State of Maine
Board of Licensure in Medicine
137 SHS 161 Capitol Street
Augusta, Maine 04333-0137
Minutes of September 10, 2013
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XVIII. Adjournment 4:37 p.m.
State of Maine  
Board of Licensure in Medicine  
137 SHS, 161 Capitol Street  
Augusta, Maine 04333-0137  
Minutes of September 10, 2013

Board Members Present  
Maroulla Gleaton, M.D, Chairman  
David D. Jones, M.D., Board Secretary  
David R. Andrews, M.D.  
Louisa Barnhart, M.D.  
Cheryl Clukey  
David H. Dumont, M.D  
Dana Dyer  
David Nyberg, Ph.D.

Board Staff Present  
Randal C. Manning, Executive Director  
Mark C. Cooper, M.D., Medical Director  
Jean M Greenwood, Administrative Assistant  
Kathryn Levesque, Board Investigator  
Tim Terranova, Consumer Assistant  
Attorney General’s Office Staff  
Dennis Smith, Assistant Attorney General  
Detective James Gioia

Dr. Hatfield’s term expired June 30, 2013  
A replacement has not been appointed.

The Board meets in public session with the exception of the times listed below, which are held in executive session. Executive sessions are held to consider matters which, under statute, are confidential (1 M.R.S. §405) and 10 M.R.S.A. §8003-B, and 22 M.R.S. § 1711-C). The Board moved, seconded, and voted the following executive session times. During the public session of the meeting, actions are taken on all matters discussed during executive session. Discussions are projected on a screen by PowerPoint projection.

PUBLIC SESSIONS
11:02 a.m. – 11:03 a.m.  
11:10 a.m. – 11:21 a.m.  
12:11 p.m. – 12:46 p.m.  
2:19 p.m. – 2:21 p.m.  
2:21 p.m. – 3:03 p.m.  
3:06 p.m. – 4:40 p.m.

PURPOSE  
Call to Order  
Recess  
Noon Recess  
Recess  
Public Session  
Public Session

EXECUTIVE SESSION
9:03 A.M. -11:10 a.m.  
12:46 p.m. – 2:19 p.m.  
3:03 p.m. – 3:06 p.m.

Complaints  
Complaints  
Complaints

I. Call to Order

Dr. Gleaton called the meeting to order at 9:03 a.m.

A. Amendments to Agenda
   1. Alexandra Nesbit, PA-C – Automatic Suspension per Consent Agreement.
   2. Discussion – Emergency Licensees who fail to apply for permanent license.
B. Scheduled Agenda Items
   1. Adjudicatory Hearing 1:00 p.m. CR 11-136 Albert Aniel M.D.  
      (Consent Agreement for Review/Approval)

Executive Session

II. New Complaints

1. Letters of Guidance
   a. CR12-73 Michael J. Festino, M.D
      
      Mr. Dyer moved to approve the Letter of Guidance to Dr. Festino. Dr. Nyberg 
      seconded the motion, which passed unanimously.

   b. CR12-100 Michael C. Lemieux, M.D.
      
      Dr. Barnhart moved to approve the Letter of Guidance to Dr. Lemieux. Dr. Jones 
      seconded the motion, which passed unanimously.

   c. CR13-30 John E. Sommer, M.D.
      
      Dr. Dumont moved to approve the Letter of Guidance to Dr. Sommer. Dr. Andrews 
      seconded the motion, which passed unanimously.

2. CR12-50 Scott M. Davis, M.D.

   Dr. Dumont moved to dismiss CR12-50 Scott M. Davis, M.D. with a Letter of Guidance. 
   Dr. Nyberg seconded the motion, which passed unanimously.

   This complaint originates from an addictionologist's patient who was noted to be 
   diverting large quantities of narcotics. Subsequent review of several of this physician's 
   charts by the Board and by an outside consultant showed poor compliance with universal 
   precautions regarding the prescribing of controlled substances. The physician has ceased 
   practicing in Maine and no further records are available for review. The letter of 
   guidance will emphasize the need for attention to universal precautions in prescribing and 
   for limiting the quantities of narcotics prescribed.

3. CR12-104

   Dr. Barnhart moved to investigate further CR12-104. Dr. Jones seconded the motion 
   which passed 7-0-0-1 with Dr. Nyberg recused.

4. CR12-153
Dr. Gleteon moved to investigate further CR12-153. Dr. Dumont seconded the motion, which passed unanimously.

5. CR13-73

Ms. Clukey moved to dismiss CR 13-73. Dr. Jones seconded the motion, which passed unanimously.

A patient complained about the medical competency of his primary care physician. After review of the complaint and physician’s response, but not the medical records because the patient did not release them for the Board to review, there is no evidence of incompetency. The physician provided reasonable medical care.

6. CR13-13 William K. Bradfield, M.D.

Dr. Andrews moved to dismiss CR13-13 William K. Bradfield, M.D. with a letter of guidance. Dr. Jones seconded the motion, which passed unanimously.

The complainant alleges that the doctor’s prenatal care was inappropriate, and that his office did not respond to multiple attempts by the patient to effect further evaluation. This resulted in undue pain and stress prior to the diagnosis of a serious pregnancy-related condition. The doctor responds that the patient’s problem presented atypically and therefore was not diagnosed until weeks later. He acknowledges both the poor phone call documentation by his office staff and the delay in his re-evaluation. Record review confirms some anomalies in disease presentation, followed by a period of weeks during which multiple calls by the patient were poorly documented by both staff and doctor. The record supported the patient’s claim of a flawed documentation of phone calls and inadequate physician/office responsiveness, which presented a risk to the mother and child. The doctor admits he has learned from this case, and that phone communications are now documented in the office’s new electronic record system.

A letter of guidance will emphasize that: (1) Accurate documentation of patient communications is essential to good medical care; and (2) Patient complaints should prompt timely patient follow-up, particularly when no firm diagnosis has been made for the presenting problem.

7. CR13-31

Dr. Jones moved to dismiss CR13-31. Ms. Clukey seconded the motion, which passed unanimously.

The complainant asserts that the care offered by the physician assistant prior to her mother’s admission and subsequent death at a hospital was incompetent, and did not meet the standard of care. Upon review of the records of this complex case, and after gathering more information from the physician assistant, the Board finds the care of this unfortunate patient was in fact appropriate. Based on the patient’s history, vital signs,
and a thorough exam at her appointment three days before the admission, the evaluation and treatment of this patient met the standard of care.

8. CR13-45

Dr. Gleaton moved to dismiss CR13-45. Dr. Jones seconded the motion, which passed unanimously.

This complaint against a dermatologist, for incompetence and unprofessional behavior, has been resolved by the physician’s converting his active license to an administrative license.

9. CR13-88

Dr. Dumont moved to dismiss CR 13-88. Dr. Jones seconded the motion, which passed 6-1-0-1 with Dr. Andrews recused.

This complaint comes from the family of a 25-year-old patient who had appendicitis. They feel the surgeon ordered an unnecessary second CT scan, was slow to respond to the Emergency Department, and then was rude at the follow-up office visit.

Review of the record shows appropriate emergency care but a confusing clinical picture. The patient had ongoing pain but an improved white blood cell count and initially a non-diagnostic CT. A repeat CT was not unreasonable. Once this was obtained, the patient did go to surgery in an expedient fashion with the surgeon responding in a timely manner. Records do not reflect a problem at the follow-up visit, although, according to the patient, communication was poor. Care was otherwise appropriate.

10. CR13-114

Dr. Barnhart moved to dismiss CR13-114. Dr. Nyberg seconded the motion, which passed unanimously.

A patient complains of the unavailability of the physician to reassure the complainant following unexpected test results and major changes in the use of medications. The patient posed serious questions during phone calls and complains about having to interact with nurses instead of the physician. The patient complains of impersonal but competent care.

The physician reports the patient’s difficult phone communications with office staff. Office visits were offered, but declined. The physician explains major questions are ordinarily handled at office visits, but in this case he tried to handle them by phone. The physician apologizes for a late letter and has made office procedure changes to address this issue.

The records were reviewed and medical care was found to be appropriate.
11. CR13-111

Dr. Jones moved to dismiss CR13-111. Dr. Dumont seconded the motion, which passed unanimously.

The complainant states that the doctor performed multiple unnecessary procedures on him and did not diagnose the cause of his chronic post-operative pain. In evaluating this complaint, the Board finds that some parts of the complaint are hard to verify. The patient’s perception of what he thought the doctor’s statements were, and the patient’s perception of the care he received are not fully supported by the record. The Board notes that this physician involved multiple specialists and performed multiple tests and imaging scans in an effort to find the cause of the patient’s pain. The patient self-referred to a specialist in Boston who was able to help the patient. Although this prolonged process was very difficult for the patient, the care he received by the physician named in this complaint was appropriate.

12. CR13-112

Dr. Jones moved to investigate further CR13-112. Dr. Dumont seconded the motion, which passed unanimously.

13. CR13-113

Dr. Jones moved to dismiss CR13-113. Dr. Nyberg seconded the motion, which passed unanimously.

The physician assistant did a pre-operative history and exam on a patient who had already seen the surgeon, been scheduled for surgery by the surgeon, and received informed consent counseling from the surgeon. The complainant states that the physician assistant was unprofessional and incompetent in his care because the physician assistant did not offer him alternatives to surgery. The physician assistant actually fulfilled his responsibilities in the care of this patient appropriately. The patient also states that the physician assistant did not treat his post-operative pain correctly by phone or in person. During a phone call one month post-operatively the physician assistant talked to the patient about his pain, and advised conservative use of narcotics while refilling a prescription of narcotics for the patient. The care and information provided by this physician assistant was appropriate.

14. CR13-89

Dr. Dumont moved to dismiss CR13-89. Dr. Jones seconded the motion, which passed unanimously.

This is a complaint by a patient’s partner who feels he did not receive appropriate testing to see if he had a blood disease and that he was subsequently given incorrect information
about treatment. Review of the record shows only three office encounters that primarily dealt with other issues. Tests for the blood disorder were appropriately done with recognition of the possibility of the disease noted in the chart. Appropriate recommendations were made about the results. The patient’s other medical issues appear to have also been managed in a standard fashion. The possibility of communication issues between the patient’s significant other and the physician cannot be assessed and care was otherwise appropriate.

