

**Board of Licensure in Medicine**  
**137 State House Station, (Mailing)**  
**161 Capitol Street (Physical Address)**  
**Augusta, Maine 04333-0137**

**January 13, 2009**

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**Board of Licensure in Medicine**  
**137 State House Station, (mailing)**  
**161 Capitol Street Physical Address**  
**Augusta, Maine 04333-0137**  
**Minutes**  
**January 13, 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

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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**

9:21 a.m. – 9:25 a.m.  
10:35 a.m. – 10:38 a.m.  
11:00 a.m. – 12:05 p.m.  
1:12 p.m. 1:13 p.m.  
3:06 p.m. 5:19 p.m.

**PURPOSE**

Call to Order  
Public Session  
Discussion with DOC  
Unset Adjudicatory Hearing  
Motions, Public Discussion & Adjournment

**EXECUTIVE SESSIONS**

9:25 a.m. 10:19 a.m.  
10:38 a.m. – 11:00 a.m.  
12:57 p.m. – 1:12 p.m.  
1:13 p.m. – 2:53 p.m.

Assessment and Direction  
Progress Reports  
Progress Reports & New Complaints  
Progress Reports & New Complaints

**RECESS/LUNCH**

10:19 a.m. – 10:35 a.m.  
12:05 p.m. - 12:57 p.m.  
1:59 p.m. - 2:08 p.m.  
2:53 p.m. – 3:06 p.m.

Recess  
Noon Meal  
Recess  
Recess

I. **CALL TO ORDER:** The meeting was called to order at 9:21 a.m.

A. AMENDMENTS TO THE AGENDA

1. Carmen J. Rinaldi, M.D. was amended to the agenda under the Secretary's Report, List B.

EXECUTIVE SESSION

II. ASSESSMENT & DIRECTION

A. AD 07-218

Dr. Dreher moved to file AD 07-218. Dr. Hatfield seconded the motion, which passed unanimously.

B. AD 08-346

Dr. Dreher moved to file AD 08-346. Dr. Dumont seconded the motion, which passed unanimously.

C. AD 08-386

Dr. Dumont moved to file AD 08-386. Dr. Nyberg seconded the motion, which passed 8-0-0-1 with Dr. Hatfield recused.

D. AD 08-436

Dr. Dreher moved to re-present AD 08-436 as a complaint. Dr. Dumont seconded the motion, which passed 8-0-0-1 with Dr. Gleaton recused.

E. AD 08-437

Dr. Dreher moved to re-present AD 08-437 as a complaint. Dr. Dumont seconded the motion, which passed 8-0-0-1 with Dr. Gleaton recused.

F. AD 08-438 (CR 09-007)

Dr. Hatfield moved to issue a complaint in the matter of AD 08-438 (CR 09-007). Ms. Holmes seconded the motion, which passed 7-0-0-2 with Dr. Dumont and Ms. Clukey recused.

G. AD 08-500 (CR 09-008)

Dr. Onion moved to issue a complaint in the matter of AD 08-500 (CR 09-008). Dr. Gleaton seconded the motion, which passed unanimously.

H. AD 08-501 (CR 09-009)

Dr. Dreher moved to issue a complaint in the matter of AD 08-501 (CR 09-009). Dr. Hatfield seconded the motion, which passed unanimously.

I. AD 08-502 (CR 09-0102)

Dr. Dreher moved to issue a complaint in the matter of AD 08-502 (CR 09-010). Ms. Holmes seconded the motion, which passed unanimously.

III. PROGRESS REPORTS

A. CR 08-279 TODD TRITCH, M.D.

Dr. Onion moved to dismiss CR 08-279 with a letter of guidance. Dr. Nyberg seconded the motion, which passed 7-2.

A patient in a Maine institution complained that he did not receive appropriate and timely evaluation and treatment continuation of two chronic viral infections he had for over a decade. Dr. Tritch responded with a chronology and acknowledged that delays occurred. The Board was alarmed, on reviewing the case, that it took 3 months to obtain the original referral, 6 months to get the initial studies to review, a year to find the studies were deteriorating, and 16 months before therapy was initiated, after several more delays. The board determined that the physician should have been more aggressive in getting the patient appropriate prompt evaluation and treatment, and therefore voted to dismiss with a Letter of Guidance, which will urge him to push for improvement in his institution medical systems to help him achieve that.

B. CR 08-280 EDITH WOODWARD, PA-C

Dr. Onion moved to dismiss CR 08-280 with a letter of guidance. Dr. Nyberg seconded the motion, which passed unanimously.

A patient in a Maine institution complained the two chronic viral infections he'd had for over a decade did not receive an appropriate timely evaluation and treatment continuation. The physician assistant responded that she'd done what she could, pointing out her repeated attempts to push for virology clinic referrals. The Board's review of this case showed the physician assistant's involvement with this patient's care was initially only that of a part-time weekend clinic coverage, nevertheless she attempted to advocate for his more timely evaluation and treatment. The physician assistant assumed a regular clinician's role at the institution 8 months into his stay and saw him again at least twice. During that time she continued to work to get him a virology clinic evaluation. Nevertheless, it took a year to obtain studies which showed that conditions were deteriorating, and 16 months before therapy was re-initiated after several more delays.

The Board feels that the physician assistant should have been more aggressive in getting this patient an appropriately prompt evaluation and treatment, and therefore voted to dismiss this

case with a Letter of Guidance which will urge her to be more assertive in advocating for improvements in her institution's medical system.

C. CR 08-281

Dr. Onion moved to dismiss CR 08-281. Dr. Nyberg seconded the motion which passed unanimously.

A patient in a Maine institution complained that he did not receive appropriate timely evaluation and treatment continuation of two chronic viral infections he'd had for over a decade. This physician assistant was involved only in the patient's initial institutional medical admission evaluation and made the appropriate referrals. Hence, the Board dismissed the case.

D. CR 08-333 WILLIAM K. KELLY, M.D.

Dr. Dreher moved to unseat the Adjudicatory Hearing in the matter of CR 08-333 William K. Kelly, M.D. Dr. Gleaton seconded the motion, which passed unanimously.

Dr. Dreher moved to accept Dr. Kelly's offer to withdraw his appeal of the preliminary denial of his license and allow him to withdraw his application for permanent license. Dr. Hatfield seconded the motion, which passed unanimously.

E. COMPLAINT STATUS REPORT FYI

F. REVIEW DRAFT LETTERS OF GUIDANCE

1. Dr. Dreher moved to approve all edited Letters of Guidance presented for review except the Herbert letter. Ms. Clukey seconded the motion, which passed unanimously.
2. Ms. Holmes moved to approve the Herbert Letter of Guidance (CR 07-366) as edited. Dr. Nyberg seconded the motion, which passed 8-1.

IV. NEW COMPLAINTS

COMPLAINT REVIEW COMMITTEE RECOMMENDATIONS

A. CR 08-302

Dr. Nyberg moved to dismiss CR 08-302. Ms. Holmes seconded the motion, which passed unanimously.

A distraught parent was angry that the physician, in his review of medical necessity for the complainant's insurance company, did not authorize treatment he desired for his daughter. The physician explained to the complainant the rationale of his recommendation for an

alternative treatment plan. The complainant subsequently agreed with the recommendation, and withdrew his complaint.

B. CR 08-323

Dr. Nyberg moved to dismiss CR 08-323. Dr. Gleaton seconded the motion, which passed unanimously.

The patient complained of multiple issues with the doctor and his staff. Review of the medical records shows appropriate medical care. There were some minor time delays in preauthorization requests, but this does not rise to the level requiring Board action.

C. CR 08-325

Dr. Nyberg moved to dismiss CR 08-325. Dr. Hatfield seconded the motion, which passed unanimously.

The patient complained of a delay in scheduling surgery for a work-related knee injury. The patient also complained of issues related to a foot brace and to a back to work slip. Review of the medical records and a timeline of the medical interventions shows that the delay was the result of the Worker's Compensation system. The foot brace and the back to work date were both medically appropriate.

D. CR 08-324

Dr. Nyberg moved to dismiss CR 08-324. Ms. Holmes seconded the motion, which passed unanimously.

The complainant alleged that the physician was unprofessional towards her and her adult daughter. Specifically, the complainant alleged that the physician has cancelled or rescheduled appointments with her daughter due to the physician's personal problems. According to the complainant, when she advised the physician that this caused problems for her and her daughter, the physician responded that she did not care and then discharged her daughter from her practice. The physician responded by denying that she acted unprofessionally towards the complainant or her daughter or that she made any statements about not caring. The physician also denied that her personal problems led her to discharge the complainant's daughter from care. A review of the medical records shows that in June 2007, the complainant's daughter was warned that if she or her boyfriend were rude or demanding then they would be discharged from her practice. The medical records also indicate that the complainant's daughter was inconsistent with her counseling, and at times was belligerent towards the physician's staff. The physician discharged the complainant's daughter from her practice on September 5, 2008, after the complainant was rude to the physician and her staff, who had attempted to accommodate the patient's schedule.

E. CR 08-326

Dr. Nyberg moved to dismiss CR 08-326. Dr. Dumont seconded the motion which passed 7-2.

Dr. Nyberg moved to reconsider the vote regarding CR 08-326. Dr. Gleaton seconded the motion, which passed unanimously.

Dr. Nyberg moved to investigate further CR 08-326. Dr. Gleaton seconded the motion, which passed unanimously.

F. CR 08-350

Dr. Nyberg moved to dismiss CR 08-350. Ms. Holmes seconded the motion, which passed unanimously.

The complainant alleged that the physician failed to make a mandated report to DHHS as required by law, and failed or refused to provide copies of the complainant's son's medical records until he had made seven written requests. The physician indicated that he treated the complainant's minor son for five years, during which time the complainant and his ex-wife were in almost constant litigation regarding their son. A review of the medical records provided by the physician corroborates his assertion that on multiple occasions he advised the complainant to obtain a second medical opinion. In addition, there is no evidence to corroborate the complainant's allegation that the physician failed to make a mandated report to DHHS or failed or refused to provide medical records.

G. CR 08-367

Dr. Nyberg moved to dismiss CR 08-367. Dr. Dreher seconded the motion, which passed unanimously.

The complainant saw the physician only once, presenting with no medical records, to request a prescription renewal for Oxycontin to ameliorate pain. The physical examination did not provide justification for the medication. The exam and the lack of medical records suggested caution in prescribing an addictive narcotic. Tramadol was prescribed instead, and routine lab work along with a bone density test were ordered, while the physician made efforts to obtain medical records that might justify Oxycontin. The physician's impression that the patient did not represent her physical condition accurately was confirmed by an Emergency Department record of the complainant's visit there five days later, with the same request.

H. CR 08-368

Dr. Nyberg moved to dismiss CR 08-368. Dr. Hatfield seconded the motion, which passed unanimously.

This patient was seeking medication not appropriate for his condition. He accused the physician of being non-responsive to his needs (i.e., of being "vicious, nasty, and savage" as well as being deceptive in altering medical records, and much more). The accusations lack plausibility and lack support in the record. The physician explained her diagnosis and recommendations in careful detail. The patient did not reply to her explanation.

BOARD COMPLAINT REVIEW

I. CR 08-273

Dr. Gleaton moved to investigate further CR 08-273. Dr. Hatfield seconded the motion which passed 8-0-0-1 with Dr. Dreher recused.

J. CR 08-288

Dr. Onion moved to dismiss CR 08-288. Dr. Gleaton seconded the motion, which passed 8-0-0-1 with Dr. Dreher recused.

A patient was understandably confused by reports of normal lab results coupled with a request for a follow up test at a practice where the physician's employer was different from the staff's. Further mishandling of the patient's initial complaint letter between the staff and the physician led to more patient frustration. The practice staff has taken several steps to remedy such problems in the future, although it is unclear if these include more facilitation of physician/staff communication which would also seem important in the circumstances. However the Board felt the issues did not rise to a level requiring discipline and that the patient is to be commended for filing the complaint to be heard.

K. CR 08-317

Dr. Dreher moved to dismiss CR 08-317. Dr. Gleaton seconded the motion, which unanimously.

This case arose after hospital staff noted the physician acting in an unusual manner on one occasion and raised the question of whether impairment might have been present. This was complicated by the physician being under treatment for medical problems with medications which had the potential to be misused. In the ensuing evaluation process a disagreement arose over the best manner to evaluate the situation resulting in a report to the Board.

A complete review of all the available evidence was undertaken, including a Board ordered psychological evaluation with extensive collateral confirmations. It was found the physician was working closely and cooperatively with the providers of her health care and there had been no difficulties reported regarding the doctor's provision of patient care. None of this investigation suggested misuse of medications or other mood altering substances. Careful consideration of the available facts did not provide a basis to believe that the physician had been impaired or had posed any risk to patients.

L. CR 08-329

Dr. Dreher moved to dismiss CR 08-329. Dr. Gleaton seconded the motion, which passed 6-3.

A patient in a Maine institution alleged suffering an injury to his knee in May, 2008. His chart demonstrates multiple requests for a medical evaluation starting 6/13/08 with a nursing visit on 6/14/08 but no provider visit occurred until 6/28/08 when the patient was seen by a physician assistant. The medication was changed and the patient was started with physical therapy but continued having pain. The patient was perhaps seen again by a physician on 7/16/08 but there is no clinic note. The patient continued complaining of pain and requesting further evaluation, but only brief nursing assessments occurred. Pain medications were eventually changed and the patient was seen by Orthopedics on 8/28/08 with an MRI ordered. The patient was not seen by the doctor until 10/14/08. Eventually, the patient was diagnosed with a meniscus tear with suggestion for surgery. The care appears longitudinally appropriate but slow and sloppy with a prolonged delay in making the appropriate diagnosis. The supervising physician is responsible for the overall care of the patient, but supervision in this case was not adequate.

M. CR 08-369

Dr. Hatfield moved to dismiss CR 08-369. Dr. Gleaton seconded the motion, which passed unanimously.

The patient complained that she was diagnosed as having stage-3 kidney disease by her physician, which she believes is false and led to multiple problems in her care. She feels that a medication change based on this diagnosis led to a worsening of her diabetic control and made her very anxious. She feels communication with the physician and his office over this issue was very poor.

A review of the records does indeed show evidence of stage 3 kidney disease, based on several serial creatinine clearance measurements. The change in medication was reasonable based on these findings. It is also clear from the records that the patient was not pleased with this diagnosis and discussion about this did take place.

N. CR 08-376

Dr. Hatfield moved to dismiss CR 08-376. Ms. Holmes seconded the motion, which passed unanimously.

The physician submitting this complaint feels that another physician gave poor care to a patient that both physicians helped take care of. He feels that this poor care was based on many factors, including a refusal to transfer the patient to a more appropriate facility when it was needed, and also by poor management of cardiac problems that were beyond the scope of his competence. The complaining physician also questions whether the political situation at the hospital played a role in what he feels was this patient's poor care.

A review of the records shows that the patient was treated swiftly and appropriately in a true emergency situation. There is no evidence of anything but good clinical care in the records. It is not possible to comment on the political situation at the hospital, but there is no evidence it played any role in this case.

O. CR 08-379

Dr. Dumont moved to investigate further CR 98-379. Dr. Nyberg seconded the motion which passed unanimously.

P. CR 08-390

Dr. Gleaton moved to dismiss CR 08-390. Dr. Nyberg seconded the motion which passed 8-0-0-1 with Dr. Dumont recused.

A patient alleged he was subjected to treatment and care by ER personnel and a specific physician without his permission which violated his rights as a patient. There is no evidence that the physician, who is named by the patient, was involved in the ER visit or the incident.

Q. CR 08-431 – ROBERT M. HOFFMAN, M.D.

Ms. Holmes moved to dismiss the complaint against Robert M. Hoffman, M.D., (CR 08-431) with a Letter of Guidance. Dr. Gleaton seconded the motion which passed 8-0-0-1 with Dr. Dumont recused.

Dr. Hoffman had a member of his staff complete his on-line renewal application. The staff member was unaware of an open complaint against Dr. Hoffman and did not acknowledge the complaint when completing the on-line form. Dr. Hoffman realized the error and wrote to apologize. The Letter of Guidance will remind Dr. Hoffman it is his responsibility to complete the on-line form, or to verify its accuracy if completed by his staff.

R. CR 08-432 – JEFFREY L. BUSH, M.D.

Ms. Clukey moved to dismiss the Board complaint against Jeffrey L. Bush, M.D. (CR 08-432) with a Letter of Guidance. Ms. Holmes seconded the motion, which passed 8-0-0-1 with Dr. Hatfield recused.

The Board filed this complaint against Dr. Jeffrey Bush for not disclosing an open complaint on his renewal application for his medical license.

The physician responded that there was an inadvertent error in his application. His staff that completed his on-line application failed to report an open complaint, as she thought it had been resolved and had no substance. Dr. Bush apologized, took responsibility for the error, and offered a chronological timeline as to how the non-disclosure happened and described changes in future procedures for completing renewal of medical license applications.

As this does not rise to a level warranting disciplinary action, the letter of guidance will express concern about his action in this matter.

V. INFORMAL CONFERENCE(S) (none)

**NOON MEAL**

**PUBLIC SESSION**

VI. MINUTES OF DECEMBER 9, 2008

Dr. Gleaton moved to accept the minutes of December 9, 2008 as amended. Dr. Dreher seconded the motion, which passed unanimously.

VII. NEW BUSINESS

There was no business under this agenda item.

VIII. BOARD ORDERS & CONSENT AGREEMENT MONITORING & AND APPROVAL

A. BOARD ORDERS (none)

B. CONSENT AGREEMENT MONITORING & APPROVAL

1. MONITORING COMPLIANCE REPORT

Ms. MacDonald reported everyone was in compliance except for those the Board is aware of.

IX. ADJUDICATORY HEARING

RONALD W. KESSLER, PA-C (CR 08-196) [SEE APPPENDIX A ATTACHED]

Ronald W. Kessler, P.A.-C has signed a Consent Agreement agreeing to permanent revocation of his license in lieu of proceeding to an adjudicatory hearing.

Dr. Dumont moved to accept the Consent Agreement for permanent revocation in the matter of Ronald W. Kessler, P.A.-C. Ms. Clukey seconded the motion, which passed unanimously.

X. REMARKS OF CHAIRMAN

A. DESIGNATION OF VOTING DELEGATE AND ASSOCIATE MEMBER TO FSMB ANNUAL MEETING

Dr. Dreher moved for Dr. Nyberg to represent the Board as voting delegate at the FSMB Annual Meeting House of Delegates along with Mr. Manning attending as Executive Director. Dr. Gleaton seconded the motion , which passed 8-0-0-1 with Dr. Nyberg recused.

XI. EXECUTIVE DIRECTOR'S MONTHLY REPORT

A. MONTHLY REPORT

The Board accepted the monthly report of the Executive Director.

B. ADMINISTRATIVE FINE FOR INCOMPLETE ONLINE FORMS

Through the rulemaking process, the Board will give staff the authority to issue citations for failure to properly and accurately report on a license application or renewal application the existence of an outstanding complaint before the Board of Licensure in Medicine.

Staff will begin work on the language of the rule for discussion next month.

XII. REMARKS OF ASSISTANT ATTORNEY GENERAL

The Board discussed executive session protocols with the Assistant Attorney General. It was determined that further discussion should be held in the future.

XIII SECRETARY'S REPORT

A. LIST A

1. M.D. LIST A LICENSES for RATIFICATION

Ms Holmes moved to ratify the Board Secretary's action in granting initial licensure to the physicians on List A. Dr. Dreher seconded the motion, which passed unanimously.

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>
Ali, Syed I. Q.	Family Medicine	Augusta/Waterville
Amsel, Harold	Psychiatry	Mid-Coast
Aziz, Osama N.	Internal Medicine/Pulmonary	Presque Isle
Braylan, Raul C.	Anatomic Pathology	Not Listed
Brownlowe, Katherine B.	Psychiatry	Portland
Cotter, John G.	Infectious Diseases	Portland
Cotter, Thusitha	OB/GYN	Not Listed
Dale, Wheeler, J.	Internal Medicine	Lewiston
Dorsey, Deanna L.	Anesthesiology	Augusta/Bangor/Portland
Eck, Charles A.	Family Practice	Presque Isle

Goodlet, Jr., James S.	Urology	Not Listed
Hacobian, Melkom	Cardiovascular Disease/IM	
Hartman, Michael J.	Orthopedic Surgery	Sanford
Henderson, Colin J.	Family Practice	Aroostook County
James, Lindsey, B.	Internal Medicine	Caribou
Jung, Michael W.	Emergency Medicine	Portland
Khomani, Abderrahim	Internal Medicine	Augusta Area
Magdalene, Juliette C.	Psychiatry	Sanford/Brunswick
Manktelow, Anne	Pediatric Surgery	Bangor
McCallister, John A.	Pediatrics	Augusta
Moner, Susan	Internal Medicine	Portland
Neilson, Ian R.	Pediatric General Surgery	Portland
Nichols, Markyia S.	Obstetrics & Gynecology	Caribou
Ober, Kathleen J.	OB/GYN	Blue Hill
Pantsari, Matthew W.	Gastroenterology	Lewiston
Petty, Catherine A.	Orthopedic Surgery	Portland
Polidori, Mariano A.	Family Medicine	Bangor
Reyes, Marilou L.	Pediatrics	Locum Tenens
Rojkovskiy, Igor E.	Internal Medicine	Skowhegan
Rulnick, Adam D.	Diagnostic Radiology	Teleradiology
Sammons, Elena	Anesthesiology	Lewiston
Schmidt, David A.	Psychiatry	Belfast
Sintetos, Anthony L.	Cardiology/IM	Waterville
Tehrani-rad, Mohammad	Internal Medicine	Skowhegan
Timmer, Suzanne J.	Internal Medicine	York
Waddell, Brad E.	Surgical Oncology	Not Listed
Welham, Richard T	OB/GYN	Calais
Yatsynovich, Viktor	Psychiatry	Not Listed
Young, Curt T.	Ophthalmology	Aroostook County

2. P.A. LIST A LICENSES FOR RATIFICATION

Dr. Dumont moved to ratify the Board Secretary's action in granting licensure to the physician assistants on List A. Dr. Gleaton seconded the motion, which passed unanimously.

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

<u>NAME</u>	<u>LICENSE</u>	<u>PSP</u>	<u>LOCATION</u>
Gonggiao Zhang	Inactive	None	
Brighid Donegan	Active	Kevin White, MD	Waterville Cardiology
Emily Bernier	Inactive	None	
Dianna Edwards	Active	Peter Keebler, MD	EMMC

B. List B APPLICATIONS FOR INDIVIDUAL CONSIDERATION

1. DAVID W. LEMOS, M.D.

There were two areas of concern with Dr. Lemos's permanent application. Fifteen years ago he had an OUI but since has been doing intensive training without issues so it appears to have been a one time event. The second issue was that he took more than seven years to pass USMLE. Investigation revealed he had been busy passing boards in Canada and has passed his boards in the USA.

The Licensure Committee moves to approve the permanent license application of Dr. Lemos. The motion passed unanimously.

2. CARMEN J. RINALDI, M.D.

Two years ago while in Minnesota Dr. Rinaldi was arrested for an OUI. He has been evaluated by both a psychiatrist and a licensed substance abuse counselor in Minnesota and those findings were evaluated by the Minnesota Physician Health Program which did not feel he required monitoring. Dr. Rinaldi would like to come to Maine to practice dermatology.

The Licensure Committee moved to grant a license to Carmen J. Rinaldi, M.D. contingent upon an evaluation by the Maine Professionals Health Program and his entry into the program if appropriate. The Board Secretary would have the authority to grant the license pending a favorable review. The motion passed 8-0-1.

C. LIST C APPLICATIONS FOR REINSTATEMENT

The following license reinstatement applications have been approved by Board Secretary Gary R. Hatfield, M.D. without reservation.

<u>NAME</u>	<u>SPECIALTY</u>
Guistra, Richard A.	Orthopedic Surgery
Andrews, Christopher S.	General Surgery

Dr. Gleaton moved to ratify action of the Board Secretary regarding the physicians on List C for reinstatement. Ms. Clukey seconded the motion, which passed unanimously.

LIST C (2) APPLICATION FOR REINSTATEMENT  
(INDIVIDUAL CONSIDERATION)

1. ANN D. TUDDENHAM, M.D.

The Licensure Committee recommended reinstatement pursuant to a consent agreement. Appropriate parameters were discussed with the Assistant Attorney General. The motion passed unanimously.

D. LIST D WITHDRAWALS

1. LIST D (1) WITHDRAW LICENSE APPLICATION (none)
2. LIST D (2) WITHDRAW LICENSE FROM REGISTRATION

Dr. Gleaton moved to approve the physicians on List D (2) to withdraw from licensure. Dr. Nyberg seconded the motion, which passed unanimously.

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

<u>NAME</u>	<u>LICENSE NUMBER</u>
Davies, Lloyd	004110
Jones, Denis	010037
Ozmun, Richard	017118
Rosen, David	015730

3. LIST D (3) WITHDRAW LICENSE FROM REGISTRATION FOR INDIVIDUAL CONSIDERATION (none)

E. LIST E LICENSES TO LAPSE BY OPERATION OF LAW FYI

The following physician licenses lapsed by operation of law effective January 6, 2009.

<u>NAME</u>	<u>LICENSE NO.</u>
Avritscher, Rony	016638
Belman, Alec R.	016771
Borkar, Chandrashekhar	008552
Conway, Anikke M.	016449
Crook, Terri W.	017058
Donald, David	013243
Evans, Gregory	017028
Franck, Joel I.	012095
Gleason, Bonnie T.	016155
Imperato, Jospeh	011849
Margolskee, Howard R.	012475
Moorehead, Katharine S.	015324
Nelson, Karen H.	015291
Pennoyer, David S.	005106
Samach, Andrew J.	014579
Tannen, Richard C.	007605

- F. LIST F LICENSEES REQUESTING TO CONVERT TO ACTIVE STATUS (none)

- G. LIST G – RENEWAL APPLICATIONS FOR REVIEW

1. EDWARD WAI WONG, M.D.

Dr. Wong's renewal was before the Committee due to one malpractice settlement of over a million dollars. The Committee reviewed the case and recommends allowing Dr. Wong to renew his license. The motion passed 9-0.

2. RICHARD M. CABOT, M.D.

Dr. Cabot is a vascular surgeon with macular degeneration which limits what surgery he can and cannot do. The Licensure Committee was satisfied that Dr. Cabot knows his limits and that his practice is aware of his limitations. In order to operate he would have to be credentialed by the hospital, which the Board believes will provide an adequate second level of assurance to the public that Dr. Cabot will not practice beyond his capabilities.

The Licensure Committee recommends renewal of Dr. Cabot's license. The motion passed 9-0.

LIST H – DELEGATED PRACTITIONER SCHEDULE II REQUESTS (RATIFICATION)

Dr. Gleaton moved to ratify Dr. Hatfield's approval of the requests for Schedule II privileges. Dr. Dumont seconded the motion, which passed unanimously.

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

<u>NAME</u>	<u>PSP</u>	<u>LOCATION</u>
Daniel Dorsky, PA-C	George Glass, MD	Lewiston, ME
Stephan Jones, PA-C	Donato A. Sisto, MD	York, ME

XIV. STANDING COMMITTEE REPORTS

A. LEGISLATIVE & REGULATORY COMMITTEE

1. LR052

The language in LR052 will be proposed to help expedite the Board's process for holding Informal Conferences. Mr. Manning reported the bill has sponsors and is ready to go.

C. PHYSICIAN ASSISTANT ADVISORY COMMITTEE

1. SCHEDULE II APPLICATION

Dr. Dumont moved to remove Type IV prescribing authority from the Schedule II Application. Dr. Gleaton seconded the motion, which passed unanimously.

2. PLAN OF SUPERVISION DRAFT

Dr. Onion moved to endorse the Physician Assistant Advisory Committee's recommendations regarding their process to pilot a new format for the PA "Plan of Supervision." After this test, alterations to Chapter 2 regarding the details of the required "Plan of Supervision" will be considered Ms. Holmes seconded the motion, which passed unanimously.

XV. BOARD CORRESPONDENCE (none)

XVI. FYI

XVII. FSMB MATERIAL

XVIII. OTHER BUSINESS

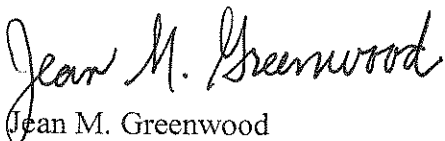
A. DEPARTMENT OF CORRECTIONS

Denise Lord and Kathy Plante from the Department of Corrections listened to concerns the Board has identified while reviewing complaints. After discussion it was agreed that a more formal Memorandum of Understanding should be developed to assure best communication between the two agencies in the effort to provide appropriate medical care to DOC clients.

XIX. ADJOURNMENT – 5:20 P.M.

Dr. Dreher moved to adjourn. Dr. Gleaton seconded the motion, which passed unanimously.

Respectfully submitted,



Jean M. Greenwood  
Administrative Assistant  
Board Coordinator

A

STATE OF MAINE  
BOARD OF LICENSURE IN MEDICINE

In re: ) CONSENT  
Ronald Kessler, P.A.-C ) AGREEMENT  
Complaint CR08-196 )

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 assistant in the State of Maine held by Ronald Kessler, P.A.-C. The parties to the Consent Agreement are: Ronald Kessler, P.A.-C ("Mr. Kessler"), the State of Maine Board of Licensure in Medicine ("the Board") and the State of Maine Department of the Attorney General ("the Attorney General"). This Consent Agreement is entered into pursuant to 10 M.R.S.A. § 8003(5)(B) and 32 M.R.S.A. § 3282-A.

STATEMENT OF FACTS

1. The Board first issued Mr. Kessler a license to practice as a physician assistant in the State of Maine on July 6, 1987.
2. On May 8, 1990, following an adjudicatory hearing, the Board disciplined Mr. Kessler's physician assistant's license for failing to register in a timely manner and practicing medicine as an unregistered physician assistant. The Board reprimanded Mr. Kessler and fined him \$100.00 for that violation.
3. On or about June 6, 2008, the Board received information from the Federal Drug Enforcement Agency (DEA) indicating that between December 24, 2007 and April 18, 2008, on multiple occasions, Mr. Kessler issued prescriptions for controlled substances without possessing a valid DEA registration. The DEA information indicated that:

a. Mr. Kessler never renewed his DEA registration in December 2006, and it was permanently retired by the DEA on July 31, 2007.

b. On August 27, 2007, DEA investigators interviewed Mr. Kessler regarding his prescribing practices. During that interview, Mr. Kessler stated that he had completed and then issued prescriptions for controlled drugs that had been pre-signed by his supervising physician. During that interview, DEA investigators advised Mr. Kessler that he did not possess a valid DEA registration and to immediately cease issuing prescriptions for controlled drugs.

c. On April 8, 2008, the DEA received an application from Mr. Kessler for a new DEA registration. From June 3-5, 2008, the DEA received information from Correctional Medical Services (CMS) and Correct Rx showing that between December 24, 2007 and April 18, 2008, Mr. Kessler had issued 40 prescriptions for controlled substances to patients at the Maine State Prison.

d. On June 4, 2008, Mr. Kessler advised a DEA investigator that he had forgotten being told in August 2007 that he no longer possessed a valid DEA registration.

4. On June 10, 2008, following its review of this information, the Board, pursuant to 32 M.R.S. § 3282-A, initiated a complaint against Mr. Kessler's Maine physician assistant's license. The Board docketed that complaint as Complaint No. CR08-196.

5. On June 20, 2008, the Board staff sent Mr. Kessler a copy of Complaint No. CR08-196, together with a copy of the information received from the DEA, and notified him that, pursuant to 32 M.R.S. § 3282-A, he was required to respond in writing to the complaint within thirty days of his receipt thereof. Mr. Kessler failed to respond within thirty days to Complaint No. CR08-196.

6. On September 18, 2008, the Board's investigator hand delivered a copy of Complaint No. CR08-196 to Mr. Kessler's residence, and provided it to a relative of Mr. Kessler. The hand delivered complaint, like the one sent earlier to Mr. Kessler, directed him to respond in writing within thirty days of his receipt thereof. Mr. Kessler failed to respond within thirty days to the hand delivered complaint. To date, Mr. Kessler has not responded to Complaint No. CR08-196.

7. On December 9, 2008, following its initial review of Complaint No. CR08-196, the Board summarily suspended Mr. Kessler's Maine physician assistant's license pursuant to 5 M.R.S. § 10004(3) based upon the immediate jeopardy that his continued practice posed to the health and safety of the public.

8. This Consent Agreement has been negotiated by Mr. Kessler and legal counsel for the Board in order to resolve Complaint CR08-196 without an additional adjudicatory hearing. Absent ratification of this proposed Consent Agreement by a majority vote of the Board on January 13, 2009, the matter will hold an additional adjudicatory hearing on that date.

9. By signing this Consent Agreement, Mr. Kessler waives any and all objections to, and hereby consents to the presentation of this proposed Consent Agreement to the Board for possible ratification by Board's legal counsel. Mr. Kessler waives forever 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

10. Mr. Kessler concedes that the Board possesses sufficient evidence from which it could conclude by the preponderance of the evidence that between December 24, 2007 and April 18, 2008, on multiple occasions, Mr. Kessler issued prescriptions for controlled substances without possessing a valid DEA registration. Mr. Kessler admits that such conduct constitutes unprofessional conduct and grounds to discipline his Maine physician assistant's license pursuant to 32 M.R.S. § 3282-A(2)(F).

11. As discipline for the conduct described in paragraph 9 above, Mr. Kessler agrees to the PERMANENT REVOCATION of his physician assistant's license effective January 13, 2009.

12. Mr. Kessler waives his right to a hearing before the Board or any court regarding all facts, terms and conditions of this Consent Agreement. Mr. Kessler agrees that this Consent Agreement is a final order resolving complaint CR08-196. This Consent Agreement is not appealable and is effective 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. Any decision by the Board as a result of Mr. Kessler's request to modify this Consent Agreement need not be made pursuant to an adjudicatory hearing and is not appealable to any court.

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.

14. 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).

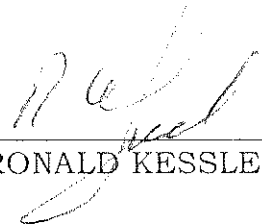
15. Nothing in this Consent Agreement shall be construed to affect any right or interest of any person not a party hereto.

16. The Board and Mr. Kessler agree that the Board will not impose any other disciplinary sanction (i.e. fine, reprimand, etc) against his Maine physician assistant's license based solely upon the facts described in this Consent Agreement.

17. Mr. Kessler 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, RONALD KESSLER, P.A.-C, 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 LEGAL RIGHTS, INCLUDING THE RIGHT TO LEGAL REPRESENTATION AND 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: 1/2/09

  
\_\_\_\_\_  
RONALD KESSLER, P.A.-C

STATE OF MAINE  
KENNEBEC COUNTY, S.S.

Personally appeared before me the above-named Ronald Kessler, P.A.-C, and swore to the truth of the foregoing based upon his own personal knowledge, or upon information and belief, and so far as upon information and belief, he believes it to be true.

DATED: 1/12/09

  
\_\_\_\_\_  
NOTARY PUBLIC/ATTORNEY  
MY COMMISSION ENDS: 8/14/15

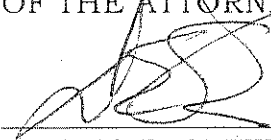
STATE OF MAINE  
BOARD OF LICENSURE IN MEDICINE

DATED: 1/13/09

  
\_\_\_\_\_  
SHERIDAN R. OLDHAM, M.D., Chairman

STATE OF MAINE DEPARTMENT  
OF THE ATTORNEY GENERAL

DATED: 1/13/09

  
\_\_\_\_\_  
DENNIS E. SMITH  
Assistant Attorney General

Effective Date: