

**State of Maine**  
**Board of Licensure in Medicine**  
**137 SHS, 161 Capitol Street**  
**Augusta, Maine 04333-0137**  
**Minutes of April 14, 2009**  
**INDEX**

I. CALL TO ORDER 9:00 A.M.....	2
A. AMENDMENTS TO AGENDA (none).....	
II. ASSESSMENT & DIRECTION .....	2
A. AD 09-098 (CR09-127) .....	2
B. AD 08-384 (CR 09-140).....	2
C. AD 08-397 (CR 09-141).....	2
D. AD 09-066 .....	2
E. AD 09-067 .....	2
F. AD 09-083 .....	2-3
G. AD 09-087 (CR 09-144).....	3
H. AD 09-088 .....	3
I. AD 09-068 .....	3
III. NEW COMPLAINTS.....	3
A. CR 08-351.....	3-4
B. CR 08-370.....	4
C. CR 08-440.....	4
D. CR 08-442.....	4
E. CR 08-468.....	4-5
F. CR 09-001.....	5
G. CR 09-018.....	5
H. CR 08-310.....	5-6
I. CR 08-336.....	6
J. CR 08-428.....	6
K. CR 08-447.....	6-7
L. CR 08-448 BRYAN D. SMITH, M.D. ....	7
M. CR 08-469.....	7
N. CR 09-003.....	7
O. CR 09-005.....	7
P. CR 09-006.....	7
Q. CR 09-008 LARRY DEUTSCH, M.D.....	7
R. CR 09-009.....	7-8
S. CR 09-080 DAVID M. BEAR, M.D. ....	8
IV. PROGRESS REPORTS	
A. CR 08-316 RONALD W. KESSLER, P.A.-C. ....	8
B. CR 08-379 FYI.....	8
C. CR 08-430 .....	8
D. CR 08-375 .....	8-9
E. COMPLAINT STATUS REPORT FYI .....	9
F. REVIEW DRAFT LETTERS OF GUIDANCE.....	9

G. CONSUMER ASSISTANT FEEDBACK (none) .....9  
PUBLIC SESSION  
V. CHRONIC PAIN CONSULTATIONS .....9  
VI. MINUTES OF MARCH 10, 2009 .....9  
VII. NEW BUSINESS (none) .....9  
VIII. BOARD ORDERS & CONSENT AGREEMENT MONITORING & AND APPROVAL9  
A. BOARD ORDERS (none) .....9  
B. CONSENT AGREEMENT MONITORING AND APPROVAL .....9  
1. MONITORING COMPLIANCE REPORT (FYI) .....9  
2. MICHAEL BELL, M.D. (Approval of Monitor’s).....9  
3. JEFFREY W. FUSON, M.D. (Request to terminate Consent Agreement) .....10  
4. SERGIO R. RIFFEL, M.D.....10  
5. ROBERT P. DOYLE, M.D. (CR 08-005) [See Appendix A Attached].....10  
6. BENJAMIN M, BROWN, M.D. (CR 08-287) [See Appendix B Attached].....10  
IX. ADJUDICATORY HEARING (CR 07-316) THOMAS R. DeFANTI, M.D. ....10  
X. REMARKS OF CHAIRMAN (none) .....10  
XI. EXECUTIVE DIRECTOR’S MONTHLY REPORT .....10  
A. SELLING DRUGS IN AN OFFICE PRACTICE (Tabled) .....10  
XII. REMARKS OF ASSISTANT ATTORNEY GENERAL (Tabled).....10  
XIII. SECRETARY’S REPORT .....10  
A. LIST A .....10  
1. M.D. LIST A LICENSES FOR RATIFICATION ..... 10-11  
2. P.A. LIST A LICENSES FOR RATIFICATION .....11  
B. LIST B APPLICATIONS FOR INDIVIDUAL CONSIDERATION .....11  
1. DAVID L. CASE, M.D. (Temporary Application) .....11  
2. BERNARD H. PERLMAN, M.D. .... 11-12  
3. PAUL WEINSTEIN, M.D. ....12  
4. JOEL M. McREYNOLDS, M.D.....12  
5. ANNA. PUZANOV, M.D. ....12  
C. LIST C APPLICATIONS FOR REINSTATEMENT .....12  
1. LIST C (1) APPLICATIONS FOR REINSTATEMENT (IND CONS) (none) ...12  
D. LIST D WITHDRAWALS  
1. LIST D (1) WITHDRAW LICENSE APPLICATION (none)  
2. LIST D (2) WITHDRAW LICENSE FROM REGISTRATION .....13  
3. LIST D (3) WITHDRAW LICENSE FROM REGISTRATION – INDIVIDUAL  
CONSIDERATION (none)  
E. LIST E LICENSES TO LAPSE BY OPERATION OF LAW FYI.....13  
F. LIST F LI ENSES REQUESTING/CONVERT ACTIVE STATUS (none)  
G. LIST G RENEWAL APPLICATIONS FOR REVIEW  
1. FAROOQUE KHAN, M.D..... 13-14  
H. LIST H DELEGATED PRACTITIONER SCHEDULE II REQUESTS..... 13-14  
XIV. STANDING COMMITTEE REPORTS  
A. PERSONNEL & FINANCE COMMITTEE .....14  
B. PUBLIC INFORMATION COMMITTEE.....14  
C. LEGISATIVE & REGULATORY COMMITTEE .....14  
D. PHYSICIAN ASSISTANT ADVISORY COMMITTEE

1. DRAFT MARCH 2009 PA ADVISORY COMMITTEE MINUTES (FYI) .....14

XV. BOARD CORRESPONDENCE (FYI)

XVI. FYI

XVII. FSMB MATERIAL (FYI) .....15

XVIII. OTHER BUSINESS (none)

XIX. ADJOURNMENT 8:27 P.M. ....15

**State of Maine  
Board of Licensure in Medicine  
137 SHS, 161 Capitol Street  
Augusta, Maine 04333-0137  
Minutes of April 14, 2009**

**BOARD MEMBERS PRESENT**

Sheridan R. Oldham, M.D., Chairman  
Gary R. Hatfield, M.D., Board Secretary  
Cheryl D. Clukey  
George K. Dreher, M.D.  
David H. Dumont, M.D.  
Maroulla Gleaton, M.D.  
Bettsanne Holmes  
David Nyberg, Ph.D.  
Daniel K. Onion, M.D.

**BOARD STAFF PRESENT**

Randal C. Manning, Executive Director  
Jean M. Greenwood, Administrative Assistant  
Timothy Terranova, Consumer Assistant  
Dan Sprague, Assistant Executive Director  
Maria MacDonald, Board Investigator

**ATTORNEY GENERAL'S OFFICE**

Dennis Smith, Assistant Attorney General  
Det. Peter Lizanecz

Dr. Dreher who was not present for the February 10 beginning of the hearing and Dr. Onion were recused from the Adjudicatory Hearing.

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The Board meets in public session with the exception of the times listed below, which are held in executive session. Executive sessions are held to consider matters which, under statute, are confidential (1 M.R.S.A. §405). The Board moved, seconded, and voted the following executive session times. During the public session portions of the meeting actions are taken on all matters discussed during executive session. Discussions are projected on a screen by power point projection.

