State of Maine
Board of Licensure in Medicine
137 SHS, 161 Capitol Street
Augusta, Maine 04333-0137
April 12, 2016 Minutes Index

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

### EXECUTIVE SESSIONS

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<tr>
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### RECESSES

<table>
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<tr>
<td>10:58 a.m. – 11:12 a.m.</td>
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<td>12:02 p.m. – 12:51 p.m.</td>
<td>Lunch</td>
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### I. Call to Order

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

### A. Amendments to Agenda

Dr. Dumont moved to amend CR 13-170 and the physician’s request to withdraw his license onto the agenda. Mr. Ross seconded the motion, which passed 7-0-0-1. Dr. Jones was recused from this matter and left the room. Ms. Weinstein was not present during the vote.
Mr. Ross moved to amend the draft basis statement and response to comments document regarding the proposed Chapter 2 Joint Rule Regarding Physician Assistants onto the agenda. Dr. Dumont seconded the motion, which passed unanimously. Ms. Weinstein was not present during the vote.

Dr. Dumont moved to amend a reinstatement fee issue onto the agenda. Dr. Jones seconded the motion, which passed unanimously. Ms. Weinstein was not present during the vote.

B. Scheduled Agenda Items

1. 9:30 a.m. Adjudicatory Hearing CR15-68 Sharon Marble, M.D. - CONTINUED

II. Consent Agreements for Review

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

Dr. Jones moved to accept the signed interim consent agreement. Dr. Nyberg seconded the motion, which passed unanimously.

B. CR15-68 Sharon Marble, M.D. [Appendix B]

Dr. Jones moved to accept the signed consent agreement in lieu of holding the Adjudicatory Hearing. Dr. Barnhart seconded the motion, which passed unanimously.

Dr. Jones moved to accept the professional boundaries course proposed by the licensee which is equivalent to 24 CME hours and to waive the additional CME hour required by the consent agreement. Dr. Nyberg seconded the motion, which passed unanimously.

III. Complaints

1. CR14-45

Dr. Jones moved to offer the licensee a consent agreement in lieu of proceeding to an Adjudicatory Hearing. Dr. Dumont seconded the motion, which passed unanimously.

2 CR15-158

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

MOTION: The patient, who resides in an institution, complains that in his role as medical director the physician did not ensure that his order for a comprehensive pain management evaluation was followed through. The patient also complains that the physician did not ensure that he received proper medical care from his providers for other more acute medical conditions, including a leg cellulitis and chest pain. Review of the record reveals timely, thoughtful, conservative, and reasonable care of his acute medical problems. In terms of his chronic pain, the patient was evaluated earlier in his stay at the
institution and intermittently as needed resulting in various medication trials. The level of pain he reports is not consistent with his level of activity and independent functioning, nor have they changed much with the use of different medications. The patient appears to have received thorough evaluation and treatment of his conditions.

3. **CR15-146**

Dr. Barnhart moved to investigation further. Ms. Corbin seconded the motion, which failed 2-7.

Dr. Jones moved to set the matter for an Adjudicatory Hearing and authorize AAG Miller to negotiate a consent agreement to include: 1) a reprimand; 2) a civil penalty of $1,000.00; 3) completion of a course regarding opioid prescribing that is a minimum of twenty (20) CME hours, and a course regarding professional boundaries that is a minimum of six (6) CME hours; and 4) a review of five (5) patient charts by the Board in six (6) months. Dr. Dumont seconded the motion, which passed 7-2.

Dr. Dumont moved to issue a complaint against the physician assistant’s primary supervising physician (CR16-116). Dr. Jones seconded the motion, which passed 7-0-2-0 with Dr. Barnhart and Ms. Corbin abstaining.

4. **CR15-147**

Dr. Dumont moved to set the matter for an Adjudicatory Hearing and authorize AAG Miller to negotiate a consent agreement to include: 1) a reprimand; 2) a civil penalty of $1,000.00; and 3) a ten (10) day license suspension. Dr. Nyberg seconded the motion, which passed 8-0-0-1. Dr. Jones was recused from this matter and left the room.

5. **CR15-163**

Dr. Dumont moved to set the matter for an Adjudicatory Hearing and authorize AAG Miller to negotiate a consent agreement to include: 1) a censure; 2) a civil penalty of $2,000.00; 3) completion of a course regarding opioid prescribing that is a minimum of twenty (20) CME hours; and 4) a Board-approved consultant to monitor prescribing practices and provide reports to the Board. Dr. Jones seconded the motion, which passed unanimously.

6. **CR15-164**

The Board reviewed information regarding this complaint. No Board action was required.

7. **CR15-171**

Dr. Barnhart moved to investigate further. Dr. Jones seconded the motion, which passed unanimously.
8. **CR15-181**

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

**MOTION:** The patient complains that the physician should have diagnosed his prostate cancer years before it was actually found. He felt that the physician should have been performing rectal exams and PSA tests at each physical exam and should have been cognizant of the urological specialty recommendations for screening with PSA tests as stated by his urologist. The physician correctly pointed out that neither rectal exams nor PSA tests are recommended in primary care for the prevention or diagnosis of prostate cancer and, in fact, can be harmful. He stated he informed his patient of this years ago. In his response to the Board, the physician stated that he was genuinely sorry and expressed heartfelt sympathy to the patient. The physician’s care was appropriate.