15. CR13-94

Dr. Barnhart moved to dismiss CR13-94. Dr. Nyberg seconded the motion, which passed unanimously.

A patient is distressed about a “failed surgery” and complains the physician was rude. The patient has been requesting second opinions about this surgery since 2008. Records reveal there was appropriate follow-up care ordered and no abnormal findings were found by the consultant in question or by subsequent practitioners. The issue of non-surgical interventions could not be addressed due to the difficulty of assuring the patient that the original surgery was appropriate.

This patient is in a difficult situation. Three consultant surgeons have not offered operative relief of that situation and the fourth, the consultant in question, did not respond as the patient had wished. The records indicate that this was a difficult visit, but nothing that occurred requires further action by the Board.

16. CR13-117 Joel S. Olstein, M.D.

Ms. Clukey moved to order an Adjudicatory Hearing in the matter of CR13-117 Joel S. Olstein, M.D. with instructions to the Assistant Attorney General regarding a consent agreement. Dr. Dumont seconded the motion, which passed unanimously.

17. CR13-118

Dr. Jones moved to investigate further CR13-118. Dr. Nyberg seconded the motion, which passed 7-0-0-1 with Dr. Andrews recused.

18. CR13-29 Charles S. Armstrong, M.D.

Dr. Dumont moved to dismiss, with a letter of guidance CR13-29 Charles S. Armstrong, M.D. Mr. Dyer seconded the motion, which passed unanimously.

This complaint involves a patient with severe migraines who feels the emergency department physician who discharged her was rude and uncaring. Review of the physician’s response and the emergency department records shows a patient with difficult migraine headaches that respond poorly to standard treatment. The patient had some
degree of improvement after a very prolonged emergency department stay, and the physician who assumed her care felt she could safely be discharged.

The patient requested additional medication to “hold her over” until she could return to her home out of state. The discharging physician appropriately was concerned about this request and did not prescribe any additional medication. The context of this discussion is somewhat in dispute and perhaps could have been managed in a different fashion by the physician; however, his concern about dispensing narcotics is reasonable.

The letter of guidance will emphasize the need to evaluate thoroughly all patients who are signed out to his care.

19. CR13-42

Dr. Jones moved to dismiss CR13-42. Ms. Clukey seconded the motion, which passed unanimously.

This patient complains that the facility took his diabetic shoes away on admission and this caused a diabetic ulcer and subsequent osteomyelitis with planned amputation of a toe. He states that his request for replacement shoes was not addressed in a timely manner, even though approved by the State Department of Corrections. He also felt that the physician assistant was not timely in his treatment of his diabetic ulcer, and slow to refer. The Board finds that the loss of diabetic shoes with metal supports was not the physician assistant’s fault, but institutional policy, and that he pushed hard to get appropriate shoes and outside care for this patient. The care in this facility was timelier than what the patient would have received in regular out-patient care and his diabetic care was exceptional. The Board finds the care of this patient by the physician assistant excellent and no further Board action is required.

20. CR 13-43

Dr. Jones moved to dismiss CR13-43. Ms. Clukey seconded the motion, which passed unanimously.

The patient states that he did not have access to diabetic shoes in the facility where he was staying. He states that he did not have access to special tape to keep one of his toes from breaking. While it is true that it is institutional policy is to remove standard diabetic shoes from patients upon entering the facility, this patient never made a request for new, nonmetal containing shoes and tape and did not discuss a broken toe with the physician assistant.

21. CR13-47 Waleed Khan, M.D.

Ms. Clukey moved to order an Adjudicatory Hearing in the matter of CR13-47 Waleed Khan, M.D. with instructions to the Assistant Attorney General regarding a possible Consent Agreement. Dr. Jones seconded the motion, which passed unanimously.
22. CR13-54

Dr. Jones moved to dismiss CR13-54. Dr. Dumont seconded the motion, which passed unanimously.

This patient states that she had an injury at work, saw this physician assistant, and found his care superficial, hurried, dismissive, and his diagnosis incorrect. Review of the record demonstrates an excellent history, exam, differential, and plan. Perception of affect is difficult to assess in a record review. This patient did not return as scheduled, when further evaluation was already outlined appropriately in the physician assistant’s note. The care and documentation were excellent.

23. CR13-59

Dr. Nyberg moved to investigate further CR13-59. Dr. Jones seconded the motion, which passed unanimously.

24. CR 13-60

Dr. Nyberg moved to investigate further CR13-60. Dr. Jones seconded the motion, which passed unanimously.

25. CR13-67

Dr. Nyberg moved to investigate further CR13-67. Dr. Jones seconded the motion, which passed unanimously.

26. CR13-61

Dr. Dumont moved to dismiss CR13-61. Dr. Jones seconded the motion, which passed unanimously.

This complaint involves the follow-up care by an endocrinologist of a young woman diagnosed with thyroid cancer. The patient had equivocal evidence of ongoing disease and underwent multiple treatments before eventually self-referring to an out of state specialty clinic. This is a very complex case that generated several conflicting opinions about her care. Review of the record, however, indicates very attentive follow-up and treatment according to standard published and recognized guidelines. An outside expert reviewer also analyzed this case and states “care was consistent with or exceeded current standards.” Concern about how things were phrased in communication between the physician and the patient cannot be adequately assessed on review of the chart. The medical care was appropriate.

27. CR13-62
Dr. Barnhart moved to dismiss CR13-62. Dr. Nyberg seconded the motion, which passed unanimously.

A patient complains that there were difficulties during an evaluation, which resulted in a personally uncomfortable situation for hours. In addition, there was confusion about a ride home, and the patient feels the staff was rude.

The records indicate medical care was appropriate. It was reasonable to call the family to decide on proper transportation after the procedure did not go as expected. However, the protocol for such events was also reviewed and the office has altered its procedure to prevent similar confusion in the future. It is impossible for the Board to know if the staff was rude.

28. CR13-64

Dr. Nyberg moved to dismiss CR13-64. Mr. Dyer seconded the motion, which passed unanimously.

The physician was delinquent in his application for a permanent license after having been granted an emergency license. The physician admits his error and has submitted the application. The matter is resolved.

29. CR13-68

Ms. Clukey moved to dismiss CR13-68. Dr. Dumont seconded the motion, which passed unanimously.

The Board initiated this complaint alleging fraud and deceit in applying for licensure.

The physician responds in detail and offers a rational explanation for the error. While she admitted she did answer the same question differently in two applications, she apologized and reiterated that she did not intend to deceive the Board by giving inaccurate information or misrepresenting her medical history.

30. CR13-77

Ms. Clukey moved to dismiss CR13-77. Dr. Nyberg seconded the motion, which passed unanimously.

The patient is a young woman who presented to the Emergency Department (ED) with chest pain. She complains the ED physician repeatedly questioned her about cocaine use. The physician responds that the patient has a history of cardiac events and stroke which is unusual for a young person. He states that with that history an inquiry into illicit drug use, especially cocaine, is appropriate. He denies that he accused her of using cocaine. The patient left the ED against medical advice. Inquiry into the possibility of drug abuse, given this patient’s medical history, was appropriate.
31. CR13-78

Mr. Dyer moved to dismiss CR13-78. Dr. Dumont seconded the motion, which passed 7-0-0-1 with Dr. Gleanon recused.

The patient alleges the physician was arrogant, ignorant, biased, and bigoted. This physician is the latest in a series of specialists consulted by the patient who, collectively, have ordered and discussed all relevant diagnostic tests. The patient would not accept reassurance that her prognosis is good and no further testing is required before abruptly walking out of the appointment. There is no evidence to support the allegations.

32. CR13-81

Dr. Dumont moved to investigate further CR13-81. Dr. Andrews seconded the motion, which passed 7-0-0-1 with Dr. Barnhart recused.

33. CR13-83

Dr. Andrews moved to investigate further CR13-83. Dr. Jones seconded the motion, which passed unanimously.

34. CR13-84

Dr. Jones moved to investigate further CR13-84. Dr. Nyberg seconded the motion, which passed unanimously.

35. CR13-85

Mr. Dyer moved to dismiss CR13-85. Dr. Jones seconded the motion, which passed unanimously.

The patient, who is in a state institution, complains the physician did not adequately treat his pain. The patient suffered an acute injury requiring surgery and complains his pain medication was stopped prematurely. He also accuses the physician of making inappropriate sexual remarks. The physician describes the care of the patient including medication use. He denies saying anything of a sexual nature to the patient. A review of the medical record indicates appropriate care.

36. CR 13-95

Dr. Jones moved to dismiss CR13-95. Dr. Andrews seconded the motion, which passed unanimously.

The patient’s son complains that the physician assistant inappropriately prescribed medicine to his mother, giving her more and more medicines, causing her to become
addicted to the medicines and almost dying. Review of the record demonstrates excellent care by this physician assistant in trying to provide primary care for this patient. This patient had a tremendous number of emergency room visits, admissions to the hospital, skilled stays in different nursing homes, and no-show appointments in the office. It appears that this physician assistant and her team were not responsible for most of the patient’s new medicines and worked very hard in trying to reconcile the patient’s medicine list with the multiple new prescriptions she received from different providers whom she saw. It is understandable that the son is frustrated with the multiple different medicines that his mother was placed on, but these prescriptions were not from the physician assistant.

37. CR 13-96

Dr. Dumont moved to investigate further CR13-96. Mr. Dyer seconded the motion, which passed unanimously.

38. CR13-98

Dr. Jones moved to dismiss CR13-98. Dr. Dumont seconded the motion, which passed unanimously.

The patient states that she was discriminated against by this physician assistant, that he discontinues any medicines she gets from other physicians and that he discharged her from his practice. Review of the record shows concern for diversion of her narcotics by the physician assistant, a request for a pill count that she agreed to, and a subsequent no-show for her pill count, breaking her controlled substance contract. She was given a one-month prescription of narcotics to allow her to withdraw gradually and was dismissed from the practice because of concerns about diversion. There was no evidence of discrimination and a primary care provider has the right to discontinue medicines prescribed by other doctors.

39. CR13-99

Dr. Jones moved to dismiss CR13-99. Dr. Nyberg seconded the motion, which passed 7-0-0-1 with Dr. Andrews recused.

The patient has several serious medical conditions and is being followed by numerous physicians in Maine and out of state. The physician notes he has had approximately 90 encounters with the patient to deal with his role in her care. The essence of the complaint is poor communication, and specifically the patient’s accusation that the physician told a family member that she knows how to “use the system.” The physician vigorously denies this accusation, but admits he has had to be firm with the patient on some occasions. There is no question about the quality of medical care provided by the physician.

40. CR13-100
Mr. Dyer moved to investigate further CR13-100. Dr. Dumont seconded the motion, which passed unanimously.

41. CR13-101

Dr. Barnhart moved to investigate further CR13-101. Ms. Clukey seconded the motion, which passed unanimously.

42. CR 13-102

Dr. Andrews moved to dismiss CR13-102. Dr. Jones seconded the motion, which passed unanimously.

The patient complains that his institutional physician inappropriately discontinued his pain medication. The physician responds that the patient has declined previous surgical treatment in the past and that the institutional clinical team meeting had decided that this patient’s pain could be managed without opioids. The physician subsequently left the employment of the institution, after which the clinical team decided to restart the patient’s pain medication.

43. CR13-105

Dr. Dumont moved to investigate further CR13-105. Mr. Dyer seconded the motion, which passed 6-0-0-2 with Dr. Gleeton and Dr. Barnhart recused.

44. CR13-106

Dr. Barnhart moved to dismiss CR13-106. Dr. Nyberg seconded the motion, which passed unanimously.

The patient alleges that the physician has failed to provide him with treatment, and inappropriately declined to prescribe him certain medications that the physician is qualified to prescribe. The physician responded that he has not refused to treat the patient, but that he has declined to prescribe certain pharmacotherapy to the patient unless the patient is being treated and monitored by a medical specialist. The medical record corroborates the physician’s response.

45. CR13-110

Dr. Andrews moved to dismiss CR13-110. Dr. Jones seconded the motion, which passed unanimously.

The complainant states that the emergency physician did not treat his family member appropriately. The physician states that care was expeditious and appropriate, and he expressed empathy for the family’s situation. Record review shows an atypical and non-
localizing presentation for a life threatening condition that deteriorated rapidly. Medical care was appropriate and the time line showed the expedience to be commensurate with the clinical situation.

46. CR13-115 Michael H. Ralph, M.D.

Dr. Dumont moved to dismiss CR13-115 Michael H. Ralph, M.D. with a letter of guidance. Dr. Barnhart seconded the motion, which passed unanimously.

This is a complaint about an orthopedist who placed a screw in a patient’s growth plate during an operative repair of an ankle fracture. This is a complicated fracture that tends to occur as the growth plate closes. The patient was also thought to have more advanced bone age than her chronologic age. For these reasons, the hardware violating the growth plate may not effect later growth. While relevant to this case, these details were not addressed adequately in the patient’s record. An outside consultant reviewed this case and also raised questions about how the patient was managed. The physician has provided a lengthy reply that answers these issues. The physician admits that his documentation of the operative procedure and of his thought process was not adequate; however, the care appears to have been satisfactory. A letter of guidance will be issued to the physician encouraging better documentation of procedures and of his medical decision-making.

47. CR13-119

Dr. Andrews moved to dismiss CR13-119. Dr. Nyberg seconded the motion, which passed unanimously.

The patient complains that the care provided by her emergency department physician was unprofessional and inadequate, and that the medical record was inaccurate. The physician responds that his care was appropriate and his behavior professional. He agrees with an error he made in documentation. Record review documents a thorough history and evaluation of the presenting problem, as well as direct communication with the complainant’s treating physician. The acknowledged error was not germane to her care. Nursing notes documented patient memory problems and confusion during the encounter that could account for the complainant’s other perceived discrepancies, which were not supported by the record.

48. CR13-121 Curt T. Young, M.D.

Dr. Gleeton moved to dismiss CR13-121 Curt T. Young, M.D. with a letter of guidance. Dr. Dumont seconded the motion, which passed unanimously.

A patient complained that a physician did not release her records in a timely fashion. Review of the records reveals records were released in one month and eleven days, which is longer than would be reasonable. The physician explained that he attempted, although unsuccessfully, to contact the patient to entertain questions and ascertain if she wanted a
summary letter in lieu of records. In addition, the physician had serious family matters to deal with during this time frame.

The letter of guidance will emphasize the importance of sending medical records in a timely fashion when requested by a patient.

49. CR13-124

Dr. Gleaton moved to investigate further CR13-124. Dr. Jones seconded the motion, which passed unanimously.

50. CR13-125

Ms. Clukey moved to investigate further CR13-125. Dr. Jones seconded the motion, which passed unanimously.

51. CR13-128

Dr. Jones moved to dismiss CR13-128. Dr. Andrews seconded the motion, which passed unanimously.

The complainant wanted this physician assistant to prescribe a medicine for psychiatric symptoms that her 31-year-old daughter was having, which are similar to her own. She was on this medicine with success, and since she believes their chemistries are the same, it should work for her daughter. Her daughter has a psychiatric diagnosis and is already on significant medicines. The physician assistant refused to prescribe this additional medicine for the patient’s daughter. This request was by phone, and the daughter was not part of the conversation. The Board supports the physician assistant in not prescribing this drug to the complainant’s daughter without seeing the daughter privately and appropriately assessing her pharmacologic needs.

52. CR13-130

Ms. Clukey moved to investigate further CR13-130. Dr. Barnhart seconded the motion, which passed unanimously.

53. CR13-135

Mr. Dyer moved to dismiss CR13-135. Dr. Dumont seconded the motion, which passed 7-0-0-1 with Dr. Andrews recused.

The patient, during oral surgery, required a single tongue suture to hold his tongue forward in order to keep his airway open. This procedure is not uncommon and is an accepted practice. The signed informed consent is complete and extensive. The appropriate standard of care was provided.
54. CR13-116

Dr. Andrews moved to investigate further CR13-116. Dr. Nyberg seconded the motion, which passed unanimously.

55. Intentionally Left Blank

III. Assessment & Direction

56. AD13-26

Dr. Dumont moved to file AD13-26. Dr. Jones seconded the motion, which passed unanimously.

57. AD13-93

Dr. Jones moved to issue a complaint in the matter of AD13-93 (CR13-167). Dr. Dumont seconded the motion, which passed 7-0-0-1 with Dr. Andrews recused.

58. AD13-108

Dr. Jones moved to investigate further AD13-108. Dr. Andrews seconded the motion, which passed unanimously.

59. AD13-122

Dr. Jones moved to file AD13-122. Dr. Dumont seconded the motion, which passed 7-0-0-1 with Dr. Andrews recused.

60. AD13-134

Dr. Dumont moved to file AD13-134. Dr. Nyberg seconded the motion, which passed unanimously.

61. AD13-139

Dr. Jones moved to issue a complaint in the matter of AD13-139 (CR13-168). Dr. Barnhart seconded the motion, which passed unanimously.

62. AD13-140

Dr. Barnhart moved to issue a complaint in the matter of AD13-140 (CR13-169). Dr. Jones seconded the motion, which passed unanimously.

63. AD13-141
Dr. Jones moved to deny Dr. Folkemer’s request to amend his consent agreement to end his probation. Mr. Dyer seconded the motion, which passed unanimously.

3. CR12-63 Stephen Nightingale, M.D.

Dr. Jones moved to terminate Dr. Nightingale’s consent agreement based on documentation that he has fulfilled the conditions of his probation. Dr. Barnhart seconded the motion, which passed 7-1-0-0.


Dr. Dumont moved to ratify the Consent Agreement in the matter of Valerie S. Attia, P.A.-C. Dr. Jones seconded the motion, which passed unanimously.

5. CR12-180 Christina S. Morris, M.D. [SEE APPENDIX B ATTACHED]

Dr. Nyberg moved to ratify the Consent Agreement in the matter of Christina S. Morris, M.D. Dr. Jones seconded the motion, which passed unanimously.


On Friday, September 6, 2013 Alexandria Nesbit, P.A.-C. was notified that her license had been automatically suspended for violation of her consent agreement.

Dr. Jones moved to issue a complaint in the matter of Alexandria Nesbit, P.A.-C. (CR13-173) for violation of her consent agreement. Mr. Dyer seconded the motion, which passed unanimously.

VII. Adjudicatory Hearing

A. CR 11-136 Albert Aniel M.D. [SEE APPENDIX C ATTACHED]

Dr. Jones moved to unseat the Adjudicatory Hearing in the matter of Albert Aniel, M.D. Mr. Dyer seconded the motion, which passed unanimously.

Dr. Jones moved to accept a consent agreement in the matter of CR 11-136 Albert Aniel M.D. in lieu of a hearing. Dr. Andrews seconded the motion, which passed unanimously.

VIII. Remarks of Chairman

A. Training session Complaint Review Process (FYI)

B. Discussion of Definition of Discipline
Dr. Jones moved to draft a policy using the “Nomenclature for BOLIM Sanctions,” a proposal prepared by Dr. Nyberg for Board review. Mr. Dyer seconded the motion, which passed unanimously.

C. Standing Committee Appointments and Purpose (FYI)

2014 Schedule of Board Meetings for approval

Dr. Gleaton moved to approve the 2014 Board meeting schedule. Dr. Jones seconded the motion, which passed unanimously.

IX. Executive Director’s Monthly Report (FYI)

A. Complaint Status Report (FYI)

B. Policy Review Temporary License – Proof of Examination

Dr. Nyberg moved to reaffirm the policy “Temporary License – Proof of Examination.” Dr. Jones seconded the motion, which passed unanimously.

X. Medical Director’s Report

A. Diversion Alert Program (FYI)

XI. Remarks of Assistant Attorney General (See Remarks of Chairman)

XII Secretary’s Report

A. List A

1. M.D. List A Licenses for Ratification

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

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

<table>
<thead>
<tr>
<th>NAME</th>
<th>SPECIALTY</th>
<th>LOCATION</th>
</tr>
</thead>
<tbody>
<tr>
<td>Adams, Omar J.</td>
<td>Emergency Medicine</td>
<td>Not Listed</td>
</tr>
<tr>
<td>Andersen, Ivy</td>
<td>Sleep Medicine</td>
<td>Bangor</td>
</tr>
<tr>
<td>Andress, Reid C.</td>
<td>Internal Medicine</td>
<td>Portland</td>
</tr>
<tr>
<td>Aryal, Shubekchha</td>
<td>Family Medicine</td>
<td>Bangor</td>
</tr>
<tr>
<td>Badmaev, Michael P.</td>
<td>Family Medicine</td>
<td>Augusta</td>
</tr>
<tr>
<td>Baker, Dianna G.</td>
<td>Pediatrics</td>
<td>Winthrop</td>
</tr>
<tr>
<td>Bates, Mary Louise B.</td>
<td>Anesthesiology</td>
<td>Portland</td>
</tr>
</tbody>
</table>
Correction to September 10, 2013 Board Minutes Entry Regarding Hil Rizvi, M.D.

**Corrected Entry:** “The Licensure Committee moved to table the licensure application of Hil Rizvi, M.D. The motion passed unanimously.”

**Explanation for correction:**

1. The original entry in the September 10, 2013 Board minutes regarding Dr. Hil Rizvi was incorrect. The original entry read: “The Licensure Committee moved to approve the permanent licensure application of Hil Rizvi, M.D. The motion passed unanimously.”

2. Review of the audio recording of the Board meeting on September 10, 2013, regarding Dr. Hil Rizvi indicates that the actual motion made was: “Licensing Committee recommends table.” The recording also reflects that the Board voted unanimously in favor of the motion to table.

3. On December 9, 2014, the error regarding the September 10, 2013, Board minutes concerning Dr. Hil Rizvi was brought to the Board’s attention. Following its review, the Board voted to correct the entry in the September 10, 2013, Board minutes to accurately reflect the actual decision of the Board (as indicated by the recording) on that date regarding Hil Rizvi, M.D. Dr. Jones moved to correct the entry in the September 10, 2013, Board minutes regarding Hil Rizvi, M.D. by deleting the entry “The Licensure Committee moved to approve the permanent licensure application of Hil Rizvi, M.D. The motion passed unanimously” and replacing it with “The Licensure Committee moved to table the licensure application of Hil Rizvi, M.D. The motion passed unanimously.” Dr. Dumont seconded the motion, which passed 5-0-2-0 with Dr. Sacchetti and Mr. Ross abstaining.
2. P.A. List A Licenses for Ratification

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

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

<table>
<thead>
<tr>
<th>NAME</th>
<th>LICENSE</th>
<th>PSP</th>
<th>LOCATION</th>
</tr>
</thead>
<tbody>
<tr>
<td>Stephen DelCasino, P.A.-C</td>
<td>Inactive</td>
<td>None</td>
<td>None</td>
</tr>
<tr>
<td>Caroline Desroches, P.A.-C</td>
<td>Inactive</td>
<td>None</td>
<td>None</td>
</tr>
<tr>
<td>Robert Feinberg, P.A.-C</td>
<td>Inactive</td>
<td>Thomas Mitchell, M.D.</td>
<td>Rockport</td>
</tr>
<tr>
<td>Lauren Gelinas, P.A.-C</td>
<td>Active</td>
<td>Andreas Stefan, M.D.</td>
<td>Portland</td>
</tr>
<tr>
<td>Stephanie Gray, P.A.-C</td>
<td>Active</td>
<td>Christopher Bove, M.D.</td>
<td>Lewiston</td>
</tr>
<tr>
<td>Clare Leitzman, P.A.-C</td>
<td>Active-Temp</td>
<td>David Polisner, M.D.</td>
<td>Portland</td>
</tr>
</tbody>
</table>
B. List B Applications for Individual Consideration

1. Joseph Rahill, M.D.

   The Licensure Committee moved to approve the permanent licensure application of Joseph Rahill, M.D. The motion passed unanimously.

2. Robert J. Manning, M.D.

   The Licensure Committee moved to investigate further the license application of Robert J. Manning, M.D. The motion passed unanimously.

3. Hil Rizvi, M.D.

   The Licensure Committee moved to approve the permanent licensure application of Hil Rizvi, M.D. The motion passed unanimously.

4. Safa’a Yousif, M.D.

   The Licensure Committee moved to approve the permanent licensure application of Safa’a Yousif, M.D. The motion passed unanimously.

C. List C Applications for Reinstatement

1. List C Applications for Reinstatement (None)

D. List D Withdrawals

1. List D (1) Withdraw License Application

   a. CR 11-139 Matthew Jacobsen, M.D.

      The Licensure Committee moved to allow Matthew Jacobsen, M.D. to withdraw his license from registration. The motion passed unanimously.

2. List D (2) Withdraw License from Registration

   Dr. Jones moved to approve the physicians on List D (2) below to withdraw their licenses from registration. Dr. Dumont seconded the motion, which passed unanimously.
The following physicians have applied to withdraw their licenses from registration.

<table>
<thead>
<tr>
<th>NAME</th>
<th>LICENSE NUMBER</th>
</tr>
</thead>
<tbody>
<tr>
<td>Dutton, Cynthia</td>
<td>MD13815</td>
</tr>
<tr>
<td>Chang, Poh Yong</td>
<td>MD12334</td>
</tr>
<tr>
<td>Gandev, George</td>
<td>MD17659</td>
</tr>
<tr>
<td>Hacobian, Melkon</td>
<td>MD18026</td>
</tr>
<tr>
<td>Haroon, Ebrahim</td>
<td>MD14687</td>
</tr>
<tr>
<td>MacDonald, George</td>
<td>MD5867</td>
</tr>
<tr>
<td>O'Connor, Joseph</td>
<td>MD8704</td>
</tr>
<tr>
<td>Ong, Ying Ying</td>
<td>MD13986</td>
</tr>
<tr>
<td>Poplawski, David</td>
<td>MD16102</td>
</tr>
<tr>
<td>Sahajpal, Deenesh</td>
<td>MD19364</td>
</tr>
<tr>
<td>Taenzer, Andreas</td>
<td>MD15256</td>
</tr>
<tr>
<td>Wagoner, Gregory</td>
<td>MD9873</td>
</tr>
<tr>
<td>Young, John</td>
<td>MD16248</td>
</tr>
</tbody>
</table>

3. List D (3) Withdraw License from Registration - Individual Consideration (None)

E. List E  Licenses to lapse by operation of law

The following physician licenses lapsed by operation of law effective August 01, 2013.

<table>
<thead>
<tr>
<th>NAME</th>
<th>LICENSE NUMBER</th>
</tr>
</thead>
<tbody>
<tr>
<td>Bird, C. David</td>
<td>MD13674</td>
</tr>
<tr>
<td>Boardman, John</td>
<td>MD16354</td>
</tr>
<tr>
<td>Braxton Jr., Ernest</td>
<td>MD18397</td>
</tr>
<tr>
<td>Callanan, Vincent</td>
<td>MD16268</td>
</tr>
<tr>
<td>Cass, Kyra</td>
<td>MD16486</td>
</tr>
<tr>
<td>Dave, Kailas</td>
<td>MD17636</td>
</tr>
<tr>
<td>Delaney, Matthew</td>
<td>MD18619</td>
</tr>
<tr>
<td>Field, Michael</td>
<td>MD17393</td>
</tr>
<tr>
<td>Guadalupi, Pietro</td>
<td>MD17909</td>
</tr>
<tr>
<td>Ham Pong, Anthony</td>
<td>MD11375</td>
</tr>
<tr>
<td>Harrington, Avery</td>
<td>MD12183</td>
</tr>
<tr>
<td>Ho, Victor</td>
<td>MD17298</td>
</tr>
<tr>
<td>Kelmenson, Edward</td>
<td>MD11925</td>
</tr>
<tr>
<td>Kessler Jr., Dale</td>
<td>MD11720</td>
</tr>
<tr>
<td>Kholodnaya, Nadezhda</td>
<td>MD19233</td>
</tr>
<tr>
<td>Knight, George</td>
<td>MD17491</td>
</tr>
<tr>
<td>Lerner, Kenneth</td>
<td>MD16022</td>
</tr>
<tr>
<td>Manaser, Karo</td>
<td>MD8363</td>
</tr>
<tr>
<td>Modahl, Lucy</td>
<td>MD17127</td>
</tr>
</tbody>
</table>
Correction to September 10, 2013 Board Minutes Entry Regarding Hil Rizvi, M.D.

**Corrected Entry:** “The Licensure Committee moved to table the licensure application of Hil Rizvi, M.D. The motion passed unanimously.”

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F. List F Licensees requesting to convert to active status (None)

G. List G Renewal applications for review.

1. Christopher Jones M.D.
   The Licensure Committee moved to investigate further the renewal application of Christopher Jones M.D. The motion passed unanimously.

2. Intentionally Left Blank

H. List H. Physician Assistant Schedule II Authority Requests for Ratification

1. Applications to Renew Schedule II Authority (None)

2. Applications for New Schedule II Authority

Dr. Jones moved to ratify granting new schedule II privileges to the physician assistants listed on List A (2) below with the exception of Michael Wassell, PA-C whose practice address is Portsmouth NH in order to do research to see whether he has a practice address in Maine as well. This will be brought back to the October meeting. Dr. Barnhart seconded the motion, which passed unanimously.