**PUBLIC SESSIONS**

9:03 a.m. – 9:03 a.m.  
10:15 a.m. – 10:15 a.m.  
11:39 a.m. – 11:39 a.m.  
11:44 a.m. – 12:19 p.m.  
12:29 p.m. – 2:34 p.m.  
2:24 p.m. – 4:18 p.m.  
4:32 p.m. – 5:18 p.m.  
5:29 p.m. – 7:05 p.m.  
7:11 p.m. – 7:36 p.m.  
7:45 p.m. – 8:27 p.m.

**PURPOSE**

Call to Order  
Public Session  
Unset Adjudicatory Hearing  
Voting in Public Session  
Public Session Matters & Adjudicatory Hearing  
Adjudicatory Hearing  
Adjudicatory Hearing  
Adjudicatory Hearing  
Adjudicatory Hearing (Adjourned at 7:36 p.m.)  
Public Session Matters

**EXECUTIVE SESSIONS**

9:03 a.m.-10:15 a.m.  
10:16 a.m. – 11:39 a.m.  
11:40 a.m. – 11:44 a.m.

A&D, Progress Reports & New Complaints  
A&D, Progress Reports & New Complaints  
New Complaints

**RECESS/LUNCH**

10:15 a.m. – 10:16 a. m.  
12:1p p.m. – 12:29 p.m.  
2:34 p.m. – 2:24 p.m.

Recess  
Noon Meal  
Recess

4:18 p.m. – 4:32 p.m.	Recess
5:18 p.m – 5:29 p.m.	Recess
7:05 p.m. – 7:11 p.m.	Recess
7:36 p.m. – 7:45 p.m.	Recess

9:00 A.M.

I. CALL TO ORDER

A. Amendments to Agenda

B. Scheduled Agenda Items

1. Chronic Pain Consultations Presentation (12:15 p.m.) Gordon Smith Esq. and Noel Genova, PA-C
2. Adjudicatory Hearing – 1:00 p.m. – CR 07-316 - Thomas DeFanti, M.D.

**EXECUTIVE SESSION**

II. ASSESSMENT & DIRECTION

A. AD 09-098 (CR09-127)

Dr. Dreher moved to issue a complaint in the matter of AD 09-098 (CR 09-127). Dr. Hatfield seconded the motion, which passed unanimously.

B. AD08-384 (CR 09-140)

Dr. Hatfield moved to issue a complaint in the matter of AD 08-384 (CR 09-140). Ms. Holms seconded the motion, which passed 7-0-0-2 with Dr. Gleaton and Dr. Onion recused.

C. AD08-397 (CR 09-141)

Dr. Dumont moved to issue a complaint in the matter of AD 08-397 (CR 09-141). Dr. Nyberg seconded the motion, which passed unanimously.

D. AD 09-066

Dr. Onion moved to file AD 09-066. Dr. Gleaton seconded the motion, which passed unanimously.

E. AD 09-067

Dr. Dreher moved to file AD 09-067. Dr. Hatfield seconded the motion, which passed unanimously.

F. AD 09-083

Dr. Hatfield moved to file AD 09-083. Dr. Dumont seconded the motion, which passed 8-0-0-1 with Dr. Onion recused.

G. AD 09-087 (CR09-144)

Dr. Dreher moved to issue a complaint in the matter of AD 09-087 (CR09-144). Dr. Nyberg seconded the motion, which passed unanimously.

H. AD 09-088

Dr. Hatfield moved to investigate further AD 09-088. Ms. Holmes seconded the motion, which passed unanimously.

I. AD 09-068

Dr. Onion moved to investigate further AD 09-068. Dr. Dumont seconded the motion, which passed 8-0-0-1 with Dr. Dreher recused.

III. NEW COMPLAINTS

A. CR 08-351

Dr. Gleaton moved to dismiss CR 08-351. Dr. Hatfield seconded the motion, which passed unanimously.

This patient complaint involves an encounter with the physician in August 2007. The patient alleged that she sought the physician's assistance with personal and family issues, and that the physician acted unprofessionally by confronting her with an e-mail regarding potential substance abuse. In addition, the patient alleged that she was coerced into submitting to a urine test, for which she later had to pay. The physician denied acting in an unprofessional manner, admitted that he asked the patient about the allegations of substance abuse, and admitted that he asked the patient to submit to a urine screen. The medical records indicate that the patient presented for follow-up treatment for anxiety, that the physician was made aware of the patient's possible use of alcohol and marijuana, that the patient admitted to using marijuana, and that the physician refused to prescribe certain medication in light of the patient's alcohol and marijuana use. The medical records also indicate that a urine screen was done, which later confirmed the patient's marijuana use. In addition, the medical records reflect that the patient's urine would be re-checked in the future in the event that the patient wanted to re-start the medication discontinued by the physician. There is no evidence that the physician disclosed or discussed this office visit with anyone, or that the physician violated HIPAA. A physician does not violate patient confidentiality or HIPAA by discussing information with a patient regardless of the source of that information. The patient indicated that she willingly submitted to the urine screen.

B. CR 08-370

Dr. Dumont moved to dismiss CR 08-370. Dr. Gleaton seconded the motion, which passed unanimously.

The sister of the patient alleges that the doctor inappropriately prescribed anti-seizure medication. The patient suffers from seizures and other disabilities following a traumatic head injury. Review of the medical record shows medically appropriate decision making and blood level monitoring of prescribed medication. The patient developed symptoms when a new medication was started and the patient did not taper and discontinue a previous medicine as was recommended. Blood tests on hospital admission confirm therapeutic levels.

C. CR 08-440

Dr. Dreher moved to dismiss CR 08-440. Dr. Nyberg seconded the motion, which passed unanimously.

In this complaint it is alleged that the physician accused the patient of being an alcoholic, did not listen well, and shouted in an unprofessional manner. The physician's response explains the medical/diagnostic necessity of asking questions about alcohol consumption and other possibly uncomfortable subjects. The CAGE Questionnaire he used comprises four blunt questions which understandably could make a sensitive or vulnerable patient, like this one, feel "accused." The patient did not answer these questions directly, but became quite upset during the interview. The physician acted reasonably in this case and denies shouting at this or any other patient in his entire career.

D. CR 08-442

Ms. Holmes moved to dismiss CR 08-442. Dr. Gleaton seconded the motion, which passed unanimously.

This patient complaint involves treatment and follow-up care that occurred over three weeks between December 11, 2007 and January 8, 2008. The patient alleged that the physician and her office were unprofessional, showed a lack of concern, and caused her emotional distress during her three-week care and treatment. In essence, the patient was displeased with the post-surgical infection and the care and treatment thereof. The physician's response described and explained her care and treatment of the patient, including of the post-surgical infection. The physician denied any unprofessional conduct, and asserted that she was concerned for the patient. The medical records indicate that the patient was informed of the possibility of post-surgical infection, that the physician saw and treated the patient on multiple occasions for the post-surgical infection, and that the infection was resolving when the patient decided to seek a second opinion from another physician. In fact, the medical records of the subsequent treating physicians indicate that the infection was improving, and do not identify any problems regarding the physician's care and treatment of the patient.

E. CR 08-468

Dr. Onion moved to dismiss CR 08-468. Dr. Gleaton seconded the motion, which passed unanimously.

The patient and her daughter complain about care given in an emergency room. The patient was transferred to the ER from a skilled nursing facility after a syncopal episode. The evaluation and medical decision making were appropriate.

F. CR 09-001

Dr. Onion moved to dismiss CR 09-001. Dr. Nyberg seconded the motion, which passed 7-0-0-2 with Dr. Dumont and Dr. Hatfield recused.

The patient complains that his physician did not monitor him appropriately while prescribing a series of medications for multiple problems, and that this failure to monitor actually exacerbated his medical condition. The physician has provided convincing explanations of why these allegations are not accurate, how he did in fact manage the medications, and why the patient's perception of the relation between his medications and his worsening kidney condition is implausible. However, one element of the complaint is valid. There was an unacceptable delay in reporting the results of a lab test to the patient. The cause of this delay has been discovered (a temporary PA's failure to flag the results for the physician to review before filing them), a new office policy has been put in place to prevent this happening again, and the physician has apologized to the patient.

G. CR 09-018

Dr. Dreher moved to dismiss CR 09-018. Ms. Clukey seconded the motion, which passed unanimously.

The complainant alleged that the physician inappropriately prescribed medication to the complainant's wife. Subsequent investigation by the complainant revealed that the physician did not, in fact, prescribe the medication. In light of this, the complainant indicated that he wanted to withdraw his complaint against the physician.

H. CR 08-310

Ms. Clukey moved to dismiss CR 08-310. Ms. Holmes seconded the motion, which passed unanimously.

In this case the complainant alleges she was misinformed and lied to about the severity of her knee injury. Her physician determined through medical history and x-rays that she had a torn meniscus in her right knee and performed arthroscopic surgery. The patient was compliant with independent physical therapy on her knee, but the severe pain and grinding in her knee never improved. She sought a second opinion and an MRI determined she had a grade 2 posterior meniscus defect/degeneration. The medical prescriptions/recommendations of the second opinion caused great improvement. The complainant asserts the doctors

communicated their findings to her primary treating physician but withheld this information and the severity of her knee injury from her.

The records indicate no communication between the two physicians took place and that there was no mention of grade 2 osteochondral defect of her knee by either doctor. BOLIM referred this case to a third physician for review. She found no evidence of questionable medical practices, but rather there was unintended miscommunication, exacerbated by no improvement, which led to this complaint.

I. CR 08-336

Ms. Holmes moved to investigate further CR 08-336. Dr. Gleaton seconded the motion, which passed 8-1.

J. CR 08-428

Dr. Dumont moved to dismiss CR 08-428. Dr. Gleaton seconded the motion, which passed unanimously.

This patient claims that physician did not treat the patient's chronic back pain and this caused him to go into "diabetic coma" which required hospitalization. During the hospital stay an MRI was performed which showed "2 herniated discs" and the patient was treated with narcotics which were not continued when he was returned to prison. Patient alleges multiple other pain problems were not adequately addressed.

Physician replies that until the patient was hospitalized in March 2008 there had been no complaints about back pain and that he did not change the patient's medications as he did not have any encounters with the patient until he saw him in May 2008. The patient did develop further pain issues in October and November 2008 around a hernia repair with treatment complicated by a history of Hepatitis C, diabetes, and limited physical exam findings as well as the patient's refusal to try anti-inflammatory pain medications. A previous MRI report only showed disc herniation at L5-S1 with "very slight encroachment on the adjacent nerves and the fecal sac".

All of physician responses are supported by the medical record and care appears to be appropriate for this complicated patient with multiple co-morbidities.

K. CR 08-447

Dr. Hatfield moved to dismiss CR 08-447. Dr. Gleaton seconded the motion which passed 8-0-0-1 with Dr. Dreher recused.

The complaint notes that the physician responded inappropriately to a call from a visiting nurse reporting that a patient had worsening respiratory stratus and somnolence. The physician responds that although it was communicated to him that the patient had evidence of

worsening, he did not get the impression from the nurse that this was a very significant worsening, and thus scheduled an appointment at his office for 2 days later.

A review of the records finds that the physician should have been more aggressive in determining the patient's medical status and that the patient did poorly because he did not receive medical attention. However, it should be noted that the patient was refusing to be transported to the hospital no matter what the physician's decision may have been.

The physician has good insight into why his actions were not appropriate, and has changed how he handles phone calls. As well, the case has led to a change in the supervision of phone calls handled by resident physicians.

L. CR 08-448 BRYAN D. SMITH, M.D.

Dr. Gleaton moved to order an Adjudicatory Hearing in the matter of Bryan D. Smith, M.D. (CR 08-448). Dr. Hatfield seconded the motion, which passed unanimously.

M. CR 08-469

Ms. Holmes moved to dismiss CR 08-469. Dr. Hatfield seconded the motion, which passed unanimously.

The patient complains she was abandoned by her physician in mid-treatment. The physician explains that the hospital where she worked temporarily suspended her privileges while she was evaluated for possible impairment by the Maine Physicians Health Program. During this period the hospital forbade her to communicate with her patients, including the complainant. The physician remained as accessible to the complainant as the hospital allowed and she tried to find her other options.

N. CR 09-003

Dr. Dreher moved to order an Informal Conference in the matter of CR 09-003. Ms. Holmes seconded the motion, which passed 5-4.

O. CR 09-005

Ms. Clukey moved to investigate further CR 09-005. Ms. Holmes seconded the motion which passed 8-0-0-1 with Dr. Gleaton recused.

P. CR 09-006

Ms. Clukey moved to investigate further CR 09-006. Ms. Holmes seconded the motion which passed 8-0-0-1 with Dr. Gleaton recused.

Q. CR 09-008 LARRY DEUTSCH, M.D.

Dr. Gleaton moved to order an Adjudicatory Hearing in the matter of CR 09-008. Dr. Hatfield seconded the motion, which passed unanimously.

R. CR 09-009

Dr. Dreher moved to order a 3286 evaluation and investigate further CR 09-009. Dr. Nyberg seconded the motion, which passed unanimously.

S. CR 09-080 DAVID M. BEAR, M.D.

Dr. Gleaton moved to dismiss the Board complaint against David M. Bear, M.D. (CR 09-080) with a letter of guidance. Dr. Dumont seconded the motion, which passed unanimously.

In renewing his Maine License, a physician interpreted a question incorrectly; and therefore, answered it inaccurately regarding a pending complaint against his license. The Board requires that a physician carefully, thoroughly, and correctly completes the application for a Maine License to practice Medicine.

IV. PROGRESS REPORTS

A. CR 08-316 RONALD W. KESSLER, P.A.-C.

Dr. Onion moved to order an Adjudicatory Hearing in the matter of Ronald W. Kessler, P.A.-C (CR 08-316). Dr. Hatfield seconded the motion which passed unanimously.

B. CR 08-379 FYI

C. CR 08-430

Dr. Onion moved to dismiss CR 08-430. Dr. Nyberg seconded the motion, which passed 6-2-0-1 with Dr. Dumont recused.

A patient complained to the Board about complications she suffered from a surgical procedure. Review of the records and the surgeon's response did not suggest that this case represented either gross medical misconduct or a repetitive pattern of medical errors and therefore did not fall in an area deserving Board scrutiny for possible discipline at this time.

D. CR 08-375

Dr. Hatfield moved to unset the Adjudicatory Hearing in the matter of CR 08-375. Dr. Gleaton seconded the motion, which passed unanimously.

Dr. Nyberg moved to dismiss CR 08-375. Dr. Gleaton seconded the motion, which passed unanimously.

The Board issued a complaint about possible fraud in application. The Board found the applicant failed to report an open complaint due to a plausible misinterpretation of a document that preceded formal resolution of that complaint.

E. COMPLAINT STATUS REPORT FYI

F. REVIEW DRAFT LETTERS OF GUIDANCE

The draft letters of guidance were approved as amended.

G. CONSUMER ASSISTANT FEEDBACK (none)

PUBLIC SESSION

V. CHRONIC PAIN CONSULTATIONS

Gordon Smith Esq. and Noel Genova, PA-C reported on the status of their contract with the Board for providing a consultation to physician practices about Chronic Pain management in the office setting.

VI. MINUTES OF MARCH 10, 2009

Dr. Dumont moved to approve the minutes of March 10, 2009. Dr. Gleaton seconded the motion, which passed unanimously.

VII. NEW BUSINESS

VIII. BOARD ORDERS & CONSENT AGREEMENT MONITORING & AND APPROVAL

A. BOARD ORDERS (none)

B. CONSENT AGREEMENT MONITORING AND APPROVAL

1. MONITORING COMPLIANCE REPORT (FYI)

2. MICHAEL BELL, M.D. (Approval of Monitor's)

Dr. Gleaton moved to approve Mark Publiker, M.D. as substance abuse counselor, Andrew Phan, M.D. as PCP and Lace Caplin, D.O. as practice monitor for Dr. Bell. The motion was seconded by Dr. Nyberg and passed 5-0-0-2 with Dr. Hatfield and Dr. Dumont recused.

3. JEFFREY W. FUSON, M.D. (Request to terminate Consent Agreement)

Ms. Clukey moved to arrange a meeting of Dr. Fuson with the Board. Ms. Holmes seconded the motion, which passed unanimously.

4. SERGIO R. RIFFEL, M.D.

Dr. Gleaton moved to deny the request of Dr. Riffel to modify his Consent Agreement. Ms. Clukey seconded the motion, which passed unanimously.

5. ROBERT P. DOYLE, M.D. (CR 08-005) [See Appendix A Attached]

Dr. Dreher moved to accept the Consent Agreement in the matter of Robert P. Doyle, M.D. (CR 08-005). Dr. Onion seconded the motion, which passed unanimously.

6. BENJAMIN M. BROWN, M.D. (CR 08-287) [See Appendix B Attached]

Dr. Hatfield moved to accept the Consent Agreement in the matter of Benjamin M. Brown, M.D. (CR 08-287). The motion passed 8-0-0-1 with Dr. Onion recused.

IX. ADJUDICATORY HEARING

CR 07-316 THOMAS R. DeFANTI, M.D.

Dr. Gleaton moved to dismiss the Board complaint against Thomas R. DeFanti, M.D. with a letter of guidance to remain in Dr. DeFanti's file for 10 years. Dr. Dumont seconded the motion, which passed unanimously.

The Letter of Guidance will specify better documentation of procedures in medical records and documentation of informed consent.

X. REMARKS OF CHAIRMAN

XI. EXECUTIVE DIRECTOR'S MONTHLY REPORT

The Board accepted the report of the Executive Director.

A. SELLING DRUGS IN AN OFFICE PRACTICE (Tabled)

XII. REMARKS OF ASSISTANT ATTORNEY GENERAL (Tabled)

XIII SECRETARY'S REPORT

A. LIST A

1. M.D. LIST A LICENSES FOR RATIFICATION

Dr. Dreher moved to ratify the following M.D. license applications approved by Board Secretary Gary R Hatfield, M.D. Dr. Gleaton seconded the motion, which passed 8-0 with Dr. Oldham out of the room.

The following license applications have been approved by staff and Board Secretary Gary R Hatfield, MD without reservation:

<u>NAME</u>	<u>SPECIALTY</u>	<u>LOCATION</u>
Brown, Edward B.	Pediatrics	Calais
Brown, Vance M.	Family Medicine	Portland
Buehner, Morgan M.	Family Medicine	Cumberland County
Carlisle, Betty R.	Urgent Care	Biddeford
Carraher, June A.	Family Medicine	Waterville
Cho, Sung-Hae	Internal Medicine	Waterville
David, Patricia H.	Occupational Medicine	Portland
Dennison, Joseph R.	Urology	Eastern ME Medical Ctr
Ferguson, David W.	Internal Medicine	Belfast
Hannon, Robert C.	Diagnostic Radiology	Not Listed
Hutcheson, Jr., Jack R.	Internal Medicine	Bangor
Joachim, Dan W.	Neurophysiology Monitoring	Not Listed
Karis, Elaine	Internal Medicine	Bangor/Belfast
Khokher, Sehar A.	Psychiatry	Bangor
Lightfoot, Thomas G.	Clinical Pathology	Not Listed
Mailloux, Benjamin B.	Family Medicine	Belfast/Waldo County
McAteer, Timothy B.	Family Medicine	Portland
Milton, Robert M.	Psychiatry	Not Listed
Nelson, Sara W.	Emergency Medicine	Portland
Papafagkou, Sotirious	General Surgery	Fort Kent
Pathak, Sujan	IM/Nephrology	Aroostook County
Patsiornik, Mark A.	Internal Medicine	CMMC
Ruddy, Kathleen T.	Breast Services/Surgery	Caribou
Srirama, Rohith	Anesthesiology	Lewiston
Slate, Garrick J.	OB/GYN	Bangor
Wrigley, John V.	Urology	Bangor
Zaman, Tonbira S.	Internal Medicine	Lewiston

2. P.A. LIST A LICENSES FOR RATIFICATION

Dr. Dreher moved to ratify the following P.A. license applications approved by Board Secretary Gary R Hatfield, M.D. Dr. Gleaton seconded the motion, which passed 8-0 with Dr. Oldham out of the room.

The following Physician Assistant license applications have been approved by the Board Secretary Gary R Hatfield, M.D. without reservation:

<u>NAME</u>	<u>LICENSE</u>	<u>PSP</u>	<u>LOCATION</u>
Bruce Wing	Active	Jean Benson, M.D.	Bangor
Nancy O'Connor	Active	Michael Green, M.D.	Bangor

B. LIST B APPLICATIONS FOR INDIVIDUAL CONSIDERATION

1. DAVID L. CASE, M.D. (Temporary Application)

The Licensure Committee moved to have Dr. Case evaluated by the Maine Physician Health Program and if the evaluation reveals no issues of concern to authorize the Board Secretary to approve the Temporary Application. The motion passed 8-0 with Dr. Oldham out of the room.

2. BERNARD H. PERLMAN, M.D.

The Licensure Committee moved to approve the license application of Bernard H. Perlman, M.D. The motion passed 8-0 with Dr. Oldham out of the room.

3. PAUL WEINSTEIN, M.D.

The Licensure Committee moved to deny the extension of Dr. Weinstein's temporary license. The motion passed unanimously.

4. JOEL M. McREYNOLDS, M.D.

The Licensure Committee moved to approve the license application of Joel M. McReynolds, M.D. The motion passed 5-4.

5. ANNA. PUZANOV, M.D.

The Licensure Committee moved to approve the license application of Anna A. Puzanov, M.D. The motion passed unanimously.

C. LIST C APPLICATIONS FOR REINSTATEMENT

Dr. Dreher moved to ratify the reinstatement of the physicians on List C below. Dr. Nyberg seconded the motion, which passed unanimously.

The following license reinstatement applications have been approved by staff and Board Secretary Gary R Hatfield, MD without reservation:

<u>NAME</u>	<u>SPECIALTY</u>
Mark A Ballentyne	Family Practice
Paul Maguire	Psychiatry

1. List C (1) Applications for Reinstatement for Individual Consideration (none)

D. List D Withdrawals

1. List D (1) Withdraw License Application (none)
2. List D (2) Withdraw License from Registration

Dr. Dreher moved to approve the physicians on List D (2) below to withdraw their licenses from registration. Ms. Clukey seconded the motion, which passed unanimously.

The following physicians have applied to withdraw their licenses from registration:

<u>NAME</u>	<u>LICENSE NUMBER</u>
Miza, Athar Beg	011001
Gleason, Bonnie	016155
Binette, Germain	005297
Meir, Josef	005477
Moore, Jeanne	017698
Min, Douglas	017445
Mousad, Raafat F. Awad	016833
Yong, Arlene	017957

3. List D (3) Withdraw License from Registration - Individual Consideration (none)

E. List E Licenses to lapse by operation of law. FYI

The following physician licenses lapsed by operation of law effective March 19, 2009.

<u>NAME</u>	<u>LICENSE NO.</u>
Ahumada, Carlos A.	012657
Backer, Laura K.	017425
Barna, Jennifer B.	017177
Dillon, Douglas C.	017171
Grabinsky, Andreas	015963
Heilpern, Philip S.	015361
Johnson, Raleigh F. III	017488
Kershner, Jeryl D.	014056
Kowal, Ira J.	017353
Krajci, Edwin J.	011078
Langston, James W.	017385
Rana, Kishor G.	011611
Rogge, Leland E.	017232
Smalls, Norma	017774
Vaidyanathan, Chandra	010424
Wigfall, Preston A.	017653

F. List F Licensees requesting to convert to active status (none)

G. List G Renewal applications for review

1. Farooque Khan, M.D.

The Licensure Committee moves to order a 3286 evaluation in the matter of Farooque Khan, M.D. The motion passed 8-0-0-1 with Dr. Dumont recused.

H. List H. Delegated Practitioner Schedule II Request Ratification

Dr. Gleaton moved to ratify the Board Secretary's approval of the Physician Assistants on List H. below. Dr. Dreher seconded the motion, which passed 8-0-0-1 with Dr. Dumont recused.

The following renewal requests for Schedule II prescribing authority have been approved by the Board Secretary Gary R. Hatfield, M.D...

<u>NAME</u>	<u>PSP</u>	<u>LOCATION</u>
Shawn McGlew, PA-C	Michael Klein, M.D.	Waterville
Matthew Colaluca, PA-C	Guy Nuki, M.D.	Waterville
Melissa Miller, PA-C	Steve Diaz, M.D.	Waterville
Melaine Dumont, PA-C	David McDermott, M.D.	Dover-Foxcroft
William Sheppard, PA-C	David McDermott, M.D.	Dover-Foxcroft
Susan Trafton, PA-C	Richard Polkinghorn, M.D.	Brunswick
Paul Evans, PA-C	George Babikian, M.D.	Portland
Antonio Landrey, PA-C	Linda Glass, M.D.	Lewiston
Daniel Dorsky, PA-C	George Glass Jr, M.D.	Lewiston
Diane W. Brennan, PA-C	John T. Chance, M.D.	Portland

XIV. STANDING COMMITTEE REPORTS

A. Personnel & Finance Committee

Ms. Holmes gave Board members forms to complete regarding the annual review of the Executive Director and the 2009-2010 Board Goals.

B. Public Information Committee

Ms. Clukey reported the Public Information Committee met this morning and worked on the July Newsletter.

C. Legislative & Regulatory Committee

Mr. Manning reported on bills the Board has been following in the Legislature.

D. Physician Assistant Advisory Committee

1. Draft Minutes Of March 2009 Meeting (FYI)

XV. BOARD CORRESPONDENCE (FYI)

XVI. FYI

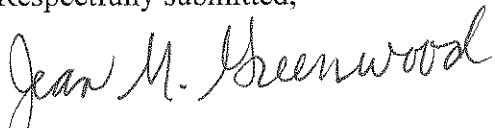
XVII. FSMB MATERIAL (FYI)

XVIII. OTHER BUSINESS (none)

XIX. ADJOURNMENT 8:27 P.M.

Ms. Clukey moved to adjourn the meeting. Dr. Nyberg seconded the motion, which passed unanimously.

Respectfully submitted,

A handwritten signature in cursive script that reads "Jean M. Greenwood".

Jean M. Greenwood  
Board Coordinator  
Administrative Assistant

APPENDIX A

STATE OF MAINE  
BOARD OF LICENSURE IN MEDICINE

In re: ) CONSENT  
Robert P. Doyle, M.D. ) AGREEMENT  
Complaint No. CR08-005 )

This document is a Consent Agreement, effective when signed by all parties, regarding disciplinary action against and conditions imposed upon the license to practice as a physician in the State of Maine held by Robert P. Doyle, M.D. The parties to the Consent Agreement are: Robert P. Doyle, M.D. ("Dr. Doyle"), the State of Maine Board of Licensure in Medicine ("the Board"), and the State of Maine Office of the Attorney General ("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. At all times relevant to the complaint, Dr. Doyle was licensed as a physician in the State of Maine. The Board first granted a medical license to Dr. Doyle on July 3, 1973. Dr. Doyle practices general medicine.

2. On or about December 21, 2007, the Board received information from Bridgton Hospital that it had issued Dr. Doyle a formal warning after a medical student complained that Dr. Doyle, while in the hospital and in the presence of a third party, made offensive and unwelcome comments and behaved inappropriately towards her and another female hospital employee. The offensive and unwelcome comments included "Take off your shirt," "You can come to the ER as long as you are naked," and "You can come over for dinner as long as you are naked." The offensive and unwelcome behavior

included pushing the female medical student into the hospital CEO. On January 8, 2008, the Board reviewed the information from Bridgton Hospital and voted to initiate a complaint against Dr. Doyle's Maine medical license pursuant to 32 M.R.S. § 3282-A. The Board docketed the complaint as CR08-005. In addition, the Board directed that, pursuant to 32 M.R.S. § 3286, Dr. Doyle undergo a neuropsychiatric evaluation by Jonathan Siegel, Ph.D.

3. On February 4, 2008, the Board received a response from Dr. Doyle to complaint CR08-005. In his response, Dr. Doyle admitted that he often says "dumb things" to students and nurses to "goof off" due to the terrible experiences he had in medicine, such as terminal patients. Dr. Doyle admitted that he has "goofed off" in this manner for over thirty years, expressed remorse for his conduct towards the female medical student, but did not "understand why she was so offended."

4. On February 17, 2009, the Board received a report from Jonathan Siegel, Ph.D. regarding the psychological evaluation that Dr. Doyle completed on November 20, 2008. According to that report, Dr. Doyle did not dispute the allegations made by the female medical student regarding inappropriate statements Dr. Doyle made to her at Bridgton Hospital. In addition, the psychological evaluation revealed no personality disorder or substance abuse issues that would have precipitated Dr. Doyle's inappropriate comments.

5. On March 10, 2009, the Board reviewed this matter, including Dr. Siegel's evaluation report of Dr. Doyle. Following its review, the Board voted to schedule the matter for an adjudicatory hearing. In addition, the Board

authorized its legal counsel to offer Dr. Doyle this Consent Agreement to resolve complaint CR08-005 without an adjudicatory hearing.

6. Absent Dr. Doyle's acceptance of this Consent Agreement by signing it, dating it, having it notarized, and returning it to Maureen Lathrop, Investigative Secretary, Maine Board of Licensure in Medicine, 137 State House Station, Augusta, Maine 04333-0137 on or before April 6, 2009, the Board will resolve this matter by scheduling an adjudicatory hearing.

#### COVENANTS

In lieu of proceeding to an adjudicatory hearing in this matter, Dr. Doyle agrees to the following:

7. Dr. Doyle admits that with regard to complaint CR08-005 he made offensive and unwelcome statements to a female medical student, and that such conduct constitutes unprofessional conduct and grounds for discipline pursuant to 32 M.R.S. § 3282-A(2)(F).

8. As discipline for complaint CR08-005, Dr. Doyle agrees to accept a REPRIMAND from the Board. Dr. Doyle agrees that henceforth he shall refrain completely from making these types of offensive and unwelcome statements to medical students, medical colleagues, medical staff, nursing or hospital staff, or patients.

9. Dr. Doyle 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, modifying, suspending, or revoking his license.

10. Dr. Doyle waives his right to a hearing before the Board or any court regarding all findings, terms and conditions of this Consent Agreement. Dr. Doyle agrees that this Consent Agreement and Order is a final order resolving complaint CR08-005. 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.

11. The Board and the Office of the Attorney General may communicate and cooperate regarding Dr. Doyle 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.

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

14. The Board and Dr. Doyle agree that no further agency or legal action will be initiated against him by the Board based upon complaint CR08-005.

15. This Consent Agreement constitutes disciplinary action and is reportable to the National Practitioner Data Bank, the Healthcare Integrity Protection Data Bank, and the Federation of State Medical Boards.

16. Dr. Doyle 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, ROBERT P. DOYLE, 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: 1 April 2009 Robert P. Doyle M.D.  
ROBERT P. DOYLE, M.D.

STATE OF Maine  
Androscoggin, S.S.

Personally appeared before me the above-named Robert P. Doyle, 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: April 1, 2009 Donna Chamberland  
NOTARY PUBLIC/ATTORNEY

MY COMMISSION ENDS April 11, 2011  
Notary Public, Maine  
My Commission Expires August 11, 2011

DATED:

1 April 09



JULIAN L. SWEET, ESQ.  
Attorney for Robert P. Doyle, M.D.

STATE OF MAINE  
BOARD OF LICENSURE IN MEDICINE

DATED:

4/14/09




SHERIDAN R. OLDHAM, M.D., Chairman

STATE OF MAINE OFFICE  
OF THE ATTORNEY GENERAL

DATED:

4/14/09



DENNIS E. SMITH  
Assistant Attorney General

Effective Date:

B

STATE OF MAINE  
BOARD OF LICENSURE IN MEDICINE

In re: )  
Benjamin M. Brown, M.D. ) CONSENT  
Complaint No. CR08-287 ) AGREEMENT

This document is a Consent Agreement, effective when signed by all parties, regarding a disciplinary action concerning and conditions imposed upon the license to practice medicine in the State of Maine held by Benjamin M. Brown, M.D. The parties to the Consent Agreement are: Benjamin M. Brown, M.D. ("Dr. Brown"), 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. Brown has held a license to practice medicine in the State of Maine since July 1, 2005, and specializes in Family Practice.
2. On or about July 29, 2008, the Board received a complaint against Dr. Brown's Maine medical license from former patient AM. The complaint alleged that Dr. Brown engaged in a sexual relationship with patient AM during the time that he was also AM's treating physician. In addition, the complaint alleged that Dr. Brown was having a sexual relationship with RR, a licensed physician assistant whom Dr. Brown had been supervising. The complaint also alleged that Dr. Brown suffered from alcoholism. The Board docketed the complaint as CR08-287.

3. On or about October 6, 2008, the Board received a response from Dr. Brown to complaint CR08-287. In his response, Dr. Brown admitted that he treated AM as a patient commencing in February or March of 2006, during which time he prescribed an antidepressant and anxiolytic to AM. Dr. Brown indicated that his first sexual encounter with patient AM occurred "on the weekend following the excision of her nevi."<sup>1</sup> According to Dr. Brown, he perceived AM as a coworker not a patient when he commenced a sexual relationship with AM in approximately July 2007. According to Dr. Brown, he personally last saw AM as a patient in approximately July 2007. Dr. Brown admitted that his sexual relationship with AM continued until March 2008. Dr. Brown also admitted that he developed a personal and sexual relationship with RR, but denied that his use of alcohol ever had a direct effect upon his practice of medicine.

4. The Board obtained copies of AM's medical records, which indicated that between March 31, 2006 and December 14, 2007, Dr. Brown saw and treated AM as a patient and/or was the supervising physician for RR, a physician assistant, who treated AM as a patient. According to the medical records:

a. On March 31, 2006, Dr. Brown saw AN for "increasing anxiety" related to work and home and prescribed Clonazepam and Fluoxetine to AM and noted "to return to clinic as needed."