9. **CR15-182**

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

**MOTION:** The patient complains about the care he received from a physical and rehabilitative medicine physician who performed electromyography and nerve conduction studies on him during consultation. Review of the records reveals reasonable and competent evaluation.

10. **CR16-10**

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

**MOTION:** The patient, who sustained a left knee and ankle injury, complains about the care he received from a sports medicine physician. Review of the records reveals reasonable evaluation, treatment and care.

11. **CR16-36**

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

**MOTION:** The patient complains about the care he received from a physical and rehabilitative medicine physician who performed electromyography and nerve conduction studies on him during consultation. Review of the records reveals reasonable and competent evaluation.

12. **CR16-5**

Mr. Ross moved to dismiss the complaint. Dr. Dumont seconded the motion, which passed unanimously.
**MOTION:** The patient complains that the physician assistant acted unprofessionally and ordered medication without proper bloodwork. The physician assistant responded and denied these allegations, but admitted that there was an incorrect entry of the patient’s medication in the electronic medical record. Review of the records indicates appropriate care was provided.

13. **CR16-21**

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

**MOTION:** The patient complains that the physician assistant failed to inform her that she was diagnosed with congestive heart failure on admission to a rehabilitation facility after a knee replacement. Review of the record shows that the diagnosis of congestive heart failure was actually made by one of the physician supervisors of this physician assistant before the physician assistant had even met her. The patient was informed by the physician assistant that her increased fluid was being treated with diuretics. The patient’s condition rapidly improved and both the primary care provider and the orthopedic surgeon were informed of the diagnosis by discharge summary.

14. **CR15-104 Laurie Churchill, M.D.**

Dr. Barnhart moved to dismiss the complaint with a letter of guidance. Dr. Nyberg seconded the motion, which passed 8-0-1-0 with Dr. Dumont abstaining.

**MOTION:** In this case, the Board received a complaint that the physician failed to report the sexual abuse of a minor to the proper authorities and that she refused to provide or coordinate follow-up care for the minor. The abuse occurred again after the minor’s visit with the physician and was reported when the minor was brought to the emergency department. The physician responded that she was unaware of the abuse, and that the minor had not revealed that information at her office visit. In addition, the physician stated that the minor missed a scheduled follow-up appointment and the parent contacted her about twenty weeks later demanding various written statements. After review of the information, the Board invited the physician and the complainant to attend an Informal Conference. The Informal Conference was held on March 8, 2016. The complainant failed to attend.

The letter of guidance will advise the physician that: 1) calls of reassurance to patients or family members may be considered essential to the practice of medicine, and it is important to recognize when communication needs to occur directly with the physician rather than health care staff. Returning calls, especially during traumatic events, can provide reassurance and confidence. Failure to do so can be interpreted as a lack of interest or caring; and 2) it is particularly important to follow-up and clarify interactions and responsibilities with other health care providers in emergency or crisis situations.
15. CR15-168

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

**MOTION:** The patient complains that she had an invasive procedure and testing unnecessarily. The physician responded that he believed she was given appropriate care. An outside review of the records reveals that the patient received reasonable care.

16. CR16-4

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

**MOTION:** The patient complains about her interaction with a physician who conducted an initial psychiatric assessment following a referral, including allegations that the physician failed to listen to her concerns and asked inappropriate sexual questions. The physician responded and explained his intake and evaluation process. Review of the record reveals appropriate evaluation and care.

17. CR16-43

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

**MOTION:** The complainant alleges that the physician provided inappropriate treatment some forty years ago. The physician has no recollection of the complainant, or of the alleged treatment. There are no medical records extant, so the file is incomplete. The Board has insufficient evidence to justify any further action.

18. CR13-170

Dr. Dumont moved to approve the physician’s request to withdraw his license while under investigation. Dr. Nyberg seconded the motion, which passed 8-0-0-1. Dr. Jones was recused from this matter and left the room.

Dr. Dumont moved to dismiss the complaint. Dr. Nyberg seconded the motion, which passed 8-0-0-1. Dr. Jones was recused from this matter and left the room.

**MOTION:** The physician withdrew his license while under investigation. No further action was deemed necessary.

19. Intentionally left blank
IV. Assessment and Direction

20. AD16-44

Dr. Jones moved to close the matter with no further action. Dr. Dumont seconded the motion, which passed unanimously.

21. AD16-74

Dr. Dumont moved to issue a complaint (CR16-109). Dr. Jones seconded the motion, which passed unanimously.

22. AD16-73

Dr. Jones moved to close the matter with no further action. Dr. Barnhart seconded the motion, which passed unanimously.

23. AD16-77

Dr. Dumont moved to issue an administrative fine pursuant to Board rule Chapter 4 Rules for the Issuance of Citations. Dr. Jones seconded the motion, which passed unanimously.

24. Intentionally left blank

25. Intentionally left blank

26. Intentionally left blank

27. Pending Adjudicatory Hearings and Informal Conferences report

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

28. Consumer Outreach Specialist Feedback

The Consumer Outreach Specialist provided feedback from a complainant. No Board action was required.

V. Informal Conference (none)

VI. Minutes for Approval

Dr. Nyberg moved to approve the minutes of the March 8, 2016 meeting. Mr. Ross seconded the motion, which passed 6-0-3-0 with Dr. Jones, Dr. Dumont and Ms. Corbin abstaining.

VII. Board Orders & Consent Agreement Monitoring and Approval

A. Board Orders (none)
B. Consent Agreement Monitoring

1. Cameron R. Bonney, M.D.

   Dr. Bonney successfully complied with the terms of the consent agreement dated June 9, 2015. The consent agreement expired on April 8, 2016.

2. Charles D. Clemetson, M.D.

   The Board reviewed information regarding a potential practice monitor for Dr. Clemetson. After discussion, the Board determined that there was insufficient information provided to approve the practice monitor.

VIII. Adjudicatory Hearing CR15-68 Sharon Marble, M.D.

   The Board accepted a Consent Agreement in lieu of holding the Adjudicatory Hearing (see Appendix B).

IX. Remarks of Chairman (none)

X. Remarks of Executive Director (none)

XI. Assistant Executive Director’s Monthly Report

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

   A. Complaint Status Report

      As of April 1, 2016 there are seventy-four (74) complaints outstanding. Forty-four (44) have been received year-to-date and twenty-seven (27) have been closed so far this year.

   B. Feedback (none)

   C. Maine Quality Counts

      Mr. Terranova reported that he and Dr. Duhamel met with Dr. Lisa Letourneau from Maine Quality Counts to discuss their new initiative, Caring for ME, to promote educational resources and tools for healthcare providers to combat the opioid and heroin epidemic. The Board directed staff to obtain additional information and report at a future meeting.

XII. Medical Director’s Report

   A. Chapter 21 Use of Controlled Substances for Treatment of Pain (staff draft)

      Dr. Duhamel reported that she has been working on changes to the rule.

XIII. Remarks of Assistant Attorney General (none)
XIV. Secretary’s Report

A. Licenses Issued

1. M.D. Licenses Issued

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

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<tr>
<th>NAME</th>
<th>SPECIALTY</th>
<th>LOCATION</th>
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<td>Adams, Katie M.</td>
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<td>Akrami, Jason</td>
<td>Diagnostic Radiology</td>
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<td>Anouchi, Yoel</td>
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<td>Skowhegan</td>
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<td>Basque, Christian M.</td>
<td>Family Medicine</td>
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<td>Buttarazzi, Allison D.</td>
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<td>Buttarazzi, Matthew S.</td>
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<td>Crothers, Jacob E.</td>
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<td>Dougherty, Joseph W.</td>
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<td>Duhme, David W.</td>
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<td>Athens</td>
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<td>Dym, Jean-Paul</td>
<td>Diagnostic Radiology</td>
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<td>Ewing, Christopher A.</td>
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<td>Faber, Theodore</td>
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<td>Fey, Jamie M.</td>
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<td>Frank, Michael P.</td>
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<td>Gordon, Lesley B.</td>
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<td>Lu, Dave W.</td>
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<td>Lucas, Zarah Dulce</td>
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<td>Mangiafico, Paul G.</td>
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<td>O’Malley, Michael</td>
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<td>Pandya, Kartikey A.</td>
<td>Surgery/Critical Care Medicine</td>
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2. **P.A. Licenses Issued**

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

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<td>O’Neill, Nancy</td>
<td>Presque Isle</td>
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<td>Kleinman, Doug</td>
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<td>Siddall, Jaclyn</td>
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<td>Simonson, Hannah</td>
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<td>Robich, Michael</td>
<td>Portland</td>
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B. **Applications for Individual Consideration**

1. **Christopher J. Clough, P.A.-C**

   The Licensure Committee moved to preliminarily deny Mr. Clough’s license application. The motion passed unanimously.

2. **David Levy, M.D.**

   The Licensure Committee moved to approve Dr. Levy’s license application. The motion passed unanimously.

3. **Melissa Umphlett, M.D.**

   The Licensure Committee moved to: 1) offer Dr. Umphlett the opportunity to apply for a temporary license to be issued for a six-month period with reports
from her employer to the Board weekly for the first month and monthly for the remaining five months; 2) waive the temporary license application fee; and 3) request that Dr. Umphlett clarify her ABMS certification status. The motion passed unanimously.

4. **Jack Flippo, M.D.**

The Licensure Committee moved to: 1) offer Dr. Flippo a consent agreement with the same terms as the North Carolina consent order and the requirement that he coordinate monitoring with the Maine Medical Professionals Health Program; and 2) to preliminarily deny Dr. Flippo’s license application with leave to withdraw if he does not accept the consent agreement. The motion passed unanimously.

C. **Applications for Reinstatement**

1. **Applications for Reinstatement**

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

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2. **Applications for Reinstatement – Individual Consideration (none)**

D. **Withdrawals**

1. **Withdraw License Application**

   a. **David P. Morton, M.D.**

      The Licensure Committee moved to approve Dr. Morton’s request to withdraw his license application. The motion passed unanimously.

2. **Withdraw License from Registration**

   Dr. Jones moved to approve the following licensees’ requests to withdraw from registration. Dr. Nyberg seconded the motion, which passed unanimously.

