

**Board of Licensure in Medicine**  
**137 State House Station, (mailing)**  
**161 Capitol Street (physical address)**  
**Augusta, Maine 04333-0137**  
**Minutes of September 8, 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 of September 8, 2009**

**BOARD MEMBERS PRESENT**

Sheridan R. Oldham, M.D.  
Gary R. Hatfield, M.D., Board Secretary  
Cheryl Clukey  
George K. Dreher, M.D.  
Maroulla Gleaton, M.D.  
David D. Jones, M.D.  
David Nyberg, Ph.D.

**BOARD STAFF PRESENT**

Randal C. Manning, Executive Director  
Mark Cooper, M.D., Medical Director  
Jean M. Greenwood, Administrative Assistant  
Dan Sprague, Assistant Executive Director  
Maria MacDonald, Board Investigator  
Tim Terranova, Consumer Assistant  
**ATTORNEY GENERAL'S OFFICE**  
Dennis Smith, Assistant Attorney General  
Det. Peter Lizanecz

Dr. Dumont and Ms. Holmes were excused from the meeting.

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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 PowerPoint projection.

**PUBLIC SESSIONS**

9:14 a.m. – 9:15 a.m.  
10:24 a.m. – 10:24 a.m.  
10:39 a.m. – 10:49 a.m.  
11:59 a.m. – 11:59 a.m.  
12:49 p.m. – 12:54 p.m.  
1:45 p.m. – 2:07 p.m.  
2:18 p.m. - 3:59 p.m.  
4:23 p.m. – 4:30 p.m.

**PURPOSE**

Call to Order and Amendments to Agenda  
Out of Executive Session  
Out of Executive Session to vote on A&D and PR  
Out of Executive Session  
Ratify Consent Agreement  
Voting on New Complaints  
Public Session  
Public Session

**EXECUTIVE SESSION**

9:15 a.m. – 10:24 a.m.  
10:49 a.m. – 11:59 a.m.  
12:54 p.m. – 1:45 p.m.

Assessment & Direction (A&D) & Progress Reports (PR)  
New Complaints  
New Complaints

**RECESS**

10:24 a.m. – 10:39 a.m.  
11:59 a.m. – 12:49 p.m.  
2:07 p.m. – 2:18 p.m.  
3:59 p.m. – 4:23 p.m.

Recess  
Noon Recess  
Recess  
Recess

I. **CALL TO ORDER:** Dr. Oldham called the meeting to order at 9:14 a.m.

A. AMENDMENTS TO THE PUBLISHED AGENDA

1. VIII (B) CONSENT AGREEMENT APPROVAL & MONITORING

Amend on:

VIII (B)(6) ANDREW J. FLETCHER, M.D.

VIII (B)(9) CR 08-051 THOMAS A. TARTER, M.D.

EXECUTIVE SESSION

II. ASSESSMENT & DIRECTION

A. AD 09-276

Dr. Dreher moved to file AD 09-276. Dr. Nyberg seconded the motion, which passed unanimously.

B. AD 09-277 (09-361)

Dr. Dreher moved to issue a complaint in the matter of AD 09-277 (09-361). Dr. Gleaton seconded the motion, which passed unanimously.

C. AD 09-280

Dr. Gleaton moved to file AD 09-280. Dr. Dreher seconded the motion, which passed unanimously.

D. AD 09-281

Dr. Hatfield moved to file AD 09-281. Dr. Jones seconded the motion, which passed unanimously.

E. AD 09-282

Dr. Jones moved to file AD 09-282. Dr. Gleaton seconded the motion, which passed unanimously.

F. AD 09-283

Dr. Nyberg moved to file AD 09-283. Dr. Gleaton seconded the motion, which passed unanimously.

G. AD 09-284

Dr. Dreher moved to file AD 09-284. Dr. Nyberg seconded the motion, which passed unanimously.

H. AD 09-301(CR 09-362)

Dr. Hatfield moved to issue a complaint in the matter of AD 09-301 (CR 09-362). Dr. Nyberg seconded the motion, which passed 6-0-0-1 with Dr. Gleaton recused.

I. AD 09-302

Dr. Jones moved to file AD 09-302. Dr. Hatfield seconded the motion, which passed unanimously.

J. AD 09-334

Dr. Gleaton moved to file AD 09-334. Dr. Nyberg seconded the motion, which passed unanimously.

K. AD 09-335

Dr. Jones moved to file AD 09-335. Dr. Nyberg seconded the motion, which passed unanimously.

L. AD 09-336

Ms. Clukey moved to investigate further AD 09-336. Dr. Hatfield seconded the motion, which passed 6-0-0-1 with Dr. Jones recused.

M. AD 09-337

Dr. Dreher moved to table AD 09-337. Dr. Jones seconded the motion, which passed unanimously.

N. AD 09-184 (CR 09-363)

Dr. Jones moved to issue a complaint in the matter of AD 09-184 (CR 09-363). Dr. Nyberg seconded the motion, which passed unanimously.

III. PROGRESS REPORTS

A. CR 09-007

Dr. Hatfield moved to approve the courses submitted by the respondent to fulfill the recommendations set forth in an informal conference. Dr. Nyberg seconded the motion, which passed 6-0-0-1 with Ms. Clukey recused.

B. CR 09-063

Dr. Nyberg moved to dismiss CR 09-063. Dr. Jones seconded the motion, which passed unanimously.

The complainant states the physician acted inappropriately during a prenatal visit in 2006 after a discussion about breast feeding, among other topics. The physician asked to do a visual exam of the patient's breast to rule out any obvious problems, which he did in a matter of a few seconds. The patient alleges that the physician used the phrase "check out the equipment," and that the exam was unnecessary. The physician denies using the questionable phrase, and provides evidence to support his view that such an exam is proper, even mandatory, when the patient intends to breast feed. If the physician did use the questionable phrase, it could be considered poor judgment, but not a violation warranting sanction. The exam was appropriate, quick, visual only (there was no touching), and well within the standard of care for such patients.

C. CR 09-082

Dr. Gleaton moved to vacate the preliminary denial voted at the July 14, 2009 meeting and dismiss the Board issued complaint CR 09-082. Dr. Nyberg seconded the motion, which passed unanimously.

The Board's previous action was predicated on an error of fact which has now been corrected. Therefore the complaint is dismissed and the preliminary denial vacated.

D. CR 09-092

Dr. Oldham moved to dismiss CR 09-092. Dr. Gleaton seconded the motion, which passed unanimously.

The complainant is the mother of a then 13 month old who presented to the pediatrician's office with a report of "swelling around the eyes" although none was noted at the time of the exam. The rest of the physical exam was also normal. Nineteen (19) days later the child was admitted to an intensive care unit with a diagnosis of severe milk protein intolerance/enteropathy. Nothing in the exam 19 days earlier indicated the existence of this disease. The morning facial swelling was probably an early manifestation of this disease but too nonspecific to be diagnostic.

E. CR 09-093

Dr. Oldham moved to dismiss CR 09-093. Dr. Nyberg seconded the motion, which passed unanimously.

The complainant is the mother of a then 13 month old with chronic eczema who was admitted to an intensive care unit at a medical center with a severe milk protein intolerance/enteropathy with severe anemia and multiple other complications more than 3

weeks after their last visit with this physician. The mother claims she had requested allergy testing for the child and that testing might have led to an earlier diagnosis of this disease. However, allergy testing for this type of enteropathy The pediatrician had appropriately consulted with a dermatologist who agreed with the diagnosis of eczema.

F. CR 09-097

Dr. Hatfield moved to dismiss CR 09-097. Dr. Nyberg seconded the motion, which passed 6-0-0-1 with Dr. Gleaton recused.

The patient feels his request for a different type of procedure in an emergency setting should have been honored, and that medications were not allowed to have their full effect before the procedure was performed. A review of the chart by an independent consultant concludes that the patient received appropriate care.

G. CR 09-102

Dr. Oldham moved to order an Informal Conference in the matter of CR 09-102. Dr. Hatfield seconded the motion, which passed unanimously.

H. COMPLAINT STATUS REPORT FYI

I. REVIEW DRAFT LETTERS OF GUIDANCE

Dr. Gleaton moved to accept the letters of guidance presented for approval. Dr. Nyberg seconded the motion, which passed unanimously.

J. CONSUMER ASSISTANT FEEDBACK - FYI

IV. NEW COMPLAINTS

A. CR 08-315 ELLEN E. MICHALOWSKI, M.D.

Ms. Clukey moved to order an Adjudicatory Hearing in the matter of CR 08-315 Ellen E. Michalowski, M.D. Dr. Dreher seconded the motion, which passed 6-0-0-1 with Dr. Jones recused.

B. CR 08-332

Dr. Oldham moved to dismiss CR 08-332. Dr. Dreher seconded the motion, which passed 6-0-0-1 with Dr. Jones recused.

The patient alleges inappropriate care and follow-up after a hysterectomy, and abandonment following transfer of care to a second hospital while the physician received medical care. The records indicate the care was appropriate, the transfer was made properly, and that coverage was provided in the physician's absence.

C. CR 09-061

Dr. Jones moved to dismiss CR 09-061. Dr. Nyberg seconded the motion, which passed unanimously.

The patient alleges that his pain management was inadequate and many aspects of his care were poor. The physician named in the complaint was never directly or indirectly involved in this patient's care. The patient's care was appropriate.

D. CR 09-084

Ms. Clukey moved to dismiss CR 09-084. Dr. Jones seconded the motion, which passed 6-0-0-1 with Dr. Hatfield recused.

The complainant was voluntarily admitted for psychiatric care following an intentional overdose that was life-threatening. He alleges that the treating physician was rude and disrespectful to him during his brief stay in the hospital and agreed to release him only when threatened with this complaint. The physician's response and the medical record make it clear that the patient misinterpreted some of the physician's conversations and explanations. The physician acted in a professional manner and promptly released the patient against medical advice when asked to do so.

E. CR 09-104

Dr. Gleaton moved to dismiss CR 09-104. Dr. Hatfield seconded the motion, which passed 6-0-0-1 with Dr. Jones recused.

The patient alleges that the physician did not treat her in a timely manner, that his office staff gave her a cold, and that she was discharged from the practice after she called to cancel an appointment. The physician responded that the patient was seen and treated in a timely manner, that the office staff used precautions to prevent the spread of colds, and that he discharged the patient from the practice because it was not beneficial for her to continue treatment in light of the patient's unhappiness with the medical practice. A review of the medical records revealed that the patient had only one visit at the medical practice, which was not unreasonably long, and that the patient subsequently left multiple telephone messages with the office expressing her unhappiness with the practice.

F. CR 09-106

Ms. Clukey moved to dismiss CR 09-106. Dr. Gleaton seconded the motion, which passed 6-0-0-1 with Dr. Jones recused.

The complainant feels he was unfairly treated and abruptly dismissed from the physician's practice. The physician's response and the medical record highlight several problems with

the patient's use of medications, lack of seriousness about getting well, and rudeness. The physician was within his rights when he dismissed the patient because of these problems.

G. CR 09-135

Dr. Oldham moved to dismiss CR 09-135. Dr. Nyberg seconded the motion, which passed unanimously.

The patient complains of care she received during an office visit. The patient reported intermittent chest pressure and "heart pounding" over a five day period. A complete history, review of systems, physical exam, and EKG were done. The patient was transferred by ambulance from the office to an emergency room where she was admitted for observation and further cardiac testing. She was discharged from the hospital and saw a second cardiologist who performed additional cardiac testing. All of her evaluations were negative for significant cardiac disease. The patient found the entire experience upsetting and feels that she should not have been sent to the emergency room. She feels her initial EKG was not interpreted correctly. Review of the medical records shows appropriate care by the physician assistant and supervising physician.

H. CR 09-141

Dr. Nyberg moved to dismiss CR 09-141. Dr. Gleaton seconded the motion, which passed 6-0-0-1 with Dr. Jones recused.

The Board issued a complaint for improper billing when informed by a patient that he had not been seen by the physician whose name appears as provider on the patient's insurance bill. Further investigation revealed a number of similar instances in the physician's practice. The physician's response provides a clear and convincing explanation of billing rules and procedures for the private insurance companies involved, as well as Medicare, and Maine Care. The physician was in compliance with these rules and procedures in all but two cases that involved insufficient supervision of mid-level providers, where corrective measures have been taken to insure full compliance in the future.

I. CR 09-136

Dr. Gleaton moved to dismiss CR 09-136. Dr. Jones seconded the motion, which passed unanimously.

The patient complains of the care he received for his chronic low back pain. Review of the medical records shows extensive testing and referral to multiple specialists. A thoughtful, thorough and compassionate plan of care was developed. The patient disagrees with this medically appropriate care plan.

J. CR 09-150

Ms. Clukey moved to dismiss CR 09-150. Dr. Nyberg seconded the motion, which passed unanimously.

The patient alleges that the physician engaged in unethical conduct by conspiring with the administration of his workplace to eliminate the "no overtime" restriction, which was imposed by the physician some seven months prior as a result of an injury sustained by the patient. The physician responded by denying that he conspired with the patient's workplace administrators to eliminate the "no overtime" restriction he had previously imposed, and asserted that he exercised his independent medical judgment following an examination of the patient when he determined that the "no overtime" restriction was no longer medically required. In addition, the physician asserted that he made attempts to communicate with the patient's orthopedic specialists regarding this issue, and received no response.

A review of the records revealed no evidence of a conspiracy between the physician and the patient's workplace to remove the "no overtime" restriction. When medically necessary the physician imposed certain work and "no overtime" restrictions. He periodically performed appropriate physical exams and evaluations of the injury. After one year of medical care the physician removed the overtime restriction, but clarified with the patient and the administration that the patient could not work more than 12-14 hours in a single day. The physician made attempts to communicate with the patient's orthopedic specialists, who did not respond, nor did they provide an opinion that the "no overtime" restriction was still medically necessary. The physician's care, treatment, and revisions of his work restrictions were medically appropriate, as ratified by an independent investigator.

K. CR 09-173

Dr. Jones moved to order an Informal Conference in the matter of CR 09-173. Dr. Nyberg seconded the motion, which passed unanimously.

L. CR 09-174

Dr. Jones moved to order an Informal Conference in the matter of CR 09-174. Dr. Nyberg seconded the motion, which passed unanimously.

M. CR 09-175

Ms. Clukey moved to order an Informal Conference in the matter of CR 09-175. Dr. Hatfield seconded the motion, which passed unanimously.

N. CR 09-178

Dr. Oldham moved to table CR 09-178 and assign a new case reporter. Dr. Nyberg seconded the motion, which passed unanimously.

O. CR 09-186

Dr. Oldham moved to dismiss CR 09-186. Dr. Nyberg seconded the motion, which passed unanimously.

The patient alleged that the physician did not evaluate or treat her appropriately in the emergency department, failed to communicate with her (including failing to tell her why she had been admitted to a psychiatric unit), and failed to speak with her prior to discharge. The physician responded by asserting that the patient was brought to the emergency department where he evaluated the patient, spoke with the patient, ordered appropriate diagnostic studies, and transferred her to the psychiatric unit in order to link the patient with resources available within that unit. A review of the records corroborated the physician's response.

P. CR 09-187

Dr. Hatfield moved to order an Informal Conference in the matter of CR 09-187. Dr. Gleaton seconded the motion, which passed unanimously.

Q. CR 09-188

Ms. Clukey moved to dismiss CR 09-188. Dr. Dreher seconded the motion, which passed unanimously.

The patient complains of the post-operative care and inadequate prescribing provided by this covering physician on a weekend. Review of the medical records shows the covering physician provided appropriate weekend prescribing support and offered to see the patient that day but the patient refused. The patient did not keep his scheduled Monday appointment.

R. CR 09-190

Dr. Dreher moved to dismiss CR 09-190. Dr. Jones seconded the motion, which passed unanimously.

The complainant, who is in a state institution, alleges the physician is curt, falsely pleasant, unfair, arrogant, and discriminatory on the basis of the complainant's appearance. The issue appears to be a difference of opinion between them as to the appropriateness of certain medical diagnoses and medication options all complicated by the evolving policies and restrictions of the institution itself. The physician's response and the medical record document reasonable attempts to provide care within these limitations.

S. CR 09-195

Dr. Gleaton moved to dismiss CR 09-195. Dr. Nyberg seconded the motion, which passed 5-1-0-1 with Dr. Jones recused

This 62 year old patient with chronic back pain from degenerative change in his spine as documented on magnetic resonance imaging (MRI), complains of abandonment by

Aroostook Medical Center and specifically the Chief Medical Officer, who never directly cared for the patient. The Medical Center physicians agreed to continue this patient's care in all ways other than chronic narcotic prescribing. The patient was not satisfied with this and was given the names of alternative providers which he sought out. However, he was still dissatisfied and wanted the Medical Center to oblige him with a physician who would be willing to continue care including narcotic therapy.

T. CR 09-200

Dr. Oldham moved to dismiss CR 09-200. Dr. Nyberg seconded the motion, which passed unanimously.

The patient complains that the physician assistant did not wear gloves when examining her back and knee. The patient also complains of the lack of cleanliness in the exam room. The PA and supervising physician state it is not customary to wear gloves when examining the back unless there are skin lesions. Hand washing before and after the exam is adequate. The PA did don gloves at the patient's request. The Board investigator visited the office unannounced and took photographs. The cleanliness of the office appears to be more than adequate. The conduct of the PA does not violate any standard of care.

U. CR 09-202

Dr. Jones moved to dismiss CR 09-202. Dr. Nyberg seconded the motion, which passed unanimously.

The patient states that her physician has lied, threatened her and generally been unresponsive to her needs. The patient has severe agoraphobia and has been house bound for years. Her mother sought medical care for her through a Family Medicine Residency Program, where she herself obtained care. The doctor who agreed to provide home visits for her daughter was a resident in this program. The relationships that evolved and each person's perception of the issues raised, are tangled. Reviewing records, handwritten material and a tape recording has not clarified or resolved these issues. The Residency Director's letter helpfully summarizes the changes that occurred once the resident initiated home visits, and suggests the changes were beneficial to the complainant, leading to her gradual empowerment to complain about her care and to discuss seeking care more to her liking.

It is clear that the patient was never at risk for any significant harm. It is also clear that this process has been difficult for her and her mother, but she is now more independent, fully involved with services, and seeking a practice closer to her home that she can walk to.

V. CR 09-203

Dr. Oldham moved to table CR 09-203. Dr. Dreher seconded the motion, which passed unanimously.

W. CR 09-204

Dr. Gleaton moved to dismiss CR 09-204. Dr Dreher seconded the motion, which passed unanimously.

The patient's complaint stems from her interaction with the physician and the physician's office staff regarding a medical examination required for U.S. residency. The patient alleges that the physician ordered unnecessary tests, took blood but did not test it (requiring her to return and provide more blood), charged her for services not provided, and failed to complete a medical form. The physician responded by outlining the medical examination and records required by U.S. Immigration, including the need for a vaccination record, which the patient was unable to provide. The physician asserted that all of the diagnostic measures ordered were necessary, and admitted that the patient had to return and provide a second blood sample for testing. The physician also admitted that the patient was billed \$29 for a vaccination that she did not receive. The physician returned the patient's \$29, and apologized for the charge and for the need for an additional blood draw. There is a discrepancy between the patient's past medical/surgical history and the documentation of this information in the physician's exam; however, the Board feels that this does not rise to a level of discipline.

X. CR 09-206

Dr. Oldham moved to dismiss CR 09-206. Dr. Hatfield seconded the motion, which passed unanimously.

The patient complains of care she received from a physician assistant in an outpatient setting. Review of the medical records shows the patient acted inappropriately and appeared under the influence of alcohol. The medical recommendations were correct. There is no evidence of unprofessional conduct by the physician's assistant or the supervising physician.

Y. CR 09-209

Ms. Clukey moved to dismiss CR 09-209. Dr. Dreher seconded the motion, which passed unanimously.

The patient alleges that the physician refused to refill a prescription and discharged him from the practice without notifying him. The physician responded that she has not been an employee of the medical practice since August 1, 2008, and has been working in Canada since September 1, 2008. Investigation confirmed that the physician has not been working at the medical practice since August 2008, and that the prescription that the patient filled in January 2009 was, in fact, a refill of the original prescription ordered by the physician in July 2008.

Z. CR 09-212

Dr. Hatfield moved to dismiss CR 09-212. Dr. Jones seconded the motion, which passed unanimously.

The patient complains of his post-operative care following back surgery. Review of the medical records shows appropriate pre-operative evaluation and documents informed consent. The patient's post-operative complaint of back pain has been evaluated and a plan of care recommended. The patient disagrees with this plan and a second opinion consultation has been offered.

AA. CR 09-218

Dr. Hatfield moved to dismiss CR 09-218. Dr. Gleaton seconded the motion, which passed unanimously.

The physician in this case had his privileges for performing a procedure suspended by a hospital until he has observed 30 of these procedures done by other physicians, with subsequent review of the physician's procedures once he begins doing them again. The Board feels that this matter has been handled using the appropriate peer-review systems in place at the physician's hospital, and that no further action is needed.

BB. CR 09-219 RICHARD T. GIBBS, M.D.

Dr. Dreher moved to order an Adjudicatory Hearing in the matter of CR 09-219 Richard T. Gibbs, M.D. Dr. Nyberg seconded the motion, which passed unanimously.

CC. CR 09-220 LINDA KENISTON-DUBOCQ, M.D.

Dr. Dreher moved to order an Adjudicatory Hearing in the matter of CR 09-220 Linda Keniston-Dubocq, M.D. Dr. Nyberg seconded the motion, which passed 6-0-0-1 with Dr. Oldham recused.

DD. CR 09-229

Dr. Dreher moved to dismiss CR 09-229. Dr. Jones seconded the motion, which passed unanimously.

The patient alleges unprofessional and unethical conduct by this physician. Subsequently, the patient changed his mind and has requested the complaint be withdrawn. In accordance with Board policy, the medical records were reviewed. The care and conduct of this physician were appropriate.

EE. CR 09-230

Dr. Oldham moved to dismiss CR 09-230. Dr. Gleaton seconded the motion, which passed unanimously.

The patient alleges that this physician assistant falsified his medical record. The patient subsequently has asked that his complaint be withdrawn. In accordance with Board policy, the complaint and medical records were reviewed. There is no evidence to support the patient's initial allegations.

FF. CR 09-231

Dr. Oldham moved to investigate further CR 09-231. Dr. Hatfield seconded the motion, which passed unanimously.

GG. CR 09-232

Dr. Oldham moved to investigate further CR 09-232. Dr. Hatfield seconded the motion, which passed unanimously.

HH. CR 09-236

Dr. Jones moved to investigate further CR 09-236. Dr. Gleaton seconded the motion, which passed unanimously.

II. CR 09-297 PETER C. FERRERA, M.D.

Dr. Hatfield moved to order an Adjudicatory Hearing in the matter of CR 09-297 Peter C. Ferrera, M.D. Dr. Dreher seconded the motion, which passed unanimously.

JJ. CR 09-127

Dr. Hatfield moved to investigate further CR 09-127. Dr. Gleaton seconded the motion, which passed unanimously.

KK. CR 09-233

Dr. Dreher moved to dismiss CR 09-233. Dr. Gleaton seconded the motion, which passed unanimously.

The patient complains his treating psychiatrist and the intensive community based treatment team had forced him into placing an unexpected financial windfall into a special trust which prevents others' access to it. A review of the records showed the patient was counseled, but not coerced, by them to pursue such a course of action to prevent the funds being rapidly consumed by the patient's court ordered extensive mental health care program. This was done through the patient's lawyer and provides only the patient access to the funds and then only in the controlled manner a trust requires.

The patient also expressed concern that his medication program was too complex. His medication program appears to be reasonable in response to his significant chronic mental health issues and his wish to be on as little medication as would allow functional safety.

V. INFORMAL CONFERENCE(S (none)

**NOON MEAL**

**PUBLIC SESSION**

VI. MINUTES

A. MINUTES OF JULY 14, 2009

Dr. Gleaton moved to approve the minutes of July 14, 2009 as amended. Dr. Dreher seconded the motion, which passed 6-0-1.

VII. NEW BUSINESS

Gordon Smith, Executive Vice President of Maine Medical Association told the Board the Nursing Board will be entering a contract with the Medical Professionals Health Program effective January 1, 2010. The program will be adding additional staff.

The Medical Professionals Health Program will be moving to a new office outside Maine Medical Association which will afford more confidentiality.

The Medical Professionals Health Program will be moving toward being its own entity as a 5011-(C) (3) corporation with independent management.

VIII. BOARD ORDERS & CONSENT AGREEMENT MONITORING AND APPROVAL

A. BOARD ORDERS (NONE)

B. Consent Agreement Monitoring and Approval

1. CR 05-079/06-183 THOMAS DeFANTI, M.D.

Dr. Nyberg moved to deny the request to rescind the consent agreement of Thomas DeFanti, M.D. because there has been no substantial change since the restrictions were imposed. Ms. Clukey seconded the motion, which passed unanimously.

2. CR 08-287 BENJAMIN BROWN, M.D.

Dr. Jones moved to approve Todd W. Miller, M.D. as Dr. Brown's monitor pending confirmation of Dr. Miller's board certification. Dr. Gleaton seconded the motion, which passed unanimously.

3. CR 04-099/05-052 JOHN L. NEWCOMB, M.D.

Dr. Gleaton moved to deny the request of Dr. Newcomb to release him from his consent agreement. Ms. Clukey seconded the motion, which passed 6-0-1.

4. CR 08-118 REINALDO de los HEROS, M.D. (FYI – report from monitor)

5. CR 07-390 JOSEPH D. RUFFNER, M.D. (FYI- course completion)

6. ANDREW J. FLETCHER, M.D. (Request to change substance abuse monitors)

Dr. Gleaton moved to approve the change of substance abuse monitors, pending the Medical Director's contact with the monitor outlining his responsibilities and confirming his experience with substance abuse problems. Dr. Dreher seconded the motion which passed 6-0-0-1 with Dr. Jones recused.

7. LESLIE TRIPP, M.D. (Consent Agreement FYI) [SEE APPENDIX A ATTACHED]

Dr. Tripp's license was summarily suspended at the July 14<sup>th</sup> meeting. The Board directed legal counsel to prepare a consent agreement for signature by all parties. The consent agreement was prepared and executed and presented to the Board for informational purposes.

8. CR 08-254 ROBERT BAROODY, M.D. [SEE APPENDIX B ATTACHED]

Dr. Gleaton moved to approve a consent agreement in the matter of Robert Baroody, M.D. CR 08-254. Dr. Jones seconded the motion which passed 6-0-0-1 with Dr. Dreher recused.

9. CR 08-051 THOMAS A. TARTER, M.D. [SEE APPENDIX C ATTACHED]

Dr. Dreher moved to accept the consent agreement to resolve the complaint against Dr. Thomas A. Tarter, M.D. CR 08-051. Dr. Nyberg seconded the motion which, passed unanimously.

IX. ADJUDICATORY HEARING (None)

X. REMARKS OF CHAIRMAN

Dr. Oldham said the standing committee assignments will be discussed at the October meeting during the strategic planning session.

XI. EXECUTIVE DIRECTOR'S MONTHLY REPORT

The Board accepted the report of the Executive Director.

XII. REMARKS OF ASSISTANT ATTORNEY GENERAL (None)

XIII SECRETARY'S REPORT

A. LIST A

1. LIST A LICENSES for RATIFICATION

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

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

<u>NAME</u>	<u>SPECIALTY</u>	<u>LOCATION</u>
Anderson, Cristan E.	Surgery	Rockport
Badia, Jennifer L.	Anesthesiology	Unknown
Bhaskar, Jayashri	Internal Medicine	Portland
Bertagnolli, Reono	Radiology	Not Listed
Bertocchi, Cristiana M.	General Surgery	Skowhegan
Bradfield, William K.	OB/GYN	Waterville
Castrucci, Hannah M.	Orthopedic Surgery	Bangor
Collins, Gregory A.	Family Medicine	Saco/Biddeford
Conners, Christopher J.	Diagnostic Radiology	Telemedicine
Cousins, Joseph P.	Diagnostic Radiology	Portland
Dodds, Heather L.	Emergency Medicine	Not Listed
Dolgasheva, Assol D.	Pediatrics	Norway
Feller, Joseph H.	General Surgery	Brunswick
Fremont-Smith, Maurice	Anatomic/Clinical Pathology	Cumberland County, York
Gean, Margaret P.	Psychiatry	Mt Desert Island
Gordon, Tawanna O.	OB/GYN	York
Hallen, Sarah A. M.	Internal Medicine/Geriatrics	Portland
Hartzheim, Paul	General Surgery	Caribou
Hossain, Shabbir M.	Internal Medicine	Caribou
Jalbuena, Tracy L.	Emergency Medicine	Rockport
Janas, JoAnn S.	Transfusion Medicine & Anatomic/Clinical Pathology	Portland
Konduri, Kameswari S.	Allergy & Immunology	Possibly Locums
Levin, Steven I.	Cardiovascular Surgery	Not Listed
Lombardi, Mary H.	Pediatrics	Calais
Oldenburg, Frederick P.	Orthopedic Surgery	Bangor
O'Mara, Thomas M.	Emergency Medicine	Portland
Pagonis, John J.	Family Practice	Belfast
Panozzo, Shashi K.	Family Medicine	Lewiston

Patel, Bindit S.	Internal Medicine	Not Listed
Pisciotto, Patricia T.	Pediatrics/Blood Banking	Portland/Bangor
Raef, Hussein	Internal Medicine	Biddeford
Ranganath, Arun	Internal Medicine	Augusta
Salabarria, Javier	Psychiatry	Not Listed
Sedlack, Jeffrey D.	Surgery	Belfast
Serna, Linda S.	Surgery	Rumford or Pittsfield
Smith, Jay C.	Family Medicine	Augusta
Sood, Arjun	Medical Oncology	Presque Isle
Sproul, Katherin A. M.	Anesthesiology	York
Tisdall, Philip A.	Anatomic / Clinical Pathology	Cumberland County, York
Vargo, Neeta M.	Diagnostic Radiology	Telemedicine
Weitenberner, Nicholas A.	Anesthesiology	Unknown
Whalen, Patrick	Anesthesiology	Lewiston
Whitesell, Dena L.	Psychiatry	Portland
Xie, Qingmei	Anatomic/Clinical Pathology & Hematopathology	Not Listed

2. P.A. LIST A LICENSES FOR RATIFICATION

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

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>
Lauren Fournier, PA-C	Active	John C. Baker, M.D.	Newport
Mark Goode, PA-C	Active	Mirle Kellett, M.D.	Portland
Alison Greer, PA-C	Active	Benjamin Huffard, M.D.	Portland
Alise Osis, PA-C	Inactive	NONE	NONE
Issac Ball, PA-C	Active	Carmen Crofoot, M.D.	Farmington
Essie McKinnon-Leach	Active	Patrick Maidman, M.D.	Biddeford
Amiee Kasperski, PA-C	Inactive	NONE	NONE
Ian Brewer, PA-C	Active	Cynthia Atkinson, M.D.	Portland
Lindsey Sprague, PA-C	Active	Kent Hall, M.D.	Sanford
Anthony Curro, PA-C	Active	David Johnson, M.D.	Kennebunk
Lisa Gordon, PA-C	Active	Jennifer A. Diehl, M.D.	Pittsfield
Ruth McNiff, PA-C	Active	Steven Diaz, M.D.	Waterville
Melinda Pearson, PA-C	Inactive	NONE	NONE
Alison Welsh, PA-C	Inactive	NONE	NONE
James Wilson, PA-C	Inactive	NONE	NONE

B. LIST B APPLICATIONS FOR INDIVIDUAL CONSIDERATION

1. MOHAMED H I KAMEL, M.D.

Dr. Kamel is requesting a waiver of the 7 year limit for passing all 3 steps of the USMLE and final review of his license application.

The Licensure Committee moved to grant a waiver of the 7 year limit for passing all 3 steps of the USMLE and to grant Dr. Kamel a license. The motion passed unanimously.

2. MITCHELL G. MOFFAT, M.D.

Dr. Moffat answered yes to questions 1, 4a & 4b, 6,7,8,9, & 12 and commented on question 12 of his license application.

The Licensure Committee moved to preliminarily deny the permanent license application of Mitchell G. Moffat, M.D. with leave to withdraw his application. The motion passed unanimously.

3. PATRICK PIERRE, M.D.

Dr. Pierre is requesting a waiver of the 7 year limit for passing all 3 steps of the USMLE and final review of his license application.

The Licensure Committee moved to grant a waiver of the 7 year limit for passing all 3 steps of the USMLE and grant Dr. Pierre a license. The motion passed unanimously.

4. THOMAS J. TARNAY, M.D.

The Licensure Committee moved to table Dr. Tarnay's license application. The motion passed unanimously.

5. CHRISTOPHER M. WATSON, M.D.

Dr. Watson's application was reviewed by the Licensure Committee because of a yes answer to question 7.

The Licensure Committee moved to grant Dr. Watson a license. The motion passed unanimously.

C. LIST C APPLICATIONS FOR REINSTATEMENT

1. M.D. LIST C.

Dr. Gleaton moved to grant reinstatement to the physicians on List C below. Dr. Jones seconded the motion, which passed unanimously.

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

<u>NAME</u>	<u>SPECIALTY</u>
Supple, Kelly A.	Occupational Medicine
Zadrowski, Matthew J.	General Surgery
Sanderson, Iain D.	Neurology

2. M.D. LIST C FOR INDIVIDUAL CONSIDERATION

a. JUANITO CHUA, M.D.

The Licensure Committee moved to table Dr. Chua's license application. The motion passed unanimously.

D. LIST D WITHDRAWALS

1. LIST D (1) WITHDRAW LICENSE APPLICATION (NONE)

2. LIST D (2) WITHDRAW LICENSE FROM REGISTRATION (NONE)

Dr. Gleaton 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 and physician assistants have applied to withdraw their licenses from registration:

<u>NAME</u>	<u>LICENSE NUMBER</u>
Siegel, Leo	009462
Yoo, Hoon	008212
Skau, Randell	017027
Baker, K. Drew	017759
Peistrup, Victorija	016515
Torre-hilotin, Temotea	016063
McKay, Douglas	017627
Melo, Maria	016793
Lowney, Richard	PA-340

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 July 23, 2009. (M.D. licenses expired on April 30, 2009 and PA licenses expired on March 31, 2009.)

<u>NAME</u>	<u>LICENSE NO.</u>
Ahn, Mary	015592
Ali, Sheikh Asim	017457
Arain, Abdul	007125
Bautista, Marieta Pascual	009249
Bunker, Robert B.	005324
Cheeran, Mary G.	010318
Chopra, Ishwar C.	008763
Etscovitz, Eli Abraham	004377
Ferre, Robinson	017157
Hassanyeh, Akram	010354
Leusner, Charles	015910
Lichauco, Macario	015508
McKenna, Arthur	017418
Panesar, Gunjan	015118
Pershhouse, Laura	016199
Prescott, Stacy	017274
Ptak, Thomas	015576
Rosengard, David	011296
Rosenson, Malcolm	016374
Schmitt, Stephanie	014179
Seeve, Leonard	016020
Skaf, Robert	009478
Stoane, Jason	017320
Strait, Paul	015483

<u>NAME</u>	<u>LICENSE NO</u>
Auer, David	PA001116
Briggs, Lynn	PA-429
Burke, Barbara	PA001091
Cichon, Alfred	PA-248
Clough, Christopher	PA-844
Cox, Helen	PA-448
Fisher, Rebecca	PA-760

F. LIST F LICENSEES REQUESTING TO CONVERT TO ACTIVE STATUS (NONE)

G. LIST G – RENEWAL APPLICATIONS FOR REVIEW

1. ROBERT COLCHER, M.D.

Dr. Robert Colcher’s renewal is being presented to the Board for review because of a yes answer, which involves treating of family and friends.

The Licensure Committee moved to renew Dr. Colcher's license and to send a letter to him explaining it is inappropriate to prescribe to family members and friends without maintaining appropriate medical records.

2. CHARLES BURDEN, M.D.

Dr. Charles Burden's renewal is being presented to the Board for review because of a yes answer, which involves renewing of his own prescriptions.

The Licensure Committee moved to renew Dr. Burden's license and to send Dr. Burden a letter stating self-prescribing is inappropriate.

3. GEORGE GRIFFIN III, M.D.

Dr. Griffin's renewal was presented because of a yes answer to question 14.2.

The Licensure Committee moved to place Dr. Griffin's renewal in pending status until matters with the Ohio Board are resolved.

H. LIST H – DELEGATED PRACTITIONER SCHEDULE II REQUESTS (RATIFICATION)

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

The following new 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>
Michele F. Jasinowski, ACNP	Thomas Hattan, M.D.	Freeport
Cheryl Whitney, PA-C	Shirley Fredrick, M.D.	South Berwick
Ryan Card, PA-C	Larry Hopperstead, M.D.	Auburn
Melissa Miller, PA-C	Michael Klein, M.D.	Waterville
Jeffrey Millett, FNP-C	David Carmack, M.D.	Bangor
Elizabeth Herdrich, ANP-C	Robert Cambria, M.D.	Bangor
Jennifer MCKeon, ANP-C	Robert Cambria, M.D.	Bangor
Ardelle Hollrock, FNP-C	Ashley Robertson, M.D.	Bangor
Sylvia Ingerson, APMH-NP	Deihl M. Snyder, M.D.	Bar Harbor

SCHEDULE II RENEWAL REQUESTS

<u>NAME</u>	<u>PSP</u>	<u>LOCATION</u>
Catherine Wilson, FNP	Deborah Peabody, M.D.	Belfast
Pamala Pellon-Irwin, FNP-C	Richard Long, M.D.	Bangor
Kathleen Forti-Gallant	Julie Long, M.D.	Bangor
Joseph Perocier, PA-C	Michael Regan, M.D.	Auburn
Nathan Haynes, PA-C	Paul R. Cain, M.D.	Auburn

XIV. STANDING COMMITTEE REPORTS

A. PERSONNEL & FINANCE COMMITTEE

1. YEAR-END FINANCIAL REPORT

The executive director reported for the Administrative Committee Chairperson, that the fiscal 2009 expenditures were less than budgeted due to the freeze in hiring of the medical director position. That position has now been filled. No fee increase is now anticipated in FY 2010 just beginning. The budget plan for the next four years is that the excess cash reserves will be spent down to a marginal level, with a small fee increase likely in July 2010 to assure a low level cash reserve.

2. STRATEGIC PLANNING MATERIALS

The Board will hold a strategic planning session as part of the October 13<sup>th</sup> meeting.

B. LEGISLATIVE & REGULATORY COMMITTEE

1. UPDATED CHANGES TO CHAPTER 11 RULES – USE OF CONTROLLED SUBSTANCES FOR TREATMENT OF PAIN

In response to LD 1193 which tasked the Board of Licensure in Medicine to convene a group of stakeholders to include the Board of Osteopathic Medicine, the Board of Dental Examiners, the Maine State Board of Nursing, the Board of Licensure in Podiatric Medicine, and the Board of Veterinary Medicine to develop common protocols for schedule II prescribing. The Boards have met and updated the current joint chapter 11 rules in place for the Medical and Osteopathic Board.

Dr. Dreher moved to approve the latest updates to Chapter 11 rules so they can go forward with other Boards for rulemaking. Dr. Nyberg seconded the motion, which passed 6-0 with Ms. Clukey out of the room.

XV. BOARD CORRESPONDENCE (none)

XVI. FYI

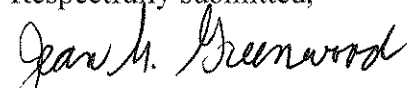
XVII. FSMB MATERIAL - FYI

XVIII. OTHER BUSINESS

XIX. ADJOURNMENT - 4:30 p.m.

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

Respectfully submitted,

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

Jean M. Greenwood  
Administrative Assistant  
Board Coordinator

STATE OF MAINE  
BOARD OF LICENSURE IN MEDICINE

In re: ) CONSENT  
Leslie N. Tripp, M.D. ) AGREEMENT  
Complaint No. CR09-299 )

This document is a Consent Agreement, effective when signed by all parties, regarding a disciplinary action against the license to practice medicine in the State of Maine held by Leslie N. Tripp, M.D. The parties to the Consent Agreement are: Leslie N. Tripp, M.D. (“Dr. Tripp”), 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. Tripp has held a license to practice medicine in the State of Maine since May 8, 1984. Dr. Tripp specializes in Family Practice.
2. On June 24, 2009, the Board received information indicating that Dr. Tripp resigned as a member of the medical staff at Southern Maine Medical Center (SMMC) and as an employee of PrimeCare Physician Services, PA (PrimeCare) shortly after two medical assistants had complained about inappropriate conduct by Dr. Tripp.
3. On June 30, 2009, the Board received a letter from Dr. Tripp dated June 26, 2009. In his letter to the Board, Dr. Tripp notified the Board of his resignation from SMMC and PrimeCare, and that he “would not be practicing medicine or treating patients in any context... for the foreseeable future.” In addition, Dr. Tripp’s letter stated:

I expect that you and the Board will learn that I resigned my position at SMMC PrimeCare and on the SMMC medical staff in connection with complaints that were made by two medical assistants at my former practice. I deeply regret my conduct towards them, and believe that part of my taking responsibility

for my conduct was to resign from practice.

4. Following the receipt of this information, an investigator with the Department of the Attorney General conducted separate interviews of the two female medical assistants, Ms. X and Ms. Y. Both Ms. X and Ms. Y separately told the investigator that they were medical assistants supervised by Dr. Tripp, and that they were also patients of Dr. Tripp. Both Ms. X and Ms. Y separately informed the investigator that Dr. Tripp had engaged in inappropriate sexual boundary violations with each of them.

5. On or about July 14, 2009, the Board reviewed the foregoing information and voted to summarily suspend Dr. Tripp's Maine medical license pursuant to 5 M.R.S. § 10004 based upon the imminent threat that his continued medical licensure posed to the public.

6. This Consent Agreement has been negotiated by the undersigned assistant attorney general and legal counsel for Dr. Tripp in attempt to resolve this matter without an adjudicatory hearing. Absent Dr. Tripp's acceptance of this Consent Agreement by signing and dating it in front of a notary public 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 July 31, 2009, the matter will be scheduled for an adjudicatory hearing.

7. By signing this Consent Agreement, Dr. Tripp waives any and all objections to, and hereby consents to the presentation of this Consent Agreement to the Board for possible ratification. Dr. Tripp also forever waives any arguments of bias or otherwise against any of the Board members in the event that the Board failed to ratify this proposed Consent Agreement.

#### COVENANTS

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

8. Dr. Tripp neither admits nor denies the facts with regard to complaint CR09-299; however, Dr. Tripp concedes that the Board has sufficient evidence from which it could reasonably conclude, based upon the information cited above, that he violated the following Board statutes and rules:

- a. 32 M.R.S. § 3282-A(2)F – Unprofessional conduct;
- b. 32 M.R.S. § 3282-A(2)H – Violation of any Board rule;
- c. Board Rule, Chapter 10 – Sexual Misconduct.

Dr. Tripp concedes that violating the foregoing statutes and rule constitutes grounds for discipline of his Maine medical license.

9. As discipline for the violations described in paragraph 8 above, Dr. Tripp agrees to the following sanctions, which take effect upon the execution<sup>1</sup> of this Consent Agreement:

- a. A REPRIMAND. Dr. Tripp is hereby reprimanded for the conduct described in this Consent Agreement, and the adverse impact of the conduct upon the practice of medicine.

- b. The IMMEDIATE AND PERMANENT VOLUNTARY SURRENDER of his license to practice medicine in the State of Maine. In complying with this provision, Dr. Tripp agrees that he will never again apply for any type<sup>2</sup> of medical license in the State of Maine.

10. Dr. Tripp waives his right to a hearing before the Board or any court regarding all findings, terms and conditions of this Consent Agreement. Dr. Tripp agrees that this Consent Agreement and Order is a final order resolving the complaint CR09-299. This Consent

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<sup>1</sup> For the purpose of this Consent Agreement, “execution” means that date on which the final signature is affixed to this Consent Agreement.

<sup>2</sup> The Board has the authority to issue Emergency, Temporary, and Permanent medical licenses. In addition, the Board has the authority to issue a license Limited to the Practice of Administrative Medicine. In complying with this section, should Dr. Tripp desire to apply in the future for any type of medical license, including a license limited to the practice of administrative medicine, he must first seek and obtain approval from the Board to do so pursuant to an amendment of this Consent Agreement.

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 Department of Attorney General. Any decision by the Board as a result of Dr. Tripp's request to modify this Consent Agreement need not be made pursuant to a hearing and is not appealable to any court.

11. The Board and the Department of the Attorney General may communicate and cooperate regarding Dr. Tripp 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. This Consent Agreement constitutes final disciplinary action that is reportable to the National Practitioner Data Bank, the Healthcare Integrity and Protection Data Bank, and the Federation of State Medical Boards.

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

15. Dr. Tripp 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, LESLIE N. TRIPP, 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: 7-29-2009


  
\_\_\_\_\_  
LESLIE N. TRIPP, M.D.

STATE OF Maine

Cumberland, S.S.

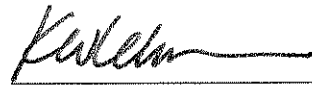
Personally appeared before me the above-named Leslie N. Tripp, M.D., and swore to the truth of the foregoing based upon his own personal knowledge, or upon information and belief, and so far as upon information and belief, he believes it to be true.

DATED: 7-29-2009

  
\_\_\_\_\_  
~~NOTARY PUBLIC~~/ATTORNEY  
Maine Bar # 3283


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

DATED: 7-29-2009

  
\_\_\_\_\_  
KENNETH W. LEHMAN, ESQ.  
Attorney for Leslie N. Tripp, M.D.


STATE OF MAINE  
BOARD OF LICENSURE IN MEDICINE

DATED: 7/31/09

  
\_\_\_\_\_  
GARY R. HATFIELD, M.D., Acting Chairman

STATE OF MAINE DEPARTMENT  
OF THE ATTORNEY GENERAL

DATED: 7/31/09

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

Effective Date:

STATE OF MAINE  
BOARD OF LICENSURE IN MEDICINE

In re: ) CONSENT  
Robert Baroody, M.D. ) AGREEMENT  
Complaint No. CR08-254 )

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 Robert Baroody, M.D. The parties to the Consent Agreement are: Robert Baroody, M.D. ("Dr. Baroody"), 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. Baroody has held a license to practice medicine in the State of Maine since October 3, 1980, and specializes in Family Practice.

2. On or about February 15, 2008, the Board received information from a representative of Blue Hill Memorial Hospital stating that he had received a report, that if true, may be of concern to the Board and a breach of professional ethics. The report included an allegation that Dr. Baroody was engaged in a personal relationship with a former patient, SY. In addition, that information alleged that Dr. Baroody's relationship with patient SY began when he was the primary care physician for both patient SY and her husband, NY. After receiving this information, the Board staff conducted further investigation, including interviewing former patient NY, obtaining various e-

mails allegedly exchanged between Dr. Baroody and former patient SY, and obtaining copies of Dr. Baroody's treatment records regarding patient NY and SY.

According to patient SY's medical records, Dr. Baroody began treating her for depression in January 2005. At that time, Dr. Baroody prescribed fluoxetine (Prozac) to SY to treat her depression. Between January 21, 2005 and July 3, 2007, Dr. Baroody saw patient SY on seventeen (17) occasions for issues related to depression. During those appointments with SY, Dr. Baroody repeatedly diagnosed her with "situational stresses" and "depression." In addition, Dr. Baroody treated patient SY with a number of different anti-depressant drugs, including fluoxetine (Prozac), Wellbutrin, amitriptyline, Zoloft, Lexapro, and Cymbalta. According to the patient records, as early as January 2006, patient SY confided in Dr. Baroody regarding her marital problems. According to the patient records, on July 3, 2007, Dr. Baroody saw patient SY for "situational stresses/depression." At that visit, patient SY told Dr. Baroody that she felt "somewhat caught in her situation at home" and "continues to see a marriage counselor, although her husband seems to be showing less interest... She still has not made any final decisions."

According to patient NY's medical records, on August 3, 2006, Dr. Baroody performed an annual medical review for patient NY, patient SY's husband. At that appointment, patient NY shared his previous diagnosis of "depression" with Dr. Baroody, whose assessment of patient NY included a diagnosis of "depression." Dr. Baroody noted that patient NY did not feel his

depression symptoms had been exacerbated by his recent cancer diagnosis. On November 2, 2006, Dr. Baroody saw patient NY for several issues, including “squamous cell carcinoma” and “depression.” Dr. Baroody continued to treat patient NY’s depression with Paxil. On March 16, 2007, Dr. Baroody saw patient NY for fatigue related to his radiation therapy for squamous cell carcinoma. At that visit, Dr. Baroody agreed to see patient NY in two months. On July 30, 2007, Dr. Baroody saw patient NY for “intermittent anxiety episodes/panic attacks.” According to Dr. Baroody’s notes of that visit, patient NY confided to him that “his wife recently reported that she does not feel she can go on with her marriage, and that they need to separate. He has found this stressful.” As treatment, Dr. Baroody recommended patient NY increase his dosage of Paxil, provided patient NY with lorazepam, and noted that patient NY be rechecked in two weeks.

3. On or about July 8, 2008, the Board reviewed the information provided by Blue Hill Memorial Hospital and the investigative materials obtained by the Board staff, and, pursuant to Title 32 M.R.S.A. § 3282-A, initiated a complaint against Dr. Baroody’s Maine medical license. The Board docketed that complaint as CR08-254.

4. On or about August 26, 2008, the Board received a written response from Dr. Baroody to complaint CR08-254. In his response, Dr. Baroody admitted that he had been the primary care physician for both patient SY and NY. However, Dr. Baroody denied that he started a personal relationship with SY when she was still his patient. According to Dr. Baroody,

his professional relationship with SY ended on July 6, 2007.<sup>1</sup> According to Dr. Baroody, his first sexual encounter with SY occurred on July 15, 2007.

According to Dr. Baroody, "it was clear by 2006 that the sole reason for her (SY) depression was the ongoing daily emotional and verbal abuse that her husband (NY) subjected her to." In addition, according to Dr. Baroody, "it became clear during the late winter or early spring of 2007 that she had left her marriage emotionally for some time and that it would never succeed. She felt trapped in her relationship... the marriage had been over for some time. SY made that very clear." Dr. Baroody admitted that he saw NY as a patient on July 30, 2007, two weeks after his first sexual encounter with NY's wife.

According to Dr. Baroody, this appointment with patient NY was an unexpected, urgent, add-on visit, and he felt it was his professional obligation to see NY. Dr. Baroody also felt that he should not disclose to NY his sexual relationship with NY's wife. Dr. Baroody alleged that even though he began a sexual relationship with SY while she was still living in a home with NY, their "marriage was over."

5. On or about September 9, 2008, the Board reviewed the complaint materials, including Dr. Baroody's response, and voted to schedule the matter for an adjudicatory hearing. In addition, the Board authorized its legal counsel to offer Dr. Baroody a Consent Agreement to resolve complaint CR08-254.

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<sup>1</sup> According to Dr. Baroody: he provided medical care to SY for 3 ½ years; prior to becoming his patient, he had known and worked with SY at his medical practice and the hospital; and had conversations with SY about the need to end their professional relationship prior to commencing a personal relationship.

6. This Consent Agreement has been negotiated by legal counsel for Dr. Baroody and legal counsel for the Board in order to resolve complaint CR08-254 without an adjudicatory hearing. Absent Dr. Baroody'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 August 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, the matter will be scheduled for an adjudicatory hearing.

7. By signing this Consent Agreement, Dr. Baroody 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. Baroody 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 failed to ratify this proposed Consent Agreement.

#### COVENANTS

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

8. Dr. Baroody admits that with regard to complaint CR08-254 the Board has sufficient evidence from which it could reasonably conclude that he engaged in unprofessional conduct by: (a) engaging in a personal/romantic relationship with patient SY, whom he had been treating for mental health issues; (b) engaging in a sexual relationship with former patient SY within ten

(10) days of ending their physician/patient relationship; and (c) engaging in a romantic/sexual relationship with SY, while still having a physician/patient relationship with SY's husband. Dr. Baroody admits that the Board has sufficient evidence from which it could conclude that such conduct constitutes unprofessional conduct and grounds for discipline of his Maine medical license pursuant to 32 M.R.S.A. § 3282-A(2)(F).

9. As discipline for the conduct described in paragraph 8 above, Dr. Baroody agrees to accept, and the Board agrees to issue, the following discipline:

a. A REPRIMAND. Dr. Baroody is hereby reprimanded by the Board for engaging in unethical and unprofessional conduct. Dr. Baroody agrees never to engage in this type of conduct again.

b. A MONETARY FINE of One Thousand Five Hundred Dollars and Zero Cents (\$1,500.00). Dr. Baroody shall ensure that he pays the monetary penalty within thirty (30) days following the execution 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 Board of Licensure in Medicine, 137 State House Station, Augusta, Maine 04333-0137.

c. A LICENSE SUSPENSION of thirty (30) days commencing upon the execution<sup>2</sup> of this Consent Agreement.

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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.

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

(i) Notify the Board in writing of any and all current locations where he practices medicine. In complying with this condition, Dr. Baroody shall notify the Board in writing of any change(s) in the location(s) of his practice of medicine within seven (7) days of any such change(s).

(ii) Permit the Board or its agent(s) complete access to his medical practice, including but not limited to all patient records, employee records, office records, and office equipment.

(iii) Permit the Board or its agent(s) to conduct random and/or announced inspections of his medical practice. Dr. Baroody shall bear the cost of any such inspection(s) by the Board or its agent(s).

(iv) 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. Baroody 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.

(vi) Within thirty (30) days following the execution of this Consent Agreement, Dr. Baroody must have a Board-approved practice monitor who shall monitor his medical practice. In complying with this requirement,

Dr. Baroody 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. Baroody and observe him within his medical practice at least once a week, and inform the Board if Dr. Baroody 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. Baroody understands that the monitoring physician will be an agent of the Board pursuant to Title 24 M.R.S. § 2511. Dr. Baroody shall permit the monitoring physician full access to his medical practice, including but not limited to all patient information. The Board-approved monitor shall provide the Board with reports regarding Dr. Baroody's medical practice on or before October 9<sup>th</sup>, January 9<sup>th</sup>, April 9<sup>th</sup>, and July 9<sup>th</sup> of each year following the execution of this Consent Agreement.

(vii) Within one (1) year of the execution of this Consent Agreement, Dr. Baroody shall reimburse the Board Two Thousand Three Hundred Fifty-Six Dollars Twenty-Five Cents (\$2,356.25) as the actual costs incurred by the Board for the investigation of this matter. Payment shall be made by certified check or money order made payable to "Maine Board of Licensure in Medicine" and be remitted to Maria MacDonald, Investigator, Maine Board of Licensure in Medicine, 137 State House Station, Augusta, Maine 04333-0137.

10. Violation by Dr. Baroody of any of the terms or conditions of this Consent Agreement shall constitute grounds for discipline, including but not limited to modification, suspension, or revocation of licensure or the denial of re-licensure.

11. Pursuant to 10 M.R.S.A. § 8003(5) the Board and Dr. Baroody 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.

12. Dr. Baroody waives his right to a hearing before the Board or any court regarding all findings, terms and conditions of this Consent Agreement. Dr. Baroody agrees that this Consent Agreement and Order is a final order resolving complaint CR08-254. 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. Baroody shall be made in writing and submitted to the Board. Dr. Baroody may, at reasonable intervals, petition the Board for amendment of the terms and conditions of this Consent Agreement. Upon making such a petition, Dr. Baroody shall bear the burden of demonstrating that the Board should amend the Consent Agreement. The Board shall have the discretion to: (a) deny Dr. Baroody's petition; (b) grant Dr. Baroody's petition; and/or (c) grant Dr. Baroody'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.

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

14. This Consent Agreement is a public record within the meaning of 1 M.R.S. § 402 and will be available for inspection and copying by the public pursuant to 1 M.R.S. § 408.

15. 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).

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

17. The Board and Dr. Baroody agree that no further agency or legal action will be initiated against him by the Board based upon the facts described herein<sup>3</sup>, 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. Baroody in the future. The Board may also consider the fact that discipline was imposed by this

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<sup>3</sup> The "facts described herein" include any future complaint by patient SY that Dr. Baroody engaged in unprofessional conduct by entering into or continuing a personal or sexual relationship with her.

Consent Agreement in determining appropriate discipline in any further complaints against Dr. Baroody's license.

18. Dr. Baroody 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 BAROODY, 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: 8/6/09 Robert Baroody  
ROBERT BAROODY, M.D.

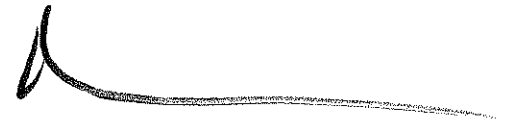
STATE OF Maine  
Hancock County, S.S.

Personally appeared before me the above-named Robert Baroody, 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: 8/6/09 Dianne B. Thompson  
NOTARY PUBLIC/ATTORNEY

MY COMMISSION ENDS: DIANNE B. THOMPSON  
NOTARY PUBLIC MAINE  
MY COMMISSION EXPIRES MAY 03, 2012

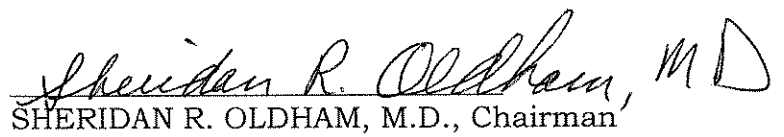
DATED: \_\_\_\_\_



HOLLY E. RUSSELL JONES, ESQ.  
ATTORNEY FOR ROBERT BAROODY,  
M.D.

STATE OF MAINE  
BOARD OF LICENSURE IN MEDICINE

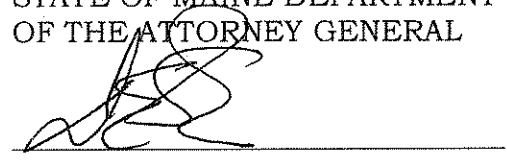
DATED: 09/08/2009



SHERIDAN R. OLDHAM, M.D., Chairman

STATE OF MAINE DEPARTMENT  
OF THE ATTORNEY GENERAL

DATED: 9/8/09



DENNIS E. SMITH  
Assistant Attorney General

Effective Date:

STATE OF MAINE  
BOARD OF LICENSURE IN MEDICINE

In re: ) CONSENT  
Thomas A. Tarter, M.D. ) AGREEMENT  
Complaint No. CR08-051 )

This document is a Consent Agreement, effective when signed by all parties, regarding discipline imposed upon the license to practice medicine in the State of Maine held by Thomas A. Tarter, M.D. The parties to the Consent Agreement are: Thomas A. Tarter, M.D. (“Dr. Tarter”), 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. On September 11, 2007, the Board received an application for a permanent Maine medical license from Dr. Tarter. According to that application, Dr. Tarter’s medical specialty is “Emergency Medicine,” in which he is board-certified. Dr. Tarter’s application for a permanent Maine medical license was not completed within one year.<sup>1</sup>

2. On September 25, 2007, the Board received an application for an emergency<sup>2</sup> medical license from Dr. Tarter. In support of his application, Dr. Tarter submitted a letter of need dated September 14, 2007, from Jay Reynolds, M.D., COO/CMO of The Aroostook Medical Center (TAMC) in Presque Isle, Maine, who requested that the Board issue Dr. Tarter

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<sup>1</sup> Pursuant to Board Rule Chapter 1, Section 4(6), “Any application that has been in file without action for one year shall be deemed administratively incomplete and discarded.” In accordance with this rule, Dr. Tarter’s application for a permanent license shall be discarded.

<sup>2</sup> Title 32 M.R.S. § 3278 permits the Board to issue a “100-day license” to a physician who presents “a current active unconditioned license from another United States licensing jurisdiction... to serve temporarily for declared emergencies in the State or for other appropriate reasons as determined by the board.” Pursuant to Board Rule Chapter 1, Section 5(1), applicants must submit a “Letter of Need which describes the circumstances which make the candidate eligible for the license.”

an emergency medical license in order to practice emergency medicine at that facility's Emergency Department.

3. On October 1, 2007, the Board issued Dr. Tarter a 100-day emergency medical license effective October 1, 2007 through January 9, 2008.

4. On January 28, 2008, the Board received a letter dated January 23, 2008, from Jay Reynolds M.D., COO/CMO of TAMC.<sup>3</sup> According to that letter, TAMC terminated its contract for Dr. Tarter's services effective December 21, 2007, due in part to his failure to complete patient medical charts.<sup>4</sup>

5. On or about March 3, 2008, the Board reviewed the foregoing information and voted to initiate a complaint against Dr. Tarter pursuant to 32 M.R.S. § 3282-A based in part upon his failure to complete patient medical records. The Board docketed the complaint as CR08-051.

6. On or about May 12, 2008, the Board received a response from Dr. Tarter to complaint CR08-051. In his response, Dr. Tarter did not deny the allegation of his failure to complete patient medical records or explain why he failed to do so. However, Dr. Tarter asserted that "it is not a basis for termination of or action against someone's license."

7. On or about March 10, 2009, the Board reviewed complaint CR08-051, including Dr. Tarter's application files, and his response to the complaint and voted to schedule complaint CR08-051 for an adjudicatory hearing.

8. This Consent Agreement has been negotiated by legal counsel for Dr. Tarter and legal counsel for the Board in order to resolve complaint CR08-051 without an adjudicatory hearing. Absent Dr. Tarter's acceptance of this Consent Agreement by signing and dating it in

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<sup>3</sup> Title 24 M.R.S. § 2506 requires a "healthcare provider or health care entity" to report the termination of employment or privileges to the Board within 60 days of such termination.

<sup>4</sup> At one point, Dr. Tarter reportedly had 110 outstanding patient medical charts requiring completion.

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 September 8, 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 September 8, 2009, the matter will be scheduled for an adjudicatory hearing.

9. By signing this Consent Agreement, Dr. Tarter 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. Tarter 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 fails to ratify this proposed Consent Agreement.

#### COVENANTS

In lieu of proceeding to an adjudicatory hearing in this matter, Dr. Tarter and the Board agree to the following :

10. Dr. Tarter admits that with regard to complaint CR08-051 the Board has sufficient evidence from which it could reasonably conclude that he engaged in unprofessional conduct in violation of 32 M.R.S. § 3282-A(2)(F)<sup>1</sup> because:

(a) Dr. Tarter did not timely complete patient medical records and in some cases failed to complete patient medical records after seeing and treating the patients in the Emergency Department at TAMC. Dr. Tarter asserts that he was willing to complete all of the records and offered to do so, but TAMC did not make arrangements for him to complete the records.

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<sup>1</sup> Title 32 M.R.S. § 3282-A(2)(F) defines unprofessional conduct as a violation of "a standard of professional behavior... that has been established in the practice for which the licensee is licensed."

(b) Accurate and complete medical records are critical to the continuing care of a patient, and are relied upon by other physicians, physician assistants, and nurses in providing subsequent medical care and treatment to the patient. Incomplete patient medical records may jeopardize a patient's subsequent medical care and treatment.

(c) Completing patient medical records is a standard of professional behavior that is established within the practice of medicine.

11. As discipline for the conduct described in paragraph 10 above pertaining to complaint CR08-051, Dr. Tarter agrees to accept, and the Board agrees to issue, the following discipline:

a. A REPRIMAND. Henceforth, Dr. Tarter agrees that he will complete all patient medical records following his care and treatment of patients.

b. A MONETARY FINE of One Thousand Dollars and Zero Cents (\$1,000.00). Dr. Tarter shall ensure that he pays the monetary penalty within thirty (30) days following the execution<sup>6</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 Board of Licensure in Medicine, 137 State House Station, Augusta, Maine 04333-0137.

12. Pursuant to 10 M.R.S. § 8003-D, Dr. Tarter agrees to reimburse the Board in the amount of Seven Thousand Four Hundred Fifty Dollars and Zero Cents (\$7,450.00) as costs for its investigation of Complaint No. 08-51. Dr. Tarter shall complete the reimbursement to the Board within twenty-four (24) months following the execution of this Consent Agreement.

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<sup>6</sup> For the purposes of this Consent Agreement, "execution" shall mean the date on which the final signature is affixed to this Consent Agreement.

13. Violation by Dr. Tarter 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.

14. Pursuant to 10 M.R.S. § 8003(5) the Board and Dr. Tarter agree that the Board has the authority to issue an order, following notice and hearing, imposing further discipline in the event that he fails to comply with any of the terms or conditions of this Consent Agreement.

15. Dr. Tarter waives his right to a hearing before the Board or any court regarding all findings, terms and conditions of this Consent Agreement. Dr. Tarter agrees that this Consent Agreement and Order is a final order resolving complaint CR08-051. This Consent Agreement is not appealable and is effective until modified or rescinded by agreement of all of the parties hereto.

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

17. 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.

18. 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). The report shall read substantially as follows: "The State of Maine Board of Licensure in Medicine issued a REPRIMAND and \$1,000 FINE to Dr. Tarter for unprofessional conduct based upon his failure to timely complete patient medical records and in some cases failure to complete patient medical

records. Dr. Tarter asserts that he was willing to complete all of the records and offered to do so, but TAMC did not make arrangements for him to complete the records.”

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

20. The Board and Dr. Tarter agree that no further agency or legal action will be initiated against him by the Board based upon the facts described herein or for any other allegations made by TAMC or which were contained in the complaint letter from the Board dated March 3, 2008, 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. Tarter 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. Tarter’s Maine medical license.<sup>7</sup>

21. Dr. Tarter 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, THOMAS A. TARTER, 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.**

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<sup>7</sup> Dr. Tarter does not currently hold a license to practice medicine in the State of Maine.

DATED: 09/08/2009 Thomas A. Tarter MD  
THOMAS A. TARTER, M.D.

STATE OF Indiana

County of MONROE, S.S.

Thomas A.

Personally appeared before me the above-named Benjamin Tarter, 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: 9/21/2009 James L. Whitlatch  
NOTARY PUBLIC/ATTORNEY  
James L. Whitlatch

MY COMMISSION ENDS: 3/18/2017

STATE OF MAINE  
BOARD OF LICENSURE IN MEDICINE

DATED: 09/08/09 Sheridan R. Oldham, MD  
SHERIDAN R. OLDHAM, M.D., Chairman

STATE OF MAINE DEPARTMENT  
OF THE ATTORNEY GENERAL

DATED: 9/8/09 Dennis E. Smith  
DENNIS E. SMITH  
Assistant Attorney General

Effective Date: