State of Maine  
Board of Licensure in Medicine  
137 SHS, 161 Capitol Street  
Augusta, Maine 04333-0137  
November 8, 2016  
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1 The complaint section of the agenda was incorrectly numbered. Number 3 was omitted and number 23 was included twice.
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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**

<table>
<thead>
<tr>
<th>Time</th>
<th>Purpose</th>
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<tbody>
<tr>
<td>9:54 a.m. – 10:05 a.m.</td>
<td>Pursuant to 1 M.R.S. § 405(6)(F) to hear testimony regarding confidential patient medical records</td>
</tr>
<tr>
<td>2:29 p.m. – 3:01 p.m.</td>
<td>Pursuant to 1 M.R.S. § 405(6)(F) to hear testimony regarding confidential patient medical records</td>
</tr>
<tr>
<td>4:04 p.m. – 4:15 p.m.</td>
<td>Pursuant to 1 M.R.S. § 405(6)(F) and 10 M.R.S. § 8003-B(1) to discuss pending complaints and confidential patient medical records</td>
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</table>

**RECESSES**

<table>
<thead>
<tr>
<th>Time</th>
<th>Purpose</th>
</tr>
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<tbody>
<tr>
<td>9:15 a.m. – 9:40 a.m.</td>
<td>Break</td>
</tr>
<tr>
<td>11:08 a.m. – 11:17 a.m.</td>
<td>Break</td>
</tr>
<tr>
<td>12:15 p.m. – 1:15 p.m.</td>
<td>FSMB Presentation/Working Lunch</td>
</tr>
<tr>
<td>2:50 p.m. – 3:01 p.m.</td>
<td>Break</td>
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### III. Call to Order

Dr. Gleaton called the meeting to order at 9:00 a.m.
A. Amendments to Agenda

Dr. Dumont moved to amend the license application of Adam W. Grasso, M.D. onto the agenda. Mr. Ross seconded the motion, which passed unanimously.

B. Scheduled Agenda Items

1. 9:30 a.m. Adjudicatory Hearing Charles D. Clemetson, M.D. (CR14-204)
2. 12:00 p.m. FSMB Presentation/Working Lunch

II. Licensing

A. Applications for Individual Consideration

1. Initial Applications

   a. Adam W. Grasso, M.D.

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

2. Reinstatement Applications (none)

3. Renewal Applications

   a. Deborah Q. Hagler, M.D.

      The Licensure Committee moved to approve Dr. Hagler’s renewal application. The motion passed 8-0-0-1. Dr. Dumont was recused from this matter and left the room.

   b. Patrick S. Maidman, M.D.

      The Licensure Committee moved to approve Dr. Maidman’s renewal application. The motion passed 8-0-0-1. Dr. Barnhart was recused from this matter and left the room.

   c. Robert J. Struba, M.D.

      The Licensure Committee moved to approve Dr. Struba’s renewal application. The motion passed unanimously.

   d. Hilamber Subba, M.D.

      The Licensure Committee moved to investigate further and request that Dr. Subba undergo a §3286 evaluation. The motion passed unanimously.
e. Douglas R. Wood, M.D.

The Licensure Committee moved to investigate further and request that Dr. Wood provide a letter from his treating physician regarding his current health status. The motion passed unanimously.

f. Stephen G. Wood, M.D.

The Licensure Committee moved to approve Dr. Wood’s renewal. The motion passed unanimously.

4. Requests to Convert to Active Status (none)

5. Requests to Withdraw License/License Application

a. Joseph J. Terrasi, M.D.

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

B. Other Items for Discussion

a. Opioid CME Discussion

The Licensure Committee moved to accept Category I CME credits earned by licensees between November 8, 2016 and December 31, 2017 to satisfy the statutory requirement for opioid prescribing related CME. The motion failed 0-9.

Dr. Sacchetti moved to accept Category I CME credits earned by licensees between the effective date of the statute, July 29, 2016, and December 31, 2017 to satisfy the statutory requirement for opioid prescribing related CME. Mr. Ross seconded the motion, which passed unanimously.

b. PA Registration Form

The Licensure Committee moved to approve changes to the Application for Physician Assistant Registration form with one amendment. The motion passed unanimously.

C. Withdraw License from Registration

Dr. Barnhart moved to approve the following licensees’ requests to withdraw their licenses from registration. Mr. Ross seconded the motion, which passed unanimously.

<table>
<thead>
<tr>
<th>NAME</th>
<th>LICENSE NUMBER</th>
</tr>
</thead>
<tbody>
<tr>
<td>Binder, David</td>
<td>MD19875</td>
</tr>
<tr>
<td>Borst, Marilyn</td>
<td>MD19530</td>
</tr>
</tbody>
</table>
III. Consent Agreements for Review

A. CR14-87 John C. O’Connell, M.D. [Appendix A]

Dr. Dumont moved to accept the signed consent agreement. Dr. Barnhart seconded the motion, which passed unanimously.

B. CR15-77 Elmer H. Lommler, M.D. [Appendix B]

Dr. Sacchetti moved to accept the signed consent agreement. Mr. Ross seconded the motion, which passed 7-0-0-2. Dr. Barnhart and Dr. Dumont were recused from this matter and left the room.

C. CR16-24 Michael B. Bruehl, M.D. [Appendix C]

Ms. Corbin moved to accept the signed consent agreement. Ms. Weinstein seconded the motion, which passed 7-0-0-2. Dr. Barnhart and Dr. Waddell were recused from this matter and left the room.

IV. Complaints1

1. CR16-104

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

2. CR16-124

Mr. Ross moved to investigate further. Ms. Weinstein seconded the motion, which passed unanimously.

Executive Session regarding CR16-133 and CR16-148

At 4:04 p.m. Dr. Barnhart moved to enter executive session pursuant to 1 M.R.S. § 405(6)(F) and 10 M.R.S. § 8003-B(1) to discuss pending complaints and confidential patient medical records. Ms. Corbin seconded the motion, which passed unanimously.

1 The complaint section of the agenda was incorrectly numbered. Number 3 was omitted and number 23 was included twice.
At 4:15 p.m. Dr. Dumont moved to come out of executive session. Dr. Sacchetti seconded the motion, which passed unanimously.

Following executive session, the Board made the following motions regarding CR16-133 and CR16-148:

4. CR16-133

Dr. Dumont moved to investigate further. Ms. Weinstein seconded the motion, which passed 8-0-0-1. Dr. Barnhart was recused from this matter and left the room.

5. CR16-148

Dr. Dumont moved to investigate further. Ms. Weinstein seconded the motion, which passed 8-0-0-1. Dr. Barnhart was recused from this matter and left the room.

6. CR16-139

Dr. Sacchetti moved to set the matter for an Adjudicatory Hearing and authorize AAG Miller to negotiate a consent agreement to include a reprimand and a civil penalty for each violation. Dr. Barnhart seconded the motion, which passed 7-0-0-2. Dr. Gleaton and Mr. Ross were recused from this matter and left the room.

Upon further consideration, Dr. Sacchetti moved to amend the previous motion to set the matter for an Adjudicatory Hearing and authorize AAG Miller to negotiate a consent agreement to include a reprimand and a civil penalty of $1,500. Dr. Barnhart seconded the motion, which passed 7-0-0-2. Dr. Gleaton and Mr. Ross were recused from this matter and left the room.

7. CR16-149

Dr. Sacchetti moved to dismiss the complaint. Dr. Dumont seconded the motion, which passed 8-0-1-0 with Dr. Barnhart abstaining.

**MOTION:** The patient complains that his physician overprescribed opioids causing him to become addicted. Under CR13-66, the Board conducted an investigation of the physician’s prescribing practices after receiving information about the patient and issued the physician a letter of guidance in 2015. There are no grounds to reopen an investigation based on the material presented by the complainant.

8. CR16-157

Dr. Barnhart moved to dismiss the complaint. Dr. Dumont seconded the motion, which passed unanimously.
MOTION: The patient complains of discrimination in the physician’s office and does not think that the physician can do a random urine test for management of opioids without a contract. Review of the extremely complex case reveals careful attention to medical issues. The random urine test was very appropriate in the circumstances of the case. Subsequently, when the patient overused medication after resolution of medical issues this behavior was clearly documented and appropriate measures were taken to discontinue medication and document the events with the primary care physician. It is impossible for the Board to know how this patient interacted with the office staff.

9. CR16-160

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

10. CR16-163

Dr. Sacchetti moved to set the matter for an Adjudicatory Hearing and authorize AAG Miller to negotiate a consent agreement to include the same terms of probation as the consent agreement with the Alaska Medical Board, and the requirement that the physician undergo a §3286 evaluation to be reviewed by the Board prior to initiating practice in the state of Maine. Dr. Barnhart seconded the motion, which passed unanimously.

11. CR16-164

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

MOTION: The Board initiated a complaint against an obstetrician due to notice of settlement of a malpractice claim dating back to 2005. Review of the records reveals conflicting opinions regarding the care provided. Further Board action is not indicated at this time.

12. CR16-169

Ms. Weinstein moved to dismiss the complaint. Dr. Sacchetti seconded the motion, which passed 8-0-0-1. Ms. Dench was recused from this matter and left the room.