<table>
<thead>
<tr>
<th>NAME</th>
<th>LICENSE NUMBER</th>
</tr>
</thead>
<tbody>
<tr>
<td>Clary, Patrick</td>
<td>MD17761</td>
</tr>
<tr>
<td>Cook, Andrew</td>
<td>MD8896</td>
</tr>
<tr>
<td>Dionne, Marcel V.</td>
<td>MD12791</td>
</tr>
<tr>
<td>Ernst, David C.</td>
<td>MD9379</td>
</tr>
</tbody>
</table>
Feiner, David MD15007
Jones, Sydney R. MD13908
Keusch, Donald J. MD17012
Knoblock, Ronald J. MD19392
Lanzillo, Joseph H. MD16708
Lynch, David MD10575
Mills, Brian P. MD12614
Norsworthy, Ann H. PA152
Russell, Victoria MD18620
Thurman, Sarah A. MD16472
Weingard, Herbert MD19424
Zartarian, Gary M. MD18340

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

E. Licenses to Lapse by Operation of Law

The following licenses lapsed by operation of law effective April 5, 2016.

<table>
<thead>
<tr>
<th>NAME</th>
<th>LICENSE NUMBER</th>
</tr>
</thead>
<tbody>
<tr>
<td>Bateman, Erin K.M.</td>
<td>PA1261</td>
</tr>
<tr>
<td>Boothby, John A.</td>
<td>MD6217</td>
</tr>
<tr>
<td>Borhade, Mahesh B.</td>
<td>MD18861</td>
</tr>
<tr>
<td>Cerra, Carmine J.</td>
<td>MD10752</td>
</tr>
<tr>
<td>Daudi, Asfa</td>
<td>MD14776</td>
</tr>
<tr>
<td>Franklin, Jr., John E.</td>
<td>MD20039</td>
</tr>
<tr>
<td>Ganeshappa, Kanchana</td>
<td>MD18346</td>
</tr>
<tr>
<td>Hernandez, Ricardo A.</td>
<td>MD19968</td>
</tr>
<tr>
<td>Hill-Francis, Kina T.</td>
<td>MD17846</td>
</tr>
<tr>
<td>Howard, Donald R.</td>
<td>MD9856</td>
</tr>
<tr>
<td>Joshi, Sreenath R.</td>
<td>MD18867</td>
</tr>
<tr>
<td>Karol, Cecilia K.</td>
<td>MD14293</td>
</tr>
<tr>
<td>Kerzner, Leslie S.</td>
<td>MD19448</td>
</tr>
<tr>
<td>Leather, Gregory P.</td>
<td>MD12947</td>
</tr>
<tr>
<td>Mesa, Alonso</td>
<td>MD20333</td>
</tr>
<tr>
<td>Mills, Angela M.</td>
<td>MD19217</td>
</tr>
<tr>
<td>Mir, Muhammad A. Y.</td>
<td>MD18146</td>
</tr>
<tr>
<td>Morgenstern, Daniel A.</td>
<td>MD12611</td>
</tr>
<tr>
<td>Munusamy, Venkataraman</td>
<td>MD18538</td>
</tr>
<tr>
<td>Newton, Ellen S.</td>
<td>PA537</td>
</tr>
<tr>
<td>Punjwani, Nooruddin S.</td>
<td>MD15871</td>
</tr>
<tr>
<td>Rich, Logan M.</td>
<td>PA1289</td>
</tr>
<tr>
<td>Roberts, Eric C.</td>
<td>MD20046</td>
</tr>
<tr>
<td>Rourke, Loren L.</td>
<td>MD19902</td>
</tr>
<tr>
<td>Shaffer, Simon-Peter</td>
<td>PA161</td>
</tr>
<tr>
<td>Stoops, Beverly A.</td>
<td>MD12357</td>
</tr>
</tbody>
</table>
F. Licensees Requesting to Convert to Active Status (none)

G. Renewal Applications for Review

1. Don Kerson, M.D.

The Licensure Committee moved to investigate further and request that Dr. Kerson provide additional information. The motion passed unanimously.

H. Physician Assistant Schedule II Authority Requests

1. Applications to Renew Schedule II Authority

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

<table>
<thead>
<tr>
<th>NAME</th>
<th>PSP</th>
<th>LOCATION</th>
</tr>
</thead>
<tbody>
<tr>
<td>Case, Amy</td>
<td>Blake, Michael Scott</td>
<td>Lewiston</td>
</tr>
<tr>
<td>Daniels, Eric</td>
<td>Ramirez, Jose</td>
<td>Augusta</td>
</tr>
<tr>
<td>Dean, Precious</td>
<td>Florman, Jeffrey</td>
<td>Scarborough</td>
</tr>
<tr>
<td>Furlong, Patrick</td>
<td>Babikian, George</td>
<td>Falmouth</td>
</tr>
<tr>
<td>Grandy, John</td>
<td>Thompson, Melanie</td>
<td>Oakland</td>
</tr>
<tr>
<td>Greene, Charlotte</td>
<td>Hulefeld, Robert</td>
<td>York</td>
</tr>
<tr>
<td>Lee, Nicole</td>
<td>Floyd, Lisa</td>
<td>Bangor</td>
</tr>
<tr>
<td>Lowe, Tori Hall</td>
<td>Kilgour, James</td>
<td>Belfast</td>
</tr>
<tr>
<td>Mahan, William</td>
<td>McDermott, David</td>
<td>Dover-Foxcroft</td>
</tr>
<tr>
<td>Mahan, William</td>
<td>Krevans, Juluis Jr.</td>
<td>Bar Harbor</td>
</tr>
<tr>
<td>Minzy, Courtney</td>
<td>Cushing, Brad</td>
<td>Portland</td>
</tr>
<tr>
<td>Oprie, Bethany</td>
<td>Richardson, Timothy</td>
<td>Augusta</td>
</tr>
<tr>
<td>Sullivan, Mark</td>
<td>Helm, Robert</td>
<td>Portsmouth</td>
</tr>
<tr>
<td>Turner, Gabrielle</td>
<td>Krevans, Julius Jr.</td>
<td>Bar Harbor</td>
</tr>
<tr>
<td>Wiemer, Richard</td>
<td>Dionne, Andrew</td>
<td>Augusta</td>
</tr>
</tbody>
</table>