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

<table>
<thead>
<tr>
<th>NAME</th>
<th>PSP</th>
<th>LOCATION</th>
</tr>
</thead>
<tbody>
<tr>
<td>Robert Feinberg, P.A. – C</td>
<td>Thomas Mitchell, M.D.</td>
<td>Rockport</td>
</tr>
<tr>
<td>Jordan Emery, P.A. – C</td>
<td>Steve Diaz, M.D.</td>
<td>Waterville</td>
</tr>
<tr>
<td>Stephanie Graves, P.A. – C</td>
<td>Andres Fleury-Guzman, M.D.</td>
<td>Caribou</td>
</tr>
<tr>
<td>Michael Luck, P.A. – C</td>
<td>Brenda Gowesky, M.D.</td>
<td>Bangor</td>
</tr>
<tr>
<td>Karen Palmer, P.A. – C</td>
<td>Linda Glass, M.D.</td>
<td>Lewiston</td>
</tr>
</tbody>
</table>

XIII. Standing Committee Reports

A. Physician Assistant Advisory Committee Draft Minutes of Sept 3, 2013 (FYI)

XIV. Board Correspondence
A. Licensing Issue (FYI)

XV. FYI

XVI. FSMB Material

A. FSMB Bylaws Adopted at AM 2013 (FYI)
B. FSMB First Call for Appointments (FYI)
C. FSMB First Call for Nominations (FYI)

XVII. Other Business (None)

XVIII. Adjournment 4:37 p.m.

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

Respectfully submitted,

Jean M. Greenwood
Administrative Assistant
STATE OF MAINE
BOARD OF LICENSURE IN MEDICINE

In re: Valerie S. Attia, P.A.-C ) CONSENT
Complaint No. CR13-65 ) AGREEMENT

This document is a Consent Agreement, effective when signed by all parties, regarding discipline imposed upon the license to practice as a physician assistant in the State of Maine held by Valerie S. Attia, P.A.-C. The parties to the Consent Agreement are: Valerie S. Attia, P.A.-C ("Ms. Attia"), the State of Maine Board of Licensure in Medicine ("the Board") and the State of Maine Department of the Attorney General. This Consent Agreement is entered into pursuant to 10 M.R.S. § 8003(5)(B) and 32 M.R.S. § 3282-A.

STATEMENT OF FACTS

1. The Board first issued Ms. Attia a license to practice as a physician assistant in the State of Maine on February 15, 2006. Pursuant to 32 M.R.S. § 3270-B, physician assistant licenses are renewed biennially; however, Board Rule Chapter 2, Section 4(A) provides that the "license of every physician assistant born in odd-numbered years shall expire after March 31 of the following odd-numbered year." Since Ms. Attia was born in an odd-numbered year, her initial physician assistant license was due to expire after March 31, 2007, unless she earlier renewed it. The Board received applications from Ms. Attia to renew her physician assistant license in 2009, 2011, and 2013, and renewed her license on each occasion.

2. On March 30, 2009, the Board received an application and accompanying fee as required by Board Rule Chapter 2, Section 6(A)(3) from Ms. Attia for authority to prescribe Schedule II drugs while under the supervision of an orthopaedic surgeon. On April 14, 2009, the Board granted Ms. Attia authority to prescribe Schedule II drugs. Pursuant to Board Rule...
Chapter 2, Section 6(A)(3)(b) “Schedule II prescribing authority terminates with the expiration of the physician assistant’s license and/or the termination of the plan of supervision.” In addition to this reference regarding the duration and expiration of Schedule II prescribing authority, there are two other Board documents that informed Ms. Attia of the duration and expiration of such authority: (1) an information sheet entitled “Request for Schedule II Prescriptive Authority for Physician Assistants,” which states that the “request for authority to prescribe Schedule II drugs will be effective until the PA’s next license renewal date and, if desired, must be renewed every two years thereafter...”; and (2) a Board letter dated April 15, 2009, sent to Ms. Attia and her supervising physician granting her Schedule II prescribing authority and specifically stating “[t]he authority for Valerie [Attia], PA-C to prescribe Schedule II drugs as outlined above is granted until the medical license must be renewed, which is March 31, 2011. It is your responsibility to keep track of the expiration date and to apply for renewal of the authority.”

3. On March 17, 2010, the Board received a two-page facsimile communication from Ms. Attia with a subject line stating: “PA Schedule II Rx status.” The facsimile cover page stated “We spoke a few minutes ago regarding my schedule II Rx prescribing status. Here’s my new info. Thank you, Valerie.” The facsimile informed the Board of Ms. Attia’s new employer and office location, and that her supervising physician remained the same; however, the facsimile received by the Board did not include an application to renew her Schedule II prescribing authority.

4. On March 23, 2011, the Board renewed Ms. Attia’s physician assistant license following its receipt of her license renewal application. According to Board records, it did not receive an application from Ms. Attia to renew her Schedule II prescribing authority, which expired on March 31, 2011.
5. On March 6, 2013, the Board renewed Ms. Attia’s physician assistant license following its receipt of her license renewal application. In addition, Ms. Attia inquired of the Board staff about renewing her Schedule II prescribing authority. Board staff determined that Ms. Attia had obtained Schedule II prescribing authority in 2009, but had not renewed her authority in 2010 or in 2011 when she renewed her physician assistant license. According to Board records, Ms. Attia had not submitted an application and/or fee to renew her Schedule II prescribing authority. In addition, the Board staff learned through the prescription monitoring program ("PMP") that Ms. Attia had prescribed Schedule II medications from 2011 to 2013, during which time she had no authority from the Board to prescribe Schedule II medications. On March 6, 2013, Ms. Attia subsequently submitted to the Board an application and fee to renew her Schedule II prescribing authority.

6. On April 9, 2013, the Board reviewed the foregoing information, and voted to initiate a complaint against Ms. Attia’s physician assistant license pursuant to 32 M.R.S. § 3282-A alleging unprofessional conduct and a violation of Board statutes or rules based upon Ms. Attia’s prescribing of Schedule II medications to patients from 2011 to 2013, during which time she did not have Schedule II prescribing authority granted by the Board. The Board docketed the complaint as CR13-65 and sent it to Ms. Attia for a written response.

7. On or about April 23, 2013, the Board received a response from Ms. Attia to complaint CR13-65. In her response, Ms. Attia indicated that she “completed an application for Schedule II prescribing at the end of February of 2010, and worked with [Board staff] to make sure that [the Board] received all of the required applications and fees.” According to Ms. Attia, she “faxed [to the Board staff] the application after having [her] supervising physician sign it in addition to [her] new employment information on March 17, 2010.” Ms. Attia provided the
Board with a copy of the application for Schedule II prescribing authority dated February 19, 2010, which contained no facsimile cover sheet, as well as the March 17, 2010 facsimile cover sheet titled “PA Schedule II Rx Status” and the second page with updated contact information. Ms. Attia indicated that she took these measures in 2010 because she had changed locations of her employment, resulting in her having to assume the duties of completing all licensing paperwork, and was married resulting in a name change. Thereafter, Ms. Attia assumed that “everything was in order” and that her Schedule II prescribing authority “was renewed.”

However, Ms. Attia’s response did not address by what method (i.e. check, cash or credit card) or when she actually provided the renewal fee for her Schedule II prescribing authority to the Board in 2010 as required by Board Rule Chapter 2, Section 6(A)(3).

8. On July 9, 2013, the Board reviewed complaint CR13-65, including Ms. Attia’s response to the complaint. During its review it noted that the facsimile coversheet provided by Ms. Attia, together with the second page with updated contact information, matched the information in the Board’s files. In addition, it noted that the facsimile cover sheet indicated that there were only two pages, and that the subject matter was entitled “PA Schedule II Rx status,” but did not contain a renewal application. The Board noted that its records did not contain either an application or fee from Ms. Attia to renew her authority to prescribe Schedule II medications. The Board also noted that its rule and its Schedule II authority letter to Ms. Attia notified her that her authority to prescribe Schedule II medications would expire on March 31, 2011, and required her to file a renewal application and fee with the Board in order to renew it. As a result, the Board concluded that Ms. Attia should not have continued to prescribe Schedule II medications after March 31, 2011, until she possessed a letter from the Board indicating that her Schedule II prescribing authority had, in fact, been extended to March 31, 2013. As a medical professional
and a licensee of the Board, Ms. Attia was responsible for ensuring that she had actually received the renewal of her Schedule II prescribing authority before continuing to prescribe Schedule II drugs. As a result, the Board voted to offer Ms. Attia this Consent Agreement in order to resolve complaint CR13-65 without further proceedings.

9. This Consent Agreement has been negotiated by legal counsel for Ms. Attia and legal counsel for the Board in order to resolve complaint CR13-65 without further proceedings, including an adjudicatory hearing. Absent Ms. Attia’s acceptance of this Consent Agreement by signing and dating it in front of a notary and mailing it to Maureen Lathrop, Investigative Secretary, Maine Board of Licensure in Medicine, 137 State House Station, Augusta, Maine 04333-0137 on or before August 29, 2013, the matter will be presented to the Board for further action.

10. By signing this Consent Agreement, Ms. Attia waives any and all objections to, and hereby consents to allow the legal counsel to the Board to present this Consent Agreement to the Board for possible ratification.

COVENANTS

In lieu of proceeding to an adjudicatory hearing in this matter, Ms. Attia and the Board agree to the following:

11. Ms. Attia admits that with regard to complaint CR13-65 the Board has sufficient evidence from which it could reasonably conclude that she prescribed Schedule II drugs from March 31, 2011 to March 31, 2013 without having Schedule II prescribing authority issued by the Board. Ms. Attia admits that such conduct constitutes unprofessional conduct and a violation of Board Rule Chapter 2, and grounds for discipline pursuant to 32 M.R.S. § 3286(2)(F) and (H).
12. As discipline for the conduct described in paragraphs 1-11 above pertaining to complaint CR13-65, Ms. Attia agrees to accept, and the Board agrees to issue, the following discipline:

   a. A CENSURE. As a licensee of the Board and a medical professional, Ms. Attia was responsible for ensuring that she, in fact, possessed current and valid authority from the Board prior to continuing to prescribe Schedule II drugs after March 31, 2011. Although the Board accepts Ms. Attia's representation that she did not willfully violate the Board's rule, she is ultimately responsible for ensuring that she possesses current and valid Schedule II prescribing authority from the Board. The Board urges Ms. Attia to ensure that this type of error does not occur again. Ms. Attia shall not hereafter prescribe any Schedule II medications until she possesses current and valid authority from the Board.

   b. A MONETARY FINE of Two Hundred Fifty Dollars and Zero Cents ($250.00). Ms. Attia shall ensure that she pays the monetary penalty within thirty (30) days following the execution of this Consent Agreement. Payment shall be made by certified check or money order made payable to “Treasurer, State of Maine,” and be remitted to Maureen Lathrop, Investigative Secretary, Maine Board of Licensure in Medicine, 137 State House Station, Augusta, Maine 04333-0137.

13. In light of Ms. Attia’s acceptance of responsibility in this matter and the lack of any evidence of patient harm, the Board agrees to grant Ms. Attia’s pending application to renew her Schedule II prescribing authority upon the execution of this Consent Agreement.

