I. Call to Order ............................................................................................................................2
   A. Amendments to Agenda .......................................................................................................2
   B. Scheduled Agenda Items .................................................................................................2
II. Licensing
   A. Applications for Individual Consideration
      1. Initial Applications
         a. William Nicholson, MD ...........................................................................................2
         b. Nabeel Qureshi, MD ............................................................................................2
      2. Reinstatement Applications (none)
      3. Renewal Applications
         a. Nancy E. Bass, MD ..............................................................................................2
         b. Miriam R. Axelrod, MD .........................................................................................3
         c. Stephen M. Dierks, MD .........................................................................................3
         d. Ronald Oldfield, PA ..............................................................................................3
         e. John Bedeau, M.D .................................................................................................3
      4. Requests to Convert to Active Status (none)
      5. Requests to Withdraw License/License Application (none)
      6. Requests for Supervisory Relationships (none)
   B. Other Items for Discussion
      1. Clinical Practice – Camp Physician ............................................................................3
   C. Citations and Administrative Fines (FYI) ...........................................................................3
III. Election of Officers ....................................................................................................................3
IV. Consent Agreements/Resolution Documents for Review
   A. CR17-240 Marc C. Debell, M.D. ......................................................................................4
   B. CR16-49 Donald B. Shea, M.D. ......................................................................................4
   C. CR17-236 Miguel West, M.D. .........................................................................................4
V. Complaints
   1. CR19-43 ..........................................................................................................................4
   2. CR18-185 ........................................................................................................................4
   3. CR18-239 ........................................................................................................................4
   4. CR19-3 .............................................................................................................................4
   5. CR18-245 ........................................................................................................................5
   6. CR18-259 ........................................................................................................................5
   7. CR18-260 ........................................................................................................................5-6
   8. CR18-280 ........................................................................................................................6
   9. CR19-26 ..........................................................................................................................6
   10. CR18-229 .........................................................................................................................6
   11. CR18-230 .........................................................................................................................6
   12. CR19-37 ........................................................................................................................7
13. CR19-28 ..........................................................................................................................7
14. CR19-32 ..........................................................................................................................7
15. CR19-39 ..........................................................................................................................7
16. CR19-42 ..........................................................................................................................7
17. CR19-55 ..........................................................................................................................8
18. CR17-254 ..........................................................................................................................8
19. CR17-257 ..........................................................................................................................8
20. CR19-56 ..........................................................................................................................9
21. CR19-70 ..........................................................................................................................9
22. CR19-62 ..........................................................................................................................9
23. CR19-48 (amended off agenda)
24. CR19-49 (amended off agenda)
25. CR19-52 ..........................................................................................................................9
26. CR19-59 ..........................................................................................................................9
27. CR19-68 ..........................................................................................................................9-10
28. CR19-71 ..........................................................................................................................10
29. CR19-74 ..........................................................................................................................10
30. CR19-85 ..........................................................................................................................10
31. Intentionally left blank
32. Intentionally left blank

VI. Assessment and Direction
33. AD19-88 ........................................................................................................................10
34. AD19-79 ........................................................................................................................10
35. AD19-107 .................................................................................................................... 10-11
36. AD19-110 (tabled)
37. AD19-111 (tabled)
38. Intentionally left blank
39. Intentionally left blank
40. Pending Adjudicatory Hearings and Informal Conferences report.................................11
41. Consumer Assistance Specialist Feedback (none)
42. Other Items for Discussion (none)

VII. Informal Conference (none)

VIII. Minutes of May 14, 2019 ....................................................................................................11

IX. Board Orders and Consent Agreement Monitoring
   A. Board Orders – Marc J. Gorayeb, M.D.
      a. Decision and Order ................................................................................................11
      b. Recommended Decision Regarding Motion to Stay ..............................................11
   B. Monitoring Reports
      2. Daniel Bobker, M.D. (tabled)
      3. Karyn Tocci, M.D. (tabled)
      4. Peter Dollard, M.D. (tabled)
      5. Malathy Sundarum, M.D. (tabled)
      6. Ajitpal S. Dhaliwal, M.D. (tabled)

X. Adjudicatory Hearing (none)
XI. Remarks of Chair (none)

XII. Remarks of Executive Director (tabled)
   A. Letter to Governor Mills (tabled)
   B. Legislative Report (tabled)

XIII. Assistant Executive Director’s Monthly Report (tabled)
   A. MPHP Contract (tabled)
   B. Quality Counts Contract (tabled)
   C. IMLC Issue (tabled)
   D. SPM Report to IAMRA Membership (tabled)
   E. Complaint Status Report (tabled)
   F. Suggestions for Writing a Motion to Dismiss (tabled)
   G. Licensing Feedback (tabled)

XIV. Medical Director’s Report (none)

XV. Remarks of Assistant Attorney General (tabled)

XVI. Rulemaking
   A. Chapter 12 Office Based Treatment of Opioid Use Disorder (tabled)
   B. FYI – Dayton Daily News Article (tabled)

XVII. Policy Review (none)

XVIII. Requests for Guidance (none)

XIX. Standing Committee Reports
   A. Licensure and CME Committee
      1. Licensing Status Report (tabled)

XX. Board Correspondence (none)

XXI. FSMB Material (none)

XXII. FYI ..........................................................................................................................14

XXIII. Other Business (none)

XXIV. Adjournment ......................................................................................................................14
The Board met in public session except during the times listed below which were held in executive session. Executive sessions are held to consider matters which, under statute, are confidential (e.g., 1 M.R.S. § 405; 10 M.R.S. § 8003-B; 22 M.R.S. § 1711-C; 24 M.R.S. § 2510; 32 M.R.S. § 3282-A). The Board moved, seconded, and voted the following executive session times. During the public session of the meeting, actions were taken on all matters discussed during executive session.

<table>
<thead>
<tr>
<th>EXECUTIVE SESSIONS</th>
<th>PURPOSE</th>
</tr>
</thead>
<tbody>
<tr>
<td>8:46 a.m. – 8:56 a.m.</td>
<td>Pursuant to 1 M.R.S. § 405(6)(F) and 32 M.R.S. § 3300-A to discuss confidential information</td>
</tr>
<tr>
<td>8:57 a.m. – 9:03 a.m.</td>
<td>Pursuant to 1 M.R.S. § 405(6)(F) and 32 M.R.S. § 3300-A to discuss confidential information</td>
</tr>
<tr>
<td>11:00 a.m. – 11:08 a.m.</td>
<td>Pursuant to 1 M.R.S. § 405(6)(F) and 32 M.R.S. § 3300-A to discuss confidential information</td>
</tr>
<tr>
<td>1:20 p.m. – 1:43 p.m.</td>
<td>Pursuant to 24 M.R.S. § 2510 to discuss a pending investigation</td>
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</table>

<table>
<thead>
<tr>
<th>RECESSES</th>
<th>PURPOSE</th>
</tr>
</thead>
<tbody>
<tr>
<td>9:28 a.m. – 9:32 a.m.</td>
<td>Recess</td>
</tr>
<tr>
<td>10:37 a.m. – 10:45 a.m.</td>
<td>Recess</td>
</tr>
<tr>
<td>12:28 p.m. – 12:43 p.m.</td>
<td>Lunch</td>
</tr>
</tbody>
</table>
I. Call to Order

Dr. Barnhart called the meeting to order at 8:34 a.m.

A. Amendments to Agenda

Dr. Sullivan moved to: 1) amend CR19-48 and CR19-49 off the agenda; 2) amend a consent agreement regarding CR17-236 onto the agenda; and 3) amend Dr. John Bedeau’s license application onto the agenda. Dr. Fox seconded the motion, which passed unanimously.

B. Scheduled Agenda Items

1. 10:30 a.m. Review Decision and Order and Recommended Decision regarding Motion to Stay (Marc J. Gorayeb, M.D.)

II. Licensing

A. Applications for Individual Consideration

1. Initial Applications

a. William Nicholson, M.D.

Dr. Sacchetti moved to approve Dr. Nicholson’s license application. Dr. Fox seconded the motion, which passed unanimously.

b. Nabeel Qureshi, M.D.

Dr. Waddell moved to approve Dr. Qureshi’s license application contingent upon agreement from Dr. Qureshi and his employer to submit monthly reports to the Board for six months. Dr. Sacchetti seconded the motion, which passed unanimously.

2. Reinstatement Applications (none)

3. Renewal Applications

a. Nancy E. Bass, M.D.

At 8:46 a.m. Dr. Sacchetti moved to enter executive session pursuant to 1 M.R.S. § 405(6)(F) and 32 M.R.S. § 3300-A. Dr. Sullivan seconded the motion, which passed unanimously.

At 8:56 a.m. Ms. Weinstein moved to come out of executive session. Dr. Sacchetti seconded the motion, which passed unanimously. Dr. Sullivan moved to table Dr. Bass’ application and request that she provide letters from her treating providers and current medical records and offer her leave to withdraw her application. Dr. Sacchetti seconded the motion, which passed unanimously.
b. Miriam R. Axelrod, M.D.

At 8:57 a.m. Ms. Weinstein moved to enter executive session pursuant to 1 M.R.S. § 405(6)(F) and 32 M.R.S. § 3300-A. Dr. Wetzel seconded the motion, which passed unanimously.

At 9:03 a.m. Dr. Sullivan moved to come out of executive session. Dr. Fox seconded the motion, which passed unanimously.

Dr. Sullivan moved to table Dr. Axelrod’s application, request that she complete the Physician Retraining and Reentry program (PRR) competency assessment and provide a report to the Board, and offer her leave to withdraw her application or renew her emeritus license. Dr. Waddell seconded the motion, which passed unanimously.

c. Stephen M. Dierks, M.D.

Dr. Sacchetti moved to table Dr. Dierks license application and investigate further. Dr. Waddell seconded the motion, which passed 6-1.

d. Ronald Oldfield, P.A.

This matter was tabled.

e. John Bedeau, M.D.

This matter was tabled.

4. Requests to Convert to Active Status (none)

5. Requests to Withdraw License/License Application (none)

6. Requests for Supervisory Relationships (none)

B. Other Items for Discussion

1. Clinical Practice – Camp Physician

The Board briefly discussed this matter. No Board action was taken.

III. Citations and Administrative Fines

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

III. Election of Officers

The Board voted by ballot for the offices of Board Chair and Board Secretary. Dr. Barnhart was elected Chair and Dr. Sacchetti was elected Secretary.
IV. Consent Agreements/Resolution Documents for Review

A. CR17-240 Mark C. DeBell, M.D. [Appendix A]

Dr. Sullivan moved to approve the signed consent agreement. Ms. Weinstein seconded the motion, which passed unanimously.

B. CR16-49 Donald B. Shea, M.D. [Appendix B]

Dr. Sacchetti moved to approve the signed third amendment to consent agreement. Dr. Wetzel seconded the motion, which passed unanimously.

C. CR17-236 Miguel West, M.D. [Appendix C]

Ms. Weinstein moved to approve the signed consent agreement. Dr. Fox seconded the motion, which passed 6-0-0-1. Dr. Waddell was recused from the matter and left the room.

V. Complaints

1. CR19-43

Dr. Sacchetti moved to dismiss the complaint. Dr. Fox seconded the motion, which passed 4-3.

**MOTION:** A patient contends that a pulmonologist filed an inaccurate report with the Bureau of Motor Vehicles (BMV) about his respiratory condition which resulted in suspension of his driver’s license. He further asserts that the physician did not interact with him during the visit but looked at the computer instead. The physician provides justification for alerting the BMV, which is well supported by the patient record. The physician and others in the pulmonary practice provided the patient with opportunities to reverse the negative action on his driver’s license that he elected either not to pursue or did not fulfill. The physician describes an account of her visit with the patient which includes a thoughtful review of earlier records, a focused exam, and a conversation about treatment options, also supported by the medical record.

2. CR18-185

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

3. CR18-239

Dr. Sullivan moved to table the matter. Dr. Waddell seconded the motion, which passed 6-1.

4. CR19-3

Dr. Sacchetti moved to table the matter. Dr. Fox seconded the motion, which passed 5-2.
5. **CR18-245**

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

**MOTION:** A physician is evaluated by another physician. The evaluating physician both obtained and gave information to the wife based on written consent, which the wife then used quickly against the physician patient. The evaluating physician request that the physician patient come in to review the difficult diagnosis and information, but this was never done. The physician patient did not agree with the diagnosis and treatment. The evaluation was acceptable with appropriate attention to detail and standard application of information. The request for collateral information was appropriate.

At 11:00 a.m. Dr. Sullivan moved to enter executive session pursuant to 1 M.R.S. 405(6)(F) and 32 M.R.S. § 3300-A. Dr. Sacchetti seconded the motion, which passed unanimously.

At 11:08 a.m. Dr. Sullivan moved to come out of executive session. Dr. Sacchetti seconded the motion, which passed unanimously.

Dr. Sacchetti moved to issue a complaint (CR19-125) against the patient (a licensee of the Board) based on information received during the course of this investigation. Ms. Weinstein seconded the motion, which passed unanimously.

6. **CR18-259**

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

**MOTION:** The Board initiated this complaint based upon a report received from an investigator for an insurance company that the licensee may have self-prescribed a non-controlled drug (cholesterol lowering medication) and may have obtained a controlled drug (a sedative hypnotic) from another physician in the licensee’s medical practice. Board staff queried the Prescription Monitoring Program (PMP) between 2015 and 2018 and discovered: prescriptions from another physician in the licensee’s practice to the licensee for a controlled drug (sedative hypnotic) and five prescriptions for controlled drugs from the licensee to possible family members. In addition, Board staff noted that the licensee denied on his 2017 license renewal application that he had furnished or written a prescription for anyone without having a legitimate physician-patient relationship or prescribed medications to family/household members. The licensee responded to the complaint, which included accepting responsibility, completing continuing medical education, educating other physicians regarding this ethical issue, and assuring that this type of event would not be repeated. Following review, the Board was satisfied with the licensee’s response and dismissed the complaint.

7. **CR18-260**

Dr. Sullivan moved to dismiss the complaint. Dr. Sacchetti seconded the motion, which passed unanimously.
MOTION: The Board initiated this complaint based upon a report received from an investigator for an insurance company that the licensee may have prescribed a controlled drug (a sedative hypnotic) to another physician in the licensee’s medical practice. Board staff queried the Prescription Monitoring Program (PMP) between 2015 and 2018 and discovered: prescriptions from the licensee to another physician within the practice for a controlled drug (sedative hypnotic) and prescriptions for controlled drugs (benzodiazepine) from the licensee to a possible family member. In addition, Board staff noted that the licensee denied in his 2017 license renewal application that he had furnished or written a prescription for anyone without having a legitimate physician-patient relationship or prescribed medications to family/household members. The licensee responded to the complaint, which included accepting responsibility, completing continuing medical education, educating other physicians regarding this ethical issue, and assuring that this type of event would not be repeated. Following review, the Board was satisfied with the licensee’s response and dismissed the complaint.

8. CR18-280

Ms. Weinstein moved to dismiss the complaint. Dr. Sullivan seconded the motion, which passed unanimously.

MOTION: A patient complains about the care he received from this physician and feels the office visit constitutes a conflict of interest and unethical treatment. The Board investigated further with additional questions answered by the physician. It was determined that although the referring provider was familiar with the complainant and his spouse, and knew the physician personally, the physician demonstrates minimal contact with the referring provider. The office visit was not typical as the patient (complainant) was not interviewed alone, and not offered the opportunity to do so. The reasons for this were explored and this was acceptable as an unusual circumstance to obtain more documentation. The physician provided the Board ample information to determine the reasoning for the condition of this office visit. Appropriate and thoughtful care was provided.

9. CR19-26

Dr. Sullivan moved to table the matter. Dr. Sacchetti seconded the motion, which passed unanimously.

10. CR18-229

Dr. Sullivan moved to set the matter for an adjudicatory hearing and authorize AAG Miller to negotiate a consent agreement to include probation with conditions. Ms. Weinstein seconded the motion, which passed 5-2.

11. CR18-230

Dr. Sullivan moved to set the matter for an adjudicatory hearing and authorize AAG Miller to negotiate a consent agreement to include probation with conditions. Ms. Weinstein seconded the motion, which passed 5-2.
12. CR19-37

Dr. Sullivan moved to table the matter. Dr. Fox seconded the motion, which passed unanimously.

13. CR19-28

Dr. Sacchetti moved to investigate further and issue a citation and administrative fine for each instance in which the physician failed to file written notification as required by Board Rule Chapter 1 and failed to accurately answer a question on his license renewal application. Dr. Waddell seconded the motion, which passed unanimously.

14. CR19-32

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

**MOTION:** The patient suffered several postoperative complications and his recovery has been difficult. He has been cared for by the licensee and an extensive care team including home nursing, physical therapy, and care management. Consultant physicians are also involved in the patient’s care. Appropriate and timely care has been provided.

15. CR19-39

Dr. Wetzel moved to dismiss the complaint. Ms. Weinstein seconded the motion, which passed unanimously.

**MOTION:** A patient complains of inadequate treatment by a physician assistant in the emergency department after a fall. The patient underwent head and facial computerized tomography (CT) and was diagnosed with a nasal bone fracture. The physician assistant sutured the laceration on the patient’s nose and performed a carefully documented examination to rule out other injuries. Review of the records reveals that the care the patient received was appropriate.

16. CR19-42

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

**MOTION:** A mother complains about the care her two-year-old daughter received from a family physician. The mother arranged the acute visit out of concern for a facial rash and loss of appetite. The child was mistakenly scheduled with someone who does not see patient in this age group, resulting in a longer than expected wait before being seen by this physician. During his evaluation, the physician had to excuse himself for an urgent patient matter. Upon his return, he completed the exam and concluded the patient had an early ear infection. The initial delay in being seen, the interruption during the visit, and the physician’s inability to explain the facial rash made for a trying experience for a young mother with a sick child; however, the physician’s management was reasonable and appropriate.
17. CR19-55

Dr. Waddell moved to dismiss the complaint. Dr. Wetzel seconded the motion, which passed 6-0-0-1. Dr. Sacchetti was recused from the matter and left the room.

**MOTION:** The Board received a mandatory report alleging clinical incompetence and disruptive behavior. Following review of the report, supporting material, pertinent medical records, and the physician’s response, insufficient evidence was found to support the specific concerns.

18. CR17-254 Daniel M. Dorsky, P.A.

Dr. Barnhart moved to dismiss the complaint with a letter of guidance. Dr. Sacchetti seconded the motion, which passed unanimously.

**MOTION:** In this case, several providers in a medical practice were scrutinized after the unfortunate death of a thirteen-year-old that occurred just after a mental health evaluation. The patient’s mother raised several issues related to the care and treatment provided to her daughter. The physician assistant responded and explained the care provided. Following an informal conference, the mental health practitioners and their supervisor at the medical practice underwent substantial training in crisis evaluation, and very necessary changes were instituted to substantially address the way crisis is handled in response to this tragedy, thus ensuring a terrible situation is prevented to the maximum extent possible.

The guidance is as follows: Be mindful of the need to maintain education and continue regular evaluation of practice policies regarding assessment and management of psychiatric emergencies.

19. CR17-257 Linda Glass, M.D.

Dr. Barnhart moved to dismiss the complaint with a letter of guidance. Dr. Sacchetti seconded the motion, which passed unanimously.

**MOTION:** In this case, several providers in a medical practice were scrutinized after the unfortunate death of a thirteen-year-old that occurred just after a mental health evaluation. The patient’s mother raised several issues related to the care and treatment provided to her daughter. The physician responded as a supervising physician, reviewed the care provided, and explained changes that were being made to the medical practice. Following an informal conference, the mental health practitioners at the medical practice underwent substantial training in crisis evaluation, and very necessary changes were instituted to substantially address the way crisis is handled in response to this tragedy, thus ensuring a terrible situation is prevented to the maximum extent possible.

The guidance is as follows: Be mindful of the need to maintain education and continue regular evaluation of practice policies regarding assessment and management of psychiatric emergencies.
20. CR19-56

Ms. Weinstein moved to investigate further and order the physician to undergo a § 3286 evaluation. Dr. Fox seconded the motion, which passed 6-0-0-1. Dr. Barnhart was recused from the matter and left the room.

21. CR19-70

Ms. Weinstein moved to investigate further and order the physician to undergo a § 3286 evaluation. Dr. Fox seconded the motion, which passed 6-0-0-1. Dr. Barnhart was recused from the matter and left the room.

22. CR19-62

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

**MOTION:** A patient presents to the emergency department via rescue and complains about the care she received from the physician. Review of the records reveals compassionate, appropriate care, and tests offered however refused by the patient. The physician attempted to broach his concerns and the patient adamantly resisted this discussion. The patient left the emergency department prior to discharge instructions being reviewed. Appropriate care was provided.

23. CR19-48 (amended off agenda)

24. CR19-49 (amended off agenda)

25. CR19-52

Dr. Sullivan moved to issue a citation and administrative fine to the physician assistant for failure to have a current certificate of registration and to dismiss the complaint and renew the physician assistant’s license upon receipt of payment. Dr. Waddell seconded the motion, which passed unanimously.

26. CR19-59

Dr. Fox moved to investigate further. Dr. Sacchetti seconded the motion, which passed unanimously.

27. 19-68

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

**MOTION:** The patient complains that the physician is the clinic manager at a family practice and refused a request to change her primary care provider. Review of the records indicates that the patient incorrectly identified the physician as the clinic manager and person
that the patient was communicating with at the practice regarding her concerns. No issues related to the physician were alleged by the patient.

28. 19-71

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

29. 19-74

Dr. Barnhart moved to set the matter for an adjudicatory hearing and authorize AAG Miller to negotiate a consent agreement for voluntary surrender of license. Dr. Sullivan seconded the motion, which passed unanimously.

30. 19-85

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

MOTION: A patient complains that she was improperly billed by her ophthalmologist for an eye exam. The records show that the visit was coded appropriately for the services provided; however, the billing department mishandled the claim. The ophthalmologist explains that the practice has undertaken measures to ensure that claims for routine eye exams are processed correctly. He further adds that the complainant’s claim was resubmitted and covered to her satisfaction.

31. Intentionally left blank

32. Intentionally left blank

VI. Assessment and Direction

33. AD19-88

Dr. Sullivan moved to issue a complaint (CR19-122) and order the physician to undergo a §3286 evaluation. Dr. Sacchetti seconded the motion, which passed unanimously.

34. AD19-79

Dr. Sullivan moved to issue a complaint (CR19-123). Ms. Weinstein seconded the motion, which passed unanimously.

35. AD19-107

At 1:20 p.m. the Board entered executive session pursuant to 24 M.R.S. § 2510.

At 1:43 p.m. Ms. Weinstein moved to come out of executive session. Dr. Sullivan seconded the motion, which passed unanimously.
Dr. Sullivan moved to issue a complaint (CR19-124). Ms. Weinstein seconded the motion, which passed 5-0-1-0 with Dr. Sacchetti abstaining.

36. AD19-110

Tabled (lack of quorum).

37. AD19-11

Tabled (lack of quorum).

38. Intentionally left blank

39. Intentionally left blank

40. Pending Adjudicatory Hearings and Informal Conferences Report

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

41. Consumer Assistance Specialist Feedback (none)

42. Other Items for Discussion (none)

VII. Informal Conference (none)

VIII. Minutes for Approval

Dr. Waddell moved to approve the minutes of the May 14, 2019 meeting. Dr. Sacchetti seconded the motion, which passed 5-0-1-0 with Dr. Sullivan abstaining.

IX. Board Orders & Consent Agreement Monitoring

A. Board Orders

1. Marc J. Gorayeb, M.D.

   a. Decision and Order [Appendix D]

      Dr. Waddell moved to approve the Decision and Order. Dr. Fox seconded the motion, which passed 6-0-1-0 with Dr. Sullivan abstaining.

   b. Recommended Decision Regarding Motion to Stay

      Dr. Fox moved to adopt the Recommended Decision of the Hearing Officer and deny Dr. Gorayeb’s motion for a stay. Dr. Waddell seconded the motion, which passed 6-0-1-0 with Dr. Sullivan abstaining.
B. Monitoring Reports

1. Cathleen G. London, M.D.
   Tabled (lack of quorum).

2. Daniel Bobker, M.D.
   Tabled (lack of quorum).

3. Karyn Tocci, M.D.
   Tabled (lack of quorum).

4. Peter Dollard, M.D.
   Tabled (lack of quorum).

5. Malathy Sundaram, M.D.
   Tabled (lack of quorum).

6. Ajitpal S. Dhaliwal, M.D.
   Tabled (lack of quorum).

X. Adjudicatory Hearing (none)

XI. Remarks of Chair (none)

XII. Remarks of Executive Director

A. Letter to Governor Mills
   Tabled (lack of quorum).

B. Legislative Report
   Tabled (lack of quorum).

XIII. Assistant Executive Director’s Report
   Tabled (lack of quorum).

A. MPHP Contract
   Tabled (lack of quorum).
B. Quality Counts Contract
   Tabled (lack of quorum).

C. IMLC Issue
   Tabled (lack of quorum).

D. SPM Report to IAMRA Membership
   Tabled (lack of quorum).

E. Complaint Status Report
   Tabled (lack of quorum)

F. Licensing Feedback (none)

XIV. Medical Director’s Report (none)

XV. Remarks of Assistant Attorney General
   Tabled (lack of quorum).

XVI. Rulemaking
   A. Chapter 12 Office Based Treatment of Opioid Use Disorder
      Tabled (lack of quorum).
   B. FYI – Dayton Daily News Article
      Tabled (lack of quorum)

XVII. Policy Review (none)

XVIII. Requests for Guidance (none)

XIX. Standing Committee Reports
   A. Licensure and CME Committee
      1. Licensing Status Report
         Tabled (lack of quorum).

XX. Board Correspondence (none)

XXI. FSMB Material (none)
XXII. FYI

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

XXIII. Other Business (none)

XXIV. Adjournment  1:45 p.m.

The meeting ended at 1:45 p.m. when the Board no longer had a quorum present.

Respectfully submitted,

[Signature]

Maureen S. Lathrop
Administrative Assistant
STATE OF MAINE
BOARD OF LICENSURE IN MEDICINE

In re: MARC C. DEBELL, M.D. ) CONSENT AGREEMENT
Complaint No. CR17-240 )

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

STATEMENT OF FACTS

1. On December 27, 2017, the Board initiated a complaint based on Dr. DeBell's self-report through legal counsel that on September 25, 2017, he resigned from his employment with a Massachusetts's hospital, after having consumed beer while watching a football game with friends and later reporting to work. On October 24, 2017, Dr. DeBell entered into a Voluntary Agreement Not To Practice Medicine with the Massachusetts Board of Registration in Medicine ("MBORIM"), and agreed not to practice medicine in Maine until he received permission from the Board to return to practice. The Board docketed the complaint as CR17-240, and sent it to Dr. DeBell for response.
2. By letter dated January 24, 2018, legal counsel for Dr. DeBell submitted a response and request that the Board stay any decision on the complaint until proceedings in Massachusetts concluded.

3. On December 20, 2018, Dr. DeBell and MBORIM entered into a Consent Order imposing discipline for practicing medicine while his ability to do so was impaired by alcohol. Dr. DeBell’s license to practice medicine in Massachusetts was indefinitely suspended. The Consent Order provided that the indefinite suspension could be stayed upon a petition documenting consistent compliance for eighteen months with Dr. DeBell’s substance use monitoring contract with PHS and execution of a five year probation agreement with conditions with MBORIM.

4. On February 25, 2019, Dr. DeBell submitted an application to renew his Maine medical license.

5. Pursuant to 32 M.R.S. § 3282-A(2)(B), the Board may refuse to issue or may impose other discipline for misuse of alcohol, drugs or other substances that has resulted or that may result in the licensee performing services in a manner that endangers the health or safety of patients.

6. Pursuant to 32 M.R.S. § 3282-A(2)(M), the Board may refuse to issue or may impose other discipline for suspension or restriction of a license to practice or other disciplinary action by another state if the conduct resulting in disciplinary action would, if committed in this State, constitute grounds for discipline under the laws or rules of this State.
7. On April 9, 2019, the Board reviewed the foregoing information and voted to preliminarily deny Dr. DeBell’s application for renewal of his medical license. In lieu of the denial, the Board also voted to offer Dr. DeBell this Consent Agreement. Should Dr. DeBell decide to accept this Consent Agreement, he should sign it and date it in front of a notary and return it to the Maine Board of Licensure in Medicine, 137 State House Station, Augusta, Maine 04333-0137 on or before June 20, 2019.

COVENANTS

8. Dr. DeBell admits the foregoing facts and that such conduct constitutes grounds for denial of licensure and imposition of other discipline pursuant to 32 M.R.S. §§ 3282-A(2)(B) and (2)(M).

9. As discipline for his conduct, Dr. DeBell agrees to the following terms and conditions:
   a) Dr. DeBell shall enroll in a monitoring agreement for a period of not less than five (5) years with the Maine Professionals Health Program ("MPHP") and provide a copy of the monitoring agreement to the Board. Dr. DeBell must maintain and comply with all requirements of his MPHP monitoring contract and follow all recommendations for evaluation and treatment. Dr. DeBell must immediately notify the Board in writing of any violation of the MPHP monitoring agreement, and of any positive or problematic toxicology test. Dr. DeBell hereby authorizes MPHP to disclose and release to the Board all information obtained by MPHP relating to his participation with MPHP, which authorization shall remain in effect for any period during which
he has a license to practice medicine in the State of Maine. Dr. DeBell shall execute any and all releases necessary for the Board, Board staff, and the Board’s assigned Assistant Attorney General to: a) communicate directly with the MPHP regarding his compliance with that program; b) review and obtain copies of any and all documentation regarding his participation in the MPHP; c) communicate directly with anyone who is involved with his care and treatment; and d) review and obtain copies of any and all documentation regarding his medical care and treatment. Dr. DeBell shall ensure that the Board receives quarterly compliance reports from MPHP.

b) Dr. DeBell shall notify the Board in writing within three (3) days of any arrest, summons, information or indictment for any crime, and any summons or other charge for any civil violation that involves alcohol or drugs, including driving or operating under the influence, and any conviction or court finding related thereto.

10. Dr. DeBell acknowledges that while this Consent Agreement is in effect he must directly communicate with the Board or Board staff and has the obligation to respond to any request for information or documentation within the timeframe specified or requested. Failure to comply with or respond to any request shall be considered unprofessional conduct and a violation of this Consent Agreement.

11. Any conduct of Dr. DeBell described herein may be considered in future Board action(s) as evidence of a pattern of misconduct.
12. Upon execution of this Consent Agreement and receipt of a copy of the MPHP monitoring agreement, the Board shall renew Dr. DeBell's license contingent upon his meeting all other licensure requirements.

13. Violation of any of the terms or conditions of this Consent Agreement by Dr. DeBell shall constitute unprofessional conduct and grounds for additional discipline of his Maine medical license by the Board, including but not limited to imposition of civil penalties, or modification, suspension, and revocation of licensure.

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

15. The Board and the Department of Attorney General may communicate and cooperate regarding any matter related to this Consent Agreement.

16. 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-A.

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

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

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

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

DATED: 05/22/2019

MARC C. DEBELL, M.D.

STATE OF Massachusetts, S.S. (County)

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

DATED: 05/22/2019

NOTARY PUBLIC

MY COMMISSION ENDS: 02/06/2020

MONICA HERNANDEZ
Notary Public
Commonwealth of Massachusetts
My Commission Expires Feb. 6, 2020
STATE OF MAINE
BOARD OF LICENSURE IN MEDICINE

DATED: 6/12/19

MAROULLA'S. GLEATON, M.D., Chair

STATE OF MAINE DEPARTMENT
OF THE ATTORNEY GENERAL

DATED: 6/12/19

MICHAEL MILLER
Assistant Attorney General

Effective Date: 6/12/19
STATE OF MAINE
BOARD OF LICENSURE IN MEDICINE

In re: DONALD B. SHEA, M.D. CONSENT AGREEMENT
Complaint No. CR16-49

THIRD AMENDMENT TO

This document is a Third Amendment to Consent Agreement effective October 10, 2017, regarding disciplinary action imposed upon the license to practice medicine in the State of Maine held by Donald B. Shea, M.D ("Third Amendment"). The parties to this Third Amendment are: Donald B. Shea, M.D. ("Dr. Shea"), the State of Maine Board of Licensure in Medicine ("the Board"), and the Department of the Attorney General (the "Attorney General"). This Third Amendment is entered into pursuant to 32 M.R.S. § 3282-A and 10 M.R.S. § 8003(5).

BACKGROUND

1. On October 10, 2017, the parties entered into a Consent Agreement for discipline upon the license to practice medicine in the State of Maine held by Dr. Shea ("the Consent Agreement").

2. On February 13, 2018, the parties entered into a First Amendment to Consent Agreement amending paragraph 15(b)(4).

3. On August 14, 2018, the parties entered into a Second Amendment to Consent Agreement deleting paragraph 15(b)(4).

4. At its meeting on April 9, 2019, the Board considered information contained in a compliance monitoring report and voted to offer Dr. Shea this Third Amendment. Absent acceptance of this Third
Amendment by Dr. Shea by signing it and dating it in front of a notary and returning it to the Maine Board of Licensure in Medicine, 137 State House Station, Augusta, Maine 04333-0137 on or before June 4, 2019, the Consent Agreement effective October 10, 2017, as amended, shall remain in full force and effect, and the Board may take such further action it deems necessary.

**AMENDMENT**

5. Dr. Shea, the Board, and the Department of the Attorney General hereby agree to amend the Consent Agreement dated October 10, 2017, as amended by the First Amendment to Consent Agreement dated February 13, 2018, as amended by the Second Amendment to Consent Agreement dated August 14, 2018, by:

Amending paragraph 15(d) to read as follows:

Dr. Shea shall not take opioids, benzodiazepines, or marijuana, unless prescribed by an appropriately licensed health care provider. If in the course of receiving medical treatment, it is necessary for Dr. Shea to receive or take any opiate except buprenorphine, any benzodiazepine, or marijuana, he shall immediately cease practicing medicine during the period of medication use. Dr. Shea shall notify the Board within two (2) business days of a leave of absence pursuant to this subparagraph, unless circumstances exist that are beyond Dr. Shea’s control which do not reasonably permit notice to be provided within two (2) business days in which case notice shall be provided as soon as
circumstances allow and may be provided by a family member or representative of the Physician Health Program. Dr. Shea must notify the Board upon resuming practice and provide any releases necessary for the Board to discuss his treatment with all treatment providers.

6. Dr. Shea acknowledges by his signature hereto that all other terms and conditions of the Consent Agreement effective October 10, 2017, as amended, remain in full force and effect.

7. Dr. Shea acknowledges by his signature hereto that he has read this Third Amendment, that he has had an opportunity to consult with an attorney before executing this Third Amendment, that he executed this Third Amendment of his own free will and that he agrees to abide by all terms and conditions set forth herein.
I, DONALD B. SHEA, M.D., HAVE READ AND UNDERSTAND
THE FOREGOING THIRD AMENDMENT AND AGREE WITH ITS
CONTENTS AND TERMS. I FURTHER UNDERSTAND THAT BY
SIGNING THIS THIRD AMENDMENT, I WAIVE CERTAIN RIGHTS,
INCLUDING THE RIGHT TO A HEARING BEFORE THE BOARD. I
SIGN THIS THIRD AMENDMENT VOLUNTARILY, WITHOUT ANY
THREAT OR PROMISE. I UNDERSTAND THAT THIS THIRD
AMENDMENT CONTAINS THE ENTIRE AGREEMENT AND THERE IS
NO OTHER AGREEMENT OF ANY KIND, VERBAL, WRITTEN OR
OTHERWISE.

Dated: 5/29/2019

DONALD B. SHEA, M.D.

STATE OF MAINE

COUNTY, SS.

Before me this 29 day of May, 2019, personally appeared Donald B. Shea, M.D., who after first being duly
sworn, signed the foregoing Third Amendment to Consent Agreement in
my presence or affirmed that the signature above is his own.

Notary Public/Attorney at Law
My commission expires:
STATE OF MAINE BOARD OF LICENSURE IN MEDICINE

DATED: 6/12/19

MAROULLA S. GLEATON, M.D., Chair

STATE OF MAINE DEPARTMENT OF THE ATTORNEY GENERAL

DATED: 6/12/19

MICHAEL MILLER
Assistant Attorney General

Effective Date: 6/12/19
STATE OF MAINE
BOARD OF LICENSURE IN MEDICINE

In re: MIGUEL WEST, M.D. Complaint No. CR17-236

CONSENT AGREEMENT

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

STATEMENT OF FACTS

1. Dr. West has held a license to practice medicine in the State of Maine since September 21, 2016 (license number MD21343), and specializes in general surgery.

2. On December 27, 2017, the Board initiated a complaint following a mandated report from a physician. The physician reported that on November 22, 2016, Dr. West performed a left colon resection on Patient A, and that the removed colon section showed no pathologic abnormalities. The physician reported that Patient A subsequently underwent additional surgery to remove the inflamed sigmoid bowel. The physician also reported that on December 14, 2016, Dr. West operated on Patient B for gastric outlet obstruction secondary to ulcer disease, and continued with surgery after finding ascites and diffuse thickening of the entire stomach which could be evidence of undiagnosed
advanced gastric cancer. The Board docketed that complaint as CR17-236, and sent it to Dr. West for a response.

3. By letter dated March 23, 2018, Dr. West responded to the complaint. In his response, Dr. West explained the surgeries that he performed. Dr. West explained that Patient A’s colon resection was complicated by two complex cysts in the left adnexa abutting the bowel and uterus which were not being explored following a gynecological consult. Regarding Patient B, Dr. West stated that he did not believe that the ascites he found necessarily meant undiagnosed cancer because of the patient’s known history of moderate ethanol abuse, and felt the dilated stomach may be due to chronic gastric outlet obstruction.

4. On April 23, 2018, the Board received an independent outside expert review of the two surgical cases performed by Dr. West. The independent expert reviewer concluded that Dr. West did not meet standards of care for both patients.

5. On December 14, 2018, the Board received the Center for Personalized Education for Professionals ("CPEP") Assessment Report regarding Dr. West following the evaluation of his practice of general surgery which occurred on September 26-27, 2018. The CPEP report identified educational needs in the areas of medical knowledge, clinical judgment and reasoning, and technical skills. Dr. West’s technical skills were graded on his performance on an endoscopic simulator and a laparoscopic simulator examination.
6. Pursuant to 32 M.R.S. § 3282-A(2)(F), the Board may impose discipline for unprofessional conduct. A licensee is considered to have engaged in unprofessional conduct if the licensee violates a standard of professional behavior that has been established for the practice of medicine.

7. On May 8, 2018, September 11, 2018, and January 8, 2019, the Board reviewed complaint CR17-236 and voted to set this matter for an adjudicatory hearing. In addition, the Board voted to offer Dr. West this Consent Agreement to resolve this matter without further proceedings. Absent Dr. West's acceptance of this Consent Agreement by signing and dating it in front of a notary and mailing it to Maine Board of Licensure in Medicine, 137 State House Station, Augusta, Maine 04333-0137 on or before May 27, 2019, the matter will be scheduled for an adjudicatory hearing.

COVENANTS

8. Dr. West agrees that if the Board were to hold an adjudicatory hearing in this matter, the Board would have sufficient evidence by a preponderance of the evidence by which it could find, and the Board hereby does find, that such conduct constitutes grounds for discipline pursuant to 32 M.R.S. § 3282-A(2)(F) (for engaging in unprofessional conduct).

9. As discipline for the foregoing conduct, Dr. West agrees to accept the following:

   a) Upon the effective date of this Consent Agreement, Dr. West's license in Maine shall be converted to an Administrative License and limited to the practice of administrative medicine. Administrative medicine means
"professional managerial or administrative activities related to the practice of medicine or to the delivery of health care services, but not the practice of clinical medicine" or "medical research, excluding clinical trials on humans"; and

b) Dr. West represents that he does not intend to apply for, and agrees that he will not apply for, any license in Maine that authorizes the clinical practice of medicine.

10. Dr. West acknowledges that while this Consent Agreement is in effect he must directly communicate with the Board or Board staff and has the obligation to respond to any request for information or documentation relevant to his Maine license within the timeframe specified or requested. Failure to comply with or respond to any request shall be considered unprofessional conduct and a violation of this Consent Agreement.

11. Any conduct of Dr. West described herein may be considered in future Board action(s) as evidence of a pattern of misconduct.

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

13. This Consent Agreement is not appealable and is effective until modified or rescinded in writing by the parties hereto.
14. The Board and the Department of the Attorney General may communicate and cooperate regarding Dr. West or any other matter relating to this Consent Agreement.

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

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

17. Nothing in this Consent Agreement shall be construed to affect any right or interest of any person not a party hereto. If any clause of this Consent Agreement is deemed illegal or invalid, then that clause shall be deemed severed from this Consent Agreement.

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

19. Dr. West has been represented by Emily A. Bloch, Esq., who has participated in the negotiation of the terms of this Consent Agreement.
20. For the purposes of this Consent Agreement, the term "execution" means the date on which the final signature is affixed to this Consent Agreement.

I, MIGUEL WEST, M.D., HAVE READ AND UNDERSTAND THE FOREGOING CONSENT AGREEMENT AND AGREE WITH ITS CONTENTS AND TERMS. I FURTHER UNDERSTAND THAT BY SIGNING THIS AGREEMENT, I WAIVE CERTAIN RIGHTS, INCLUDING THE RIGHT TO A HEARING BEFORE THE BOARD. I SIGN THIS CONSENT AGREEMENT VOLUNTARILY, WITHOUT ANY THREAT OR PROMISE. I UNDERSTAND THAT THIS CONSENT AGREEMENT CONTAINS THE ENTIRE AGREEMENT AND THERE IS NO OTHER AGREEMENT OF ANY KIND, VERBAL, WRITTEN OR OTHERWISE.

DATED: 6/6/2019

MIGUEL WEST, M.D.

STATE OF

MICHIGAN

3/20/19 48-3991 S.S.

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

DATED: 6/6/19

GENEBIS JOHNSON
NOTARY PUBLIC - STATE OF MICHIGAN
COUNTY OF WASHTENAW
My Commission Expires June 24, 2019
Acting in the County of WASHTENAW

DATED: 6/11/19

EMILY A. BLOCH, ESQ.
Attorney for Miguel West, M.D.
STATE OF MAINE
BOARD OF LICENSURE IN MEDICINE

DATED: 6/13/19

MAROULLA S. GLEATON, M.D., Chair

STATE OF MAINE DEPARTMENT
OF THE ATTORNEY GENERAL

DATED: 6/11/19

MICHAEL MILLER
Assistant Attorney General

Effective Date: 6/12/19
STATE OF MAINE
BOARD OF LICENSURE IN MEDICINE

In re Marc J. Gorayeb, M.D. )
 )
Appeal of Preliminary Denial )
of Application for Renewal of )
Licensure )
 )
DECISION AND ORDER

I. PROCEDURAL HISTORY

Pursuant to the authority found in 10 M.R.S. Section 8003(5) and 32 M.R.S. Sections 3269 and 3282-A, the Maine Board of Licensure in Medicine ("Board") met in public session at its offices in Augusta, Maine, on May 14, 2019. The purpose of the meeting was to determine whether to affirm the preliminary denial of the application for renewal of licensure of Marc Gorayeb, M.D. ("Licensee").

On April 12, 2018, the Licensee applied for renewal of licensure as an active medical doctor. On May 29, 2018, the Board issued a preliminary denial of the Licensee's renewal application. On March 6, 2019, a Notice of Adjudicatory Hearing was issued setting the hearing in this matter for April 9, 2019. A Scheduling Order was issued on March 10, 2019. On March 18, 2019, a telephonic prehearing conference was convened. On March 19, 2019, a Conference Order was issued setting deadlines for the submission of witness lists and exhibits. In the Conference Order, the Licensee's request to continue the hearing date was granted over the State's objection. On March 20, 2019, a Notice of Continued Adjudicatory Hearing was issued rescheduling the hearing for May 14, 2019.

On May 5, 2019, an Evidentiary Order was issued addressing the State's objections to the Licensee's witnesses and exhibits. On May 9, 2019, an Order on Motions was issued resolving several prehearing motions filed by the Licensee.
The Licensee bore the burden to prove by a preponderance of the evidence that he met the continuing clinical competency requirement for renewal of licensure although the State bore the burden to prove by a preponderance of the evidence the alleged violations of Board statutes that could form the basis of denial of renewal of licensure or of discipline.

A quorum of the Board was in attendance during all stages of the proceedings. Participating and voting Board members were Louisa Barnhart, M.D.; Susan Dench, Public Member; Timothy Fox, M.D.; Peter Sacchetti, M.D.; Brad E. Waddell, M.D.; Lynn M. Weinstein, Public Member; Miriam Wetzel, Ph.D., Public Member; and Maroulla Gleeton, M.D., Chair. The Licensee was present at the hearing and represented himself. Michael Miller, 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 Maine Administrative Procedure Act, 5 M.R.S. Section 9051 to Section 9064.

State Exhibits #1 to #15 and Licensee Exhibit #24 were admitted without objection. The admitted exhibits are identified as follows:

State Exhibit #1: Notice of Continued Adjudicatory Hearing issued on March 20, 2019
State Exhibit #2: ALMS License Information for Licensee
State Exhibit #3: Licensee Application for Renewal of Licensure filed on April 12, 2018
State Exhibit #4: Email from Board Staff to Licensee dated April 13, 2018
State Exhibit #5: Memorandum from Board Staff to Licensure Committee and Board dated May 8, 2018
State Exhibit #6: Email from Board Staff to Licensee dated May 9, 2018
State Exhibit #7: Licensee Complaint and Request for Relief filed on May 17, 2018
State Exhibit #8: Email from Board Staff to Licensee dated May 17, 2018
State Exhibit #9: Preliminary Denial of License Renewal issued on May 29, 2018
State Exhibit #10: Licensee Notice of Appeal filed on June 26, 2018
State Exhibit #11: Board Rules Chapter 1
State Exhibit #12: 10 M.R.S. § 8003
State Exhibit #13: 32 M.R.S. § 3269
State Exhibit #14: 32 M.R.S. § 3280-A
State Exhibit #15: 32 M.R.S. § 3282-A
Licensee Exhibit #1: Email generated from Maine.gov to Licensee dated March 1, 2018
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 parties filed written opening statements that were provided to the Board in advance of hearing. The State presented the Licensee as a witness. The Licensee presented the following witnesses: Nikolette Alexander, Investigative Secretary for the Board; Tracy Morrison, Licensure Specialist for the Board; and Dennis Smith, Esq., Executive Director of the Board. Each party made a closing argument. 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 the Licensee and his eligibility for renewal of licensure.

II. FINDINGS OF FACTS

The Licensee received a degree in medicine from McGill University in 1981. (Testimony of Licensee.) He subsequently practiced medicine in various hospitals full-time until 2002, when he began to attend law school. (Testimony of Licensee.) The Licensee continued to practice medicine part-time while he attended law school, from which he graduated in 2005. (Testimony of Licensee.) The Licensee then spent three years practicing law during which he did not practice medicine. (Testimony of Licensee.) Beginning in 2008, the Licensee went to work as a patent attorney for a medical device company, Deka Research and Development in Manchester, New Hampshire, where he remains employed. (Testimony of Licensee.) During the first few years that he worked for Deka Research and Development, the Licensee resumed part-time emergency room practice on the weekends. (Testimony of Licensee.)

The Licensee was first licensed as a medical doctor in Maine in April 2010. (State Exh. #2.) His most recent license expired on April 30, 2018, although because he filed a timely renewal application his license has remained active pending the issuance of the Board’s final decision on his application pursuant to 5 M.R.S. Section 10002. (State Exh. #2.) The Licensee has previously held
medical licenses in Louisiana, Colorado, Massachusetts, and Pennsylvania, all of which have expired. (State Exh. #3.) The Licensee currently holds a medical license in New Hampshire. (State Exh. #3; Testimony of Licensee.)

On April 12, 2018, the Licensee filed an application for renewal of his Maine medical license. (State Exh. #3.) The Licensee indicated that his specialty was emergency medicine and he was ABMS Board Member certified, although at hearing he acknowledged that this certification had expired in 2015 because he did not see enough patients to maintain the certification. (State Exh. #3; Testimony of Licensee.) The application stated as follows: "If an applicant has not engaged in the active practice of clinical medicine during the 24 months immediately preceding the filing of the application, the Board may determine on a case by case basis in its discretion whether the applicant has adequately demonstrated continued clinical competency to practice clinical medicine." (State Exh. #3.) The Licensee stated on the application that he had not practiced clinical medicine in the prior 24 months. (State Exh. #3.) The Licensee stated that he was not practicing medicine because he was the Medical Director at a medical device company. (State Exh. #3.) The Licensee described the company as an “engineering company that designs, builds and markets medical devices including hemodialysis and peritoneal dialysis systems, infusion devices, artificial pancreas devices, and tissue engineering devices.” (State Exh. #3.) At hearing, the Licensee testified that he gave himself the title of Medical Director because he is the only medical doctor who works there and he writes prescriptions for pharmaceuticals that are used in research, even though his official title at the company is Patent Attorney. (Testimony of Licensee.) The Licensee does not recall precisely when he ceased practicing part-time in emergency rooms and could not recall the last time that he saw a patient in a clinical setting. (Testimony of Licensee.) The Licensee does not hold staff privileges at any hospital or otherwise maintain any hospital affiliations. (Testimony of Licensee.)
On April 13, 2018, Board staff informed the Licensee via email that given his lack of recent clinical practice, he could renew his license on an inactive status or convert his license to an emeritus license. (State Exh. #4.) The Licensee then requested that the Board refund his license renewal fee because he had not realized he would not be eligible for an active license. (State Exh. #5.) On May 9, 2018, Board staff informed the Licensee via email that the Board had denied his request for a refund of the application fee and his application for an active license but offered the Licensee an administrative or emeritus license. (State Exh. #6.) The email informed the Licensee that if he did not choose either an administrative or emeritus license, his application for renewal of an active license would be denied. (State Exh. #6.) On May 17, 2018, the Licensee filed a written submission indicating that he rejected the offer of any license other than an active license, which Board staff acknowledged via email on the same day. (State Exhs. #7 & #8.)

On May 29, 2018, the Board issued a preliminary denial of the Licensee’s application for renewal of his active medical license. (State Exh. #9.) The preliminary denial identified the reason for the denial as the Licensee’s failure to demonstrate continued competency to practice clinical medicine and also cited the Board’s statutory incompetence standards. (State Exh. #9.) The preliminary denial reiterated the Licensee’s option to convert and renew his license to an emeritus or administrative license within 30 days. (State Exh. #9.) On June 26, 2018, the Licensee filed an appeal of the preliminary denial. (State Exh. #10.)

At hearing, the Licensee testified that he would not be willing to undertake the requirements indicated in the Board’s reentry to practice guidelines, such as a special purpose examination, a mini residency, mentorship, or monitoring. (Testimony of Licensee.) The Licensee acknowledged that he had not engaged in clinical medical in the 24 months preceding his application and that he would not meet the requirements for reinstatement of licensure. (Testimony of Licensee.) The Licensee’s annual salary is approximately $130,000, potentially with additional bonuses.
(Testimony of Licensee.) The Licensee owns his home, three cars, and a boat, and he maintains retirement funds. (Testimony of Licensee.)

III. GOVERNING STATUTES AND RULES

1. The Board’s sole purpose is to protect the public health and welfare. 10 M.R.S. § 8008.

2. The Board may refuse to renew a license or may impose discipline upon a licensee if the licensee exhibited incompetence by engaging in conduct that evidenced a lack of ability or fitness to discharge the duty owed by the licensee to a client or patient or the general public. 32 M.R.S. § 3282-A(2)(E)(1).

3. The Board may refuse to renew a license or may impose discipline upon a licensee if the licensee exhibited incompetence by engaging in conduct that evidenced a lack of knowledge or inability to apply principles or skills to carry out the practice for which the licensee is licensed. 32 M.R.S. § 3282-A(2)(E)(2).

4. The Board may refuse to renew a license or may impose discipline upon a licensee if the licensee violates a Board rule. 32 M.R.S. § 3282-A(2)(H).

5. The Board shall deny a license renewal application if the Board finds cause that may be considered grounds for refusal to renew the license pursuant to 32 M.R.S. Section 3282-A. 32 M.R.S. § 3280-A(2)(A).

6. A licensee seeking renewal of licensure must demonstrate continuing clinical competency. (02-373) Rules of Board of Licensure in Medicine ("Board Rules"), Chapter 1, § 8(3)(A)(4) & (9). If an applicant has not engaged in the active practice of clinical medicine during the 24 months immediately preceding the filing of the application, the Board may determine on a case by case basis in its discretion whether the applicant has adequately demonstrated continued competency to practice clinical medicine. Board Rules, Chapter 1, § 9(1)(A).
7. Where there is a finding of a violation, the Board may assess the licensee all or part of the actual expenses incurred by the Board for investigation and enforcement duties, including hourly costs of hearing officer services, costs associated with record retrieval, and the costs of transcribing or reproducing the administrative record. 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 and in light of its sole purpose of protecting the public health and welfare, concluded that it had jurisdiction over the Licensee and found as follows:

1. By unanimous vote, the Licensee did not exhibit incompetence by engaging in conduct that evidenced a lack of ability to discharge the duty owed by the licensee to a client, patient, or the general public, and as such he was not subject to discipline pursuant to 32 M.R.S. Section 3282-A(2)(E)(1).

2. By unanimous vote, the Licensee did not exhibit incompetence by engaging in conduct that evidenced a lack of knowledge and an inability to apply the principles or skills to carry out the practice of medicine, and as such he was not subject to discipline pursuant to 32 M.R.S. Section 3282-A(2)(E)(2).

3. By unanimous vote, the Licensee had not been engaged in active clinical medicine during the 24 months preceding his application and did not otherwise demonstrate continuing clinical competency as required for renewal of licensure pursuant to Board Rules Chapter 1, Sections 8(3)(A)(4) and 9, subjecting him to discipline pursuant to 32 M.R.S. Section 3282-A(2)(H). On this basis, by unanimous vote, the Board denied the Licensee’s appeal from the preliminary denial of his application for renewal of licensure.

4. By a vote of five to three, given the Licensee’s ability to pay the costs of hearing as evidenced by his testimony regarding financial resources, the Board imposed half of the
Board’s total cost for hearing officer services in this matter. As such, the Licensee must submit $1,672.50 within four months of the effective date of this Decision and Order.

Payment shall be remitted to the attention of Nikolette Alexander, Investigative Secretary, Maine Board of Licensure in Medicine, 137 State House Station, Augusta, Maine 04333-0137, by check or money order payable to the Treasurer, State of Maine.

The effective date of this Decision and Order is the date on which it is signed by the Board Acting Chair.

Dated: 6-11-2019

Louisa Barnhart, M.D., Acting Chair
State of Maine Board of Licensure in Medicine

V. APPEAL RIGHTS

Pursuant to the provisions of 10 M.R.S. Section 8003(5) and 5 M.R.S. Section 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.