2. Applications for New Schedule II Authority

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

<table>
<thead>
<tr>
<th>NAME</th>
<th>PSP</th>
<th>LOCATION</th>
</tr>
</thead>
<tbody>
<tr>
<td>Beaver, Eric</td>
<td>Cushing, Brad</td>
<td>Portland</td>
</tr>
<tr>
<td>Borges, Erin</td>
<td>Fenwick, Amy</td>
<td>Bangor</td>
</tr>
<tr>
<td>Butterfield, Taylor</td>
<td>Blake, Michael</td>
<td>Lewiston</td>
</tr>
<tr>
<td>Drapeau, Leah</td>
<td>Bradford, John</td>
<td>Bangor</td>
</tr>
<tr>
<td>Gale, Karis</td>
<td>Sparks, Michael</td>
<td>Bangor</td>
</tr>
</tbody>
</table>
3. Applications for Schedule II Authority – Individual Consideration (none)

I. Other Items for Discussion

1. Christine M. Mellon, M.D.

The Licensure Committee moved to approve a one-year educational certificate for Dr. Mellon so that she may participate in a fellowship program in Hospice and Palliative Care at Eastern Maine Medical Center. The educational certificate is granted with the understanding that she will maintain her participation in the Maine Medical Professionals Health Program. The motion passed unanimously.

2. Reinstatement fees

The Licensure Committee discussed a request for clarification from a physician over the age of seventy (70) regarding the fee to reinstate a license from withdrawn status. The Board’s fee schedule lists the cost to reinstate a medical license from withdrawn status as $550.00: a $50.00 reinstatement fee plus the current $500.00 renewal fee. However, the renewal fee is waived for physicians age seventy (70) and older who apply to renew their license. It was also brought to the Board’s attention that per statute the reinstatement fee is $100.00 not $50.00. After discussion, the Licensure Committee moved to: 1) waive the renewal fee for this physician; 2) correct the Board’s fee schedule to reflect that the fee for reinstatement is $100.00 to be consistent with statute; and 3) to clarify reinstatement fees when the Board’s rule regarding physician licensure is updated.

XIV. Rulemaking

A. Chapter 5 Collaborative Drug Therapy Management Rule

The rule became effective March 14, 2016. Updates will be made to the Board’s licensing database to allow for tracking of information. Board staff asked for clarification regarding which license types may enter into a collaborative practice agreement. After discussion, the Board determined that physicians holding a permanent license (MD), a
volunteer license (MDV), a temporary license (TD), or an emergency license (EL) may enter into a collaborative practice agreement.

B. Chapter 2 Joint Rule Regarding Physician Assistants

The Board reviewed a draft basis statement and response to comments (BSRC) document regarding the proposed Chapter 2 Joint Rule Regarding Physician Assistants. Following review, the Board decided to make substantive changes to the proposed rule, pending review of the draft BSRC document by the Board of Osteopathic Licensure and its approval of the same substantive changes.

XV. Policy Review (none)

XVI. Requests for Guidance (none)

XVII. Standing Committee Reports

A. Public Information Committee

Mr. Terranova reported that fifty-six percent of e-mail recipients opened the newsletter. Licensees and interested parties for whom no e-mail address is on file were notified by letter that the newsletter is now being provided electronically and were given the opportunity to provide an e-mail address or request to receive the newsletter in paper format.

XVIII. Board Correspondence (none)

XIX. FSMB Material

A. FSMB Resolution 16-3

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

B. Request from the Office of the U.S. Surgeon General

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

XX. FYI

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

XXI. Other Business (none)
XXII. Adjournment

Dr. Jones moved to adjourn the meeting at 3:04 p.m. Dr. Dumont seconded the motion, which passed unanimously.

Respectfully submitted,

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

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

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

STATEMENT OF FACTS

1. Dr. Shea has held a license to practice medicine in the State of Maine since December 17, 2008 (license number MD18015), and specializes in cardiovascular diseases.

2. On November 2, 2015, the Board of Licensure in Medicine (“the Board”) received a report from the Maine Medical Professionals Health Program (MPHP) reporting that Dr. Shea was returning to work following a leave of absence from work in September 2015, and that Dr. Shea had admitted to consuming alcoholic beverages while on leave in violation of an agreement. After considering the information contained in the report, the Board reviewed MPHP’s recommendations and voted to take no further action at that time regarding the report.
3. On January 21, 2016, the Board received an email from Thomas Avery, Board of Pharmacy Investigator, reporting that a pharmacist had contacted him and alleged that, on January 20, 2016, Dr. Shea attempted to fill a prescription that he had written for his girlfriend at two pharmacies for oxycodone. Mr. Avery further reported that the pharmacist stated that she called Dr. Shea's medical practice and was told that he was on leave and should not have written the prescription.