14. Violation by Ms. Attia 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.
15. Pursuant to 10 M.R.S. § 8003(5) the Board and Ms. Attia agree that the Board has the authority to issue an order, following notice and hearing, imposing further discipline, including revocation or suspension of her license, in the event that she fails to comply with any of the terms or conditions of this Consent Agreement.

16. Ms. Attia waives her right to a hearing before the Board or any court regarding all findings, terms and conditions of this Consent Agreement. Ms. Attia agrees that this Consent Agreement and Order is a final order resolving complaint CR13-65. This Consent Agreement is not appealable and is effective until modified or rescinded by agreement of all of the parties hereto.

17. The Board and the Office of the Attorney General may communicate and cooperate regarding Ms. Attia or any other matter relating to this Consent Agreement.

18. 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.

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

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

21. The Board and Ms. Attia agree that no further agency or legal action will be initiated against her by the Board based upon the facts described herein except or unless she fails to comply with the terms and conditions of this Consent Agreement. The Board may however consider the conduct described above as evidence of a pattern of misconduct in the event that
similar true allegations are brought against Ms. Attia in the future. The Board may also consider
the fact that discipline was imposed by this Consent Agreement in determining appropriate
discipline in any further complaints against Ms. Attia’s Maine physician assistant license.

22. For the purposes of this Consent Agreement, “execution” shall mean the date on
which the final signature is affixed to this Consent Agreement.

23. Ms. Attia has been represented by Abigail C. Varga, Esq., who has participated in
the negotiation of this Consent Agreement on her behalf.

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

I, VALERIE S. ATTIA, 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 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: 8/26/13

VALERIE S. ATTIA, P.A.-C

STATE OF MAINE

CLIMBERWIELD, S.S. (County)

Personally appeared before me the above-named Valerie S. Attia, 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: 8/26/13

ANGELINA M. PHILLIPS
Notary Public, Maine
My Commission Expires June 16, 2019
NOTARY PUBLIC/ATTORNEY
MY COMMISSION ENDS: 6/18/13

DATED: 8/24/13

ABIGAIL C. VARGA, ESQ.
Attorney for Valerie S. Attia, P.A.-C

STATE OF MAINE
BOARD OF LICENSURE IN MEDICINE

DATED: 9/10/13

MAROULLA S. GLEATON, M.D., Chairman

STATE OF MAINE DEPARTMENT
OF THE ATTORNEY GENERAL

DATED: 9/10/13

DENNIS E. SMITH
Assistant Attorney General

Effective Date: 9/10/13
STATE OF MAINE  
BOARD OF LICENSURE IN MEDICINE  

In re: )  
Christina S. Morris, M.D. )  
Complaint No. CR12-180 )  
Application for Licensure )  

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

STATEMENT OF FACTS  

1. Pursuant to Title 32 Chapter 48 the Legislature endowed the Board with the power and duty to regulate the practice of physicians and physician assistants licensed by the Board, including setting standards of practice and investigating complaints. Pursuant to 10 M.R.S. § 8008 the Legislature provided that the sole purpose of the Board is to "protect the public health and welfare" and that "other goals or objectives may not supersede this purpose."  

2. The Board issued Dr. Morris a temporary license to practice medicine in Maine on October 24, 2011, and which expired on April 24, 2012. Dr. Morris specializes in Family Practice. Dr. Morris was certified by the American Board of Family Medicine ("ABFM") from August 1, 2008 to August 24, 2012; however she is no longer certified by the ABFM according to the ABFM website.  

3. On or about September 23, 2011, the Board received an application from Dr.
Morris for a permanent Maine medical license. On or about July 23, 2012, the Board received an addendum from Dr. Morris to her permanent Maine medical license. In that addendum, Dr. Morris indicated that:

a. In January 2012 she was diagnosed with a mental health condition as well as alcohol abuse for which she was receiving treatment;

b. In April 2012, she completed an in-patient treatment program for substance abuse;

c. In July 2012, she was placed on a deferred disposition for a misdemeanor charge of Reckless Conduct.

As a result of receiving this additional information, the Board staff obtained copies of the police investigative reports regarding two incidents involving Dr. Morris that occurred on January 7, 2012 and one incident that occurred on February 12, 2012, which later event involved a violation of bail conditions by her having contact with her husband regarding taking their dog to the veterinarian. In addition, the Board received information from the Maine Medical Professionals Health Program ("MPHP") indicating that Dr. Morris became a participant in that program following the incidents in January 2012, and that Dr. Morris’ treatment providers had cleared her to return to practice following intensive treatment. The MPHP is a “professional review committee” as defined by 24 M.R.S. § 2502(4-A):

“Professional review committee” means a committee of health care Practitioners formed by a professional society for the purpose of identifying and working with health professionals who are disabled or impaired by virtue of physical or mental infirmity or by the misuse of alcohol or drugs, as long as the committee operates pursuant to protocols approved by the various licensing boards that license the health professionals the committee serves.
24 M.R.S. § 2502(5) defines a “professional society” as “a state professional organization of physicians, surgeons or osteopathic physicians.” The MPHP is, therefore, a professional review committee that is organized and operated by the Maine Medical Association, a private professional society of Maine physicians. The primary purpose of the MPHP is to operate a comprehensive monitoring and advocacy program offering limited confidentiality subject to the limits of state law and the reporting requirements within the various written protocols the MPHP has with a number of professional licensing boards, including the Maine Board of Licensure in Medicine.

4. On September 11, 2012, the Board reviewed the foregoing information and voted to initiate a complaint against Dr. Morris' temporary Maine medical license pursuant to 32 M.R.S. § 3282-A alleging that Dr. Morris' conduct amounted to violations of 32 M.R.S. § 3282-A(2)(B), (C) & (F). The Board docketed the complaint as CR12-180 and sent it to Dr. Morris for a response. In addition, the Board sent Dr. Morris medical releases for her to execute in order to allow the Board to obtain copies of her medical and substance abuse treatment records. In addition, the Board voted to table further action regarding her application for a permanent Maine medical license.

5. On October 26, 2012, the Board received a written response from Dr. Morris to complaint CR12-180. In her response, Dr. Morris described the events that occurred on January 7 and February 12, 2012. Dr. Morris described her history of mental illness, her success in treatment and in achieving multiple professional degrees, and the personal circumstances that led to the events of January 7, 2012. At the time of the events, Dr. Morris described a tremendous level of stress associated with her personal circumstances, including a new training program, and a lack of a local therapist or physician to treat her and manage her medications. Dr. Morris
admitted an error in judgment by self-prescribing certain non-controlled medications, and acknowledged that the mixture of her medications and alcohol resulted in a worsening of her mental state. In addition, Dr. Morris described the treatment she received following the events of January 7 and February 12, 2012, her participation in the MPHP, and her readiness to return to the practice of medicine.

6. The Board subsequently received information from various sources regarding Dr. Morris's diagnosis and treatment, her ability to return to the active practice of medicine, and recommended conditions upon her return to the active practice of medicine.

7. On January 8, 2013, the Board reviewed complaint CR12-180, including all investigative information obtained to date. In addition, the Board voted to un-table her application for a permanent Maine medical license. Following its review, the Board voted to offer Dr. Morris a Consent Agreement to resolve complaint CR12-180 and her pending application for a permanent Maine medical license without further proceedings. The Consent Agreement proposed by the Board would have placed conditions upon Dr. Morris’ Maine medical license, including: abstinence from alcohol and any drugs not legitimately prescribed to her; successful participation in the MPHP pursuant to a contract approved by the Board (including urine monitoring); successful participation in treatment for substance abuse and mental health issues; a Board-approved practice monitor; and limited hours of medical practice.

8. On August 2, 2013, the legal counsel for Dr. Morris informed the legal counsel to the Board that Dr. Morris no longer wished to pursue medical licensure or practice in Maine. As a result, Dr. Morris wishes to withdraw her application for licensure.
9. On August 15, 2013, the Kennebec County District Attorney’s Office confirmed that on July 10, 2013, Dr. Morris successfully completed her deferred disposition agreement, which resulted in the dismissal of the misdemeanor charge of Reckless Conduct.

10. This Consent Agreement has been negotiated by and between Dr. Morris and legal counsel for the Board. Absent acceptance of this Consent Agreement by Dr. Morris by signing it and dating it in front of a notary and returning it to Maureen Lathrop, Investigative Secretary, Maine Board of Licensure in Medicine, 137 State House Station, Augusta, Maine 04333-0137 on or before September 1, 2013, the Board may take any action permitted by law regarding complaint CR12-180 and Dr. Morris’ application for a permanent Maine medical license.

11. By signing this Consent Agreement, Dr. Morris waives, in her personal capacity and through legal counsel, any and all objections to, and hereby consents to the presentation of this proposed Consent Agreement to the Board for possible ratification. Dr. Morris 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

12. Dr. Morris admits that the foregoing facts constitute grounds to discipline her temporary Maine medical license and to deny her application for a permanent Maine medical license pursuant to 32 M.R.S.A. § 3282-A(2)(C): A professional diagnosis of a mental or physical condition that has resulted or may result in the licensee performing services in a manner that endangers the health or safety of patients.
13. Based upon Dr. Morris's admission in paragraph 12, Dr. Morris agrees to accept the following discipline of her temporary Maine medical license:

   a. **A Warning.** As a medical professional, Dr. Morris should be aware that it is unethical to self-prescribe any medications absent a genuine medical emergency. Dr. Morris had the opportunity and responsibility to locate a physician who was willing and able to treat her illnesses. The Board urges Dr. Morris to abstain from self-treatment, including but not limited to abstaining from using alcohol and any other drug that is not specifically prescribed to her by her medical provider. In addition, the Board urges Dr. Morris to obtain treatment for her substance abuse and mental health issues. Had Dr. Morris continued to pursue a permanent medical license in Maine, the Board would have imposed these types of conditions on her license, as well as her successful participation in the MPHP and monitoring, to ensure the safety of the public.

   b. **Notification to Employer(s)/Potential Employers/Licensing Jurisdictions.** Dr. Morris shall provide a copy of this Consent Agreement to any medical employer(s) or potential medical employer(s), and to any jurisdiction in which she holds or seeks a medical license.

14. The Board agrees to allow Dr. Morris to withdraw her application for a permanent Maine medical license, which withdrawal shall become effective upon execution of this Consent Agreement. However, in the event that Dr. Morris files an application for a Maine medical license in the future, the Board shall be able to consider the facts and circumstances underlying this Consent Agreement, as well as the Consent Agreement itself, in determining whether or not to grant her a Maine medical license and/or whether to grant her a Maine medical license with probation, conditions, or restrictions. In addition, Dr. Morris acknowledges that the Board may provide any and all information regarding this matter to: governmental licensing or disciplinary
authorities of any jurisdiction; to any health care providers or health care entities within or
outside of Maine that are concerned with granting, limiting, or denying a physician’s application
for employment or privileges; and to other state or federal agencies.

15. Dr. Morris has been represented by Kenneth W. Lehman, Esq. who participated in
the negotiation of the terms of this Consent Agreement on her behalf.

16. This Consent Agreement is not appealable, constitutes disciplinary action, is
reportable to the National Practitioner Date 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.

17. 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.

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

19. For the purposes of this Consent Agreement, the term “execution” shall mean the
date on which the final signature is affixed to this Consent Agreement.

I, CHRISTINA S. MORRIS, M.D., HAVE READ AND UNDERSTAND THE
FOREGOING CONSENT AGREEMENT. I HAVE HAD AN OPPORTUNITY TO
DISCUSS THIS MATTER WITH LEGAL COUNSEL, AND HAVE KNOWINGLY
DECLINED TO DO SO. I UNDERSTAND THAT BY SIGNING IT, I WAIVE CERTAIN
RIGHTS, INCLUDING A RIGHT TO A HEARING OR TO LEGAL REVIEW OF THIS
DOCUMENT. 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: 8/28/2013

CHRISTINA S. MORRIS, M.D.
STATE OF Rhode Island
County of Kent S.S.

Personally appeared before me the above-named Christina S. Morris, M.D., and swore to the truth of the foregoing based upon her own personal knowledge, or upon information and belief, and so far as upon information and belief, she believes it to be true.

DATED: 9/28/13

NOTARY PUBLIC
MY COMMISSION ENDS: 7/18/2017

DATED: August 29, 2013

KENNETH W. LEHMAN, ESQ.
Attorney for Dr. Morris

STATE OF MAINE
BOARD OF LICENSURE IN MEDICINE

DATED: 9/10/13

MAROULLA S. GLEATON M.D., Chairman

STATE OF MAINE DEPARTMENT OF THE ATTORNEY GENERAL

DATED: 9/10/13

DENNIS E. SMITH
Assistant Attorney General

APPROVED
EFFECTIVE: 9/10/13
STATE OF MAINE
BOARD OF LICENSURE IN MEDICINE

IN RE:
ALBERT ANIEL, M.D.
Complaint No. CR11-136

| CONSENT AGREEMENT
| FOR DISCIPLINE AND
| RESTRICTED/CONDITIONAL
| LICENSURE

This document is a Consent Agreement For Discipline and Restricted/Conditional Licensure, effective when signed by all parties, regarding discipline imposed upon and the issuance of an active conditional license to practice medicine in the State of Maine to Albert Aniel, M.D. The parties to this Consent Agreement are: Albert Aniel, M.D. ("Dr. Aniel"), the State of Maine Board of Licensure in Medicine (the "Board") and the Maine Office of the Attorney General.

STATEMENT OF FACTS

1. The Board first issued Dr. Aniel a medical license on March 10, 1981. Dr. Aniel specializes in Cardiovascular Diseases.

2. On March 22, 2011, the Board reviewed a complaint from patient RW regarding Dr. Aniel. RW alleged that Dr. Aniel had prescribed an inappropriate medication to her and did not listen to her concerns about the side-effects she was experiencing from the medication. RW alleged that Dr. Aniel ordered tests to determine if she had Lyme disease, that all of the tests came back negative, but Dr. Aniel still prescribed Zithromax, an antibiotic. RW alleged that she complained of headaches, nausea, diarrhea, fevers, hives, and shortness of breath, but Dr. Aniel told her that she was feeling poorly because
the Zithromax was working. RW was told by a pharmacist that she may be experiencing a reaction to the medication, so RW stopped taking it and felt much better. The Board docketed the complaint as CR 11-136, and sent it to Dr. Aniel for a response.

3. On June 6, 2011, the Board received a written response to complaint CR11-136. In his response, Dr. Aniel explained that the reason he prescribed Zithromax to RW was to treat a diagnosis of Lyme disease, which he made based upon the patient's physical complaints and the fact that RW reported that her mother and a dog had Lyme disease. Dr. Aniel stated that he ordered tests for Lyme disease, the results of which were negative. Dr. Aniel subsequently met with RW, advised her of the negative test results for Lyme disease, but also advised her that "such disease is also based on the clinical setting" and that RW agreed to a trial of Zithromax for possible Lyme disease because RW "felt better previously when she was on Zithromax." Dr. Aniel stated that at patient RW's last appointment, he spent 40 minutes "reviewing her symptomatology and rationale for Lyme treatment."

4. In addition to Dr. Aniel's written response, the Board received a copy of Dr. Aniel's medical records regarding patient RW. Those records show that:

a. Dr. Aniel saw patient RW on August 31, 2010, at which time she was treated for anxiety.

b. On October 14, 2010, Dr. Aniel saw patient RW, who
complained of feeling sick, having a low-grade fever, a low immune system and fatigue. At that time, the records show that Dr. Aniel noted that: RW’s fatigue might be related to her low weight due to inadequate dietary intake; RW’s fever may be related to frequent analgesic use; and RW’s fatigue may be attributable in part to her prescription medications. In addition, the medical records indicate, “rule out Lyme in view of multi organ c/o’s, mother and her dog had lyme.” Labs drawn on patient RW on that date included the following “CD57+/CD3-negative NK cells 60 Abs./cm, which fell within the following comment: "0-60 is seen in chronic lyme disease."

c. On October 18, 2010, RW called Dr. Aniel’s office and requested the results of her lyme test. At that time, Dr. Aniel’s office note indicated “lab data could be compatible with Lyme... schedule Lyme Western blot Igg and Igm.” On October 19, 2010, 3 separate tests for Lyme disease were performed on RW’s blood, all of which were negative.

d. On October 22, 2010, RW called Dr. Aniel’s office requesting the results of her Lyme disease tests and stating that she was not on antibiotics. The phone note describes RW as “VERY NERVOUS.”

e. On October 29, 2010, RW called Dr. Aniel’s office stating that she was too sick to attend her medical appointment with Dr. Aniel. The phone note stated in relevant part: “She is too sick to keep appt today. Has a sore throat, swollen glands, a fever - ? how high. What can
In response, Dr. Arien prescribed Zithromax 250 mg for 5 days without first examining RW. In addition, the phone note does not indicate why Dr. Arien prescribed Zithromax to RW on October 29, 2010, or explain his medical decision making.

f. On November 2, 2010, RW called Dr. Arien’s office indicating that she had completed taking the antibiotics, had a “small sore throat” but was “feeling fine,” and was “wondering if the test results are back and what else dr wants her to do.” In response, Dr. Arien indicated that the “lyme test negative as long as she feels fine no further Rx.”

g. On November 10, 2010, RW called Dr. Arien’s office indicating that she was “feeling horrible, same feeling as before” and requesting antibiotics for her chronic Lyme disease. In response, Dr. Arien indicated that RW needed to be scheduled for an office visit.

h. On November 15, 2010, Dr. Arien saw RW in his office. The medical records indicated “discussed her lab results and reviewed her symptomatology” which included “severe fatigue,” “some arthralgia involving the wrist,” and “difficulty with memory” – all which started 2 years previous when she lived in a house infested with mice. In addition, the medical record indicated “having episodes of fever.” In response, Dr. Arien prescribed Zithromax (250 mg tablets #60 1 tab 2x a day) and Hydroxychloroquine Sulfate (plaquenil)(100 mg tablets (#60) 1 tab 2x a day). The medical record for that date indicates as follows:
Problem #5: LYME DISEASE (ICD-088.81) ?????????

Orders:
Level 4 [99214](CPT-99214)
Trial of zithromax and plaquinil since she felt better when was on zithromax

The medical record does not contain any medical rationale or decision-making regarding Dr. Aniel’s diagnosis that RW suffered from chronic Lyme disease; nor does it explain why he was prescribing medications for Lyme disease in light of four laboratory tests results that were negative for Lyme disease.

i. On November 17, 2010, RW called Dr. Aniel’s office to relay that the new medications were not agreeing with her. RW indicated that she was “very dizzy” and “in bed all day” feeling awful (headache but no vomiting), and requesting advice. In response, Dr. Aniel directed that RW stop taking the Hydroxychloroquine Sulfate and “just take the Zithro for now.”

j. On November 19, 2010, RW called Dr. Aniel’s office and asked if she should continue taking the Zithromax as it was causing her to have diarrhea. In response, Dr. Aniel directed that RW stop the Zithromax and come in for an office visit.

k. On November 23, 2010, RW called Dr. Aniel’s office asking if she could “stay on zithromax because she was real sick this morning after not taking last night. Swollen glands, sore throat & headache.” In
response, Dr. Aniel directed that RW “stay on zithro 1 bid.”

1. On November 30, 2010, RW called Dr. Aniel’s office complaining of pain, fatigue, memory issues, and “wondering if she could get her Azithromycin [sic] increased as she is tolerating it well.” In response, Dr. Aniel directed that RW come in for an office visit.

m. On December 20, 2010, RW saw Dr. Aniel. The medical record for that date indicates that it was an office visit to follow up “lyme disease” and that Dr. Aniel “spent 40 minutes with patient reviewing her Lyme symptomatology and the rationale for treatment modalities.” In addition, the medical records indicate under “Impression & Recommendations”:

Problem # 1: LYME DISeASE (ICD-088.81)

Orders:
Lab, Other (OTHER) Babesia, Bartonella titers¹
Lab, Other (OTHER) Erlichia titers²
Zithromax 250 mg 1 twice daily
Mepron 1 tsp twice daily
Amantadine 100 mg 1 twice daily
Suggested magnesium 250 mg daily
Vitamin B complex 1 a day
Acidophilus 2 twice daily with food

The medical record does not contain any medical rationale or decision-making regarding Dr. Aniel’s diagnosis that RW suffered from Lyme disease; nor does it explain why he was prescribing medications for Lyme

¹ The lab result for this test was negative.
² The lab result for this test was negative.
disease in light of four previous laboratory tests results that were negative for lyme disease. In addition, on December 6 & 9, 2010, Dr. Aniel electronically signed the laboratory test results showing that RW was negative for Babesia, Bartonella, and Ehrlichia titers.

n. On December 13, 2010, RW called Dr. Aniel’s office requesting the results of her laboratory testing and “waiting to hear to take meds.” In response, Dr. Aniel indicated that the lab results were “negative but finish off the mepron continue zithromax and amantadine until next ov (office visit).”

o. On March 1, 2010, RW called Dr. Aniel’s office from Florida requesting a refill of Zithromax as she was having a hard time finding a doctor in Florida. In response, Dr. Aniel prescribed Zithromax 250 mg (#60) 1 tab twice a day. The medical record does not contain any rationale explaining why Dr. Aniel prescribed this medication to RW.

p. On March 15, 2010, RW called Dr. Aniel’s office from Florida indicating that she “has been worse day by day,” was unable to turn her head side to side and had swollen muscles around her face. In addition, RW indicated that she had gone to the ER but they did not do anything. RW felt that they did not “know much about lyme disease,” and asked for pain medication. In response, Dr. Aniel indicated that he could not prescribe pain medication to RW while she was in Florida and that RW needed to see medical providers in that state. In reply, RW indicated to
Dr. Aniel’s staff that “her muscles were so tight and swollen she can barely turn her head... feels that possibly the lyme is progressing, feels the docs in FLA don’t know what to do for lyme. has thought of killing herself as she feels so debilitated [sic]. Joints are really bothering her that is her main concern.”

5. On July 12, 2011, the Board reviewed complaint CR11-136, and voted to invite Dr. Aniel to an informal conference to discuss his diagnosis and treatment of RW, specifically: his diagnosis and treatment of Lyme disease, and his alleged improper/off-label use of medications.

6. On March 12, 2012, the Board held an informal conference with Dr. Aniel regarding Complaint No. CR11-136. Following the informal conference, the Board voted to further investigate Dr. Aniel’s medical record keeping and medical decision making by requesting a representative sampling of 10 of Dr. Aniel’s patient charts for review.

7. On June 12, 2012, the Board re-convened the informal conference with Dr. Aniel and reviewed with him the representative sampling of 10 patient charts, which provided the Board with a more comprehensive look at Dr. Aniel’s medical record keeping and decision making. During its review, the Board had concerns regarding record keeping and medical decision making regarding four of the medical records, one of which involved the diagnosis of Lyme disease. The Board concluded that Dr. Aniel’s medical charting was inadequate as it did not reflect his medical thinking or decision making (i.e.
why and how he is treating the patient in a certain way). The Board was also concerned that Dr. Aniel prescribed high dosages of narcotics and benzodiazepines without employing "universal precautions" (i.e. written pain contracts, pill counts, urine drug screens, etc). Following the informal conference, the Board voted to schedule Complaint CR11-136 for an adjudicatory hearing. In addition, the Board voted to offer this Consent Agreement to Dr. Aniel to resolve Complaint CR11-136 without further proceedings.

8. This Consent Agreement has been negotiated by and between legal counsel for Dr. Aniel and the Maine Office of the Attorney General in order to resolve complaint CR11-136 without an adjudicatory hearing. Absent Dr. Aniel’s acceptance of this Consent Agreement by signing it, dating it, having it notarized, and returning it to the Maine Board of Licensure in Medicine, 137 State House Station, Augusta, Maine 04333-0137 on or before August 21, 2013, the Board will resolve this matter by holding an adjudicatory hearing at a later date.

9. By signing this Consent Agreement, Dr. Aniel waives 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. Dr. Aniel also forever waives any arguments of bias or otherwise against any of the Board members in the event that the Board fails to ratify this proposed Consent Agreement.
10. Dr. Aniel affirmatively represents that, with the limited exception of interpreting laboratory and other test results, he will be retiring from the active practice of medicine (i.e. actively treating patients) effective December 31, 2013.

COVENANTS

In lieu of proceeding to an adjudicatory hearing the Board and Dr. Aniel agree to the following disposition.

11. Dr. Aniel concedes that based upon the facts described in paragraphs 1 to 9 above that the Board has sufficient evidence from which it could conclude that he violated the standard of care regarding: (a) medical record keeping, (b) diagnosing and treating Lyme disease, and (c) prescribing controlled drugs to the patients for the treatment of nonmalignant chronic pain. Dr. Aniel concedes that such conduct, if proven, could constitute grounds for discipline of and the denial of his application to renew his Maine medical license pursuant to 32 M.R.S.A. § 3282-A(2)(F).

12. As discipline for the conduct admitted above, Dr. Aniel agrees to:

   a. Accept a WARNING. As a medical professional, Dr. Aniel was responsible for being aware of and complying with accepted standards of care for medical record keeping and the diagnosis and treatment of chronic pain with narcotics and benzodiazepines.

   b. Reimburse the Board Four Hundred Eighty-Six Dollars and Forty Cents ($486.40) as the actual costs of the investigation of this matter. Dr. Aniel shall ensure that he makes full payment of reimbursement to the
Board within thirty (30) days following the execution of this Consent Agreement. Payment shall be made by certified check or money order made payable to “Maine Board of Licensure in Medicine,” and be remitted to the Maine Board of Licensure in Medicine, 137 State House Station, Augusta, Maine 04333-0137.

c. Successfully complete a Board-approved course on medical record keeping within six (6) months following the execution of this Consent Agreement. For the purposes of this Consent Agreement, the term “execution” means the date on which the final signature is affixed to this Consent Agreement.

d. Effective November 1, 2013, accept the following license restrictions and conditions, which shall remain in effect unless or until this Consent Agreement is rescinded or amended by all of the parties hereto and with which Dr. Aniel must comply during the time that he is actively practicing medicine:

(i) Dr. Aniel shall not prescribe any controlled medications, including all opiates and benzodiazepines, for the treatment of chronic pain except for:

(a) Patients in skilled nursing facilities or long-term care facilities;
(b) Patients in hospice care; or
(c) Patients with metastatic cancer.
In complying with this restriction, Dr. Aniel shall ensure that any and all prescriptions that he issues for the three excepted categories of patients identified above are annotated with the words “skilled nursing facility/long-term care” or “hospice care” or “metastatic cancer” as applicable to each patient.

(ii) Dr. Aniel may prescribe controlled substances for no more than ten (10) consecutive days to treat acute conditions. In addition, to the extent that Dr. Aniel prescribes any controlled drugs to patients for acute pain, Dr. Aniel agrees that he shall comply with Board Rule, Chapter 21, “Use of Controlled Substances For Treatment of Pain.”

(iii) Dr. Aniel shall not diagnose or treat Lyme disease except with approved peer-reviewed modalities,\(^3\) which shall be appropriately recorded in the patient’s medical record.

(iv) In order to ensure his compliance with the restriction on his ability to prescribe controlled drugs for the treatment of chronic pain, Dr. Aniel agrees to fully cooperate with the Board and to permit the Board or its agent(s) to inspect his medical practice, including allowing the Board or its agents full access to and copying of the patient medical records of his medical practice pursuant to subpoena.

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\(^3\) Such a peer reviewed modality may be found in the following November 2006 publication of the Infectious Disease Society of America: “The Clinical Assessment, Treatment, and Prevention of Lyme Disease, Human Granulocytic Anaplasmosis, and Babesiosis: Clinical Practice Guidelines by the Infectious Diseases Society of America.”
13. Dr. Aniel waives his right to a hearing before the Board or any court regarding all findings, terms, restrictions and conditions of this Consent Agreement. Dr. Aniel agrees that this Consent Agreement is a final order resolving complaints CR11-136. This Consent Agreement is not appealable and is effective until or unless modified or rescinded in writing 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.

14. The Board and the Maine Office of the Attorney General may communicate and cooperate regarding Dr. Aniel 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. This Consent Agreement constitutes disciplinary and adverse licensing action that is reportable to the Federation of State Medical Boards (FSMB), the National Practitioner Date Bank (NPDB), and the Healthcare Integrity and Protection Date Bank (HIPDB).

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

17. The Board and Dr. Aniel agree that no further agency or legal action will be initiated against him by the Board based upon complaint CR11-136, except or unless he fails to comply with the terms and conditions of this
Consent Agreement.

18. Dr. Aniel acknowledges that, pursuant to Title 10 M.R.S. § 8003(5)(B), his failure to comply with any of the terms or conditions of this Consent Agreement shall constitute grounds for additional disciplinary action against his Maine medical license, including but not limited to an order, after hearing, imposing additional fines and costs.

19. Dr. Aniel acknowledges and agrees that, pursuant to Title 10 M.R.S. § 8003(5), the Board has the authority to suspend or revoke his medical license in the event that he fails to comply with any terms or conditions of this Consent Agreement.

20. Dr. Aniel has been represented by Christopher D. Nyhan, Esq., who has participated in the negotiation of this Consent Agreement.

21. Dr. Aniel 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.

I, ALBERT ANIEL, M.D., HAVE READ AND UNDERSTAND THE FOREGOING CONSENT AGREEMENT AND AGREE WITH ITS CONTENTS AND TERMS. I FURTHER UNDERSTAND THAT BY SIGNING IT, 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: 8/10/13

ALBERT ANIEL, M.D.

STATE OF Maine

S.S.

Personally appeared before me the above-named, Albert Aniel, 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: Aug 20, 2013

NOTARY PUBLIC/ATTORNEY

MY COMMISSION ENDS: 11-29-2014

Dated: 8/26/13

CHRISTOPHER D. MLYAN, ESQ.
Attorney for Albert Aniel, M.D.

STATE OF MAINE BOARD OF LICENSURE IN MEDICINE

Dated: 9/10/13

MAROULLA S. GLEATON, M.D., Chairman

STATE OF MAINE DEPARTMENT OF ATTORNEY GENERAL

Dated: 9/10/13

DENNIS E. SMITH
Assistant Attorney General

Effective Date: 9/10/13

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