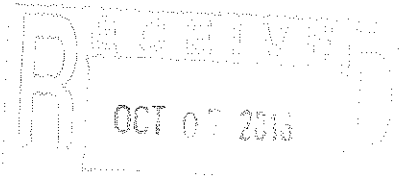


STATE OF MAINE
BOARD OF LICENSURE IN MEDICINE



In re:) CONSENT AGREEMENT OF LICENSURE IN MAINE
DAVID P. JOHNSON, P.A.)
Complaint No. CR16-109)

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 David P. Johnson, P.A. The parties to the Consent Agreement are: David P. Johnson, P.A. ("Mr. Johnson"), 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. Mr. Johnson has held a license to render medical services in the State of Maine since February 11, 2009 (license number PA1157).
2. On November 17, 2015, the Board received an application from Mr. Johnson for renewal of his physician assistant license. On that application, Mr. Johnson disclosed that he had been convicted in January 2015 of Operating Under the Influence ("OUI"). Mr. Johnson was referred to the Maine Medical Professionals Health Program ("MPHP").
3. On February 12, 2016, the Board received correspondence from MPHP stating that Mr. Johnson had signed a three year monitoring agreement with MPHP.
4. On February 16, 2016, the Board approved Mr. Johnson's application for renewal of his physician assistant license.

5. On May 13, 2016, the Board initiated a complaint against Mr. Johnson after receiving reports that he tested positive on March 3, 2016, March 15, 2016, and April 22, 2016 for cannabinoids. It was also alleged that Mr. Johnson admitted to smoking marijuana two weeks prior to the first toxicology test and admitted to using a masking agent prior to that test, but denied all marijuana use after signing the monitoring agreement with MPHP. The Board docketed that complaint as CR16-109, and sent it to Mr. Johnson for a response.

6. On June 13, 2016, the Board received Mr. Johnson's response to the complaint. In his response, he told the Board that he takes full responsibility for his actions and that he is confident that there will be no future issues or concerns with his use of alcohol or marijuana. He described his heavy alcohol use through June 2015. He explained that after he no longer consumed alcohol, his sleep patterns were "grossly distorted" and after trying over-the-counter drugs, he used marijuana as a sleep aid. He states that he has been "marijuana free since January 2015 [sic]".

7. At its meeting on July 12, 2016, the Board reviewed Complaint CR 16-109, and voted to set this matter for an adjudicatory hearing. In addition, the Board voted to offer Mr. Johnson this Consent Agreement to resolve this matter without further proceedings. Absent Mr. Johnson'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 September 16, 2016, the matter will be scheduled for an adjudicatory hearing.

COVENANTS

8. Mr. Johnson admits the facts stated above and that such conduct constitutes grounds for discipline pursuant to 32 M.R.S. §§ 3282-A(2)(B) (for misuse of alcohol, drugs or other substances that may result in the licensee performing services in a manner that endangers the health or safety of patients), and (2)(F) (for engaging in unprofessional conduct).

9. As discipline for the conduct described above, Mr. Johnson agrees to accept:

A LICENSE PROBATION for five (5) years subject to the following terms and conditions:

a) Mr. Johnson must undergo a substance abuse evaluation within thirty (30) days of the effective date of this Consent Agreement by a health care practitioner approved by the Board Secretary. The substance abuse evaluation shall be provided to the Board and shall contain recommendations for Mr. Johnson's treatment incorporating the following minimum requirements imposed by the Board: 1) additional or more intensive counseling and treatment than what was required or undertaken under or prior to the February 2016 MPHP monitoring agreement; and 2) weekly toxicology screens for a minimum period to be specified in the substance abuse evaluation.

b) Mr. Johnson shall comply with all treatment, monitoring, and testing recommendations contained in the substance abuse evaluation

pursuant to written agreement with MPHP or other Board authorized entity or provider for a period of not less than five (5) years. The written agreement must include requirements for toxicology screens or testing, substance abuse counseling or treatment, receipt of regular written reports from a workplace monitor, and a provision that MPHP or other authorized entity or provider shall report any positive toxicology test or screen to the Board as soon as practicable. Mr. Johnson shall provide a copy of the written agreement entered into in accordance with this subparagraph to the Board within forty-five (45) days of the effective date of this Consent Agreement. Mr. Johnson shall provide any amendments, modifications or revisions to the written agreement to the Board within ten (10) days of the effective date of such amendment, modification or revision.

c) Mr. Johnson shall maintain abstinence and refrain from the use or possession of any and all controlled substances, alcohol, and mood and/or consciousness or mind-altering substances, whether illicit or not, unless that drug has been prescribed to him for a legitimate medical purpose.

d) Mr. Johnson agrees that the Board and the Department of the Attorney General shall have complete access to his medical records, and to his treatment, monitoring and counseling records regarding substance misuse and mental health issues. Mr. Johnson waives any privileges or confidentiality accorded to such information, reports, or records, and agrees to execute any and all releases necessary to permit the Board or the Department of the Attorney General access to such information, reports, or records.

e) Within forty-eight (48) hours of being informed that a toxicology test or screen result has been reported as positive for alcohol or a non-prescribed substance, Mr. Johnson shall report such test or screen result to the Board.

f) Any positive toxicology test or screen result that is reported to the Board while this Consent Agreement remains effective shall result in the automatic and immediate suspension of Mr. Johnson's license to render medical services in Maine for a period of six (6) months, unless the Board Chair, the Board Secretary, and the Board's assigned Assistant Attorney General, earlier determine that there is a substantial basis to believe that the report is without merit. The automatic suspension of Mr. Johnson's license to render medical services pursuant to this subparagraph is not appealable and shall occur without hearing. The suspension shall become effective at the time that Mr. Johnson receives actual notice from the Board of a reported positive toxicology test or screen. Actual notice to Mr. Johnson may be provided orally by telephone, in person, by email, or in writing. Mr. Johnson may request the Board to reinstate his license at the conclusion of any period of suspension imposed pursuant to this subparagraph. In connection with such request, Mr. Johnson shall bear the burden of establishing that he can safely render medical services. Upon receipt of a request to reinstate Mr. Johnson's license to render medical services, the Board may grant the request, deny the request, or offer an amendment or modification to this Consent Agreement. If the Board denies the request or offers an amendment or modification to this Consent

Agreement, Mr. Johnson may request that the Board hold an adjudicatory hearing on his request to reinstate his license to render medical services.

g) Mr. Johnson shall notify the Board within three (3) days of any arrest, summons, information or indictment, or conviction for any crime, and within three (3) days of any summons or other charge and court disposition for any civil violation that involves alcohol or drugs, including driving or operating under the influence.

10. Violation by Mr. Johnson 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 Mr. Johnson 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. Mr. Johnson 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, DAVID P. JOHNSON, P.A., 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: 10/6/16 *David P. Johnson*
DAVID P. JOHNSON, P.A.

STATE OF MAINE

_____, S.S.

Personally appeared before me the above-named David P. Johnson, P.A., 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: 10-6-16 *Lee Hand*
NOTARY PUBLIC/ATTORNEY

MY COMMISSION ENDS: 1-11-2022

STATE OF MAINE
BOARD OF LICENSURE IN MEDICINE

DATED:


10/11/16


MAROULLA S. GLEATON, M.D., Chairman

STATE OF MAINE DEPARTMENT
OF THE ATTORNEY GENERAL

DATED:

October 11, 2016


MICHAEL MILLER
Assistant Attorney General

Effective Date:

October 11, 2016