4. On January 25, 2016, the Board received a report from the MPH tortured that Dr. Shea was not currently practicing medicine, and was on leave from work. In addition, the MPH tortured that when confronted he admitted that he had suffered a relapse.

5. At its meeting on February 9, 2016, the Board reviewed the investigation information, and voted to initiate a complaint. The Board docketed that complaint as CR16-49, and sent the complaint to Dr. Shea for a response on February 24, 2015.

6. In addition, at its meeting on February 9, 2016, the Board voted to offer Dr. Shea a Consent Agreement to resolve this matter without further proceedings. The Board is prepared to consider whether it should impose an immediate suspension of Dr. Shea’s license at its meeting scheduled for April 12, 2016.

7. Dr. Shea acknowledges that if this complaint was presented to the Board, existing evidence could provide a basis for the Board to conclude that the continued licensure of Dr. Shea as a physician would place the health and
physical safety of the public in immediate jeopardy and that waiting for a full hearing to adjudicate the matter would fail to adequately respond to this known risk. Accordingly, the Board would have justification to summarily suspend the license of Dr. Shea and set the matter for an adjudicatory hearing pursuant to 5 M.R.S. § 10004(3).

8. Dr. Shea desires to avoid a required adjudicatory hearing on any summary suspension ordered within 30 days of such action. Accordingly, Dr. Shea requests that the Board postpone any presentation or adjudication of this matter at least until the September 2016 Board meeting. Thereafter, any party to this Interim Consent Agreement may request the matter be presented to the Board upon 30 days notice to the other parties.

9. This Interim Consent Agreement has been negotiated by legal counsel for Dr. Shea and legal counsel for the Board in order to alleviate the need for the Board to consider whether to issue a summary suspension of licensure and hold an adjudicatory hearing within thirty days following the presentation of this matter to the Board, and to ensure the protection of the public. Absent acceptance of this Interim Consent Agreement by signing and dating it before a notary and returning it to the Maine Board of Licensure in Medicine, 137 State House Station, Augusta, Maine 04333-0137 on or before April 1, 2016, the Board will consider whether to issue a summary suspension of Dr. Shea’s license on April 12, 2016, and take whatever other action deemed necessary.
COVENANTS

10. Dr. Shea acknowledges the facts as stated above and agrees to the IMMEDIATE SUSPENSION of his license to practice as a physician in the State of Maine effective upon final execution of this Interim Consent Agreement, which suspension shall remain in effect until such time as the Board takes further action regarding this matter. Dr. Shea understands and agrees that he will not practice as a physician or render any health care services.

11. This Interim Consent Agreement is not appealable and is effective until modified or rescinded in writing by the parties hereto.

12. The Board and the Department of the Attorney General may communicate and cooperate regarding Dr. Shea or any other matter relating to this Interim Consent Agreement.

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

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

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

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

17. Dr. Shea has been represented by Kenneth W. Lehman, Esq., who has participated in the negotiation of the terms of this Interim Consent Agreement.

18. For the purposes of this Interim Consent Agreement, the term “execution” means the date on which the final signature is affixed to this Interim Consent Agreement.
I, DONALD B. SHEA, M.D., HAVE READ AND UNDERSTAND THE FOREGOING INTERIM 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 INTERIM CONSENT AGREEMENT CONTAINS THE ENTIRE AGREEMENT AND THERE IS NO OTHER AGREEMENT OF ANY KIND, VERBAL, WRITTEN OR OTHERWISE.

DATED: March 29, 2016

DONALD B. SHEA, M.D.

STATE OF Florida

Alachua, S.S.

Personally appeared before me the above-named Donald B. Shea, 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: March 29, 2016

SARAH BOGART
NOTARY PUBLIC/ATTORNEY

MY COMMISSION ENDS: 3/31/2018

DATED: April 4, 2016

KENNETH W. LEHMAN, Esq.
Counsel for Donald B. Shea, M.D.
STATE OF MAINE
BOARD OF LICENSURE IN MEDICINE

DATED: 4/12/10

MAROUILLA S. GLEATON, M.D., Chairman

STATE OF MAINE DEPARTMENT
OF THE ATTORNEY GENERAL

DATED: April 12, 2016

MICHAEL MILLER
Assistant Attorney General

Effective Date: 4/12/2014
STATE OF MAINE
BOARD OF LICENSURE IN MEDICINE

In re: SHARON MARBLE, M.D. Complaint No. CR15-68

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

STATEMENT OF FACTS

1. Dr. Marble was first licensed to practice medicine in the State of Maine on July 1, 2004 (license number MD16567), and she specializes in psychiatry.

2. On April 10, 2015, the Board received a report pursuant to 24 M.R.S. § 2506 that Kennebec Behavioral Health ("KBH") terminated the employment of Dr. Marble effective March 26, 2015, for "unprofessional conduct." KBH reported that it had received information that Dr. Marble was involved in a romantic relationship with a KBH patient for whom she had provided mental health treatment. The allegations reported included that the patient was living with Dr. Marble, that she had shared her credit card with him, that he had helped her move and that she was storing furniture in his apartment. KBH reported that Dr. Marble denied some of the allegations but
admitted having a relationship with the patient, having strong feelings for the patient, liking the way he treats her, and donating furniture to him. KBH also reported that the patient terminated his relationship with KBH effective February 6, 2015, and that it was not known if the relationship began prior to that date. KBH concluded that the termination of services by the patient “was unexpected and unplanned and, therefore, suspicious.”

3. On April 29, 2015, the Board received additional information from KBH following the Board’s April 13, 2015 request pursuant to 24 M.R.S. § 2506. Included in the additional information provided was identification of the KBH patient (“Patient A”), and information gathered during KBH’s investigation of the March 11, 2015 allegations that: a) Dr. Marble had been having a sexual relationship for the past two months or so; b) Patient A helped Dr. Marble move furniture out of her camp; c) Dr. Marble was storing furniture in Patient A’s apartment in Leeds; d) Dr. Marble gave Patient A access to her credit card; d) Dr. Marble bought Patient A a new vehicle; e) Patient A moved out of his apartment in Leeds and is staying with Dr. Marble; and f) Dr. Marble uses Patient A for sex on the weekends. KBH personnel met with Dr. Marble on March 19, 2015, during which Dr. Marble denied certain allegations but admitted that she was having a relationship with Patient A that had begun “a while ago,” and that she could not specifically recall when but that it was “after he terminated services.” KBH also provided information that Dr. Marble subsequently told KBH personnel that the reason that she gave Patient A some
of her furniture was that he was moving and did not have any furniture to move into his new place.

4. According to Patient A's KBH medical records, no later than September 15, 2014, a physician-patient relationship existed between Dr. Marble and Patient A. Patient A presented on September 15, 2014 with anxiety and depression having been referred by his primary care provider. Following this appointment, Dr. Marble tapered Patient A off Zoloft and initiated him on Cymbalta which he had not previously been on. She also had Patient A discontinue lorazepam and start on clonazepam. Dr. Marble saw Patient A on November 3, 2014, and noted that he was still having problems with depression. Dr. Marble increased Patient A's dosage of Cymbalta. Dr. Marble also noted that Patient A had taken extra clonazepam. Dr. Marble saw Patient A on December 8, 2014, and noted that Patient A had been doing well and did not feel depressed. She changed his diagnosis from major depressive disorder, recurrent, moderate to major depressive disorder, recurrent, in full remission, and made no changes to his current medications. On February 2, 2015, Patient A called to cancel his appointment with Dr. Marble scheduled for that day and indicated that he would be getting his medications through his primary care provider.

5. At its meeting on May 12, 2015, the Board considered the information received from KBH and voted to initiate a complaint alleging incompetence and unprofessional conduct. The complaint dated May 27,
2015, was docketed as complaint CR15-68, and sent to Dr. Marble for a response.

6. On June 15, 2015, Dr. Marble submitted an application to renew her license.

7. By letter dated June 17, 2015, and endorsed on June 29, 2015, Dr. Marble responded to the complaint. In her response, Dr. Marble denied living with Patient A, buying Patient A a vehicle or using Patient A “for sex on the weekends.” Dr. Marble acknowledged that she “donated” furniture to Patient A and allowed Patient A use of a credit card for food and gas after he became a “former Patient” which she claimed occurred after the “last chart note” in early December 2014. She admitted in her response to a romantic relationship, but claimed that the relationship was not exploitive.

8. At the Board’s request, Dr. Marble underwent a psychological evaluation on August 7, 2015, August 14, 2015, and October 6, 2015. During her evaluation, Dr. Marble admitted that at the end of December 2014, she was selling a home that she owned in Naples and that she offered Patient A furniture from that house and helped him move it into his place. She also told the evaluator that she allowed Patient A to use her credit card to “pay for gas to come see me.” Dr. Marble told the evaluator that she saw her relationship with Patient A as a long term relationship, that she was still romantically involved with him, and that she saw Patient A five days per week. She also stated that the relationship was not sexual “because of physical reasons.” Dr. Marble
denied ever being exposed to ethics information or any specific teachings about ethics, either in medical school or in her psychiatric residency.

9. On November 10, 2015, the Board voted to preliminarily deny Dr. Marble’s application to renew her license.

10. Pursuant to 32 M.R.S. § 3282-A(2)(E), the Board may impose discipline or deny the renewal of a license if a licensee engages in conduct that evidences a lack of ability or fitness to discharge the duty owed by the licensee to a client or patient or the general public, or engages in conduct that evidences a lack of knowledge or inability to apply principles or skills to carry out the practice of medicine.

11. Pursuant to 32 M.R.S. § 3282-A(2)(F), the Board may impose discipline or deny the renewal of a license if a licensee violates a standard of professional behavior, including disruptive behavior, that has been established in the practice for which the licensee is licensed. For purposes of this paragraph, “disruptive behavior” means aberrant behavior that interferes with or is likely to interfere with the delivery of care. Standards of professional behavior include the American Psychiatric Association Annotations Especially Applicable to Psychiatry to the Principles of Medical Ethics, such as the following: a) a psychiatrist shall not gratify her own needs by exploiting the patient. The psychiatrist shall be ever vigilant about the impact that her conduct has upon the boundaries of the doctor-patient relationship, and thus upon the well-being of the patient (Annotation 1, Section 1); and b) sexual activity with a current or former patient is unethical (Annotation 1, Section 2).
12. Pursuant to 32 M.R.S. § 3282-A(2)(H), the Board may impose discipline or deny the renewal of a license if a licensee violates Board Rules, including a violation of Board Rules Chapter 10, Sexual Misconduct. Sexual misconduct is considered incompetence and unprofessional conduct. "Physician/physician assistant sexual misconduct" is behavior that exploits the physician-patient relationship in a sexual way. This behavior is nondiagnostic and/or nontherapeutic, may be verbal or physical, and may include expressions or gestures that have a sexual connotation or that a reasonable person would construe as such.

13. At its meeting on November 10, 2015, the Board reviewed Complaint CR 15-68, and voted to set this matter for an adjudicatory hearing. An adjudicatory hearing in this matter has been scheduled for April 12, 2016. This Consent Agreement has been negotiated by legal counsel for Dr. Marble and legal counsel for the Board in order to alleviate the need for the Board to hold an adjudicatory hearing. Absent Dr. Marble's acceptance of this Consent Agreement by signing and dating it before a notary and returning it to Maine Board of Licensure in Medicine, 137 State House Station, Augusta, Maine 04333-0137 on or before April 7, 2016, and absent approval by the Board of this Consent Agreement at its meeting scheduled for April 12, 2016, an adjudicatory hearing on this matter shall be held, and the Board may take whatever further action it deems necessary.
COVENANTS

14. Dr. Marble admits the facts stated above and that such conduct constitutes grounds for discipline pursuant to 32 M.R.S. § 3282-A(2)(E) (for engaging in incompetence), 32 M.R.S. § 3282-A(2)(F) (for engaging in unprofessional conduct), and 32 M.R.S. § 3282-A(2)(H) (for violating Board rules).

15. As discipline for the conduct described above, Dr. Marble agrees to accept the following:

   a) A CENSURE for engaging in an inappropriate relationship with a client/former client.

   b) A LICENSE PROBATION for no less than five (5) years during which the following conditions apply:

      1) Dr. Marble’s license to practice medicine shall be limited to the practice of administrative medicine which means “professional managerial or administrative activities related to the practice of medicine or to the delivery of health care services, but does not include the practice of clinical medicine or medical research.” After a period of two (2) years, Dr. Marble may petition the Board to remove this restriction. Should Dr. Marble petition the Board in accordance with this paragraph, she shall bear the burden of establishing or proving that she can competently and safely practice clinical medicine. Dr. Marble agrees that in connection with any such petition, the Board may require, as determined in its sole discretion, that Dr. Marble engage
a practice mentor or monitor who may be required to prepare periodic reports to the Board.

2) Dr. Marble shall enroll in and take a course or courses in medical ethics equivalent to not less than twenty-five (25) Category 1 continuing medical education ("CME") hours, with at least fifteen (15) of those hours on the subject of professional boundaries, all of which have been pre-approved by the Board Secretary or his designee. The completion of the CME required by this paragraph must occur within nine (9) months of the execution of this Consent Agreement. Dr. Marble shall submit written evidence of course completion in compliance with this paragraph to the Board no later than February 1, 2017.

3) Effective immediately, Dr. Marble shall terminate any relationship with Patient A, and Dr. Marble shall not engage in any relationship with a patient or former patient that could be deemed a violation of the boundaries of the physician-patient relationship as identified in Board statute or rule, The American Psychiatric Association Annotations to the Principles of Medical Ethics, the American Medical Association Code of Medical Ethics, or any other applicable standard of professional behavior.

4) Dr. Marble shall obtain a substance abuse evaluation through the Maine Medical Professionals Health Program ("MPHP") within six (6) months of the effective date of this Consent Agreement. Dr. Marble shall provide the Board with a copy of the substance abuse evaluation and comply
with all recommended monitoring, testing, or counseling, if any, resulting from such substance evaluation.

c) A CIVIL PENALTY in the amount of One Thousand Five Hundred Dollars ($1,500.00), payment of which shall be made by certified check or money order made payable to "Treasurer, State of Maine," and remitted to Maine Board of Licensure in Medicine, 137 State House Station, Augusta, Maine 04333-0137, within thirty (30) days of the execution of this Consent Agreement.

16. Violation by Dr. Marble 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.

17. This Consent Agreement is not appealable and is effective until modified or rescinded in writing by the parties hereto.

18. The Board and the Department of the Attorney General may communicate and cooperate regarding Dr. Marble or any other matter relating to this Consent Agreement.

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

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

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

22. Dr. Marble 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.

23. Dr. Marble has been represented by Jon S. Oxman, Esq., who has participated in the negotiation of the terms of this Consent Agreement.

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

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

DATED: 4/6/2016

SHARON MARBLE, M.D.
STATE OF MAINE, S.S.

Personally appeared before me the above-named Sharon Marble, 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: 4-6-2016

SANDRA J. FAVREAU
NOTARY PUBLIC/ATTORNEY
Notary Public, Maine
My Commission Expires April 19, 2021

MY COMMISSION ENDS:

DATED: 4-6-2016

JON S. OXMAN, ESQ.
Attorney for Sharon Marble, M.D.

STATE OF MAINE
BOARD OF LICENSURE IN MEDICINE

DATED: 4/12/16

MAROULLA S. GLEATON, M.D., Chairman

STATE OF MAINE DEPARTMENT OF THE ATTORNEY GENERAL

DATED: April 12, 2014

MICHAEL MILLER
Assistant Attorney General

Effective Date: 4/12/2014