MOTION: The patient complains that his cardiologist did not clear him for orthopedic surgery in a timely fashion, thus depriving him of significant earnings and causing him anxiety about the risks of not being anticoagulated. The patient had a complicated history of having a metal aortic valve replacement and anticoagulation in 1988, an embolic CVA twelve years later, and endocarditis ten years after that. His last face-to-face visit with his cardiologist was three years ago. Six weeks prior to his elective orthopedic surgery he had a seizure. The cardiologist was asked by the orthopedist to medically clear this patient two weeks prior to surgery. The cardiologist did see the patient within one week of this request, but the actual dictated clearance did not reach the orthopedist’s office until the day before the
surgery. The insurance company would not approve the surgery until a later date. The patient had to have two occasions where his Coumadin was stopped and an injectable anticoagulant was used, which he did not fully understand the safety of. The cardiologist’s care of this complex patient was appropriate in the short period of time provided and he clearly recognizes each step of the patient’s care could have been better managed. He has talked to his practice and the orthopedic practice to try and prevent this type of problem in the future. He has clearly recommended that elective surgeries be scheduled only after medical clearance is obtained.

13. CR16-170

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

MOTION: The patient complains that her knee injury was not managed properly and that she was treated rudely by the orthopedic surgeon. The surgeon acknowledges that the interaction with the patient started poorly, but reports that he apologized during the single visit with the patient and has tried to apologize further by phone. The patient transferred her care to other providers. The patient acknowledges that she has not returned calls from the surgeon knowing that he intends to apologize once again. Review of the records reveals timely and appropriate care.

14. CR16-131

Ms. Corbin moved to set the matter for an Informal Conference. Dr. Barnhart seconded the motion, which passed unanimously.

15. CR16-135

Ms. Weinstein moved to investigate further. Mr. Ross seconded the motion, which passed unanimously.

16. CR16-144

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

MOTION: The patient who underwent staged, bilateral carpal tunnel release procedures complains that his procedures were not properly performed and that additional surgery by another surgeon was required. Review of the medical records and responses provided by the surgeon reveal appropriate care.

17. CR16-145

Mr. Ross moved to dismiss the complaint. Dr. Sacchetti seconded the motion, which passed unanimously.
MOTION: The patient’s grandmother complains that the physician did not do enough to evaluate her granddaughter and refused to call her to tell her about the progress. The physician responded that she provided appropriate care and offered many times to contact the patient’s grandmother. The patient’s grandmother decided to withdraw her complaint after reading the physician’s response.

18. CR16-161

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

19. CR16-168

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

MOTION: The patient developed a life threatening hematologic illness while institutionalized. He complains that the employed physician overruled or deviated from specialty recommendations and recommended preventing the patient’s possible hospitalizations to medical providers that he supervised. The patient felt that this was to benefit the physician’s employer. Review of the record finds excellent care with appropriate treatment and resolution of the patient’s hematologic condition.

20. CR16-174

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

MOTION: The patient complains that his previously fractured nose and multiple medical concerns were not addressed by the institutional physician. The physician described his care including his clear statement that the patient was not going to have nasal septal surgery while institutionalized. The patient did have multiple tests including a normal nasal x-ray. The medical care was thorough and appropriate.

21. CR16-176

Ms. Corbin moved to set the matter for an Informal Conference. Dr. Barnhart seconded the motion, which passed 8-0-0-1. Dr. Sacchetti was recused from this matter and left the room.

22. CR16-180

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

23. CR16-188
Dr. Barnhart moved to dismiss the complaint. Mr. Ross seconded the motion, which passed unanimously.

**MOTION:** A VA patient complains that his sister, who is his legal guardian, and the physician are forcing him to have injections that he does not need as nothing is wrong with him. The physician responds that the patient is 100% service connected disabled for his mental illness after a closed head injury. He receives injections for long standing disruptive and delusional behavior. The injectable form of the medication has helped stabilize his condition better than oral treatments. The patient has the right to refuse the injections but does not, even driving himself to some of the appointments. Review of the record shows thoughtful and appropriate care.

23. Intentionally left blank

24. Intentionally left blank

V. Assessment and Direction

25. AD16-125

Dr. Barnhart moved to table the matter. Dr. Sacchetti seconded the motion, which passed 8-1.

26. AD16-200

Mr. Ross moved to issue a complaint (CR16-246) and subpoena five medical records for review. Ms. Weinstein seconded the motion, which passed 7-0-0-2. Dr. Gleaton and Dr. Waddell were recused from this matter and left the room.

27. AD16-201

Dr. Barnhart moved to issue a complaint (CR16-247). Ms. Weinstein seconded the motion, which passed unanimously.

