

STATE OF MAINE
BOARD OF LICENSURE IN MEDICINE

In re:)
Marc D. Christensen, M.D.) CONSENT AGREEMENT
Complaint No. CR15-51)

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

STATEMENT OF FACTS

1. The Board first issued Dr. Christensen a license to practice medicine in Maine on July 23, 2003 (License number MD16235). Dr. Christensen specializes in neurological surgery and most recently practiced at St. Mary’s Regional Medical Center (“St. Mary’s”) in Lewiston, Maine.
2. On February 8, 2015, while he was on call at St. Mary’s for the care of his patients, Dr. Christensen was involved in a motor vehicle accident in Falmouth, Maine. Following the accident, Dr. Christensen was charged with criminal Operating Under the Influence of alcohol (“OUI”).
3. By letter dated February 11, 2015, Dr. Christensen notified the Board of the accident and criminal charge, and also stated that he had contacted the Medical Professionals Health Program (“MPHP”).

4. By letter dated March 9, 2015, St. Mary's notified the Board that it had terminated Dr. Christensen's employment for cause after he admitted that the results of his blood alcohol test on February 8, 2015, exceeded the legal limit to operate a motor vehicle and that the incident occurred while he was on call for the treatment of patients at St. Mary's.

5. At its meeting on April 14, 2015, the Board considered the information received and voted to initiate a complaint against Dr. Christensen's license. Board Complaint No. CR15-51 was sent to Dr. Christensen on April 28, 2015, for his response.

6. On April 14, 2015, Dr. Christensen entered into an Interim Consent Agreement with the Board that provided for the immediate suspension of his license pending further action by the Board.

7. In his response to the complaint signed on June 26, 2015, Dr. Christensen admitted that he misused alcohol. He also informed the Board that his criminal charges had been resolved following his plea of guilty to misdemeanor OUI.

8. Dr. Christensen also has a 2011 OUI conviction.

9. At its meetings on September 8, 2015, and January 12, 2016, the Board reviewed the complaint, response, and related information, and voted to offer Dr. Christensen this Consent Agreement. Should Dr. Christensen decide to accept this Consent Agreement, he should sign it and date it in front of a notary and return it to the Maine Board of Licensure in Medicine, 137 State House Station, Augusta, Maine 04333-0137 on or before February 3, 2016.

COVENANTS

10. Dr. Christensen admits the foregoing facts and that such conduct constitutes grounds for discipline pursuant to:

a. 32 M.R.S. 3282-A(2)(B) for misuse of alcohol, drugs or other substances that has resulted or may result in the licensee performing services in a manner that endangers the health or safety of patients;

b. 32 M.R.S. 3282-A(2)(E)(1) for engaging 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; and

c. 32 M.R.S. 3282-A(2)(F) for unprofessional conduct by engaging in unprofessional conduct by violating a standard of professional behavior.

11 Dr. Christensen agrees to accept the following discipline for the conduct described above:

a. A REPRIMAND for misuse of alcohol and for misuse of alcohol when on call for the care of patients;

b. A CIVIL PENALTY in the amount of One Thousand Dollars (\$1,000.00), 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.

c. REIMBURSEMENT OF COSTS of investigation in the amount of two hundred eighty-two dollars and forty-two cents (\$282.42) incurred by

the Board for the investigation of this matter. Payment shall be made within thirty (30) days of the effective date of this Consent Agreement by certified check or money order made payable to "Maine Board of Licensure in Medicine" and be remitted to Maine Board of Licensure in Medicine, 137 State House Station, Augusta, Maine 04333-0137.

d. A LICENSE PROBATION for seven (7) years following the execution of this Consent Agreement. The following specific conditions of probation are imposed:

(1) Abstinence. Dr. Christensen shall refrain from the use or possession of Prohibited Substances except drugs that are dispensed or prescribed to him by a licensed health care practitioner for legitimate medical purposes. "Prohibited Substances" as used throughout this Consent Agreement shall mean all controlled substances, alcohol, illegal substances, and all mood and/or consciousness or mind-altering substances, whether illicit or not. Upon receipt of a report of use or possession of any Prohibited Substance by Dr. Christensen, Dr. Christensen's license shall be immediately and automatically suspended until an adjudicatory hearing may be held. Notice of such suspension of license may be provided orally or in writing.

(2) Enrollment and Successful Participation in the Maine Medical Professionals Health Program. Dr. Christensen shall enroll in and successfully participate in the Maine Medical Professionals Health Program (MPHP) pursuant to a written contract approved by the Board. **No later than February 9, 2016**, Dr. Christensen shall provide the Board with a copy of his MPHP contract. Dr. Christensen understands and agrees that his written contract with the MPHP must be approved by the Board, and that any changes to his written contract with the MPHP must be approved by the Board. In complying with this provision, Dr. Christensen expressly authorizes the Board, Board counsel, and Board staff to have unrestricted access to: (a) the written contract with the MPHP, and any amendments thereto; (b) all records pertaining to his compliance with his MPHP contract; and (c) all records, including but not limited to substance abuse treatment records and laboratory reports, in the possession of the MPHP regarding Dr. Christensen.

The MPHP contract must at a minimum require: (i) that Dr. Christensen undergo testing or monitoring for the presence of Prohibited Substances; (ii) that he participate in substance misuse counseling and treatment as recommended by MPHP or his health care providers; (iii) that he have a

physician workplace monitor or monitors who must be able to make reports to MPHP or the Board based upon direct observation of Dr. Christensen; and (iv) that provides that any violation of any provision in the contract must be reported to the Board within one business day. Dr. Christensen agrees that any failure to participate in the MPHP program or comply with any requirement contained in his MPHP contract constitutes a violation of this Consent Agreement and shall result in the immediate, indefinite, and automatic suspension of his license until the Board holds a hearing on the matter. Notice of such suspension of license may be provided orally or in writing.

(3) Rebuttable Presumption and Admission into Evidence of Test Results. It is agreed and understood that a test evidencing the presence of any Prohibited Substance, shall raise a rebuttable presumption that such substance was in fact used by Dr. Christensen. Such a positive test result shall alone, including any test result showing the presence of ethyl glucuronide, ethyl sulfate, or phosphatidyl ethanol, be sufficient to prove the use of the Prohibited Substance by Dr. Christensen. Dr. Christensen further agrees that the result of the test shall be admitted into evidence in any proceeding regarding his license, whether before the Board or before a Court of competent jurisdiction.

(4) Accidental Ingestion/Exposure Not a Defense. Dr. Christensen acknowledges that the ingestion of poppy seeds, mouthwash and over the counter cough or cold medicines or remedies has from time to time been raised as a defense to a positive screen result for morphine, opiates and/or alcohol. For that reason, Dr. Christensen agrees to refrain from ingesting poppy seeds in any food substances, mouthwash and over the counter cough or cold medicines or remedies during the period of monitoring. In the event that Dr. Christensen has a positive screen for morphine, opiates and/or alcohol, Dr. Christensen agrees that the ingestion of poppy seeds and/or mouthwash and/or over the counter cough or cold medicines shall not constitute a defense to such a positive screen. In addition, Dr. Christensen acknowledges that the use of alcohol-based hand sanitizers has from time to time been raised as a defense to a positive screen result for alcohol. For that reason, Dr. Christensen agrees to refrain from using alcohol-based hand sanitizers during the period of probation and agrees that in the event of a positive screen for alcohol that the use of an alcohol-based hand sanitizer shall not constitute a defense to such a positive screen.

(5) Board Hearing to Determine Violation. After receiving report of any violation of Dr. Christensen's MPHP contract, the Board shall investigate the situation, including requiring a response from Dr. Christensen. The Board will hold a hearing within 60 days of the automatic suspension or as soon thereafter as practicable (unless both Dr. Christensen and the Board agree to hold the hearing later) and it shall be held pursuant to the Maine Administrative Procedure Act.

(6) Releases. Dr. Christensen agrees to execute any and all releases necessary for the Board, Board staff, and the Board's assigned Assistant Attorney General to:

- (a) communicate directly with the Maine Medical Professionals Health Program regarding his compliance with that program;
- (b) review and obtain copies of all documentation regarding his participation in the MPHP;
- (c) communicate directly with anyone who is involved with his care and treatment; and
- (d) review and obtain copies of all documentation regarding his medical care and treatment, including treatment for substance abuse issues.

(7) Clinical Practice Re-entry Plan with Monitor. Prior to the practice of clinical medicine, Dr. Christensen must have a Board-approved clinical practice re-entry plan that provides for a physician practice monitor. Any modification or amendment to the clinical practice re-entry plan must be approved by the Board. In addition, the physician practice monitor must be approved by the Board. The physician practice monitor must be qualified in the practice of surgery. The Board has the sole discretion to approve or deny the clinical practice re-entry plan and any modification or amendments thereto. Dr. Christensen understands that the physician practice monitor will be an agent of the Board pursuant to 24 M.R.S. § 2511. The clinical practice re-entry plan must identify all locations at which Dr. Christensen intends to practice medicine.

The physician practice monitor must be in direct contact with Dr. Christensen, observe him within his medical practice, and conduct chart reviews as specifically set forth in the Board-approved clinical practice re-entry plan. The physician practice monitor shall report to the Board any issues with regard to substance misuse, medical decision-making, incompetence, unprofessionalism, or any other concerns regarding Dr. Christensen's medical practice. The physician practice monitor shall report any issues to the Board by telephone and in writing within twenty-four (24) hours or as soon thereafter as possible. Dr. Christensen shall permit the physician practice monitor full access to his medical practice, including but not limited to all patient information. The physician practice monitor shall provide the Board with written reports regarding Dr. Christensen's medical practice on or before February 1, May 1, August 1, and November 1 of each year following the execution of this Consent Agreement, unless the Board determines and notifies the physician practice monitor that such reports are no longer required. Such reports shall include a statement identifying personal observations, describing the review of patient records, and discussing any issues. Dr. Christensen shall provide a copy of this Consent Agreement, together with any amendments hereto, to his physician practice monitor.

12. Violation of any of the terms or conditions of this Consent Agreement by Dr. Christensen shall constitute unprofessional conduct and grounds for additional discipline of his license by the Board, including but not limited to possible civil penalties, additional period(s) of suspension, and revocation of licensure.

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


14. 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.

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

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

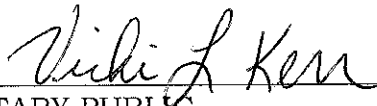
DATED: 1/14/16


MARC D. CHRISTENSEN, M.D.

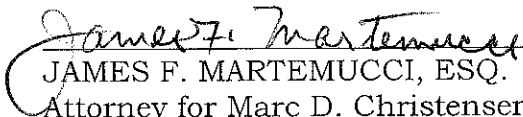
STATE OF Maine
Cumberland, S.S. (County)

Personally appeared before me the above-named Marc D. Christensen, 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.

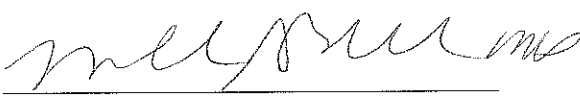
DATED: 1/14/16


NOTARY PUBLIC
MY COMMISSION ENDS: _____
VICKI L. KERR
Notary Public, Maine
My Commission Expires March 23, 2021

DATED: 1/14/16



JAMES F. MARTEMUCCI, ESQ.
Attorney for Marc D. Christensen, M.D.

DATED: 2/11/16


MAROULLA S. GLEATON, M.D.,
Chairperson
MAINE BOARD OF LICENSURE IN
MEDICINE

DATED:

February 12, 2016



MICHAEL MILLER,
Assistant Attorney General
DEPARTMENT OF THE ATTORNEY
GENERAL

APPROVED
EFFECTIVE: