licensee.)

14. At the hearing, the Licensee took full responsibility for her actions, she acknowledged that she had consumed alcohol on three or four occasions with dinner, and she expressed regret, remorse, shame at the impact her actions had had on her family and coworkers. (Testimony of Licensee.) The Licensee testified that her relapse had strengthened her resolve toward sobriety and she understood that she could not relapse again. (Testimony of Licensee.) She indicated that she was taking concrete steps to ensure this, including a new contract with MPHP, increased attendance at AA, and submission to weekly random urine screening and quarterly blood screenings. (Testimony of Licensee.) The Licensee reported that she had begun seeing her therapist weekly although only monthly visits were expected by MPHP, had spoken with her psychiatrist regarding ways to prevent relapse, and had been speaking more frequently with her AA sponsor. (Testimony of Licensee.)
15. The Licensee could not explain the low levels of creatinine on several of her urine tests. (Testimony of Licensee.) She reported that Dr. Palmer of MPHP had asked her to taper off Clonazepam, prescribed by her psychiatrist for anxiety, over the next three months.

(Testimony of Licensee.) The Licensee testified that she had been on the same dosage of Clonazepam, 1 mg three times a day, for a couple of years. (Testimony of Licensee.) She noted that in the past when she had stopped taking the medication she began to have problems with alcohol. (Testimony of Licensee.)

16. Also at hearing, Jaime Spofford, coworker and peer monitor of the Licensee, testified that she had been working with the Licensee for approximately a year and a half and that they enjoyed a very close professional relationship, working together daily on patient care and the inner workings of their office. (Testimony of Spofford.) Ms. Spofford reported that she had never noticed Licensee display any odd behavior or inappropriate cognition, that the Licensee came to work every day well-prepared, that the Licensee was a highly regarded resource regarding patient care, that she had been in the treatment room several times with the Licensee when they were collaboratively treating patients, and that the Licensee was very professional with patients and skilled at conveying treatment needs. (Testimony of Spofford.)

17. Dr. Curtis testified at hearing that he had been supervising the Licensee for 8 to 10 years across two settings. (Testimony of Curtis.) Dr. Curtis reiterated that he had reviewed almost all the Licensee's patient's records over those years and had observed her day-to-day activities in the office and found no observation of impaired cognition, issues with patients, or inappropriate behavior with colleagues. (Testimony of Curtis.) Dr. Curtis reiterated that in order for the Licensee to continue in her position she would need to have her license restored, noting that she had been a highly sought candidate when originally hired. (Testimony of Curtis.)

### **III. GOVERNING STATUTES AND RULES**

1. The Board may impose conditions of probation upon a licensee to run for such time period as the Board determines appropriate. Failure to comply with the conditions of probation is a ground for disciplinary action against a licensee. 10 M.R.S. § 8003(5)(A-1)(4).
2. For each violation of applicable laws, rules or conditions of licensure, the Board may issue warnings, censures or reprimand; suspend a license for up to 90 days for each violation of applicable laws, rules, and conditions of licensure; revoke a license; impose a civil penalty of up to \$1500 for each violation of applicable laws, rules and conditions of licensure; or impose conditions of probation upon a licensee. 10 M.R.S. § 8003(5)(A-1).
3. The Board may impose on a licensee the actual expenses incurred for the investigation and prosecution of a matter. 10 M.R.S. § 8003-D.

### **IV. CONCLUSIONS OF LAW**

The Board, considering the above facts and those alluded to in the record but not referred to herein, determined that it had jurisdiction over Alexandria Nesbit and concluded by unanimous vote that Ms. Nesbit failed to comply with the conditions of probation required by her Consent Agreement dated July 12, 2011, and its subsequent amendments, by consuming alcohol, in violation of 10 M.R.S. § 8003(5)(A-1)(4). The Board also approved the following sanctions by unanimous vote:

1. Ms. Nesbit will undergo a period of probation of five years under the following conditions:
  - a. Personal Use of Prescription Medication. Ms. Nesbit must completely abstain from the use of any and all Prohibited Substances except drugs that are dispensed or prescribed by a single primary care physician/medical provider or drugs that are dispensed or prescribed under circumstances that constitute a genuine medical or

surgical emergency. "Prohibited Substances" as used throughout this Consent Agreement shall mean: benzodiazepines; sedatives; hypnotics or similar drugs; opioids; alcohol; and mood, consciousness or mind-altering substances, whether illicit or not.

- i. If any controlled drug is dispensed or prescribed for Ms. Nesbit for a personal medical condition, Ms. Nesbit 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. In the event that Ms. Nesbit's primary care physician/medical care provider prescribes a medication for her that is to be taken on an ongoing basis, Ms. Nesbit shall submit a monthly written report to the Board that appraises the Board of the circumstances regarding the use of the prescribed medication.
  - ii. Any reliable evidence of Ms. Nesbit's use at any time in the future, whether in Maine or elsewhere, of any Prohibited Substance, including but not limited to benzodiazepines, sedatives, hypnotics, o p i o i d s , or alcohol, shall constitute a violation of this Decision and Order, which shall result in the immediate, indefinite automatic suspension of licensure, and proof of use may result in permanent revocation of licensure.
- b. Single Primary Care Physician/Medical Provider to Prescribe Medications.
- i. With the sole exception of medications permitted by the Board to be prescribed to her by her Board-approved treating psychiatrist, Ms. Nesbit shall only obtain her prescription medication(s) from the single primary care

physician/medical provider approved by the Board. Ms. Nesbit may not make any unilateral changes to the medication regimen prescribed for her by her Board-approved primary care physician/medical provider. Any and all prescriptions for medications that are prescribed to her by her Board-approved primary care physician/medical provider or psychiatrist shall be filled by her at CV Caremark, a mail order pharmacy. Ms. Nesbit shall notify the Board within 48 hours if she switches to a new pharmacy.

ii. Single Primary Care Physician/Medical Provider. Ms. Nesbit shall continue to obtain primary care treatment from the Board-approved primary care physician/medical provider who shall prescribe all necessary medications for Ms. Nesbit, and who shall coordinate Ms. Nesbit's treatment and pharmacological therapy with the Board-approved substance abuse and psychological providers. Such physician shall be knowledgeable about Ms. Nesbit's medical history, including her substance abuse history.

c. Substance Monitoring.

i. Ms. Nesbit will comply with all terms of the contract entered into with MPHP on September 5, 2013, for a period of five years, including the substance monitoring protocol. Pursuant to the contract with MPHP, the substance abuse monitoring protocol shall be: urine testing four times a month for the first year, three times a month for the second year, two times a month for the third year, and at a frequency recommended by MPHP for the

remainder of the contract; blood testing quarterly; and hair or nail testing at any time requested by MPHP.

- ii. Ms. Nesbit shall undergo additional substance abuse testing within 24 hours of any abnormal test results with such testing to be overseen by MPHP.
  - iii. Ms. Nesbit must ensure that all test results are reported promptly to the Board.
  - iv. Ms. Nesbit must report to the Board any test result evidencing any level of a Prohibited Substance, whether by urine or other sample, by telephone and in writing within 24 hours or as soon thereafter as possible.
  - v. Notwithstanding any other provision of this Decision and Order, the Board, the Supervising Physician, or the Board's agent may request Ms. Nesbit 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 Ms. Nesbit's Maine physician assistant license, unless proof of genuine emergent medical circumstances (for Ms. Nesbit or a patient) exist which warrant less serious disciplinary actions being taken by the Board.
- d. Reporting Test Results.
- i. 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. Ms. Nesbit shall ensure that all reports are made to the Board in a timely fashion.



- ii. If any test is positive (i.e., in any manner evidences any use of any Prohibited Substance - including a positive result for the presence of ethyl glucuronide, a metabolite of alcohol), then the result shall be the immediate, indefinite, automatic suspension of Ms. Nesbit's physician assistant 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 become effective at the time that Ms. Nesbit 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.
  - iii. After receiving a positive report evidencing use by the Licensee of any Prohibited Substance, the Board shall investigate the situation, including demanding a response from Ms. Nesbit. The Board will hold a hearing within 60 days of the automatic suspension or as soon thereafter as practicable (unless both Ms. Nesbit and the Board agree to hold the hearing later) and it shall be held pursuant to the Maine Administrative Procedures Act.
- e. Failure to Maintain Sampling Schedule or Failure to Appear or to Provide Sample.
- i. Failure by Ms. Nesbit 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. Reporting: If Ms. Nesbit 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 Ms. Nesbit 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 Sample: If Ms. Nesbit 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 licensure. The suspension shall begin the moment of the occurrence.
- c. Suspension: An immediate, indefinite suspension of licensure shall result from any failure by Ms. Nesbit 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 Ms. Nesbit actually learns a report has been made or sent to the Board.
- d. Meeting with Board: Both Ms. Nesbit and the Supervising Physician shall, at the discretion of the Board, be required to appear before the Board regarding this situation at its next

regularly scheduled Board meeting, unless the next meeting is to be held within 15 days of the suspension, in which case they may be scheduled to appear at the subsequent regularly scheduled Board meeting.

- e. Board Action: The Board may order Ms. Nesbit's Maine physician assistant license reinstated or, if appropriate, may continue the suspension and may set the matter for hearing. The Board shall attempt to hold a hearing within 60 days of the automatic suspension, or as soon thereafter as practicable, at which time it may take such action as it deems appropriate, including without limitation, reinstatement, fines, probation, suspension, non-renewal and revocation.

f. Professional Management.

- i. Psychiatric Treatment. Within one month, Ms. Nesbit must submit the name of a psychiatrist for approval by the Board. Ms. Nesbit will obtain psychiatric treatment from the Board-approved psychiatrist pursuant to a plan of treatment. The Board-approved psychiatrist should specifically evaluate the Licensee's need for continued prescription of Clonazepam. The Board-approved psychiatrist shall report to the Board within three months as to the plan of treatment for the Licensee, which will be subject to the Board's approval.
- ii. Mental Health Treatment. Ms. Nesbit shall continue to obtain treatment from the previously Board-approved licensed individual or

agency in the treatment of mental health issues for the purpose of working on all issues pertaining to her mental health issues. The Board in its discretion may approve the same individual approved by the Board to provide Ms. Nesbit with substance abuse treatment to provide her with mental health treatment pursuant to this paragraph. The therapy sessions shall occur weekly or at such intervals as recommended by the treatment provider and continue until the therapist notifies the Board that treatment is no longer necessary or useful.

- iii. Prior Evaluation and Treatment Records. Ms. Nesbit shall execute all releases necessary to permit the transmission and disclosure of all records from previous treatment providers to the Board-approved primary care physician/medical provider and Board-approved treatment provider(s).
- iv. Communication of Treatment Providers. All treatment providers involved in Ms. Nesbit's care shall have full communication allowed among themselves, any prior treatment providers and, when requested, with the Board or its agent(s).
- g. Change of Primary Care Physician or Treatment Providers.
  - i. Change of Provider. If Ms. Nesbit desires to change her primary care physician/medical provider or treatment provider(s), then she shall make written application to the Board, including among other things a letter regarding her reasons for requesting such change(s) and separate letters from the current primary care physician/medical provider or treatment provider(s) and the proposed new primary care

physician/medical provider or treatment provider(s) relative to their understanding of the reasons for this request and, to the extent applicable, any concerns they may have. If the request is denied, Ms. Nesbit should propose another primary care physician or treatment provider for approval.

- ii. Reports from Treatment Providers. Ms. Nesbit shall ensure that on or before September 9th, December 9th, March 9th and June 9th of each year for the duration of Ms. Nesbit's period of probation, the Board-approved treatment providers submit to the Board a written report regarding: Ms. Nesbit's compliance with her schedule of meetings; Ms. Nesbit's ability to continue practicing medicine; and the prognosis of Ms. Nesbit's continued recovery. In addition, the treatment providers shall immediately notify the Board in writing whenever: (1) in his/her professional judgment, Ms. Nesbit poses a potential danger to the health, safety and welfare of patients; or (2) Ms. Nesbit terminates treatment or is non-compliant with the treatment plan.
- iii. Board Investigation. At any time the Board may deem appropriate, the Board or its agent may contact Ms. Nesbit and/or the Board-approved treatment providers to obtain further information relative to Ms. Nesbit. In addition, if the Board deems it appropriate, it may directly contact the treatment providers regarding any issues concerning Ms. Nesbit's treatment. In complying with this requirement, Ms. Nesbit waives any privileges concerning such information, reports, records and disclosures to

the Board. Ms. Nesbit shall execute any and all releases necessary to enable the Board and/or the Attorney General to communicate directly with her treatment provider(s) and to obtain copies of any and all notes, records, and documentation concerning his treatment.

h. Professional Oversight.

- i. Clinical Setting Inspections. Ms. Nesbit shall provide the Board with all locations where she practices. In addition, Ms. Nesbit shall permit the Board or its agents to conduct announced and/or unannounced inspections of all locations where she practices. Ms. Nesbit shall reimburse the Board for any actual costs incurred as a result of any inspection performed pursuant to this section.
- ii. Physician Monitor. Ms. Nesbit must have a Board-approved physician monitor who shall monitor her and a temporary monitor, who does not have to be a physician, if the monitor physician is unavailable. The physician monitor or the temporary monitor must be in direct physical contact with Ms. Nesbit and observe her within her medical practice at least four days each week during a five-day work week, and shall inform the Board if Ms. Nesbit demonstrates any issues with regard to isolation, inappropriate boundaries or decision-making, ability to concentrate, absenteeism, drug abuse, incompetence, unprofessionalism or any other concerns. If a report to the Board is required, the physician monitor or the temporary monitor shall report such information to the Board by telephone and in writing within 24 hours or as soon thereafter as possible. In the event that the physician monitor is on vacation or will not

otherwise be at the practice four days during a five-day work week, Ms. Nesbit will provide advanced written notice to the Board and the MPHP regarding the dates on which the physician monitor will be on vacation or otherwise away. The physician monitor and/or temporary monitor will be agents of the Board pursuant to Title 24 M.R.S. § 2511. Ms. Nesbit shall permit the physician monitor and/or temporary monitor full access to her medical practice, including but not limited to all patient information. The Board-approved physician monitor shall provide the Board with reports regarding Ms. Nesbit's medical practice on or before September 9th, December 9th, March 9th, and June 9th of each year during the period of Ms. Nesbit's probation.

i. Self-Help Group Meetings.

- i. Attendance at AA and NA. Ms. Nesbit must attend Alcoholics Anonymous ("AA") and/or Narcotic Anonymous ("NA") or another non-faith-based self-help group meeting approved by the Board a minimum of twice per week.
- ii. Impaired Physicians Self-Help Group. Ms. Nesbit shall attend self-help group meetings of an impaired medical professional group (i.e., Caduceus) on a regular basis. 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. Ms. Nesbit shall submit a signed, written quarterly report of her attendance at AA, NA or impaired professional

self-help group meetings to the Board on or before September 9th, December 9th, March 9th and June 9th of each year. 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. Reasonable explanations may exist for occasionally missing a meeting; however, unexcused continuous or repeated failures to comply with the requirements of this section shall constitute a violation of the Decision and Order which, after hearing before the Board, can result in licensure discipline, including without limitation a fine, suspension, non-renewal, or revocation of Ms. Nesbit's Maine physician assistant license.

j. Maintenance of Obligations When Away.

i. General. Ms. Nesbit is required to maintain her obligations under this Decision and Order regarding substance monitoring and self-help group meetings at all times, including times when she is away from home but within the continental limits of the United States. Ms. Nesbit will notify the Director of MPHP sufficiently in advance of travel to make whatever arrangements the Director deems appropriate for monitoring before she leaves. It shall be Ms. Nesbit's obligation to ensure that arrangements are made consistent with this Decision and Order in such other location(s) to ensure the continuation and satisfaction of her obligations under this Decision and Order. Any such occurrences shall be noted in writing sent



to the Board by Ms. Nesbit explaining the arrangements made and how the arrangements were carried out.

- ii. Failure to Comply. Any failure by Ms. Nesbit to meet the conditions of the Decision and Order outside of Maine shall constitute a violation of this Decision and Order and may result in the immediate suspension by the Board of Ms. Nesbit's Maine physician assistant license pending hearing, and, following hearing, other sanctions as permitted by law including but not limited to suspension, modification, or revocation of licensure.

k. Maintenance of License.

- i. Ms. Nesbit shall maintain her Maine physician assistant license. In the event that Ms. Nesbit applies for licensure in other jurisdictions during the period of probation, Ms. Nesbit shall notify said jurisdiction of the existence of this Decision and Order.

l. Sanction for Violation of Decision and Order.

- i. Automatic Suspension. Any reliable oral or written report to the Board of violation(s) of the terms and conditions of this Decision and Order by Ms. Nesbit shall result in the immediate, indefinite, and automatic suspension of Ms. Nesbit's Maine physician assistant license. The automatic suspension of Ms. Nesbit's Maine physician assistant license shall become effective at the time that she 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.

- ii. Continued Suspension; Other Sanctions. Ms. Nesbit'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 Ms. Nesbit 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.
  
- m. Designated Copy of Decision and Order. Ms. Nesbit shall have her supervising physician, physician monitor, temporary monitor, and all treatment providers read, date, and sign a copy of the Decision and Order. Ms. Nesbit shall retain a copy of the Decision and Order signed by all of the aforementioned individuals at her Board-approved medical practice locations 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. Ms. Nesbit agrees that if new individuals assume the roles set forth in this Decision and Order, such individuals shall also read, date and sign the Decision and Order, and she shall send a copy of the updated signature page to the Board. Ms. Nesbit shall provide a copy of this Decision and Order to any hospital or medical practice with whom she becomes affiliated.

n. Address Change. If Ms. Nesbit changes jobs, moves her residence or practice, changes telephone numbers at work or at home, or secures privileges at a hospital, she shall provide written notice to the Board within 10 days of any such change. In addition, Ms. Nesbit shall notify the Board of any attempts to seek licensure in another jurisdiction and shall disclose to the licensing authority in such jurisdiction her status with this Board.

2. Ms. Nesbit to be assessed costs of this proceeding, not to exceed \$500, to be paid within six months.
3. Ms. Nesbit's license to be restored effective immediately as of the date of hearing.

So Ordered.

Dated: November 25, 2013



Maroulla S. Gleaton, M.D.  
Chair, State of Maine Board of Licensure in Medicine

## **V. APPEAL RIGHTS**

Pursuant to the provisions of 10 M.R.S. § 8003(5) and 5 M.R.S. § 11002(3), any party that appeals this Decision and Order must file a Petition for Review in the Superior Court within 30 days of receipt of this Order. The petition shall specify the person seeking review, the manner in which they are aggrieved and the final agency action which they wish reviewed. It shall also contain a concise statement as to the nature of the action or inaction to be reviewed, the grounds upon which relief is sought and a demand for relief. Copies of the Petition for Review shall be served by certified mail, return receipt requested, upon the State of Maine Board of Licensure in Medicine, all parties to the agency proceedings, and the Attorney General.

STATE OF MAINE  
BOARD OF LICENSURE IN MEDICINE

<u>In re:</u>	)	SECOND AMENDMENT TO
Alexandria E. Nesbit, PA-C	)	CONSENT AGREEMENT
Complaint No. CR10-524	)	

This document is a Second Amendment to a Consent Agreement effective July 12, 2011, regarding a disciplinary action against and conditions imposed upon the license to practice as a physician assistant in the State of Maine held by Alexandria E. Nesbit, PA-C. The parties to this Second Amendment of that Consent Agreement are:

Alexandria E. Nesbit, PA-C (“Ms. Nesbit”), the State of Maine Board of Licensure in Medicine (“the Board”), and the Office of the Attorney General (the “Attorney General”).

This Second Amendment to Consent Agreement is entered into pursuant to 32 M.R.S. § 3282-A and 10 M.R.S. § 8003(5).

**BACKGROUND**

1. On July 12, 2011, the parties entered into a Consent Agreement regarding a disciplinary action concerning and conditions imposed upon the license to practice as a physician assistant in the State of Maine held by Alexandria E. Nesbit, PA-C.

2. On October 28, 2011, the parties entered into a First Amendment to Consent Agreement.

3. On August 8, 2012, the Board received a written request from Ms. Nesbit to:

- a. Reduce the frequency of her substance monitoring based upon her completion of 150 substance screens over a 3 year period, all of which have been negative. Ms. Nesbit requested that the Consent

Agreement be amended to require her to undergo substance screens monthly with the stipulation that she submit to additional screens upon request of the Board, her Monitor, her Physician Supervisor (MPHP), her counselor or her Primary Care Provider.

- b. Reduce the frequency of her sessions with her substance abuse counselor.

4. On September 11, 2012, the Board reviewed Ms. Nesbit's written request. Following its review, the Board voted to amend the Consent Agreement by reducing the frequency of substance screens to fifteen (15) per year. The Board declined to reduce the frequency of Ms. Nesbit's sessions with her substance abuse counselor.

#### AMENDMENT

5. Ms. Nesbit, the Board, and the Office of Attorney General hereby agree to amend the Consent Agreement dated July 12, 2011, as follows:

- a. By amending paragraph 8(b)(3)(c) to read as follows:

Frequency of Urine Testing. It is Ms. Nesbit's obligation to ensure that all the samples are given and tests occur as specified in this Consent Agreement. Testing shall be randomly scheduled. Notwithstanding any other provision of this Consent Agreement, the Board, the Supervising Physician, or the Board's agent may request Ms. Nesbit 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 Ms. Nesbit's Maine medical license, unless proof of genuine emergent medical circumstances (for Ms. Nesbit or a patient) exist which warrant less serious disciplinary actions being taken by the Board. For the indefinite period following the execution of this Second Amendment to Consent Agreement, Ms. Nesbit shall submit to random testing for the presence of Prohibited Substances at least fifteen (15) times every twelve (12) months.

- b. By amending paragraph 8(b)(3)(j) to read as follows:

Additional Testing. Notwithstanding paragraph 8(b)(c)(c) above, the Board, Ms. Nesbit's Board-approved monitor, the MPHP, or Ms. Nesbit's primary care provider can, in their sole discretion, without hearing, unilaterally direct that Ms. Nesbit submit to additional testing for the presence of Prohibited Substances. Any decision made by the Board, Ms. Nesbit's Board-approved monitor, or the MPHP pursuant to this paragraph does not require a hearing and is not appealable. Ms. Nesbit's failure to submit to additional testing pursuant to this paragraph shall constitute a violation of her Consent Agreement and grounds for discipline.

6. Ms. Nesbit acknowledges by her signature hereto that all other terms and conditions of the Consent Agreement effective July 12, 2011, as amended by the First Amendment to Consent Agreement dated October 28, 2011 and this Second Amendment to Consent Agreement, remain in full force and effect.

7. Ms. Nesbit acknowledges by her signature hereto that she has read this Second Amendment to Consent Agreement, that she has had an opportunity to consult with an attorney before executing this Second Amendment, that she executed this Second Amendment of her own free will and that she agrees to abide by all terms and conditions set forth herein.

**I, ALEXANDRIA E. NESBIT, PA-C, HAVE READ AND UNDERSTAND THE FOREGOING SECOND AMENDMENT TO CONSENT AGREEMENT AND AGREE WITH ITS CONTENTS AND TERMS. I FURTHER UNDERSTAND THAT BY SIGNING I WAIVE CERTAIN RIGHTS INCLUDING THE RIGHT TO FURTHER HEARINGS REGARDING THIS AMENDMENT. I ALSO WAIVE THE RIGHT TO APPEAL TO THE COURT REGARDING THIS AMENDMENT. KNOWING THIS, I SIGN IT VOLUNTARILY, WITHOUT ANY THREAT OR PROMISE. I UNDERSTAND THAT THIS SECOND AMENDMENT, TOGETHER WITH THE CONSENT AGREEMENT, CONTAINS THE ENTIRE AGREEMENT AND THERE IS NO OTHER AGREEMENT OF ANY KIND, VERBAL, WRITTEN, OR OTHERWISE. I ACKNOWLEDGE THAT I HAVE HAD THE OPPORTUNITY TO DISCUSS THIS AGREEMENT WITH LEGAL COUNSEL PRIOR TO SIGNING IT.**

Dated: 10-10-12

Alexandria E Nesbit PA-C  
ALEXANDRIA E. NESBIT, PA-C

STATE OF MAINE  
HANCOCK, SS.

Before me this 10 day of October, 2012, personally appeared Alexandria E. Nesbit, PA-C, who after first being duly sworn, signed the foregoing Second Amendment to Consent Agreement in my presence or affirmed that the signature above is her own.

N H Ripardeon  
Notary Public/Attorney at Law  
My commission expires: 6-25-17

STATE OF MAINE  
BOARD OF LICENSURE IN MEDICINE

DATED: 10/19/12

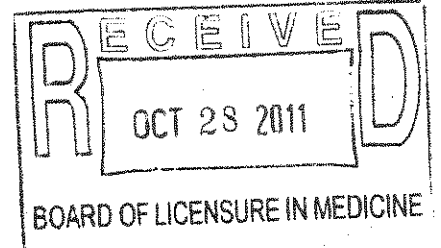
Gary R Hatfield  
GARY R. HATFIELD, M.D., Chairman

STATE OF MAINE DEPARTMENT  
OF THE ATTORNEY GENERAL

DATED: 10/23/12

Dennis E Smith  
DENNIS E. SMITH  
Assistant Attorney General

Effective Date: 10/23/12



STATE OF MAINE  
BOARD OF LICENSURE IN MEDICINE

In re: ) FIRST AMENDMENT TO  
Alexandria E. Nesbit, PA-C ) CONSENT AGREEMENT  
Complaint No. CR10-524 )

This document is a First Amendment to a Consent Agreement effective July 12, 2011, regarding a disciplinary action against and conditions imposed upon the license to practice as a physician assistant in the State of Maine held by Alexandria E. Nesbit, PA-C. The parties to this First Amendment of that Consent Agreement are: Alexandria E. Nesbit, PA-C (“Ms. Nesbit”), the State of Maine Board of Licensure in Medicine (“the Board”), and the Office of the Attorney General (the “Attorney General”). This First Amendment to Consent Agreement is entered into pursuant to 32 M.R.S. § 3282-A and 10 M.R.S. § 8003(5).

**BACKGROUND**

1. On July 12, 2011, the parties entered into a Consent Agreement regarding a disciplinary action concerning and conditions imposed upon the license to practice as a physician assistant in the State of Maine held by Alexandria E. Nesbit, PA-C.

2. On July 27, 2011, the Board received a written request from Ms. Nesbit to approve, among other things, Kathy Bouton-Semmel, PA-C as her “primary care physician” under the terms of the Consent Agreement.

3. On September 13, 2011, the Board reviewed Ms. Nesbit’s written request. In addition, the Board reviewed the terms of the Consent Agreement, and noted that it provided for a Board-approved “primary care physician” and that Ms. Bouton-Semmel, PA-C was not a physician. In addition, however, the Board considered Ms. Nesbit’s



request to be reasonable, and voted to amend the Consent Agreement in order to allow it to approve Ms. Bouton-Semmel as Ms. Nesbit's primary care physician or other healthcare provider approved by the Board.

#### AMENDMENT

4. Ms. Nesbit, the Board, and the Office of Attorney General hereby agree to amend the Consent Agreement dated July 12, 2011, as follows:

a. By amending paragraph 8(b)(1) to read as follows:

ABSTINENCE. Ms. Nesbit agrees that, following the execution of this Consent Agreement, she shall completely abstain from the use of any and all Prohibited Substances except drugs that are dispensed or prescribed by a single primary care physician/medical provider pursuant to paragraph 8(b)(4)(c) of this Consent Agreement or drugs that are dispensed or prescribed under circumstances that constitute a genuine medical or surgical emergency. "Prohibited Substances" as used throughout this Consent Agreement shall mean: benzodiazepines; sedatives; hypnotics or similar drugs; opiates; alcohol; Fentanyl; morphine, Demerol, Vicodin, Percocet, mood, consciousness or mind-altering substances, whether illicit or not.

b. By amending paragraph 8(b)(1)(a) to read as follows:

Prescription Medication. If any controlled drug is dispensed or prescribed for Ms. Nesbit for a personal medical condition, Ms. Nesbit 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. In the event that Ms. Nesbit's primary care physician/medical provider prescribes a medication for her that is to be taken on an ongoing basis, Ms. Nesbit shall submit a monthly written report to the Board that appraises the Board of the circumstances regarding the use of the prescribed medication.

c. By amending paragraph 8(b)(2) to read as follows:

SINGLE PHYSICIAN/MEDICAL PROVIDER. Ms. Nesbit

agrees and understands that, with the sole exception of medications permitted by the Board to be prescribed to her by her Board-approved treating psychiatrist, she shall only obtain her prescription medication(s) from a single primary care physician/medical provider approved by the Board pursuant to paragraph 8(b)(4)(c) below. Ms. Nesbit agrees and understands that she will not make any unilateral changes to the medication regimen prescribed for her by her Board approved primary care physician/medical provider. In addition, Ms. Nesbit agrees that any and all prescriptions for medications that are prescribed to her by her Board-approved primary care physician/medical provider and psychiatrist shall be filled by her by CVS Caremark, a mail order pharmacy. Ms. Nesbit agrees and understands that the Board and the Department of Attorney General shall have an irrevocable right during the duration of this Consent Agreement to access any and all documents and records generated by CVS Caremark in connection with Ms. Nesbit's compliance under this Consent Agreement. Ms. Nesbit waives any privileges concerning such information, reports, or records, and agrees to execute any and all releases necessary to permit the Board to access such information. Within 48 hours after executing this Consent Agreement, Ms. Nesbit will provide the Board with all necessary contact information for CVS Caremark. Moreover, Ms. Nesbit shall notify the Board within 48 hours if she switches to a new pharmacy.

d. By amending paragraph 8(b)(4)(c) to read as follows:

Single Primary Care Physician/Medical Provider. Within thirty (30) days following the execution of this Consent Agreement, Ms. Nesbit shall submit for Board approval the name of a primary care physician/medical provider who shall prescribe all necessary medications for Ms. Nesbit, and who shall coordinate Ms. Nesbit's treatment and pharmacological therapy with the Board-approved substance abuse and psychological providers. Such physician/medical provider shall be knowledgeable of Ms. Nesbit's medical history, including her substance abuse history. The Board shall retain the sole discretion, without hearing, to grant or deny approval of the primary care physician/medical provider proposed by Ms. Nesbit. Ms. Nesbit acknowledges that any decision by the Board concerning this issue is not appealable.

e. By amending paragraph 8(b)(4)(g) to read as follows:

Change of Primary Care Physician/Medical Provider or Treatment Provider(s). If Ms. Nesbit desires to change her primary care provider/medical provider or treatment provider(s), then she shall make written application to the Board, including among other things a letter regarding her reasons for requesting such change(s) and separate letters from the current primary care physician/medical provider or treatment provider(s) and the proposed new primary care physician/medical provider or 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. Ms. Nesbit acknowledges that any decision by the Board concerning this issue is not appealable. If the request is denied, nothing precludes Ms. Nesbit from proposing another primary care physician/medical provider or treatment provider for approval. In requesting a change of primary care physician/medical provider or treatment provider, Ms. Nesbit understands that the Board may inquire into any issues it deems pertinent with any person, including, without limitation, the current primary care physician/medical provider or treatment provider(s).

f. By amending paragraph 10 to read as follows:

Ms. Nesbit shall have her supervising physician/medical provider, monitoring physician and all treatment providers read, date, and sign a copy of the Consent Agreement (the "Designated Copy"). Ms. Nesbit shall retain a copy of the Consent Agreement signed by all of the aforementioned individuals at her Board-approved medical practice locations 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. Ms. Nesbit agrees that if new individuals assume the roles set forth in this Consent Agreement during the existence of this Consent Agreement, such individuals shall also read, date and sign the Consent Agreement, and she shall send a copy of the updated signature page to the Board.

Ms. Nesbit shall provide a copy of this Consent Agreement to any hospital or medical practice with whom she becomes affiliated.

5. Ms. Nesbit acknowledges by her signature hereto that all other terms and

conditions of the Consent Agreement effective July 12, 2011, as amended by this First Amendment to Consent Agreement, remain in full force and effect.

6. Ms. Nesbit acknowledges by her signature hereto that she has read this First Amendment to Consent Agreement, that she has had an opportunity to consult with an attorney before executing this First Amendment, that she executed this First Amendment of her own free will and that she agrees to abide by all terms and conditions set forth herein.

**I, ALEXANDRIA E. NESBIT, PA-C, HAVE READ AND UNDERSTAND THE FOREGOING FIRST AMENDMENT TO CONSENT AGREEMENT AND AGREE WITH ITS CONTENTS AND TERMS. I FURTHER UNDERSTAND THAT BY SIGNING I WAIVE CERTAIN RIGHTS INCLUDING THE RIGHT TO FURTHER HEARINGS REGARDING THIS AMENDMENT. I ALSO WAIVE THE RIGHT TO APPEAL TO THE COURT REGARDING THIS AMENDMENT. KNOWING THIS, I SIGN IT VOLUNTARILY, WITHOUT ANY THREAT OR PROMISE. I UNDERSTAND THAT THIS FIRST AMENDMENT, TOGETHER WITH THE CONSENT AGREEMENT, CONTAINS THE ENTIRE AGREEMENT AND THERE IS NO OTHER AGREEMENT OF ANY KIND, VERBAL, WRITTEN, OR OTHERWISE. I ACKNOWLEDGE THAT I HAVE HAD THE OPPORTUNITY TO DISCUSS THIS AGREEMENT WITH LEGAL COUNSEL PRIOR TO SIGNING IT.**

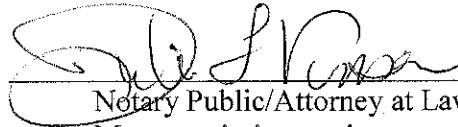
Dated: 10-17-2011

Alexandria E Nesbit PA-C  
ALEXANDRIA E. NESBIT, PA-C


STATE OF MAINE  
Penobscot, SS.

Before me this 17 day of October, 2011, personally appeared Alexandria E. Nesbit, PA-C, who after first being duly sworn, signed the foregoing First Amendment to Consent Agreement in my presence or affirmed that the signature above is her own.

**Julie L. Vinson**  
Notary Public - State of Maine  
My Commission Expires 10/21/2017


  
\_\_\_\_\_  
Notary Public/Attorney at Law  
My commission expires:

DATED: 10-18-11

  
\_\_\_\_\_  
TRAVIS M. BRENNAN, ESQ.  
Attorney for Alexandria E. Nesbit, P.A.-C


STATE OF MAINE  
BOARD OF LICENSURE IN MEDICINE

DATED: 10/25/11

  
\_\_\_\_\_  
GARY R. HATFIELD, M.D., Chairman

STATE OF MAINE DEPARTMENT  
OF THE ATTORNEY GENERAL

DATED: 10/25/11

  
\_\_\_\_\_  
DENNIS E. SMITH  
Assistant Attorney General

Effective Date: 10/25/11

STATE OF MAINE  
BOARD OF LICENSURE IN MEDICINE

In re: )  
Alexandria E. Nesbit, P.A.-C ) CONSENT AGREEMENT  
Complaint Nos. CR10-524 )

This document is a Consent Agreement,<sup>1</sup> effective when signed by all parties, regarding disciplinary action against and modifications to and conditions imposed upon the license to practice as a physician assistant in the State of Maine issued to Alexandria E. Nesbit, P.A.-C. The parties to the Consent Agreement are: Alexandria E. Nesbit, P.A.-C (“Ms. Nesbit”), the State of Maine Board of Licensure in Medicine (“the Board”) and the State of Maine Department of the Attorney General (“the Attorney General”). This Consent Agreement is entered into pursuant to 10 M.R.S. § 8003(5)(B) and 32 M.R.S. § 3282-A.

STATEMENT OF FACTS

1. Ms. Nesbit has held a license to practice as a physician assistant in the State of Maine since September 9, 2005.
2. In November 2010, the Board reviewed information from the Maine Medical Professionals Health Program (MPHP) indicating that Ms. Nesbit had relapsed to the use of alcohol. In addition, the Board reviewed a police report regarding Ms. Nesbit’s arrest for Operating Under the Influence (O.U.I.). Following its review of this information, and pursuant to 32 M.R.S. § 3282-A, the Board voted to initiate a complaint against Ms. Nesbit’s Maine physician assistant license. The Board docketed the complaint as CR10-524.
3. On or about February 3, 2011, the Board received a response from Ms. Nesbit to complaint CR10-524. In her response, Ms. Nesbit admitted that she had relapsed to the use of alcohol and was arrested and convicted for O.U.I. In addition, Ms. Nesbit indicated that as a result of this relapse she enrolled in and successfully completed a six week in-patient treatment program and continues to participate in the MPHP.
4. On April 12, 2011, the Board reviewed complaint CR10-524. Following its review, the Board voted to schedule the complaint for an adjudicatory hearing. In addition, the Board authorized its legal counsel to negotiate a consent agreement to resolve complaint CR10-524 without hearing.
5. Absent Ms. Nesbit’s acceptance of this Consent Agreement by signing and

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<sup>1</sup> Nothing in this Consent Agreement should be construed as a restriction on Ms. Nesbit’s ability to practice within the scope of her license. Ms. Nesbit retains the ability to practice at the full clinical practice level of her license.

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 July 8, 2011, the matter shall be scheduled for an adjudicatory hearing at a later date.

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

#### COVENANTS

7. Ms. Nesbit admits, based upon the evidence in possession of the Board that with regard to complaint CR10-524, the Board has sufficient evidence from which it could reasonably find that Ms. Nesbit violated 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." Ms. Nesbit acknowledges that such conduct would constitute grounds for discipline of her Maine medical license.

#### DISCIPLINE/CONDITIONS OF LICENSURE

8. In light of the admissions in paragraph 7 above, as well as Ms. Nesbit's acceptance of responsibility, her efforts to seek treatment and her commitment to refrain from the use of alcohol and to maintain a healthy and continuous recovery, the Board agrees to impose and Ms. Nesbit agrees to accept the following discipline:

a. Pay a FINE of Two Thousand Dollars and Zero Cents (\$2,000.00). However, payment of the fine is suspended so long as Ms. Nesbit complies with all of the terms and conditions of this Consent Agreement, including all of the reporting requirements. Ms. Nesbit agrees that, in the event that she fails to meet any of the reporting or other time requirements set out in this Consent Agreement (without having requested an extension prior to the due date and having that request granted by the Board), the Board may, in its sole discretion, summarily and without an adjudicatory hearing, "activate" any or all of the amount of the suspended fine. The Board shall notify Ms. Nesbit in writing of the activation of all or a portion of the suspended fine. Ms. Nesbit agrees and understands that she must pay the amount of the fine "activated" by the Board within 30 days of receiving notice that the fine was activated. Payment shall be by cashier's check or money order made out to "Treasurer, State of Maine." In addition, the parties agree and understand that the Board's decision not to "activate" all or a portion of the suspended fine for one instance of noncompliance with a reporting or other time requirement does not constitute a waiver of the Board's right to "activate" all or a portion of the fine regarding a subsequent instance of non-compliance. If Ms. Nesbit fails to pay an "activated" fine within the 30 days as provided by this section, the Board may "activate" all or a portion of the remaining portion of the "suspended" fine. Any decision by the Board pursuant to this section does not require an adjudicatory hearing and is non-appealable.

b. A LICENSE PROBATION of five (5) years with the following conditions, which shall remain in place for five (5) years following the execution<sup>2</sup> of this Consent Agreement unless this Consent Agreement is first amended or rescinded by agreement of all of the parties hereto:

(1). ABSTINENCE. Ms. Nesbit agrees that, following the execution of this Consent Agreement, she shall completely abstain from the use of any and all Prohibited Substances except drugs that are dispensed or prescribed by a single primary care physician pursuant to paragraph 8(b)(4)(c) of this Consent Agreement or drugs that are dispensed or prescribed under circumstances that constitute a genuine medical or surgical emergency. "Prohibited Substances" as used throughout this Consent Agreement shall mean: benzodiazepines; sedatives; hypnotics or similar drugs; opiates; alcohol; Fentanyl; morphine, Demerol, Vicodin, Percocet, mood, consciousness or mind-altering substances, whether illicit or not.

(a). Prescription Medication. If any controlled drug is dispensed or prescribed for Ms. Nesbit for a personal medical condition, Ms. Nesbit 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. In the event that Ms. Nesbit's primary care physician prescribes a medication for her that is to be taken on an ongoing basis, Ms. Nesbit shall submit a monthly written report to the Board that appraises the Board of the circumstances regarding the use of the prescribed medication.

(b). Future Use of Prohibited Substances Shall Result in Loss of Licensure. Ms. Nesbit agrees and understands that any reliable evidence of her use at any time in the future, whether in Maine or elsewhere, of any Prohibited Substance, including but not limited to benzodiazepines, sedatives, hypnotics, opiates, Fentanyl, morphine, Demerol, or alcohol, shall constitute a violation of this Consent Agreement, which **SHALL RESULT IN THE IMMEDIATE, INDEFINITE AUTOMATIC SUSPENSION OF LICENSURE, AND PROOF OF USE MAY RESULT IN PERMANENT REVOCATION OF LICENSURE.**

(2). SINGLE PHYSICIAN. Ms. Nesbit agrees and understands that, with the sole exception of medications permitted by the Board to be prescribed to her by her Board-approved treating psychiatrist, she shall only obtain her prescription medication(s) from a single primary care physician approved by the Board pursuant to paragraph 8(b)(4)(c) below. Ms. Nesbit agrees and understands that she will not make any unilateral changes to the medication regimen prescribed for her by her Board approved primary care physician. In addition, Ms. Nesbit agrees that any and all prescriptions for medications that are prescribed to her by her Board-approved primary care physician and psychiatrist shall be filled by her by CVS

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<sup>2</sup> For the purpose of this Consent Agreement the term "execution" means the date on which the final signature is affixed to this Consent Agreement.



Caremark, a mail order pharmacy. Ms. Nesbit agrees and understands that the Board and the Department of Attorney General shall have an irrevocable right during the duration of this Consent Agreement to access any and all documents and records generated by CVS Caremark in connection with Ms. Nesbit's compliance under this Consent Agreement. Ms. Nesbit waives any privileges concerning such information, reports, or records, and agrees to execute any and all releases necessary to permit the Board to access such information. Within 48 hours after executing this Consent Agreement, Ms. Nesbit will provide the Board with all necessary contact information for CVS Caremark. Moreover, Ms. Nesbit shall notify the Board within 48 hours if she switches to a new pharmacy.

(3). SUBSTANCE MONITORING.<sup>3</sup> Ms. Nesbit understands and agrees that, for the duration of this Consent Agreement, she will undergo some level of substance monitoring to test whether she 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. Ms. Nesbit irrevocably agrees that the Board and the Maine Department of Attorney General will have full access to all test data and reports. Ms. Nesbit 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 her substance monitoring.

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

(b). 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 opiates (*ie.* Fentanyl, morphine, Demerol).

(c). Frequency of Urine Testing. It is Ms. Nesbit's obligation to ensure that all the samples are given and tests occur as specified in this Consent Agreement. Testing shall be randomly scheduled. Notwithstanding any other provision of this Consent Agreement, the Board, the Supervising Physician, or the Board's agent may request Ms. Nesbit 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 Ms. Nesbit's Maine medical license, unless proof of genuine emergent medical circumstances (for Ms. Nesbit or a patient) exist which warrant less serious disciplinary actions being taken by the Board. For the indefinite period following the execution of this Consent Agreement, Ms. Nesbit shall provide urine samples for testing for the presence of Prohibited Substances at least once a week.

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<sup>3</sup> The substance abuse monitoring pursuant to this Consent Agreement may, at the approval of the Board, be performed by the Medical Professionals Health Program.

(d). Reporting Test Results. It is Ms. Nesbit's responsibility to ensure that all test results are reported promptly to the Board.

(i). 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.

(ii). 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. Ms. Nesbit shall ensure that all reports are made to the Board in a timely fashion.

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

(e). Rebuttable Presumption Raised by Positive Test. It is agreed and understood that a test evidencing the presence of any Prohibited Substance, shall raise a rebuttable presumption that such substance was in fact used by Ms. Nesbit. Such a positive test result shall alone, including any test result showing the presence of ethyl glucuronide, be sufficient to prove the use of the Prohibited Substance by Ms. Nesbit. Ms. Nesbit further agrees that the result of the test may be admitted into evidence in any proceeding regarding her Maine medical license, whether before the Board or before a Court of competent jurisdiction. Ms. Nesbit 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, Ms. Nesbit 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 Ms. Nesbit has a positive screen for morphine, opiates and/or alcohol, Ms. Nesbit 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.

(f). 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 – including a positive result for the presence of ethyl glucuronide, a metabolite of alcohol), then the result shall be the immediate, indefinite, automatic suspension of Ms. Nesbit'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 become effective at the time that Ms. Nesbit 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.

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

(h). Failure to Maintain Sampling Schedule or Failure to Appear or to Provide Sample. Failure by Ms. Nesbit: 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:

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

(ii). Second Opportunity to Provide Urine Sample. If Ms. Nesbit 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.

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

(iv). Meeting with Board. Both Ms. Nesbit and the Supervising Physician shall, at the discretion of the Board, be required to appear before the Board regarding this situation at its next regularly scheduled Board meeting, unless the next meeting is to be held within 15 days of the suspension, in which case they may be scheduled to appear at the subsequent regularly scheduled Board meeting.

(v). Board Action. The Board may order Ms. Nesbit's Maine medical license reinstated or, if appropriate, may continue the suspension and may set the matter for hearing. The Board shall attempt to hold a hearing within 60 days of the automatic suspension, or as soon thereafter as practicable, at which time it may take such action as it deems appropriate, including without limitation, reinstatement, fines, probation, suspension, non-renewal and revocation.

(i). Amendment of Testing Provisions. After one (1) year of successful compliance with the terms and conditions of this Consent Agreement, Ms. Nesbit may file a written application with the Board to amend the testing conditions. Upon written application by Ms. Nesbit to the Board, the Board may amend the above agreed conditions for testing. Amendment of the testing conditions shall be in the sole discretion of the Board and shall be based upon such information as the Board deems pertinent. A decision regarding the amendment of testing provisions may be made by the Board, in its sole discretion, with or without providing a hearing. Any decision by the Board regarding a request to amend the testing conditions is not appealable. The Board can propose Amendment(s), which may or may not be agreed to by Ms. Nesbit.

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

(4). PROFESSIONAL MANAGEMENT.

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

(b). Mental Health Treatment. Within thirty (30) days following the execution of this Consent Agreement, Ms. Nesbit shall submit for Board approval the name of a licensed individual or agency in the treatment of mental health issues with whom Ms. Nesbit shall consult and counsel for the purpose of working on all issues pertaining to her mental health issues. The Board in its discretion may approve the same individual approved by the Board to provide Ms. Nesbit with substance abuse treatment to provide her 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.<sup>4</sup> The Board, in its sole discretion, will determine whether cessation of therapy is appropriate. Ms. Nesbit acknowledges that any decision by the Board concerning this issue is not appealable.

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<sup>4</sup> Ms. Nesbit may work with one licensed individual to receive both her substance abuse and mental health treatment if the licensed individual is approved by the Board. As long as the licensed individual provides substance abuse and mental health treatment to Ms. Nesbit, her treatment requirements pursuant to this Consent Agreement shall be satisfied by two monthly sessions.

(c). Single Primary Care Physician. Within thirty (30) days following the execution of this Consent Agreement, Ms. Nesbit shall submit for Board approval the name of a primary care physician who shall prescribe all necessary medications for Ms. Nesbit, and who shall coordinate Ms. Nesbit's treatment and pharmacological therapy with the Board-approved substance abuse and psychological providers. Such physician shall be knowledgeable of Ms. Nesbit's medical history, including her substance abuse history. The Board shall retain the sole discretion, without hearing, to grant or deny approval of the primary care physician proposed by Ms. Nesbit. Ms. Nesbit acknowledges that any decision by the Board concerning this issue is not appealable.

(d). Prior Evaluation and Treatment Records. The Board and Ms. Nesbit agree that Ms. Nesbit shall execute all releases necessary to permit the transmission and disclosure of all records from previous treatment providers to the Board approved primary care physician and Board-approved treatment provider(s).

(e). Communication of Treatment Providers. The Board and Ms. Nesbit agree that all treatment providers involved in her care shall have full communication allowed among themselves, any prior treatment providers and, when requested, with the Board or its agent(s). Ms. Nesbit waives any privileges concerning such information, reports, records, and communications among her treatment providers and the Board.

(f). Amendment of Aftercare Treatment Requirements. After one (1) year of successful compliance with the terms and conditions of this Consent Agreement, Ms. Nesbit may file a written application with the Board to amend her substance abuse treatment. The Board shall retain the sole discretion, without hearing, to grant or deny such application. Ms. Nesbit acknowledges that any decision by the Board concerning this issue is not appealable.

(g). Change of Primary Care Physician or Treatment Provider(s). If Ms. Nesbit desires to change her primary care provider or treatment provider(s), then she shall make written application to the Board, including among other things a letter regarding her reasons for requesting such change(s) and separate letters from the current primary care physician or treatment provider(s) and the proposed new primary care physician or 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. Ms. Nesbit acknowledges that any decision by the Board concerning this issue is not appealable. If the request is denied, nothing precludes Ms. Nesbit from proposing another primary care physician or treatment provider for approval. In requesting a change of primary care physician or treatment provider, Ms. Nesbit understands that the Board may inquire into any issues it deems pertinent with any person, including, without limitation, the current primary care physician or treatment provider(s).

(h). Reports from Treatment Providers. Ms. Nesbit shall ensure that on or before September 9<sup>th</sup>, December 9<sup>th</sup>, March 9<sup>th</sup> and June 9<sup>th</sup> of each year following the execution of this Consent Agreement the Board-approved treatment provider(s) submit(s) to the Board a written report regarding: Ms. Nesbit's compliance with her schedule of meetings; Ms.

Nesbit's ability to continue practicing medicine; and the prognosis of Ms. Nesbit's continued recovery. In addition, the treatment providers shall immediately notify the Board in writing whenever: (1) in his/her professional judgment, Ms. Nesbit poses a potential danger to the health, safety and welfare of patients; or (2) Ms. Nesbit terminates treatment or is non-compliant with the treatment plan. Ms. Nesbit hereby waives any privileges concerning such information, reports, records and disclosures to the Board.

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

(5). PROFESSIONAL OVERSIGHT.

(a). Clinical Setting Inspections. During the period of probation, Ms. Nesbit shall provide the Board with all locations where she practices. In addition, Ms. Nesbit shall permit the Board or its agents to conduct announced and/or unannounced inspections of all locations where she practices. Ms. Nesbit shall reimburse the Board for any actual costs incurred as a result of any inspection performed pursuant to this section.

(b). Physician Monitor. Within thirty (30) days following the execution of this Consent Agreement, Ms. Nesbit must have a Board-approved physician monitor who shall monitor her practice and a temporary monitor<sup>5</sup> if the monitor physician is unavailable. In complying with this requirement, Ms. Nesbit shall submit to the Board for its approval the name of a proposed physician monitor, and the name of a proposed temporary monitor whom the Board has the sole discretion to approve or deny. The physician monitor or the temporary monitor must be in direct physical contact with Ms. Nesbit and observe her within her medical practice at least four days each week during a five-day work week, and shall inform the Board if Ms. Nesbit demonstrates any issues with regard to isolation, inappropriate boundaries or decision-making, ability to concentrate, absenteeism, drug abuse, incompetence, unprofessionalism or any other concerns. If a report to the Board is required, the physician monitor or the temporary monitor shall report such information to the Board by telephone and in writing within 24 hours or as soon thereafter as possible. In the event that the physician monitor is on vacation or will not otherwise be at the practice four days during a five-day work week, Ms. Nesbit will provide advanced written notice to the Board and the MPHP regarding the dates on which the physician monitor will be on vacation or otherwise away. Ms. Nesbit understands that the physician monitor and/or temporary monitor will be agents of the Board pursuant to Title 24 M.R.S. § 2511. Ms. Nesbit shall permit the physician monitor and/or temporary monitor full

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<sup>5</sup> Although the temporary monitor must be approved by the Board, the temporary monitor does not have to be a physician.

access to her medical practice, including but not limited to all patient information. The Board-approved physician monitor shall provide the Board with reports regarding Ms. Nesbit's medical practice on or before September 9<sup>th</sup>, December 9<sup>th</sup>, March 9<sup>th</sup> and June 9<sup>th</sup> of each year following the execution of this Consent Agreement.

(6). SELF-HELP GROUP MEETINGS.

(a). Attendance at AA and NA. Ms. Nesbit agrees to attend Alcoholics Anonymous ("AA") and/or Narcotic Anonymous ("NA") or another non-faith-based self-help group meeting approved by the Board a minimum of twice per week from the effective date of this Consent Agreement.

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

(c). Reports of Attendance. Ms. Nesbit shall submit a signed, written quarterly report of her attendance at AA, NA or impaired professional self-help group meetings to the Board on or before September 9<sup>th</sup>, December 9<sup>th</sup>, March 9<sup>th</sup> and June 9<sup>th</sup> of each year following the execution of this Consent Agreement. Any instances of failure to attend the required numbers of meetings shall be noted, together with specific explanation detailing reasons.

(d). 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 shall constitute a violation of the Consent Agreement which, after hearing before the Board, can result in licensure discipline, including without limitation a fine, suspension, non-renewal, or revocation of Ms. Nesbit's Maine medical license.

(7) MAINTENANCE OF OBLIGATIONS WHEN AWAY

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

(b). Failure to Comply. Any failure by Ms. Nesbit to meet the conditions of the Consent Agreement outside of Maine shall constitute a violation of this Consent Agreement, and may result in the immediate suspension by the Board of Ms. Nesbit's Maine physician assistant license pending hearing, and, following hearing, other sanctions as permitted by law including but not limited to suspension, modification, or revocation of licensure.

(8). INVOLVEMENT IN THE MAINE MEDICAL PROFESSIONALS HEALTH PROGRAM.

Ms. Nesbit has entered into a contract with the Maine Medical Professionals Health Program and shall fully participate in that program as long as this Consent Agreement remains in force.

(9). MAINTAINENCE OF LICENSE.

Ms. Nesbit shall be required to maintain her Maine physician assistant license for as long as this Consent Agreement remains in effect. In the event that Ms. Nesbit applies for licensure in other jurisdictions during the term of this Consent Agreement, Ms. Nesbit shall notify said jurisdiction of the existence of this Consent Agreement.

(10). WAIVER OF CONFIDENTIALITY AND RELEASE OF RECORDS.

Ms. Nesbit agrees and understands that the Board and the Department of Attorney General shall have complete access to her 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 Ms. Nesbit for substance abuse and mental health issues. Ms. Nesbit waives any privileges concerning such information, reports, or records, and agrees to execute any and all releases necessary to permit the Board access to such information. All releases must, in addition to waiving any relevant State law privileges or immunities, provide the Board with access to all material covered by 42 C.F.R., Part 2. In the event that the releases are not sufficient to obtain access to any information which the Board considers relevant, Ms. Nesbit agrees to personally obtain such information and furnish it to the Board, to the extent permitted by law.

9. SANCTION FOR VIOLATION OF CONSENT AGREEMENT.

a. Automatic Suspension. Any reliable oral or written report to the Board of violation(s) of the terms and conditions of this Consent Agreement as described above by Ms. Nesbit shall result in the immediate, indefinite and automatic suspension of Ms. Nesbit's Maine medical license. The automatic suspension of Ms. Nesbit's Maine medical license shall become effective at the time that she 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. Ms. Nesbit'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 Ms. Nesbit 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. Ms. Nesbit acknowledges that, pursuant to Title 10 M.R.S. § 8003(5)(B), her failure to comply with any of the terms or conditions of this Consent Agreement shall constitute grounds for disciplinary action against her Maine medical license, including but not limited to an order issued by the Board, after hearing, modifying, suspending, or revoking her license. Ms. Nesbit also acknowledges that, pursuant to Title 10 M.R.S. § 8003(5)(A-1), the Board has the authority to suspend or revoke her license in the event that she fails to comply with any of the terms or conditions of this Consent Agreement.

#### 10. DESIGNATED COPY OF CONSENT AGREEMENT.

Ms. Nesbit shall have her supervising physician, physician monitor, temporary monitor, and all treatment providers read, date, and sign a copy of the Consent Agreement (the "Designated Copy"). Ms. Nesbit shall retain a copy of the Consent Agreement signed by all of the aforementioned individuals at her Board-approved medical practice locations 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. Ms. Nesbit agrees that if new individuals assume the roles set forth in this Consent Agreement during the existence of this Consent Agreement, such individuals shall also read, date and sign the Consent Agreement, and she shall send a copy of the updated signature page to the Board.

Ms. Nesbit shall provide a copy of this Consent Agreement to any hospital or medical practice with whom she becomes affiliated.

#### 11. MISCELLANEOUS PROVISIONS.

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

(i). Notice to the Board:

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

(ii). Notice to the Licensee:

Alexandria E. Nesbit, P.A.-C  
27 Liberty St  
Ellsworth, ME 04605

b. Address Change. If Ms. Nesbit changes jobs, moves her residence or practice, changes telephone numbers at work or at home, or secures privileges at a hospital, she shall provide written notice to the Board within ten (10) days of any such change. In addition, Ms. Nesbit shall notify the Board of any attempts to seek licensure in another jurisdiction, and shall disclose to the licensing authority in such jurisdiction his status with this Board.

c. Costs. All costs incurred in performance of the conditions of this Consent Agreement shall be borne by Ms. Nesbit. If a violation of this Consent Agreement is proven to have occurred, regardless of the sanctions imposed, the Board may require Ms. Nesbit to reimburse the Board for all actual 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.

12. DURATION OF CONSENT AGREEMENT.

Ms. Nesbit understands and agrees that the duration of this Consent Agreement is five (5) years from its execution. The probation and conditions imposed by this Consent Agreement shall remain in effect for five (5) years following the execution of this Consent Agreement until or unless amended or rescinded in writing by the parties hereto.

13. AMENDMENT OF CONSENT AGREEMENT.

Ms. Nesbit waives her right to a hearing before the Board or any court regarding all findings, terms and conditions of this Consent Agreement. Ms. Nesbit agrees that this Consent Agreement is a final order resolving complaint CR10-524, and is not appealable and is effective until modified or rescinded by the parties hereto. This Consent Agreement cannot be amended orally. It can only be amended by a writing signed by the parties hereto and approved by the Office of Attorney General. Requests for amendments to this Consent Agreement by Ms. Nesbit shall be made in writing and submitted to the Board. Ms. Nesbit shall bear the burden of demonstrating that the Board should amend the Consent Agreement. The Board shall have the sole discretion to: (a) deny Ms. Nesbit's request; (b) grant Ms. Nesbit's request; and/or (c) grant Ms. Nesbit's request in part as it deems appropriate to ensure the protection of the public. Any decision by the Board as a result of Ms. Nesbit's request to modify this Consent Agreement need not be made pursuant to a hearing and is not appealable to any court.

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

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

16. REPORTABLE DISCIPLINE. This Consent Agreement constitutes disciplinary action, and is reportable to the National Practitioner Data Bank, the Federation of State Medical Boards, and other licensing jurisdictions.

17. ADVICE OF COUNSEL. Ms. Nesbit has been had an opportunity to consult with legal counsel regarding the terms and conditions of this Consent Agreement. Ms. Nesbit has been represented by Travis M. Brennan, Esq.

18. WAIVER OF RIGHT TO APPEAL CONSENT AGREEMENT.

Ms. Nesbit waives her right to a hearing before the Board or any court regarding all facts, terms and conditions of this Consent Agreement. Ms. Nesbit agrees that this Consent Agreement is a final order resolving complaint CR10-524, and that it is not appealable and is effective until modified or rescinded in writing by the parties hereto.

**I, ALEXANDRIA E. NESBIT, P.A.-C, HAVE READ AND UNDERSTAND THE FOREGOING CONSENT AGREEMENT AND AGREE WITH ITS CONTENTS AND TERMS. I FURTHER UNDERSTAND THAT BY SIGNING THIS CONSENT AGREEMENT, I WAIVE CERTAIN RIGHTS, INCLUDING THE RIGHT TO A HEARING BEFORE THE BOARD. I HAVE HAD AN OPPORTUNITY TO CONSULT WITH LEGAL COUNSEL REGARDING THIS CONSENT AGREEMENT. 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:

7-7-2011

Alexandria E. Nesbit, PA-C  
ALEXANDRIA E. NESBIT, P.A.-C

STATE OF

Maine

Penobscot

, S.S.

Personally appeared before me the above-named Alexandria E. Nesbit, P.A.-C, 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: 7.7.2011

Amanda Langlais

NOTARY PUBLIC/ATTORNEY  
MY COMMISSION ENDS **AMANDA LANGLAIS**  
Notary Public - State of Maine  
My Commission Expires June 12, 2015

DATED: 7-8-2011

Travis Brennan

TRAVIS M. BRENNAN, ESQ.  
Attorney for Alexandria E. Nesbit, P.A.-C

STATE OF MAINE  
BOARD OF LICENSURE IN MEDICINE

DATED: 7/12/11

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

STATE OF MAINE DEPARTMENT  
OF THE ATTORNEY GENERAL

DATED: 7/12/11

[Signature]

DENNIS E. SMITH  
Assistant Attorney General

Effective Date: 7/12/11