28. AD16-219

Dr. Sacchetti moved to issue a complaint (CR16-248). Mr. Ross seconded the motion, which passed unanimously.

29. Intentionally left blank

30. Intentionally left blank

31. Intentionally left blank

32. Pending Adjudicatory Hearings and Informal Conferences report
This material was presented for informational purposes. No Board action was required.

33. Consumer Assistance Specialist Feedback (none)

34. Other Items for Discussion (none)

VI. Informal Conference (none)

VII. Minutes for Approval

Dr. Dumont moved to approve the minutes of the October 11, 2016 meeting. Dr. Sacchetti seconded the motion, which passed unanimously.

VIII. Board Orders & Consent Agreement Monitoring

A. Board Orders (none)

B. Monitoring Reports

1. Whitney Houghton, M.D.

   Dr. Sacchetti moved to authorize AAG Miller to: 1) negotiate an amendment to the consent agreement to include the requirement that Dr. Houghton have a Board-approved practice monitor who will review five randomly selected charts per month and provide a monthly report to the Board for six months; and 2) issue a complaint if Dr. Houghton does not accept the amendment to the consent agreement. Ms. Weinstein seconded the motion, which passed 7-0-0-2. Dr. Gleaton and Dr. Barnhart were recused from this matter and left the room.

2. James Grossman, P.A.-C

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

3. Robert S. LaMorgese, M.D.

   Dr. Dumont moved that: 1) the use of telemedicine to conduct monitoring is at the discretion of the practice monitor; 2) the use of the telephone alone to conduct monitoring is not acceptable; 3) the practice monitor’s duties as outlined in the cover letter to the monitor are acceptable; and 4) the proposed date of April 20, 2017 for the neurological evaluation is not acceptable. The evaluation must be conducted within three months of November 8, 2016. Mr. Ross seconded the motion, which passed unanimously.

4. Reinaldo de los Heros, M.D.

   Dr. Barnhart moved to table this matter. Mr. Ross seconded the motion, which passed unanimously.
5. **Kevin M. Kendall, M.D.**

Ms. Corbin moved to approve the proposed counselor. Ms. Weinstein seconded the motion, which passed unanimously.

6. **Intentionally left blank**

IX. **Adjudicatory Hearing**

A. **CR14-204 Charles D. Clemetson, M.D.**

Rebekah J. Smith, Esq., Hearing Officer, convened the hearing at 9:40 a.m.

Dr. Clemetson was present and represented by Edward S. McCall, Esq. AAG Michael Miller represented the State.

Dr. Dumont moved to accept the recommended Decision of the Hearing Officer dated November 6, 2016 regarding the Respondent’s Motion to Strike or Dismiss. Dr. Waddell seconded the motion, which passed unanimously.

At 9:54 a.m. Dr. Sacchetti moved to enter executive session pursuant to 1 M.R.S. § 405(6)(F) to hear testimony regarding confidential patient medical records. Dr. Dumont seconded the motion, which passed unanimously.

At 10:05 a.m. Ms. Weinstein moved to come out of executive session. Mr. Ross seconded the motion, which passed unanimously.

At 2:29 p.m. Dr. Sacchetti moved to enter executive session pursuant to 1 M.R.S. § 405(6)(F) to hear testimony regarding confidential patient medical records.

At 3:01 Ms. Corbin moved to come out of executive session. Dr. Sacchetti seconded the motion, which passed unanimously.

At 3:31 p.m. the hearing was continued to the January 10, 2017 meeting at a time to be determined.

X. **Remarks of Chair (none)**

XI. **Remarks of Executive Director**

Mr. Smith reported on his October 26th presentation as part of the Medical Mutual hospital education program “Patient Safety and the Aging Physician.”

XII. **Assistant Executive Directors Report**

Mr. Terranova reported on the status of ongoing projects and recent staff training.
A. Complaint Status Report

As of November 1, 2016 there are eighty-two complaints outstanding. One hundred forty have been received year-to-date and one hundred fifteen have been closed so far this year.

B. Feedback

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

XIII. Medical Director’s Report (none)

XIV. Remarks of Assistant Attorney General (none)

XV. Rulemaking

A. Chapter 6 Telemedicine Standards of Practice

Dr. Dumont moved to adopt the Chapter 6 Telemedicine Standards of Practice rule. Mr. Ross seconded the motion, which passed unanimously.

XVI. Policy Review (none)

XVII. Requests for Guidance (none)

XVIII. Standing Committee Reports

A. Licensure and CME Committee

1. Licensing Status Report [Appendix D]

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

XIX. Board Correspondence (none)

XX. FSMB Material

A. 12:00 p.m. Presentation

Patricia King, M.D., Ph.D. and Michael Dugan, MBA from the Federation of State Medical Boards provided an overview of the services and educational offerings of the FSMB, an update on policies, and information regarding the issue of physician re-entry to practice.

XXI. FYI

A. Benjamin G. Newman, M.D.
Dr. Newman submitted verification of his completion of a course regarding medical ethics, boundaries and professionalism. This material was presented for informational purposes. No Board action was required.

XXII. Other Business (none)

XXIII. Adjournment 6:45 p.m.

Respectfully submitted,

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

In re: JOHN C. O'CONNELL, M.D.
Complaint No. CR14-87

) 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 John C. O'Connell, M.D. The parties to the Consent Agreement are: John C. O'Connell, M.D. ("Dr. O'Connell"), 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. O'Connell has held a license to practice medicine in the State of Maine since June 1, 2012 (license numbers EL 121018 and MD19349), and reports specializing in neurology.

2. On June 26, 2014, the Board initiated a complaint alleging unprofessional conduct, incompetence, and violation of Board rules following receipt of information that the Kentucky Board of Medical Licensure had issued an emergency order prohibiting Dr. O'Connell from prescribing, dispensing or otherwise professionally utilizing controlled substances" based upon information that Dr. O'Connell had prescribed controlled substances for his wife, daughter and mother-in-law, and after obtaining an outside review of Dr. O'Connell's prescribing of controlled substances to other patients. The Board
docketed the complaint as CR14-87, and sent it to Dr. O’Connell for a response.

3. By letter dated July 25, 2014, Dr. O’Connell responded to the complaint. In his response, he stated that he was disputing the complaint of the Kentucky Board of Medical Licensure.

4. On March 23, 2015, the Kentucky Board of Medical Licensure after adopting findings of facts and conclusions of law issued an Order of Indefinite restriction in Case No. 1568 ("the Kentucky Order"), and ordered that Dr. O’Connell’s license to practice medicine in Kentucky be restricted/limited for an indefinite period of time during which he is not permitted to practice medicine for at least two years. The Kentucky Order further provides that Dr. O’Connell’s medical license shall remain restricted/limited until he requests amendment or termination following successful completion of a medical recordkeeping course, and a prescribing controlled drugs course, after obtaining a clinical skills assessment and education plan, and paying costs.

5. This Consent Agreement has been negotiated by legal counsel for the Board and Dr. O’Connell in order to resolve Complaint CR 14-87 without further proceedings. Absent Dr. O’Connell’s acceptance of this Consent Agreement by signing and dating it in front of a notary and mailing it to Maine Board of Licensure in Medicine, 137 State House Station, Augusta, Maine 04333-0137 on or before October 8, 2016, the matter will be scheduled for an adjudicatory hearing.
6. By signing this Consent Agreement, Dr. O'Connell hereby consents to the presentation of this proposed Consent Agreement to the Board for ratification. Dr. O'Connell 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.

COVENANTS

7. Dr. O'Connell admits the facts stated above and that such conduct constitutes grounds for discipline pursuant to 32 M.R.S. §§ 3282-A(2)(F) (for engaging in unprofessional conduct), and (2)(M) (for disciplinary action by another state for conduct that if committed in Maine would constitute grounds for discipline).

8. In order to resolve this matter without further proceedings, Dr. O'Connell agrees to the IMMEDIATE VOLUNTARY SURRENDER of his Maine license to practice medicine effective upon the execution of this Consent Agreement.

9. Violation by Dr. O'Connell 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.

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

12. 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.

13. 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.

14. 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.

15. Dr. O'Connell 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.

16. 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, JOHN C. O'CONNELL, 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: 10-14-2016

JOHN C. O'CONNELL, M.D.

STATE OF ______________________

________________________________, S.S.

Personally appeared before me the above-named John C. O'Connell, 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: 10-14-16

NOTARY PUBLIC ATTORNEY

MY COMMISSION ENDS: 11-4-19
STATE OF MAINE
BOARD OF LICENSURE IN MEDICINE

DATED: 11/8/16

MAROULLA S. GLEATON, M.D., Chairman

STATE OF MAINE DEPARTMENT
OF THE ATTORNEY GENERAL

DATED: November 8, 2016

MICHAEL MILLER
Assistant Attorney General

Effective Date: November 8, 2016
STATE OF MAINE
BOARD OF LICENSURE IN MEDICINE

In re: ELMER H. LOMMLER, M.D. Complaint No. CR15-77

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 Elmer H. Lommler, M.D. The parties to the Consent Agreement are: Elmer H. Lommler, M.D. ("Dr. Lommler"), 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. Lommler has held a license to practice medicine in the State of Maine since July 10, 1979 (license number MD9862), and specializes in internal medicine.

2. On May 22, 2015, the Board received a complaint from a patient of Dr. Lommler alleging that she was prescribed "narcotics in large doses" and got "addicted." She also alleged that the cost of her office visits went up and that when she left Dr. Lommler’s practice he did not send her medical records to a new provider as requested. The Board docketed that complaint as CR15-77, and sent it to Dr. Lommler for a response.
3. By letter dated September 2, 2015, Dr. Lommler responded to the complaint. In his response, Dr. Lommler explained the care that was provided to the patient and the fees that he charges for office visits. He indicated that the patient’s medical records had been sent within two weeks of receiving a signed release. He also reported that the patient was evaluated extensively for her pain complaints and that when the cause for her pain could not be determined, he prescribed a weaning schedule for her opioid prescriptions which she refused to follow. He reported to the Board that the patient came to his practice already on narcotics and that she broke her “pain contract on numerous occasions.”

4. On October 13, 2015, the Board reviewed the complaint, Dr. Lommler’s response, and the patient’s medical records, and voted to further investigate by requesting that Dr. Lommler answers questions relating to his treatment of the patient and his overall approach to prescribing controlled substances and use of universal precautions. By letter dated November 12, 2015, Dr. Lommler responded to the Board questions.

5. Review of the patient’s records and a prescription monitoring report for Dr. Lommler raised significant concerns with his controlled substances prescribing and utilization of universal precautions. For example, Dr. Lommler continued to prescribe large doses of hydrocodone-acetaminophen 10-325 tablets to the patient even though her initial laboratory evaluation showed elevation of her liver function studies.
6. On January 12, 2016, the Board reviewed the above information and voted to further investigate and schedule an informal conference to discuss Dr. Lommler's treatment of the patient, his charting and medical recordkeeping, his controlled substances prescribing practices and use of polypharmacy, and utilization of controlled substances universal precautions.

7. On September 13, 2016, the Board held an informal conference with Dr. Lommler. Following the informal conference, the Board voted to set this matter for an adjudicatory hearing. In addition, the Board voted to offer Dr. Lommler this Consent Agreement to resolve this matter without further proceedings. Absent Dr. Lommler’s acceptance of this Consent Agreement by signing and dating it in front of a notary and mailing it to Maine Board of Licensure in Medicine, 137 State House Station, Augusta, Maine 04333-0137 on or before October 27, 2016, the matter will be scheduled for an adjudicatory hearing.

COVENANTS

8. Dr. Lommler admits the facts stated above and agrees that such conduct constitutes grounds for discipline pursuant to 32 M.R.S. § 3282-A(2)(F) (for engaging in unprofessional conduct by violating a standard of professional behavior that has been established for the practice of medicine).

9. As discipline for the foregoing conduct, Dr. Lommler agrees to accept:
A LICENSE PROBATION for a period of time as determined by the Board in its sole discretion during which Dr. Lommler shall comply with the following conditions:

a) Dr. Lommler shall not accept any new patients who require a prescription for a controlled substance after the effective date of this Consent Agreement.

b) No later than six (6) months from the effective date of this Consent Agreement all patients of Dr. Lommler, except patients with metastatic cancer, or patients receiving palliative, end of life or hospice care, shall be reduced to a 100 morphine milligram equivalent (“MME”) or less daily dose. Dr. Lommler shall clearly document in the patient’s medical record the rationale for any opioid prescription.

c) Six (6) months from the effective date of this Consent Agreement, Dr. Lommler shall only prescribe one (1) benzodiazepine per patient.

d) Dr. Lommler shall only prescribe controlled substances in multiples of seven (7) days of supply.

e) Dr. Lommler shall clearly document in the medical record all treatment plans and rationale for prescribing any controlled substance. He shall also document the use of universal precautions associated with any controlled substance that has been prescribed.

f) Within three (3) months of the effective date of this Consent Agreement, Dr. Lommler shall take a continuing medical education course of not less than thirty-two (32) hours approved by the Board Secretary or Board
Chairperson, or their designee on the subject of pain management and alternatives to controlled substances prescribing which Dr. Lommler shall attend in person. Dr. Lommler shall submit written evidence to the Board of his successful completion of the course within fourteen (14) calendar days thereafter.

g) Six (6) months after the effective date of this Consent Agreement, Board staff shall request no fewer than six (6) patient charts for Board review. Following review of the selected patient charts, the Board in its sole discretion shall determine whether to continue or terminate Dr. Lommler’s probation. Upon review, the Board may continue probation and impose any conditions it deems necessary for a specified term.

h) The Board requests that Dr. Lommler seek to obtain a waiver to prescribe buprenorphine within two months of the effective date of this Consent Agreement. Should Dr. Lommler obtain a waiver to prescribe buprenorphine, he shall provide written notification to the Board within fourteen (14) days.

10. Violation by Dr. Lommler 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.

11. This 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. Lommler or any other matter relating to this Consent Agreement.

13. 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.

14. 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.

15. 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.

16. Dr. Lommler 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.

17. 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, ELMER H. LOMMLER, 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: 10/25/2016

ELMER H. LOMMLER, M.D.

STATE OF Maine

Penobscot County, S.S.

Personally appeared before me the above-named Elmer H. Lommler, 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: 10/25/16

Kathleen C. Hutchinson
Notary Public, State of Maine
My Commission Expires: April 11, 2021

MY COMMISSION ENDS: April 11, 2021
STATE OF MAINE BOARD
OF LICENSURE IN MEDICINE

DATED: 11/8/10

MAROULLA S. GLEATON, M.D., Chairman

STATE OF MAINE DEPARTMENT
OF THE ATTORNEY GENERAL

DATED: November 8, 2010

MICHAEL MILLER
Assistant Attorney General

Effective Date: November 8, 2010
STATE OF MAINE  
BOARD OF LICENSURE IN MEDICINE  

In re:  
MICHAEL B. BRUEHL, M.D.  
Complaint No. CR16-24  

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 Michael B. Bruehl, M.D. The parties to the Consent Agreement are: Michael B. Bruehl, M.D. ("Dr. Bruehl"), 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. Bruehl has held a license to practice medicine in the State of Maine since July 13, 1976 (license number MD8517), and specializes in family practice.  

2. On December 23, 2015, the Board received a report pursuant to 24 M.R.S. § 2505 from a physician who works at Eastern Maine Medical Center's Walk-In Care Department. The physician reported that Dr. Bruehl prescribed a patient large numbers of oxycodone tablets, fentanyl patches of varying strength, and benzodiazepines. The physician also reported that a review of the patient's medical records showed sporadic visits and no pill counts or toxicology screens in the prior 9-10 months. The patient's medical records included documented concerns by the patient's insurance company about the
amount of opiates being prescribed, a lack of physician exam information, and a lack of clarity regarding the patient’s source and level of pain.

3. On December 30, 2015, the Board subpoenaed the patient’s medical records.

4. Based upon the report and medical records, the Board initiated a complaint on February 17, 2016 against Dr. Bruehl. The Board docketed that complaint as CR16-24, and sent it to Dr. Bruehl for a response.

5. By letter dated April 14, 2016, Dr. Bruehl responded to the complaint. In his response, Dr. Bruehl provided a description of the patient’s medical history which includes a series of complications from a 2003 gastric bypass surgery. Dr. Bruehl acknowledges that he prescribed large doses of oxycodone, fentanyl, and benzodiazepines to the patient because she has “chronic pain secondary from her multiple abdominal surgeries”, osteoarthritis, fibromyalgia, osteoporosis and multiple infections. He stated that in his view, the patient has “chronic pain requiring comfort measures.” He expressed his belief that the patient is not abusing her medications. Dr. Bruehl described the care he provided to the patient in 2015 and 2016, and acknowledged that he did not conduct “enough pill counts and urine drug screens” and his notes “often do not address her level of pain.” He “knows” that the pain medication that he has ordered for her “keeps her comfortable.”

6. Further investigation by the Board revealed several notices sent to Dr. Bruehl from the Prescription Monitoring Program notifying him that the patient had received a morphine milligram equivalent greater than 100 within
90 days or had received multiple overlapping opioid prescriptions within 90 days.

7. On May 10, 2016, the Board reviewed CR16-24 and voted to investigate the matter further by reviewing additional patient charts and requesting that Dr. Bruehl answer specific questions regarding his treatment of the patient.

8. By letter dated June 15, 2016, Dr. Bruehl responded to the Board's questions.

9. Review of additional patient records and the responses to the Board's questions indicated inappropriate assessments and plans, inappropriate prescribing, inappropriate follow-up, poor documentation, and concerns with clinical knowledge. In response to specific Board questions, Dr. Bruehl did not recall what other treatments were considered with the patient, although he stated that he typically tries physical therapy and pain management. In addition, some treatment appeared to be contraindicated and the patient's depression was not sufficiently addressed.

10. Pursuant to 32 M.R.S. § 3282-A(2)(F), the Board may impose discipline for unprofessional conduct. A licensee is considered to have engaged in unprofessional conduct if the licensee violates a standard of professional behavior that has been established for the practice of medicine.

11. Pursuant to 32 M.R.S. § 3282-A(2)(H), the Board may impose discipline for violation of Board statute or rule, including rules regarding the
use of controlled substances for treatment of pain that are contained in Board Rules, Chapter 21.

12. On July 12, 2016, the Board reviewed CR 16-24 and voted to set the matter for an adjudicatory hearing. In addition, the Board voted to offer Dr. Bruehl this Consent Agreement to resolve this matter without further proceedings. Absent Dr. Bruehl’s acceptance of this Consent Agreement by signing and dating it in front of a notary and mailing it to Maine Board of Licensure in Medicine, 137 State House Station, Augusta, Maine 04333-0137 on or before October 30, 2016, the matter will be scheduled for an adjudicatory hearing.

COVENANTS

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

14. As discipline for the foregoing conduct, Dr. Bruehl agrees to accept the following:

a) A LICENSE RESTRICTION prohibiting the prescribing of any controlled substance for a period greater than seven (7) days.

b) A LICENSE PROBATION for a period of at least one (1) year during which the following is required:

1) Within three (3) months of the effective date of this Consent Agreement, Dr. Bruehl shall enroll in an in person primary care
update medical education course of not less than thirty (30) hours in length approved by the Case Reporter and submit written evidence of course completion to the Board.

2) Within forty-five days of the effective date of this Consent Agreement, Dr. Bruehl shall retain a Board approved physician monitor who shall meet with Dr. Bruehl at least monthly and review five (5) patient charts. The physician monitor shall review and address the appropriateness of assessments and plans, medication prescribing, medical record documentation, coordination of care or follow-up, and demonstration of clinical knowledge. Dr. Bruehl shall cause the physician monitor to report to the Board on a quarterly basis, with the first report being due no later than four (4) months from the effective date of this Consent Agreement. In the reports to the Board, the physician monitor shall provide a summary of his or her monitoring activities and identify any issues regarding the appropriateness of assessments and plans, medication prescribing, medical record documentation, coordination of care or follow-up, and demonstration of clinical knowledge. Dr. Bruehl understands that the physician monitor will be an agent of the Board pursuant to 24 M.R.S. § 2511. Dr. Bruehl shall permit the physician monitor full access to his medical practice, including but not limited to all patient information. After one (1) year of monitoring by the physician monitor, the Board shall review the quarterly reports required by this subparagraph, and in its sole discretion determine whether to continue,
modify, or terminate the requirements of this subparagraph for an additional specified period.

15. Violation by Dr. Bruehl 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.

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

17. The Board and the Department of the Attorney General may communicate and cooperate regarding Dr. Bruehl 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-A.

19. 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.

20. 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.
21. Dr. Bruehl 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.

22. Dr. Bruehl has been represented by Sandra L. Rothera, Esq., who has participated in the negotiation of the terms of this Consent Agreement.

23. 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, MICHAEL B. BRUEHL, 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: 10/25/16

MICHAEL B. BRUEHL, M.D.

STATE OF Maine

Penobscot, S.S.

Personally appeared before me the above-named Michael B. Bruehl, 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: 10/25/16

NOTARY PUBLIC/ATTORNEY

MY COMMISSION ENDS: LILLIAN B. COTE
Notary Public, State of Maine
My Commission Expires 3/3/2019

DATED: 14/3/11

SANDRA L. ROTHERA, ESQ.
Attorney for Michael B. Bruehl, M.D.
STATE OF MAINE
BOARD OF LICENSURE IN MEDICINE

DATED: 6/8/16

MAROULLA S. GLEATON, M.D., Chairman

STATE OF MAINE DEPARTMENT OF THE ATTORNEY GENERAL

DATED: 10/27/16

MICHAEL MILLER
Assistant Attorney General

Effective Date: 11/26/16
DATE: NOVEMBER 1, 2016
TO: BOARD MEMBERS
CC: 
FROM: TIMOTHY TERRANOVA
RE: LICENSING STATUS REPORT AND LISTS

We are presenting the Board with a new format for the informational reports the licensing section provides each month. Previous reports were created by manually counting licenses. ALMS has now created reports that allow staff to pull the information directly from the database.

The following information is included:

A summary of all licenses granted in October 2016 by license type;

A list of all individuals granted a license in October 2016 by license type;

A summary of all pending applications by license type (This list is currently inflated with a number of applications that should be marked as abandoned because there has been no activity for over a year. Staff will be working to clean up the old applications over the next month);

A list of online vs. paper renewals by license type; and

A list of licenses lapsed on November 1, 2016.

We look forward to your feedback.
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**SUMMARY BY LICENSE STATUS**

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