

4. Paragraph 15(c) of the Consent Agreement reads as follows:

15. As discipline for the conduct admitted above, Dr. Tkach agrees to:

c. Accept the following license restriction, which shall remain in effect unless or until this Consent Agreement is rescinded or amended by all of the parties hereto: Dr. Tkach shall immediately cease prescribing any controlled medications, including all opiates and benzodiazepines, for the treatment of chronic pain except for:

- (i) Patients in skilled nursing facilities or long-term care facilities;
- (ii) Patients in hospice care; or
- (iii) Patients with metastatic cancer.

In complying with this restriction, Dr. Tkach shall ensure that any and all prescriptions that he issues for the three excepted categories of patients identified above are annotated with the words "skilled nursing facility/long-term care" or "hospice care" or "metastatic cancer" as applicable to each patient.

5. Paragraph 16 of the Consent Agreement reads as follows:

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

6. Following the effective date of the Consent Agreement, Dr. Tkach departed from Maine and relocated to Nevada.

7. On September 7, 2012, the Nevada State Board of Medical Examiners issued Dr. Tkach a license to practice medicine (License No. 14538) which imposed prescribing limitations on that license for a period of one year.

8. On December 9, 2013, Dr. Tkach's Maine license lapsed as a result of his failure to renew the license.

9. Dr. Tkach now holds an unrestricted license to practice medicine in Nevada and practices at Northeastern Nevada Regional Hospital in Elko, Nevada.

10. Pursuant to correspondence dated January 8, 2015, Dr. Tkach requested that the Board modify the Consent Agreement so that it would no longer impose restrictions on his

license.

11. On March 10, 2015, following its review of Dr. Tkach's request to modify the Consent Agreement, the Board instructed its assigned legal counsel to propose to Dr. Tkach this First Amendment to the Consent Agreement.

12. By signing this First Amendment, Dr. Tkach waives any and all objections to, and hereby consents to allow the Board's legal counsel to present this proposed First Amendment to the Board for possible ratification. Dr. Tkach also forever waives any arguments of bias or otherwise against any of the Board members in the event that the Board fails to ratify this proposed First Amendment.

13. Absent Dr. Tkach's acceptance of this First Amendment by signing and dating it before a notary and mailing it to Maine Board of Licensure in Medicine, 137 State House Station, Augusta, Maine 04333-0137 on or before April 17, 2015, the Consent Agreement shall remain in effect in its entirety as effective on April 23, 2012, and without modification .

COVENANTS

Dr. Tkach and the Board agree to the following:

14. Dr. Tkach admits to the facts as stated above.

15. Provided that Dr. Tkach does not apply for licensure or otherwise practice health care in any capacity in the State of Maine, the provisions of paragraphs 15(c) and 16 of the Consent Agreement, which impose restrictions on Dr. Tkach's Maine license, shall be suspended. In the event that Dr. Tkach applies for licensure or otherwise practices health care in any capacity in the State of Maine, which determination shall be at the sole discretion of the Board, the Board shall have the discretion to unilaterally lift the suspension and reactivate these provisions of the Consent Agreement.

16. Violation by Dr. Tkach of any of the terms or conditions of the Consent Agreement as modified by this First Amendment shall constitute grounds for discipline, including but not limited to modification, suspension, or revocation of licensure or the denial of re-licensure.

17. Pursuant to 10 M.R.S. § 8003(5) the Board and Dr. Tkach agree that the Board has the authority to issue an order, following notice and hearing, imposing further discipline, including revocation or suspension of his license, in the event that he fails to comply with any of the terms or conditions of the Consent Agreement as modified by this First Amendment.

18. Dr. Tkach waives his right to a hearing before the Board or any court regarding all findings, terms, and conditions of this First Amendment. This First Amendment is not appealable and is effective until modified or terminated in writing by agreement of all of the parties hereto.

19. The Board and the Office of the Attorney General may communicate and cooperate regarding Dr. Tkach or any other matter relating to this First Amendment or the Consent Agreement.

20. This First Amendment and the Consent Agreement are a public records 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.

21. Nothing in the Consent Agreement as modified by this First Amendment shall be construed to affect any right or interest of any person not a party hereto.

22. The Board and Dr. Tkach agree that no further agency or legal action will be initiated against him by the Board based upon the facts admitted to or found herein except or unless he fails to comply with the terms and conditions of the Consent Agreement as modified by

this First Amendment. The Board may however consider the conduct described in the Consent Agreement as evidence of a pattern of misconduct in the event that similar allegations are brought against Dr. Tkach in the future. The Board may also consider the fact that discipline was imposed by the Consent Agreement in determining appropriate discipline in any further complaints against Dr. Tkach's Maine physician license.

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

24. The effective date of this First Amendment shall be the date on which the final signature is affixed to this First Amendment.

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

DATED:

3/26/15

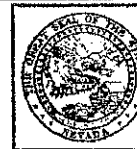
John S. Tkach
JOHN S. TKACH, M.D.

STATE OF

Nevada

Elko

, S.S. (County)



TAMARA B. KIEHN
NOTARY PUBLIC - STATE OF NEVADA
Elko County - Nevada
CERTIFICATE # 04-89684-6
APPT. EXP. JUN. 21, 2016

Personally appeared before me the above-named, John S. Tkach, 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:

3/26/15

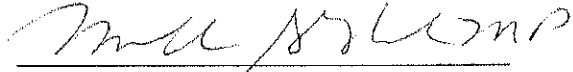
Tamara B. Kiehn
NOTARY PUBLIC/ATTORNEY
MY COMMISSION ENDS:

6/21/16

STATE OF MAINE
BOARD OF LICENSURE IN MEDICINE

DATED:

4/14/15

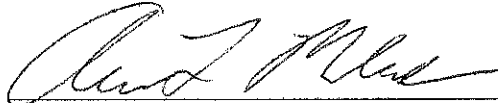


MAROULLA S. GLEATON, M.D., Chairman

OFFICE OF THE ATTORNEY GENERAL

DATED:

4/14/2015



ANDREW L. BLACK
Assistant Attorney General

Effective Date: 4/14/2015

STATE OF MAINE
BOARD OF LICENSURE IN MEDICINE

IN RE:)	CONSENT AGREEMENT
JOHN S. TKACH, M.D.)	FOR DISCIPLINE AND
Complaint No. CR08-256)	RESTRICTED/CONDITIONAL
)	LICENSURE

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

STATEMENT OF FACTS

1. The Board first issued Dr. Tkach a medical license on November 15, 1994. Dr. Tkach specializes in Internal Medicine.
2. On July 8, 2008, the Board reviewed information received from St. Croix Regional Family Health Center (St. Croix) indicating that it had concerns regarding Dr. Tkach's prescribing of controlled substances. Following its review of this information, the Board voted to initiate a complaint against Dr. Tkach's Maine medical license for alleged unprofessional conduct and incompetence regarding his prescribing of controlled substances. The Board docketed the complaint as CR 08-256, and sent it to Dr. Tkach for a response.
3. On October 8, 2008, the Board received a written response to

complaint CR08-256. In his response, Dr. Tkach stated that he exercised appropriate care when prescribing controlled substances to the patients at St. Croix, including reviewing the prescription monitoring program (PMP), conducting pill counts and ordering urine drug screens. Dr. Tkach then explained the basis for his prescribing of controlled drugs to the patients identified in the complaint information.

4. On December 9, 2008, the Board reviewed complaint CR08-256, and voted to further investigate it by ordering an outside expert review of Dr. Tkach's prescribing of controlled substances to 74 patients identified in the complaint.

5. On November 9, 2009, the Board discussed the outside expert review of Dr. Tkach's prescribing of controlled substances to 74 patients identified in the materials of Complaint No. CR08-256. The opinions of the outside expert included:

a. There was a clear violation of the standard of care in the documentation of the 74 patients due to: "a very substandard evaluation process for the general assessment of a medical patient"(which should include a history, review of systems, review of studies and laboratory findings, physical examinations, assessment of the date, and proposed diagnoses); and "the violation of basic evaluations principles for pain" (which should include a risk of abuse, nature and intensity of the pain, current and past treatment successes/failures, and the effect of pain on current functioning).

b. Dr. Tkach violated the standard of care of prescribing controlled drugs to the patients for the treatment of nonmalignant pain by: failing to document that other treatment modalities/adjuvant therapies had been considered; failing to document the medical explanation for the treatment choices; and failing to document the

progress of medication along the usual continuum prior to prescribing controlled substances. In addition, none of the patient records contained any objectives of the treatment or the patients' responses to any of the medications.

c. Dr. Tkach violated the standard of care for prescribing controlled drugs by not having written pain contracts with the patients.

d. Dr. Tkach violated the standard of care with regard to medical record keeping by: failing to record subjective and objective data to support any of his decision making; and failing to consistently document the discontinuation and/or initiation of medications.

Following its review of the foregoing information, the Board voted to direct that Dr. Tkach undergo a Special Purpose Examination (SPEX), which is designed to evaluate a physician's current general medical knowledge. The minimum passing score for SPEX is 75.

6. On June 8, 2010, the Board reviewed Complaint No. CR08-256, including the test results of Dr. Tkach's SPEX. The minimum passing score for SPEX is 75. Dr. Tkach received a SPEX score of 76. Following its review of this information, the Board voted to invite Dr. Tkach to attend an informal conference to discuss Complaint No. CR08-256, including the following specific issues in addition to the SPEX score:

- a. Medical Record Documentation, including but not limited to:
 - lack of subjective or objective data to support decision making
 - lack of consistent documentation about starting/stopping medications
 - lack of review of studies, laboratory findings, physical examination, assessment of all medical problems
- b. Prescribing Practices, including but not limited to:
 - rationale for prescribing

- lack of written pain contracts
 - lack of monitoring
- c. Clinical Competency, including but not limited to:
- diagnosis
 - treatment planning/modalities

7. On September 14, 2010, the Board held an informal conference with Dr. Tkach regarding Complaint No. CR08-256. Following the informal conference, the Board requested that Dr. Tkach provide it with an educational plan for the improvement of his medical practice, and subpoenaed an additional ten (10) patients records to review Dr. Tkach's prescribing practices and medical record keeping.

8. On November 23, 2010, the Board received Dr. Tkach's educational plan, which included continuing medical education for primary care physicians and taking the Internal Medicine Board certification examination in August 2011.¹

9. On December 14, 2010, the Board reviewed Dr. Tkach's educational plan and the additional ten (10) patient records involving Dr. Tkach's prescribing of controlled substances. Following its review of this information, the Board voted to send Dr. Tkach a letter requesting that he voluntarily cease prescribing controlled substances, and that he voluntarily take a course on narcotic prescribing by July 1, 2011. In addition, the Board voted to revisit Complaint No. CR08-256 in six (6) months. Dr. Tkach

¹ As of March 23, 2012, Dr. Tkach has not been certified by the American Board of Internal Medicine.

subsequently voluntarily ceased prescribing controlled drugs and agreed to take a course regarding the prescribing of controlled medications.

10. On July 12, 2011, the Board met with Dr. Tkach in an informal conference to discuss Complaint No. CR08-256, the course he took regarding prescribing controlled medications, and the additional (10) patient records. Following that informal conference, the Board noted that there had been improvement in Dr. Tkach's medical record keeping. However, the Board was still concerned about Dr. Tkach's prescribing of controlled medications. The Board advised Dr. Tkach about its concerns, agreed that he could resume prescribing controlled substances, and that it would review an additional ten (10) medical records in six (6) months time.

11. On January 10, 2012, the Board met with Dr. Tkach in an informal conference to discuss Complaint No. CR08-256, and the additional (10) patient records involving Dr. Tkach's prescribing of controlled medications. During the informal conference, the Board reviewed deficiencies with the ten patient records, including: lack of random urine screens, lack of pill counts, early refills for medications, failure to document violations of pain contracts and the rationale for resuming or continuing to prescribe controlled medications, treating fibromyalgia with escalating dosages of narcotics, and failure to consider alternative treatment modalities. The Board noted that Dr. Tkach's medical records were more complete, that he had tried to work with the Board, but that issues still remained regarding his prescribing of controlled

substances for chronic pain. The Board noted that of the 10 charts reviewed, 60% showed pain contract violations. Therefore, following his informal conference, the Board voted to offer Dr. Tkach this Consent Agreement to resolve Complaint No. CR08-256 without further proceedings.

12. This Consent Agreement has been negotiated by and between legal counsel for Dr. Tkach and the Maine Office of the Attorney General in order to resolve complaint CR08-256 without an adjudicatory hearing. Absent Dr. Tkach's acceptance of this Consent Agreement by signing it, dating it, having it notarized, and returning it to the Maine Board of Licensure in Medicine, 137 State House Station, Augusta, Maine 04333-0137 on or before April 26, 2012, the Board will resolve this matter by holding a consolidated adjudicatory hearing at a later date.

13. By signing this Consent Agreement, Dr. Tkach waives any and all objections to, and hereby consents to allow the Board's legal counsel to present this proposed Consent Agreement to the Board for possible ratification. Dr. Tkach also forever waives any arguments of bias or otherwise against any of the Board members in the event that the Board fails to ratify this proposed Consent Agreement.

COVENANTS

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

14. Dr. Tkach concedes that based upon the facts described in

paragraphs 1 to 14 above that the Board has sufficient evidence from which it could conclude that he violated the standard of care of prescribing controlled drugs to the patients for the treatment of nonmalignant chronic pain. Dr. Tkach concedes that such conduct, if proven, could constitute grounds for discipline of and the denial of his application to renew his Maine medical license pursuant to 32 M.R.S.A. § 3282-A(2)(F).

15. As discipline for the conduct admitted above, Dr. Tkach agrees to:

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

b. Reimburse the Board Two Thousand Seven Hundred Five Dollars and Zero Cents (\$2,705.00) as the actual costs of the investigation of this matter. Dr. Tkach shall ensure that he makes full payment of reimbursement to the Board within twenty-four (24) months following the execution of this Consent Agreement. Payment shall be made by certified check or money order made payable to "Maine Board of Licensure in Medicine," and be remitted to Maria MacDonald, Investigator, Maine Board of Licensure in Medicine, 137 State House Station, Augusta, Maine 04333-0137.

c. Accept the following license restriction, which shall remain in effect unless or until this Consent Agreement is rescinded or amended by all of the parties hereto: Dr. Tkach shall immediately cease prescribing any

controlled medications, including all opiates and benzodiazepines, for the treatment of chronic pain except for:

- (i) Patients in skilled nursing facilities or long-term care facilities;
- (ii) Patients in hospice care; or
- (iii) Patients with metastatic cancer.

In complying with this restriction, Dr. Tkach shall ensure that any and all prescriptions that he issues for the three excepted categories of patients identified above are annotated with the words "skilled nursing facility/long-term care" or "hospice care" or "metastatic cancer" as applicable to each patient.

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

17. In order to ensure his compliance with the restriction on his ability to prescribe controlled drugs for the treatment of chronic pain, Dr. Tkach agrees to fully cooperate with the Board and to permit the Board or its agent(s) to inspect his medical practice, including allowing the Board or its agents full access to and copying of the patient medical records of his medical practice without subpoena.

18. Dr. Tkach waives his right to a hearing before the Board or any court regarding all findings, terms, restrictions and conditions of this Consent Agreement. Dr. Tkach agrees that this Consent Agreement is a final order resolving complaints CR08-256. This Consent Agreement is not appealable and is effective until or unless modified or rescinded in writing by the parties hereto. This Consent Agreement cannot be amended orally. It can only be amended by a writing signed by the parties hereto and approved by the Office of Attorney General.

19. The Board and the Maine Office of the Attorney General may communicate and cooperate regarding Dr. Tkach or any other matter relating to this Consent Agreement.

20. This Consent Agreement is a public record within the meaning of 1 M.R.S. § 402 and will be available for inspection and copying by the public pursuant to 1 M.R.S. § 408. This Consent Agreement constitutes disciplinary and adverse licensing action that is reportable to the Federation of State Medical Boards (FSMB), the National Practitioner Data Bank (NPDB), and the Healthcare Integrity and Protection Data Bank (HIPDB).

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

22. The Board and Dr. Tkach agree that no further agency or legal action will be initiated against him by the Board based upon complaint CR08-256, except or unless he fails to comply with the terms and conditions of this

Consent Agreement.


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

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

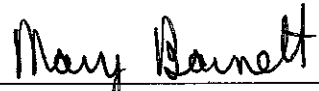
25. Dr. Tkach has been represented by David C. King, Esq., who has participated in the negotiation of this Consent Agreement.

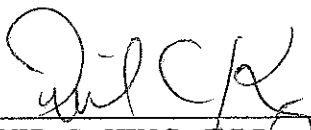
26. Dr. Tkach acknowledges by his signature hereto that he has read this Consent Agreement, that he has had an opportunity to consult with an attorney before executing this Consent Agreement, that he executed this Consent Agreement of his own free will and that he agrees to abide by all terms and conditions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

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

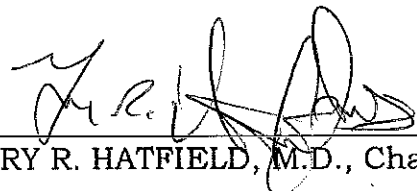
Dated: April 6, 2012 
STATE OF Maine
_____, S.S.

Personally appeared before me the above-named, John S. Tkach, 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: 4/6/12 
NOTARY PUBLIC/ATTORNEY
MY COMMISSION ENDS: 3/19/17

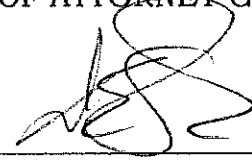
Dated: 4-10-12 
DAVID C. KING, ESQ.
Attorney for John S. Tkach, M.D.

STATE OF MAINE BOARD OF
LICENSURE IN MEDICINE

Dated: _____ 
GARY R. HATFIELD, M.D., Chairman

STATE OF MAINE DEPARTMENT
OF ATTORNEY GENERAL

Dated: 4/25/12



DENNIS E. SMITH
Assistant Attorney General

Effective Date: 4/23/12