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<sup>1</sup> AM's medical records indicate that the excision of the nevi occurred on Friday, June 1, 2007, and that Dr. Brown removed the sutures on Friday, June 8, 2007.

b. On June 5, 2006, Dr. Brown saw AM as a patient, including a "review of systems," noted "Anxiety somewhat improved."

c. On December 7, 2006, Dr. Brown saw AM as a patient for "routine follow-up" and "pre-employment physical," and prescribed Doxycycline due to AM's lung exam.

d. On May 11, 2007, Dr. Brown saw AM as a patient for wart removal.

e. On May 18, 2007, RR, a physician assistant supervised by Dr. Brown, saw AM as a patient for a rash. During that visit, RR prescribed Lotrisone for AM. Dr. Brown reviewed and electronically signed this medical record on May 19, 2007.

f. On June 1, 2007, Dr. Brown saw AM as a patient, performed the surgical excision of lesions and placed five sutures, and noted "return to clinic in 1 week."

g. On June 8, 2007, Dr. Brown saw AM as a patient for suture removal, and noted "well-healing excision sites on back, no infection" and "return to clinic as needed."

h. On June 13, 2007, RR, a physician assistant supervised by Dr. Brown, saw AM as a patient for "1mo fu breast exam, pap" and a physical examination. Dr. Brown and RR state that RR was not aware of the relationship between Dr. Brown and AM at the time of this visit. RR's impressions for this visit included "normal gyn exam pap collected, continue

condoms for contraception.” Dr. Brown reviewed and electronically signed this medical record on June 15, 2007.

i. On December 14, 2007, RR, a physician assistant supervised by Dr. Brown, saw AM as a patient for “health maintenance” and “birth control.” Dr. Brown and RR state that RR was not aware of the relationship between Dr. Brown and AM at the time of this visit. During this visit, RR prescribed Levlen for AM. Dr. Brown reviewed and electronically signed this medical record on December 14, 2007.

5. The Board obtained information from the Prescription Monitoring Program that showed that on April 3, 2008, Dr. Brown prescribed Clonazepam to AM. The Board also obtained a copy of the prescription for Clonazepam written by Dr. Brown to AM on April 3, 2008. This information confirmed AM’s status as a patient of Dr. Brown and/or RR, a physician assistant supervised by Dr. Brown, up until that time.

6. Board investigation confirmed that Dr. Brown commenced a sexual relationship with RR, a physician assistant whom he supervised.

7. Following its review of the complaint, response, and investigative materials, the Board, pursuant to 32 M.R.S. § 3286, directed Dr. Brown to undergo a psychological and substance abuse evaluation.

8. The 2008-2009 Edition of the Code of Medical Ethics of the American Medical Association defines “sexual misconduct in the practice of medicine” as follows:

Sexual contact that occurs concurrent with the patient-physician relationship constitutes sexual misconduct. Sexual

or romantic interactions between physician and patients detract from the goals of the physician-patient relationship, may exploit the vulnerability of the patient, may obscure the physician's objective judgment concerning the patient's health care, and ultimately may be detrimental to the patient's well-being.

If a physician has reason to believe that non-sexual contact with a patient may be perceived as or may lead to sexual contact, then he or she should avoid the non-sexual contact. At a minimum, a physician's ethical duties include terminating the physician-patient relationship before initiating a dating, romantic, or sexual relationship with a patient.

9. Board Rule, Chapter 1 defines "sexual misconduct" to include:

"Sexual violation" is any conduct by a physician/physician assistant with a patient that is sexual or may reasonably be interpreted as sexual, even when initiated by or consented to by a patient, including but not limited to... sexual intercourse.

10. On or about December 11, 2008, the Board received the results of the psychological and substance abuse evaluation of Dr. Brown. The evaluation concluded that Dr. Brown committed an ethical violation by engaging in sexual boundary violations with patient AM. In addition, the report indicated that Dr. Brown's relationship with RR, for whom he was the supervising physician, demonstrated that Dr. Brown was having difficulty maintaining appropriate levels of boundaries. However, the evaluation also concluded that "Dr. Brown's boundary violation is not part of any larger pattern." The evaluation also concluded that Dr. Brown's consumption of alcohol during that time contributed to his poor judgment, and that collateral contacts "support the idea that [he] apparently did not manifest any signs of such impairment in his *clinical* skills." Finally, according to the evaluation, Dr.

Brown self-reported that he had stopped consuming alcohol in January 2008, and that he voluntarily entered psychological counseling in April 2008.

11. On or about December 9, 2008, the Board reviewed the complaint materials, including Dr. Brown's response, and voted to schedule the matter for an adjudicatory hearing. In addition, the Board authorized its legal counsel to offer Dr. Brown a Consent Agreement to resolve complaint CR08-287.

12. This Consent Agreement has been negotiated by legal counsel for Dr. Brown and legal counsel for the Board in order to resolve complaint CR08-287 without an adjudicatory hearing. Absent Dr. Brown's acceptance of this Consent Agreement by signing and dating it in front of a notary and mailing it to Maureen Lathrop, Investigative Secretary, Maine Board of Licensure in Medicine, 137 State House Station, Augusta, Maine 04333-0137 on or before April 6, 2009, the matter will be scheduled for an adjudicatory hearing. In addition, absent the Board's acceptance of this Consent Agreement by ratifying it on April 14, 2009, the matter will be scheduled for an adjudicatory hearing.

13. By signing this Consent Agreement, Dr. Brown and his legal counsel waive any and all objections to, and hereby consent to the presentation of this Consent Agreement to the Board for possible ratification. Dr. Brown and his legal counsel also forever waive any arguments of bias or otherwise against any of the Board members in the event that the Board fail to ratify this proposed Consent Agreement.

#### COVENANTS

In lieu of proceeding to an adjudicatory hearing in this matter, Dr. Brown

agrees to the following :

14. Dr. Brown admits that with regard to complaint CR08-287 the Board has sufficient evidence from which it could reasonably conclude that: (a) he engaged in unprofessional conduct by engaging in a sexual relationship with AM, who was a patient; and (b) he engaged in a sexual relationship with RR, a physician assistant whom he was supervising. Dr. Brown admits that the Board has sufficient evidence from which it could conclude that the conduct with patient AM constitutes sexual misconduct pursuant to Board Rule, Chapter 10, and unprofessional conduct and grounds for discipline of his Maine medical license pursuant to 32 M.R.S. § 3282-A(2)(F). Dr. Brown admits that the conduct with RR could constitute unprofessional conduct and grounds to discipline his Maine medical license pursuant to 32 M.R.S. § 3282-A(2)(F).

15. As discipline for the conduct described in paragraph 14 above, Dr. Brown agrees to accept, and the Board agrees to issue, the following discipline:

- a. a REPRIMAND. Dr. Brown agrees never to engage in this type of conduct again.
- b. a MONETARY FINE of One Thousand Dollars and Zero Cents (\$1,000.00). Dr. Brown shall ensure that he pays the monetary penalty within thirty (30) days following the execution<sup>2</sup> of this Consent Agreement. Payment shall be made by certified check or money order made payable to "Treasurer, State of Maine," and be remitted to Maria MacDonald, Investigator, Maine

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<sup>2</sup> For the purposes of this Consent Agreement, "execution" shall mean the date on which the final signature is affixed to this Consent Agreement.

Board of Licensure in Medicine, 137 State House Station, Augusta, Maine  
04333-0137.

c. a LICENSE SUSPENSION of sixty (60) days commencing  
April 15, 2009.

d. a LICENSE PROBATION for five (5) years following the  
execution of this Consent Agreement. As specific conditions of probation, Dr.  
Brown shall:

(i) Restrict his practice of medicine to a location approved  
by the Board.

(ii) Enroll in, attend, and successfully complete a Board-  
approved substantive course in medical ethics and boundaries within six (6)  
months following the execution of this Consent Agreement. The ethics and  
boundaries course must cover the topic of appropriate patient-physician  
boundaries. Dr. Brown shall provide the Board with documentation of the  
successful completion of this course in medical ethics and boundaries within  
six (6) months following the execution of this Consent Agreement.

(iii) Within thirty (30) days following the execution of this  
Consent Agreement, Dr. Brown must have a Board-approved practice monitor  
who shall monitor his medical practice. In complying with this requirement,  
Dr. Brown shall submit to the Board for its approval the name of a proposed  
practice monitor, whom the Board has the sole discretion to approve or deny.  
The monitoring physician must be in direct contact with Dr. Brown and  
observe him within his medical practice at least once a week, and inform the

Board if Dr. Brown demonstrates any issues with regard to isolation, inappropriate boundaries or decision-making, incompetence, unprofessionalism or any other concerns. The monitoring physician shall report such information to the Board by telephone and in writing within 24 hours or as soon thereafter as possible. Dr. Brown understands that the monitoring physician will be an agent of the Board pursuant to Title 24 M.R.S. § 2511. Dr. Brown shall permit the monitoring physician full access to his medical practice, including but not limited to all patient information, and shall execute any and all releases necessary for the Board or its agents to directly contact the monitoring physician about Dr. Brown. The Board-approved monitor shall provide the Board with reports regarding Dr. Brown's medical practice on or before April 9<sup>th</sup>, and July 9<sup>th</sup>, October 9<sup>th</sup>, and January 9<sup>th</sup> of each year following the execution of this Consent Agreement.

(iv) Within thirty (30) days following the execution of this Consent Agreement, Dr. Brown shall enroll in and actively and fully participate in the Maine Medical Association's Medical Professionals Health Program (MPHP), and meet all of the conditions and requirements of that program, including but not limited to urine testing and monitoring for the presence of alcohol. Any credible report received by the Board that Dr. Brown has failed to fully cooperate with the MPHP shall result in the immediate summary suspension of his Maine medical license in accordance with paragraph 16 below. In complying with this provision, Dr. Brown shall:

(a) Abstain completely from the use or ingestion of

alcohol. Any report received by the Board that Dr. Brown has failed to abstain for the use of alcohol shall result in the immediate summary suspension of his Maine medical license in accordance with paragraph 16 below. Dr. Brown understands and agrees that a test evidencing the presence of alcohol or alcohol marker, when confirmed, shall raise a rebuttable presumption that alcohol was in fact used by Dr. Brown. Such a positive test result shall alone be sufficient to prove the use of alcohol by Dr. Brown. Dr. Brown further agrees that the result(s) of the test(s) referred to in this paragraph are admissible into evidence in any proceeding regarding his Maine medical license, whether before the Board or before a Court of competent jurisdiction.

(b) Submit to random urine testing for the presence of alcohol or its chemical markers.

(c) Ensure that the MPHP provides the Board with quarterly reports regarding his compliance with that program, including his abstention from the use of alcohol, and the frequency and results of urine monitoring.

(d) Continue treatment with Dr. Holcomb, Ph.D. or another psychologist pre-approved by the Board.

(e) Engage in substance abuse counseling and any evaluation(s) as recommended by the MPHP.

(f) Execute any and all releases necessary to permit the Board or its agent(s) complete access to his counseling and medical records.

16. Any report received by the Board that Dr. Brown has failed to comply with any of the conditions of his probation as set out in paragraph 15(d)(iv) above, shall result in the immediate summary suspension of Dr. Brown's Maine medical license. Such suspension shall be effective upon oral or written notification from the Board to Dr. Brown that it has received a report of non-compliance. In the event that the Board summarily suspends Dr. Brown's Maine medical license pursuant to this paragraph, the Board shall hold an adjudicatory hearing within sixty (60) days of the suspension.

17. Violation by Dr. Brown 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.

18. Pursuant to 10 M.R.S.A. § 8003(5) the Board and Dr. Brown agree that the Board has the authority to issue an order, following notice and hearing, modifying, suspending, revoking his license in the event that he fails to comply with any of the terms or conditions of this Consent Agreement.

19. Dr. Brown waives his right to a hearing before the Board or any court regarding all findings, terms and conditions of this Consent Agreement. Dr. Brown agrees that this Consent Agreement and Order is a final order resolving complaint CR08-287. This Consent Agreement is not appealable and

is effect until modified or rescinded 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. Requests for amendments by Dr. Brown shall be made in writing and submitted to the Board. Dr. Brown may, at reasonable intervals, petition the Board for amendment of the terms and conditions of this Consent Agreement. Upon making such a petition, Dr. Brown shall bear the burden of demonstrating that the Board should amend the Consent Agreement. The Board shall have the discretion to: (a) deny Dr. Brown's petition; (b) grant Dr. Brown's petition; and/or (c) grant Dr. Brown's petition in part as it deems appropriate to ensure the protection of the public. Any decision by the Board on this issue need not be made pursuant to a hearing and is not appealable.

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

21. Dr. Brown shall provide a copy of this Consent Agreement to: (i) his monitoring physician; (ii) any employer; (iii) the Chief Executive Officer (CEO) of any hospital where he holds or seeks privileges to practice medicine; and (iv) the licensing authority of any jurisdiction where he holds or seeks a medical license.

22. 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.

23. This Consent Agreement constitutes discipline and is an adverse licensing action that is reportable to the National Practitioner Data Bank (NPDB), the Healthcare Integrity and Protection Data Bank (HIPDB), and the Federation of State Medical Boards (FSMB).

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

25. The Board and Dr. Brown agree that no further agency or legal action will be initiated against him by the Board based upon the facts described herein, except or unless he fails to comply with the terms and conditions of this Consent Agreement. The Board may however consider the conduct described above as evidence of a pattern of misconduct in the event that similar true allegations are brought against Dr. Brown in the future. The Board may also consider the fact that discipline was imposed by this Consent Agreement in determining appropriate discipline in any further complaints against Dr. Brown's license.

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

DATED: 4/6/09

[Signature]  
BENJAMIN M. BROWN, M.D.

STATE OF MAINE

Kennebec, S.S.

Personally appeared before me the above-named Benjamin Brown, 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: 5/16/09

[Signature]  
NOTARY PUBLIC/ATTORNEY

MY COMMISSION ENDS: \_\_\_\_\_

DATED: 5/16/09

[Signature]  
JAY P. MCCLOSKEY, ESQ.  
Attorney for Benjamin Brown, M.D.

STATE OF MAINE  
BOARD OF LICENSURE IN MEDICINE

DATED: 4/14/09

[Signature]  
SHERIDAN R. OLDHAM, M.D., Chairman

STATE OF MAINE DEPARTMENT  
OF THE ATTORNEY GENERAL

DATED: 4/14/09



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DENNIS E. SMITH  
Assistant Attorney General

Effective Date: