



STATE OF NEW YORK DEPARTMENT OF HEALTH

433 River Street, Suite 303 Troy, New York 12180-2299

Richard F. Daines, M.D.
Commissioner

James W. Clyne, Jr.
Executive Deputy Commissioner

September 1, 2009

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Robert E. Sterling, M.D.

Redacted Address

James Biondo, Esq.
Rosenblum & Newfield
1 Landmark Square – 5th Floor
Stamford, Connecticut 06901

Robert Bogan, Esq.
NYS Department of Health
Hedley Park Place
433 River Street – Suite 303
Troy, New York 12180-2299

RE: In the Matter of Robert E. Sterling, M.D.

Dear Parties:

Enclosed please find the Determination and Order (No. 09-163) of the Hearing Committee in the above referenced matter. This Determination and Order shall be deemed effective upon the receipt or seven (7) days after mailing by certified mail as per the provisions of §230, subdivision 10, paragraph (h) of the New York State Public Health Law.

As prescribed by the New York State Public Health Law §230, subdivision 10, paragraph (i), (McKinney Supp. 2007) and §230-c subdivisions 1 through 5, (McKinney Supp. 2007), "the determination of a committee on professional medical conduct may be reviewed by the Administrative Review Board for professional medical conduct." Either the Respondent or the Department may seek a review of a committee determination.

All notices of review must be served, by certified mail, upon the Administrative Review Board and the adverse party within fourteen (14) days of service and receipt of the enclosed Determination and Order.

The notice of review served on the Administrative Review Board should be forwarded to:

James F. Horan, Esq., Administrative Law Judge
New York State Department of Health
Bureau of Adjudication
Hedley Park Place
433 River Street, Fifth Floor
Troy, New York 12180

The parties shall have 30 days from the notice of appeal in which to file their briefs to the Administrative Review Board. Six copies of all papers must also be sent to the attention of Mr. Horan at the above address and one copy to the other party. The stipulated record in this matter shall consist of the official hearing transcript(s) and all documents in evidence.

Parties will be notified by mail of the Administrative Review Board's Determination and Order.

Sincerely,

Redacted Signature

James F. Horan, Acting Director
Bureau of Adjudication

JFH:cah

Enclosure

STATE OF NEW YORK: DEPARTMENT OF HEALTH
STATE BOARD FOR PROFESSIONAL MEDICAL CONDUCT

IN THE MATTER
OF
ROBERT E. STERLING, M.D.

DETERMINATION

AND

ORDER

BPMC #09-163

COPY

A hearing was held on July 23, 2009, at the offices of the New York State Department of Health ("the Petitioner"). A Notice of Referral Proceeding and a Statement of Charges, both dated November 6, 2008, were served upon the Respondent, **Robert E. Sterling, M.D.** Pursuant to Section 230(10)(e) of the Public Health Law, **Ravinder Mamtani, M.D., Chair, James T. Adams, M.D.,** and **Virginia R. Marty**, duly designated members of the State Board for Professional Medical Conduct, served as the Hearing Committee in this matter. **David A. Lenihan, Esq.**, Administrative Law Judge, served as the Administrative Officer.

The Petitioner appeared by **Thomas Conway, Esq.**, General Counsel, by **Robert Bogan, Esq.** and **Michael Bass, Esq.**, of Counsel. The Respondent appeared with counsel, **James Biondo, Esq.**, of Stamford, Connecticut.

Evidence was received and a transcript of these proceedings was made.

After consideration of the entire record, the Hearing Committee issues this Determination and Order.

STATEMENT OF THE CASE

This case was brought pursuant to Public Health Law Section 230(10)(p). The statute provides for an expedited hearing when a licensee is charged solely with a violation of Education Law Section 6530(9). In such cases, a licensee is charged with misconduct based upon a prior criminal conviction in New York State or another jurisdiction, or upon a prior administrative adjudication regarding conduct that would amount to professional misconduct, if committed in New York. The scope of an expedited hearing is limited to a determination of the nature and severity of the penalty to be imposed upon the licensee.

In the instant case, the Respondent is charged with professional misconduct pursuant to Education Law Section 6530(9)(b) by having been found guilty of professional misconduct by a duly authorized professional disciplinary agency of another state where the conduct upon which the finding was based would, if committed in New York state, constitute professional misconduct under the laws of New York state and also with violation of New York Education Law Section 6530(9)(d) by having disciplinary action taken by a duly authorized professional disciplinary agency of another state, where the conduct resulting in the disciplinary action would, if committed in New York state, constitute professional misconduct under the laws of New York state.

Copies of the Notice of Referral Proceeding and the Statement of Charges are attached to this Determination and Order as Appendix 1.

WITNESSES

For the Petitioner:

None

For the Respondent:

Robert E. Sterling, M.D.

By telephone:

Dr. Mark Beitel, PhD., Clinical Psychologist

FINDINGS OF FACT

The following Findings of Fact were made after a review of the entire record in this matter. Numbers below in parentheses refer to transcript page numbers or exhibits, denoted by the prefixes "T." or "Ex." These citations refer to evidence found persuasive by the Hearing Committee in arriving at a particular finding. Conflicting evidence, if any, was considered and rejected in favor of the cited evidence. All Hearing Committee findings were unanimous.

1. **Robert E. Sterling, M.D.**, the Respondent, was authorized to practice medicine in New York State on March 30, 1979, by the issuance of license number 137671 by the New York State Education Department (Petitioner's Ex. 4).
2. The Respondent was a licensed Medical Doctor in the State of Connecticut holding Connecticut license number 025666. (Petitioner's Ex. 5),
3. The Respondent was charged, in 2008, in the State of Connecticut, with abuse of alcohol and/or excessive use of alcohol. The Respondent acknowledged this allegation in a consent agreement before the Connecticut Department of Public Health and he entered into a consent agreement pursuant to Chapter 370 of the General Statutes of Connecticut in August of 2008, which placed him in a five-year rehabilitation program. (Petitioner's Ex. 5.)
4. The Respondent signed the above stated Consent Order of Probation on August 8, 2008. (Petitioner's Exhibit # 5.)
5. The Respondent is conditionally licensed to practice medicine in the State of Maine pursuant to a Consent Agreement with the Board of Licensure in Medicine, which the Respondent signed on July 2, 2009. The Maine Consent Agreement and Conditional License makes reference to the above Connecticut Consent Order of Probation and it imposes its own five-year term of probation. (Petitioner's Exhibit # 6.)

VOTE OF THE HEARING COMMITTEE

FIRST SPECIFICATION

Respondent violated New York Education Law Section 6530(9)(b) by having been found guilty of improper professional practice or professional misconduct by a duly authorized professional disciplinary agency of another state where the conduct upon which the finding was based would, if committed in New York State, constitute professional misconduct in New York State. The Conduct specified was an abuse of alcohol or excessive use of alcohol by the Respondent.

VOTE: Sustained (3-0)

SECOND SPECIFICATION

Respondent violated New York Education Law Section 6530(9)(d) by having disciplinary action taken by a duly authorized professional disciplinary agency of another state where the conduct upon which the finding was based would, if committed in New York State, constitute professional misconduct in New York State, in that Respondent had his license to practice medicine placed on probation in both Connecticut and Maine due to an abuse of alcohol or excessive use of alcohol by the Respondent.

VOTE: Sustained (3-0)

HEARING COMMITTEE DETERMINATION

The record in this case shows that the Respondent was authorized to practice medicine in New York State on March 30, 1979, by the issuance of license number 137671 by the New

York State Education Department and that he was also a licensed Medical Doctor in the State of Connecticut holding a Connecticut medical license # 025666. It is noted that the Respondent is also licensed, as of a week before the hearing, in the State of Maine. The Respondent is conditionally licensed to practice medicine in the State of Maine pursuant to a Consent Agreement with the Board of Licensure in Medicine, which the Respondent signed on July 2, 2009. (Petitioner's Exhibit # 6.)

The Respondent testified on his own behalf (T. 16 *et seq.*) and did not deny the fact that he entered the above Consent Orders in the States of Connecticut and Maine and that he was currently on a five-year probation for his conduct, by order of the Boards of these States.

The panel was impressed with the frankness and integrity of the respondent. They recognized that he has been fully compliant with the requests of the medical boards in both Connecticut and Maine and that his efforts to maintain sobriety have gone above and beyond the requirements of the disciplinary boards. Of significance was the fact that it was the Respondent himself who reported his condition and that he sought help on his own and that there have been no claims of direct patient harm and that there have been no standard of care issues directed against him by either State. The record shows that no allegation about his clinical competency or skill has ever been directed against him.

It was also noted that the Department's attorney did not ask for revocation but only one year of stayed suspension and five years of probation. The panel was of the opinion, unanimously, that such a penalty would be excessive in view of all the circumstances in this case. The panel did not wish to impose any suspension and decided that the people of New York would be adequately protected by a term of probation, co-terminus with those already in place in both Connecticut and Maine. The panel decided that such a penalty would suffice to protect the people of the State of New York.

ORDER

IT IS HEREBY ORDERED THAT:

1. The specifications of professional misconduct, as set forth in the Statement of Charges, are **SUSTAINED**.
2. Respondent is placed on a term of probation co-terminus and concurrent with the Connecticut probation and the Maine probation. The terms of the Connecticut probation are attached hereto as Appendix 2 and are incorporated into this Order. The terms of the Maine probation are attached hereto as Appendix 3 and are incorporated into this Order.
3. Respondent shall conduct himself in all ways in a manner befitting his professional status, and shall conform fully to the moral and professional standards of conduct and obligations imposed by law and by his profession.
4. Respondent shall submit written notification to the New York State Department of Health addressed to the Director, Office of Professional Medical Conduct (OPMC), Hedley Park Place, 433 River Street Suite 303, Troy, New York 12180-2299; said notice is to include a full description of any employment and practice, professional and residential addresses and telephone numbers within or without New York State, and any and all investigations, charges, convictions or disciplinary actions by any local, state or federal agency, institution or facility, within thirty days of each action.
5. Respondent shall fully cooperate with and respond in a timely manner to requests from OPMC to provide written periodic verification of Respondent's compliance with the terms of this Order. Respondent shall personally meet with a person designated by the Director of OPMC as requested by the Director.
6. The Respondent must comply with the terms and conditions of his Connecticut and Maine Orders and any extensions and/or modifications thereof and shall fully cooperate with and respond in a timely manner to requests from OPMC to provide written periodic verification

of the Respondent's compliance with the terms of those Orders and shall personally meet with a person designated by OPMC when so requested. The Respondent shall authorize the Connecticut and Maine Boards to provide OPMC with any and all documentation that OPMC requests regarding the Respondent's compliance with said Orders. The terms of the Connecticut probation are attached hereto as Appendix 2 and are incorporated into this Order. The terms of the Maine probation are attached hereto as Appendix 3 and are incorporated into this Order.

7. Should the Respondent return to New York State to practice medicine, prior to the termination of his probation in either Connecticut or Maine, the Respondent shall provide 90 days advance written notice to the New York State Department of Health, addressed to the Director OPMC, Hedley Park Place, 433 River Street, Suite 303, Troy, NY 12180-2299, of his intention to return; said notice must include the Respondent's current mailing address and telephone number(s) and letters from the Connecticut and Maine Boards reporting the status of the Respondent's compliance with their Orders. In the event of such an application, at the request of OPMC, the Respondent may be required to appear in person at the offices of OPMC, to meet with a person or persons designated by the Director of OPMC in order for the Respondent to discuss his practice plan and plan for continued recovery from alcohol and/or substance abuse and the status of his Connecticut and Maine Orders. The Director of OPMC may, at his or her discretion, determine what terms, conditions and/or limitations to impose upon the Respondent's proposed practice in New York State. The Respondent will be required to comply with all terms, conditions and limitations imposed by the Director of OPMC.

8. Respondent's professional performance may be reviewed by the Director of OPMC. This review may include, but shall not be limited to, a review of office records, patient records and/or hospital charts, interviews with or periodic visits with Respondent and his/her staff at practice

locations or OPMC offices.

9. The Respondent shall give written authorization for the Connecticut and Maine Boards to provide information concerning the Respondent and his probation to OPMC.
10. In January and July of each year for the remainder of his probation in Connecticut and Maine, the Respondent shall provide OPMC with a signed declaration of compliance with the terms of the Connecticut and Maine probations.
11. Upon receipt of evidence of noncompliance with the terms of probation, OPMC or the State Board for Professional Medical Conduct may initiate a violation of probation proceeding and/or any other proceeding against the Respondent as may be authorized by law.
12. This Order shall be effective upon service on the Respondent in accordance with the requirements of Public Health Law Section 230(10)(h).

DATED: Hopewell Junction, New York
August 29, 2009

Redacted Signature

Aug 29, 09

Ravinder Mamtani, M.D., Chair,

James T. Adams, M.D.,
Virginia R. Marty

TO: Robert E. Sterling, M.D.
Respondent

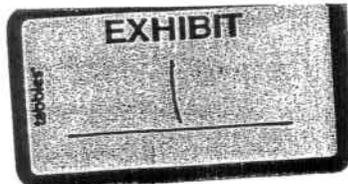
Redacted Address

James Biondo, Esq.,
Attorney for Respondent
Rosenblum & Newfield
1 Landmark Square, 5th Floor
Stamford, CT 06901

Robert Bogan, Esq.
Attorney for Petitioner
Associate Counsel
NYS Department of Health
Bureau of Professional Medical Conduct
433 River Street, Suite 303
Troy, New York 12180-2299

APPENDIX 1

STATE OF NEW YORK DEPARTMENT OF HEALTH
STATE BOARD FOR PROFESSIONAL MEDICAL CONDUCT



IN THE MATTER
OF
ROBERT E. STERLING, M.D.
CO-08-07-4643-A

NOTICE OF
REFERRAL
PROCEEDING

TO: ROBERT E. STERLING, M.D.
Redacted Address

PLEASE TAKE NOTICE THAT:

An adjudicatory proceeding will be held pursuant to the provisions of New York Public Health Law §§230(10)(p) and New York State Administrative Procedures Act §§301-307 and 401. The proceeding will be conducted before a committee on professional conduct of the State Board for Professional Medical Conduct (Committee) on the 16th day of December, 2008, at 10:00 a.m., at the offices of the New York State Department of Health, Hedley Park Place, 433 River Street, 5th Floor, Troy, NY 12180.

At the proceeding, evidence will be received concerning the allegations set forth in the Statement of Charges, which is attached. A stenographic record of the proceeding will be made and the witnesses at the proceeding will be sworn and examined.

You may appear in person at the proceeding and may be represented by counsel who shall be an attorney admitted to practice in New York state. You may produce evidence or sworn testimony on your behalf. Such evidence or sworn testimony shall be strictly limited to evidence and testimony relating to the nature and severity of the penalty to be imposed upon the licensee. Where the charges are based on the conviction of state law crimes in other jurisdictions, evidence may be offered which would show that the conviction would not be a crime in New York State. The Committee also may limit the number of witnesses whose testimony will be received, as well as the length of time any witness will be permitted to testify.

If you intend to present sworn testimony, the number of witnesses and an estimate of the time necessary for their direct examination must be submitted to the New York State Department of Health, Division of Legal Affairs, Bureau of Adjudication, Hedley Park Place, 433 River Street, Fifth Floor South, Troy, NY 12180, ATTENTION: HON. SEAN D. O'BRIEN, DIRECTOR, BUREAU OF ADJUDICATION (Telephone: (518-402-0748), (henceforth "Bureau of Adjudication") as well as the Department of Health attorney indicated below, no later than ten days prior to the scheduled date of the Referral Proceeding, as indicated above.

Pursuant to the provisions of New York Public Health Law §230(10)(p), you shall file a written answer to each of the charges and allegations in the Statement of Charges not less than ten days prior to the date of the hearing. Any charge or allegation not so answered shall be deemed admitted. You may wish to seek the advice of counsel prior to filing such answer. The answer shall be filed with the Bureau of Adjudication, at the address indicated above, and a copy shall be forwarded to the attorney for the Department of Health whose name appears below. You may file a written brief and affidavits with the Committee. Six copies of all papers you submit must be filed with the Bureau of Adjudication at the address indicated above, no later than fourteen days prior to the scheduled date of the Referral Proceeding, and a copy of all papers must be served on the same date on the Department of Health attorney indicated below. Pursuant to §301(5) of the State Administrative Procedure Act, the Department, upon reasonable notice, will provide at no charge a qualified interpreter of the deaf to interpret the proceedings to, and the testimony of, any deaf person. Pursuant to the terms of New York State Administrative Procedure Act §401 and 10 N.Y.C.R.R. §51.8(b), the Petitioner hereby demands disclosure of the evidence that the Respondent intends to introduce at the hearing, including the names of witnesses, a list of and copies of documentary evidence and a description of physical or other evidence which cannot be photocopied.

The proceeding may be held whether or not you appear. Please note that requests for adjournments must be made in writing to the Bureau of Adjudication, at the address indicated above, with a copy of the request to the attorney for the Department of Health, whose name appears below, at least five days prior to the scheduled date of the proceeding. Adjournment requests are not routinely granted. Claims of court engagement will require detailed affidavits of actual engagement. Claims of illness will

require medical documentation. Failure to obtain an attorney within a reasonable period of time prior to the proceeding will not be grounds for an adjournment.

The Committee will make a written report of its findings, conclusions as to guilt, and a determination. Such determination may be reviewed by the administrative review board for professional medical conduct.

SINCE THESE PROCEEDINGS MAY RESULT IN A DETERMINATION THAT SUSPENDS OR REVOKES YOUR LICENSE TO PRACTICE MEDICINE IN NEW YORK STATE AND/OR IMPOSES A FINE FOR EACH OFFENSE CHARGED, YOU ARE URGED TO OBTAIN AN ATTORNEY TO REPRESENT YOU IN THIS MATTER.

DATED: Albany, New York
Nov. 6, 2008

Redacted Signature

PETER D. VAN BUREN
Deputy Counsel
Bureau of Professional Medical Conduct

Inquiries should be addressed to:

Robert Bogan
Associate Counsel
New York State Department of Health
Office of Professional Medical Conduct
433 River Street – Suite 303
Troy, New York 12180
(518) 402-0828

STATE OF NEW YORK : DEPARTMENT OF HEALTH
STATE BOARD FOR PROFESSIONAL MEDICAL CONDUCT

IN THE MATTER
OF
ROBERT E. STERLING, M.D.
CO-08-07-4643-A

STATEMENT
OF
CHARGES

ROBERT E. STERLING, M.D., Respondent, was authorized to practice medicine in New York state on March 30, 1979, by the issuance of license number 137671 by the New York State Education Department.

FACTUAL ALLEGATIONS

A. On or about July 19, 2008, the State of Connecticut, Department of Public Health, Healthcare Systems Branch, (hereinafter "Connecticut Board"), by a Consent Order (hereinafter "Connecticut Order"), inter alia, placed Respondent's license to practice medicine and surgery on five (5) years probation subject to terms and conditions, based on "(d)uring the course of the past ten years, respondent has abused and/or utilized to excess alcohol."

B. The conduct resulting in the Connecticut Board disciplinary action against Respondent would constitute misconduct under the laws of New York state, pursuant to the following sections of New York state law:

1. New York Education Law §6530(8) (being a habitual abuser of alcohol);

SPECIFICATIONS
FIRST SPECIFICATION

Respondent violated New York Education Law §6530(9)(b) by having been found guilty of improper professional practice or professional misconduct by a duly authorized professional disciplinary agency of another state where the conduct upon which the finding was based would, if committed in New York state, constitute professional misconduct under the laws of New York state, in that Petitioner charges:

1. The facts in Paragraphs A and/or B.

SECOND SPECIFICATION

Respondent violated New York State Education Law §6530 (9)(d) by having disciplinary action taken by a duly authorized professional disciplinary agency of another state, where the conduct resulting in the disciplinary action would, if committed in New York state, constitute professional misconduct under the laws of New York state, in that Petitioner charges:

2. The facts in Paragraphs A and/or B.

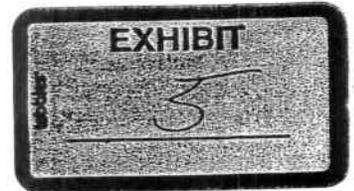
DATED: *Nov. 6*, 2008
Albany, New York

Redacted Signature

PETER D. VAN BUREN
Deputy Counsel
Bureau of Professional Medical Conduct

APPENDIX 2

STATE OF CONNECTICUT
DEPARTMENT OF PUBLIC HEALTH
HEALTHCARE SYSTEMS BRANCH



In re: Robert Sterling, M.D.

Petition No. 2008-0513-001-080

CONSENT ORDER

WHEREAS, Robert Sterling of Norwalk, Connecticut (hereinafter "respondent") has been issued license number 025666 to practice as a physician and surgeon by the Department of Public Health (hereinafter "the Department") pursuant to Chapter 370 of the General Statutes of Connecticut, as amended; and,

WHEREAS, the Department alleges and respondent admits that:

1. During the course of the past ten years, respondent has abused and/or utilized to excess alcohol.
2. The above described facts constitute grounds for disciplinary action pursuant to the General Statutes of Connecticut, §20-13c, including, but not limited to, §20-13c(3).

WHEREAS, respondent, in consideration of this Consent Order, has chosen not to contest this matter and agrees that for purposes of this or any future proceedings before the Connecticut Medical Examining Board (hereinafter "the Board"), this Consent Order shall have the same effect as if proven and ordered after a full hearing held pursuant to §§19a-10, 19a-14 and 20-13c of the General Statutes of Connecticut.

ORIGINAL

NOW THEREFORE, pursuant to §§19a-14, 19a-17 and 20-13c of the General Statutes of Connecticut, respondent hereby stipulates and agrees to the following:

1. Respondent waives his right to a hearing on the merits of this matter.
2. Respondent's license shall be placed on probation for a period of five (5) years under the following terms and conditions:
 - a. Respondent shall participate in regularly scheduled therapy at his own expense with a licensed psychiatrist or psychologist, pre-approved by the Department (hereinafter "therapist").
 - (1) Respondent shall provide a copy of this Consent Order to his therapist.
 - (2) Respondent's therapist shall furnish written confirmation to the Department of his or her engagement in that capacity and receipt of a copy of this Consent Order within fifteen (15) days of the effective date of this Consent Order.
 - (3) If the therapist determines that therapy is no longer necessary, that a reduction in frequency of therapy sessions is warranted, or that respondent should be transferred to another therapist, the therapist shall advise the Department, and the Department shall pre-approve said termination of therapy, reduction in frequency of therapy sessions, and/or respondent's transfer to another therapist.
 - (4) The therapist shall submit reports monthly for the duration of probation which shall address, but not necessarily be limited to, respondent's ability to practice as a physician in an alcohol and substance free state safely and competently. Said reports shall continue until the therapist determines that therapy is no longer necessary or the period of probation has terminated.
 - (5) The therapist shall immediately notify the Department in writing if the therapist believes respondent's continued practice poses a danger to the

public, or if respondent discontinues therapy and/or terminates his or her services.

b. During the entire five year probation, respondent shall refrain from the ingestion of alcohol in any form and the ingestion, inhalation, injection or other use of any controlled substance and/or legend drug unless prescribed or recommended for a legitimate therapeutic purpose by a licensed health care professional authorized to prescribe medications. Respondent shall inform said licensed health care professional of respondent's substance abuse history. In the event a medical condition arises requiring treatment utilizing controlled substances, legend drugs, or alcohol in any form, respondent shall notify the Department and, upon request, provide such written documentation of the treatment as is deemed necessary by the Department.

(1) During the first two years of the probationary period, respondent at his own expense, shall submit to two (2) random observed urine screens weekly for alcohol, controlled substances, and legend drugs; in accordance with Department Requirements for Drug and Alcohol Screens, attached hereto marked as 'Attachment A: Department Requirements for Drug and Alcohol Screens'; during the third and fourth years, he shall submit to one (1) such screen on a weekly basis; during the fifth year of the probationary period, respondent shall submit to one such screen on a monthly basis. Respondent shall submit to such screens on a more frequent basis if requested to do so by the therapist or the Department. Said screens shall be administered by a facility approved by the Department. All such random screens shall be legally defensible in that the specimen donor and chain of custody shall be identified.

throughout the screening process. All laboratory reports shall state that the chain of custody procedure has been followed.

- (2) Laboratory reports of random alcohol and drug screens and/or any other drug or alcohol related laboratory reports, including but not limited to results of DNA testing, shall be submitted directly to the Board and the Department by the testing laboratory. All such screens shall be negative for alcohol, controlled substances, and legend drugs, except for medications prescribed by respondent's physician. If respondent has a positive urine screen, the facility shall immediately notify the Department. All positive random drug and alcohol screens shall be confirmed by gas chromatograph/mass spectrometer testing.
- (3) Respondent understands and agrees that if he fails to submit a urine sample when requested by his monitor, such missed screen shall be deemed a positive screen.
- (4) Respondent shall notify each of his health care professionals of all medications prescribed for him by any and all other health care professionals.
- (5) Respondent is hereby advised that the ingestion of poppy seeds, mouthwash and over the counter cough or cold medicines or remedies has from time to time, been raised as a defense to a positive screen result for morphine, opiates and/or alcohol. For that reason, respondent agrees to refrain from ingesting poppy seeds in any food substances, mouthwash and over the counter cough or cold medicines or remedies during the term of this Consent Order. In the event respondent has a positive screen for morphine, opiates and/or alcohol, respondent agrees that the ingestion of poppy seeds and/or mouthwash and/or

over the counter cough or cold medicines or remedies shall not constitute a defense to such a screen.

- c. During the entire five (5) year probation, respondent shall attend "anonymous" or support group meetings on an average of at least ten (10) times per month, and shall provide quarterly reports to the Department concerning his record of attendance.
- d. During the period of probation, respondent shall report to the Department any arrest under the provisions of Connecticut General Statutes section 14-227a. Such report shall occur within fifteen (15) days of such event.
- e. Respondent shall provide his chief of service, chair, employer, partner and/or associate at any hospital, clinic, partnership and/or association at which he is employed or with which he is affiliated or has privileges where respondent practices as a physician throughout the probationary period, with a copy of this Consent Order within fifteen (15) days of its effective date, or within fifteen (15) days of commencement of employment or practice at a new facility. Respondent agrees to provide reports from such employer on a quarterly basis for the duration of the probationary period, stating that respondent is practicing with reasonable skill and safety and in an alcohol and substance-free state.
- f. During the period of probation, respondent shall only practice medicine in an office and practice setting that includes other physicians.

3. All correspondence and reports are to be addressed to:

Bonnie Pinkerton, Nurse Consultant
Department of Public Health
410 Capitol Avenue, MS #12HSR
P.O. Box 340308
Hartford, CT 06134-0308

4. All reports required by the terms of this Consent Order shall be due according to a

schedule to be established by the Department of Public Health.

5. Respondent shall comply with all state and federal statutes and regulations applicable to his licensure.
6. Respondent shall pay all costs necessary to comply with this Consent Order.
7. Any alleged violation of any provision of this Consent Order may result in the following procedures at the discretion of the Department:
 - a. The Department shall notify respondent in writing by first-class mail that the term(s) of this Consent Order have been violated, provided that no prior written consent for deviation from said term(s) has been granted.
 - b. Said notification shall include the acts or omission(s) which violate the term(s) of this Consent Order.
 - c. Respondent shall be allowed fifteen (15) days from the date of the mailing of notification required in paragraph 7a above to demonstrate to the satisfaction of the Department that he has complied with the terms of this Consent Order or, in the alternative, that he has cured the violation in question.
 - d. If respondent does not demonstrate compliance or cure the violation within the fifteen (15) days specified in the notification of violation to the satisfaction of the Department, he shall be entitled to a hearing before the Board which shall make a final determination of the disciplinary action to be taken.
 - e. Evidence presented to the Board by either the Department or respondent in any such hearing shall be limited to the alleged violation(s) of the term(s) of this Consent Order.
8. If, during the period of probation, respondent practices as a physician and surgeon outside Connecticut, he shall provide written notice to the Department concerning such employment. During such time period, respondent shall not be responsible for complying with the terms of probation of this

Consent Order, and such time period shall not be counted in reducing the probationary period covered by this Consent Order. Respondent may comply with the terms of probation while practicing outside Connecticut, if pre-approved by the Department. In the event respondent intends to return to the practice of medicine in Connecticut, respondent agrees to comply with all terms and conditions contained in paragraph 2 above.

9. In the event respondent violates any term of this Consent Order, said violation may also constitute grounds for the Department to seek a summary suspension of his license before the Board.
10. Legal notice shall be sufficient if sent to respondent's last known address of record reported to the Practitioner Licensing and Investigations Section of the Healthcare Systems Branch of the Department.
11. This Consent Order is effective on the first day of the month immediately following the date this Consent Order is accepted and ordered by the Board.
12. Respondent understands this Consent Order may be considered as a public document and evidence of the above admitted violations in any proceeding before the Board in which his compliance with this Consent Order or with §20-13c of the General Statutes of Connecticut, as amended, is at issue. Further, respondent understands that the discipline imposed by this Consent Order shall be reported to the National Practitioner Data Bank and that all disciplinary actions will appear on his physician profile pursuant to Connecticut General Statutes 20-13j.
13. In the event respondent violates a term of this Consent Order, respondent agrees immediately to refrain from practicing as a physician and surgeon, upon request by the Department, for a period not to exceed 45 days. During that time period, respondent further agrees to cooperate with the Department in its investigation of the violation, and to submit to and complete a medical, psychiatric or psychological evaluation, if requested to

do so by the Department; and, that the results of the evaluation shall be submitted directly to the Department. Respondent further agrees that failure to cooperate with the Department in its investigation during said 45 day period shall constitute grounds for the Department to seek a summary suspension of respondent's license. In any such summary action, respondent stipulates that failure to cooperate with the Department's investigation shall be considered by the Board and shall, as a matter of law, constitute a clear and immediate danger as required pursuant to Connecticut General Statutes, sections 4-182(c) and 19a-17(c). The Department and respondent understand that the Board has complete and final discretion as to whether a summary suspension is ordered.

14. Any extension of time or grace period for reporting granted by the Department shall not be a waiver or preclude the Department from taking action at a later time. The Department shall not be required to grant future extensions of time or grace periods.
15. This Consent Order and terms set forth herein are not subject to reconsideration, collateral attack or judicial review under any form or in any forum. Further, this Order is not subject to appeal or review under the provisions of Chapters 54 or 368a of the General Statutes of Connecticut, provided that this stipulation shall not deprive respondent of any rights that he may have under the laws of the State of Connecticut or of the United States.
16. This Consent Order is a revocable offer of settlement which may be modified by mutual agreement or withdrawn by the Department at any time prior to its being executed by the last signatory.
17. Respondent permits a representative of the Legal Office of the Healthcare Systems Branch to present this Consent Order and the factual basis for this Consent Order to the Board. Respondent understands that the Board has complete and final discretion as to whether this executed Consent Order is approved or accepted.

18. Respondent understands and agrees that he is responsible for satisfying all of the terms of this Consent Order during vacations and other periods in which he is away from his residence.
19. Respondent has the right to consult with an attorney prior to signing this document.
20. The execution of this document has no bearing on any criminal liability without the written consent of the Director of the Medicaid Fraud Control Unit or the Bureau Chief of the Division of Criminal Justice's Statewide Prosecution Bureau.

I, Robert Sterling, have read the above Consent Order, and I stipulate and agree to the terms as set forth therein. I further declare the execution of this Consent Order to be my free act and deed.

Redacted Signature

Robert Sterling, M.D.

Subscribed and sworn to before me this 8th day of AUGUST 2008.

Redacted Signature

Notary Public or person authorized by law to administer an oath or affirmation MY COMMISSION EXPIRES 06/30/10

The above Consent Order having been presented to the duly appointed agent of the Commissioner of the Department of Public Health on the 18th day of August 2008, it is hereby accepted.

Redacted Signature

Jennifer Filippone, Section Chief
Practitioner Licensing and Investigations
Healthcare Systems Branch

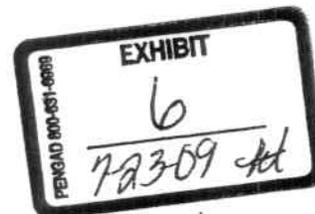
The above Consent Order having been presented to the duly appointed agent of the Connecticut Medical Examining Board on the 19 day of July 2008, it is hereby ordered and accepted.

Redacted Signature

Connecticut Medical Examining Board

APPENDIX 3

STATE OF MAINE
BOARD OF LICENSURE IN MEDICINE



In re:) CONSENT AGREEMENT
Robert E. Sterling, M.D.) FOR
Application for Medical Licensure) CONDITIONAL LICENSURE
)

This document is a Consent Agreement for Conditional Licensure, effective when signed by all parties, regarding probation and conditions imposed upon the license to practice medicine in the State of Maine issued to Robert E. Sterling, M.D. The parties to the Consent Agreement for Conditional Licensure are: Robert E. Sterling, M.D. ("Dr. Sterling"), 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. § 8003(5)(B) and 32 M.R.S. § 3282-A.

STATEMENT OF FACTS

1. On March 30, 2009, Robert E. Sterling, M.D. applied for an active license to practice medicine in the State of Maine. Dr. Sterling's primary medical specialty is Family Medicine. On his application for licensure, Dr. Sterling disclosed that his license to practice medicine in Connecticut had been disciplined¹ as a result of concerns that he had abused alcohol.

2. Prior to applying for medical licensure in the State of Maine, Dr. Sterling practiced medicine in the State of Connecticut. On August 18, 2008, Dr. Sterling entered into a Consent Order (Petition No. 2008-0513-001-080) with the State of Connecticut Department of Public Health, Healthcare Systems Branch (in lieu of proceedings before the Connecticut Medical Examining Board) based upon issues of abuse and/or utilization to excess of alcohol. There were no claims of direct patient harm and/or standard of care issues directed to or against Dr. Sterling, and the Consent Order was not related to any allegation regarding Dr. Sterling's clinical competency or skill as a physician.

3. On June 9, 2009, the Board reviewed Dr. Sterling's application for medical licensure in the State of Maine, and voted to issue him a license pursuant to a Consent Agreement for Conditional Licensure.

¹ Dr. Sterling reported that his Connecticut medical license had been suspended for two months, and that he had entered into a Consent Order that imposed probation and conditions on his license, including a prohibition against his having a "private practice."

4. By signing this Consent Agreement, Dr. Sterling waives, in his personal capacity and through legal counsel, any and all objections to, and hereby consents to allow the Board's legal counsel to present this proposed Consent Agreement to the Board for possible ratification. Dr. Sterling waives, in his personal capacity and through legal counsel, 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 for Conditional Licensure.

COVENANTS

5. Dr. Sterling admits the facts set forth above. Dr. Sterling also admits that based upon these facts the Board could reasonably conclude that he engaged in habitual substance abuse that was "forseeably likely to result in his performing services in a manner that endangers the health or safety of patients" and that this conclusion could constitute habitual substance abuse and unprofessional conduct and grounds to deny his application for a Maine medical license pursuant to 32 M.R.S. § 3271 and 32 M.R.S. § 3282-A(2)(B) & (F).

CONDITIONS OF LICENSURE

6. In light of the admissions in paragraph 5 above, as well as Dr. Sterling's efforts and commitment to refrain from the use of alcohol and his continuing treatment, the Board agrees to issue and Dr. Sterling agrees to accept a probationary Maine medical license with the following terms and conditions, which shall remain in place for a period of five (5) years following the execution² of this Consent Agreement for Conditional Licensure:

a. ABSTINENCE. Dr. Sterling agrees that, following the execution of this Consent Agreement for Conditional Licensure, he shall completely abstain from the use of any and all Prohibited Substances. "Prohibited Substances" as used throughout this Consent Agreement for Conditional Licensure shall mean: benzodiazepines; sedatives; hypnotics or similar drugs; opiates; alcohol; cocaine; fentanyl; mood, consciousness or mind-altering substances, whether illicit or not; and all drugs which are not legally dispensed to or prescribed for him for legitimate therapeutic purposes by a licensed healthcare professional authorized to prescribe medications. Dr. Sterling shall inform said licensed healthcare professional of his substance abuse history. In the event that Dr. Sterling develops a medical condition that requires treatment utilizing controlled substances, legend drugs, or alcohol in any form, Dr. Sterling shall notify the Board within ten (10) days and, upon

² For purposes of this Consent Agreement the term "execution" means the date on which the final signature is affixed to the Consent Agreement.

request, provide such written documentation of the treatment as the Board deems necessary. In addition, Dr. Sterling shall notify each of his healthcare professionals of all medications prescribed for him by any and all other healthcare professionals.

i. Future Use of Prohibited Substances Shall Result in Loss of Licensure. Dr. Sterling agrees and understands that any reliable evidence of use at any time in the future, whether in Maine or elsewhere, of any Prohibited Substance, including but not limited to alcohol, shall constitute a violation of this Consent Agreement, which **SHALL RESULT IN THE IMMEDIATE, INDEFINITE AUTOMATIC SUSPENSION OF LICENSURE, AND PROOF OF USE MAY RESULT IN PERMANENT REVOCATION OF LICENSURE.**

b. SUBSTANCE MONITORING. Dr. Sterling understands and agrees that he may, for the duration of the five (5) year probation, be required undergo some level of substance monitoring to test whether he has used a Prohibited Substance. The monitoring shall be through urinalysis testing and/or blood testing, and any other reliable method which may later be developed and approved by the Board. Dr. Sterling irrevocably agrees that the Board and the Maine Department of Attorney General will have full access to all test data and reports. Dr. Sterling shall execute any and all releases necessary for the Board and/or the Attorney General to have full access to all data and reports pertaining to his substance monitoring.

i. Supervising Physician. Dr. Sterling shall propose a Supervising Physician (the "Supervising Physician"), who shall be approved by the Board who shall have Dr. Sterling provide urine samples for testing for the presence of Prohibited Substances. Under no circumstances shall Dr. Sterling fail to appear and/or provide a urine sample for testing as required by this Consent Agreement for Conditional Licensure.

ii. Process. All urine and/or blood samples shall be handled through legal chain of custody methods. All samples provided shall be analyzed by a certified laboratory, which regularly handles drug monitoring tests. All samples shall be tested for the presence of Prohibited Substances, specifically including but not limited to alcohol.

iii. Frequency of Urine Testing. It is Dr. Sterling's obligation to ensure that all the samples are given and tests occur as specified in this Consent Agreement for Conditional Licensure. Testing shall be randomly scheduled. Notwithstanding any other provision of this Consent Agreement for Conditional Licensure, the Board, the Supervising Physician, or the Board's agent may request Dr. Sterling to submit to testing at any time. Failure to maintain this schedule or the random nature of the tests shall be cause for suspension, non-renewal or revocation of Dr. Sterling's Maine

medical license, unless proof of genuine emergent medical circumstances (for Dr. Sterling or a patient) exist which warrant less serious disciplinary actions being taken by the Board. Subject to the provisions of paragraph 6(g) of this Consent Agreement, Dr. Sterling shall provide urine samples for testing for the presence of Prohibited Substances at least once a week. Dr. Sterling shall submit to testing on a more frequent basis if requested to do so by his Supervising Physician or the Board.

iv. Reporting Test Results. It is Dr. Sterling's responsibility to ensure that all test results are reported promptly to the Board.

(a). Immediate Report of Positive Test Results. Any test result evidencing any level of a Prohibited Substance, whether by urine or other sample, shall be reported to the Board by telephone and in writing within 24 hours or as soon thereafter as possible.

(b). Reporting Negative Test Results. Written reports of all tests shall be sent to the Board monthly, together with an explanation of the dates and times samples were provided and tests made, the type(s) of tests made, and the substances tested for (together with detectable levels tested for), and the test results. Dr. Sterling shall ensure that all reports are made to the Board in a timely fashion.

(c). Confidentiality Waived. With regard to the Board and its agents and any process to be pursued by the Board, Dr. Sterling hereby waives all claims of confidentiality and privilege with respect to all tests taken and test results pursuant to this Consent Agreement for Conditional Licensure. Dr. Sterling shall execute any and all releases in order for the Board to obtain access to and copies of all urine test results.

v. Rebuttable Presumption Raised by Positive Test. It is agreed and understood that a test evidencing the presence of any Prohibited Substance shall raise a rebuttable presumption that such substance was in fact used by Dr. Sterling. Such a positive test result shall alone be sufficient to prove the use of the Prohibited Substance by Dr. Sterling. Dr. Sterling further agrees that the result of the test may be admitted into evidence in any proceeding regarding his Maine medical license, whether before the Board or before a Court of competent jurisdiction. Dr. Sterling is hereby advised that the ingestion of poppy seeds, mouthwash and over the counter cough or cold medicines or remedies has from time to time been raised as a defense to a positive screen result for morphine, opiates and/or alcohol. For that reason, Dr. Sterling agrees to refrain from ingesting poppy seeds in any food substances, mouthwash and over the counter cough or cold medicines or remedies during the period of probation. In the event that Dr. Sterling has a positive screen for morphine, opiates and/or alcohol, Dr. Sterling agrees that the ingestion of poppy seeds and/or mouthwash and/or over the counter

cough or cold medicines shall not constitute a defense to such a positive screen.

vi. Immediate, Indefinite, Automatic Suspension for Positive Test. If any urine or blood test is positive (i.e., in any manner evidences any use of any Prohibited Substance), then the result shall be the immediate, indefinite, automatic suspension of Dr. Sterling's Maine medical license, which shall continue until the Board holds a hearing on the matter, unless the Board, or the Board Secretary and the Department of Attorney General, earlier determine that the report is without merit. The suspension shall begin the moment Dr. Sterling first learns of a positive test or report of a positive test to the Board, whether from the Supervising Physician or his designee, from the Board or from any other source in writing, orally or by any other means. This shall include non-confirmed, positive tests.

vii. Board Hearing to Determine if Dr. Sterling Used Any Prohibited Substance. After receiving a positive report evidencing use by Dr. Sterling of any Prohibited Substance, the Board shall investigate the situation, including demanding a response from Dr. Sterling. The Board will hold a hearing within 60 days of the automatic suspension or as soon thereafter as practicable (unless both Dr. Sterling and the Board agree to hold the hearing later) and it shall be held pursuant to the Maine Administrative Procedure Act.

viii. Failure to Maintain Sampling Schedule or Failure to Appear or to Provide Sample. Failure by Dr. Sterling: to maintain the sampling schedule; to appear when demanded to provide a sample; or to provide samples upon being demanded to do so shall be dealt with as follows:

(a). Report. If Dr. Sterling fails to appear to provide a sample, fails to maintain the sampling/testing schedule, or fails to provide a urine sample, then the Supervising Physician and Dr. Sterling must telephone the Board as soon as possible and send to the Board a written report of such failure within 48 hours.

(b). Second Opportunity to Provide Urine Sample. If Dr. Sterling appears when scheduled or ordered, but fails to provide an adequate sample, then with regard to urine, after accurate notation of any and all substances consumed (no substance shall be consumed which might affect the accuracy of the tests to be performed), a second opportunity to provide a urine sample shall be given after a reasonable time. A repeat failure or any refusal shall result in an immediate, indefinite suspension of medical licensure. The suspension shall begin the moment of the occurrence.

(c). Suspension. An immediate, indefinite suspension of licensure shall result from any failure by Dr. Sterling to comply with the mandated schedule of samples, failing to appear to provide a sample, or failing to provide a urine sample after given a second opportunity. The suspension shall begin the moment Dr. Sterling actually learns a report has been made or sent to the Board.

(d). Meeting with Board. Both Dr. Sterling and the Supervising Physician shall, at the discretion of the Board, be required to appear before the Board regarding this situation at its next regularly scheduled Board meeting, unless the next meeting is to be held within 15 days of the suspension, in which case they may be scheduled to appear at the subsequent regularly scheduled Board meeting.

(e). Board Action. The Board may order Dr. Sterling's Maine medical license reinstated or, if appropriate, may continue the suspension and may set the matter for hearing. The Board shall attempt to hold a hearing within 60 days of the automatic suspension, or as soon thereafter as practicable, at which time it may take such action as it deems appropriate, including without limitation, reinstatement, fines, probation, suspension, non-renewal and revocation.

ix. Amendment of Testing Provisions. After one (1) year of successful compliance with the terms and conditions of this Consent Agreement for Conditional Licensure, Dr. Sterling may file a written application with the Board to amend the testing conditions and/or frequency of urine screens. Upon written application by Dr. Sterling to the Board, the Board may amend the above agreed conditions for testing and/or the testing schedule. Amendment of the testing conditions shall be in the sole discretion of the Board and shall be based upon such information as the Board deems pertinent. A decision regarding the amendment of testing provisions may be made by the Board, in its sole discretion, with or without providing a hearing. Any decision by the Board regarding a request to amend the testing conditions is not appealable. The Board can propose Amendment(s), which may or may not be agreed to by Dr. Sterling.

x. Increasing Testing. For good cause shown (i.e., questionable reports or problems with providing samples), the Board can, in its sole discretion, without hearing, unilaterally increase the frequency of testing to the highest levels contemplated by this Consent Agreement for Conditional Licensure, and may also add an additional four random tests per month. Any decision made by the Board pursuant to this paragraph does not require a hearing and is not appealable.

c. PROFESSIONAL MANAGEMENT.

i. Substance Abuse Treatment. Within thirty (30) days following the execution of this Consent Agreement for Conditional Licensure, Dr. Sterling shall submit for Board approval the name of a licensed individual or agency in the treatment of substance abuse with whom Dr. Sterling shall consult and counsel for the purpose of working on all issues pertaining to his substance abuse issues, including Dr. Sterling's compliance with this Consent Agreement, which consultations shall be at least twice monthly following the execution of this Consent Agreement.

ii. Prior Evaluation and Treatment Records. The Board and Dr. Sterling agree that Dr. Sterling shall execute all releases necessary to permit the transmission and disclosure of all records from previous treatment providers to the Board-approved treatment provider(s).

iii. Communication of Treatment Providers. The Board and Dr. Sterling agree that all treatment providers involved in his care shall have full communication allowed among themselves, any prior treatment providers and, when requested, with the Board or its agent(s). Dr. Sterling waives any privileges concerning such information, reports, records, and communications among his treatment providers and the Board.

iv. Amendment of Aftercare Treatment Requirements. After two (2) years of successful compliance with the terms and conditions of this Consent Agreement for Conditional Licensure, Dr. Sterling may file a written application with the Board to amend his substance abuse treatment. The Board shall retain the sole discretion, without hearing, to grant or deny such application. Dr. Sterling acknowledges that any decision by the Board concerning this issue is not appealable.

v. Change of Treatment Provider(s). If Dr. Sterling desires to change his treatment provider(s), then he shall make written application to the Board, including among other things a letter regarding his reasons for requesting such change(s) and separate letters from the current treatment provider(s) and the proposed new treatment provider(s) relative to their understanding of the reasons for this request and, to the extent applicable, any concerns they may have. The Board shall retain the sole discretion to grant or deny such application without hearing. Dr. Sterling acknowledges that any decision by the Board concerning this issue is not appealable. If the request is denied, nothing precludes Dr. Sterling from proposing another treatment provider for approval. In requesting a change of treatment provider, Dr. Sterling understands that the Board may inquire into any issues it deems pertinent with any person, including, without limitation, the current treatment provider(s).

vii. Reports from Treatment Providers. Commencing one month following the execution of this Consent Agreement for Conditional Licensure, and continuing indefinitely thereafter, within a month after every session, Dr. Sterling shall ensure that the Board-approved treatment provider(s) submit(s) to the Board a written report regarding: Dr. Sterling's compliance with his schedule of meetings; Dr. Sterling's ability to continue practicing medicine in an alcohol and substance free state safely and competently; and the prognosis of Dr. Sterling's continued recovery. In addition, the treatment providers shall immediately notify the Board in writing whenever: (1) in his/her professional judgment, Dr. Sterling poses a potential danger to the health, safety and welfare of patients; or (2) Dr. Sterling terminates treatment or is non-compliant with the treatment plan. Dr. Sterling hereby waives any privileges concerning such information, reports, records and disclosures to the Board.

viii. Board Investigation. At any time the Board may deem appropriate, the Board or its agent may contact Dr. Sterling and/or the Board-approved treatment providers to obtain further information relative to Dr. Sterling. In addition, if the Board deems it appropriate, it may directly contact the treatment providers regarding any issues concerning Dr. Sterling's treatment. In complying with this requirement, Dr. Sterling waives any privileges concerning such information, reports, records and disclosures to the Board. Dr. Sterling shall execute any and all releases necessary to enable the Board and/or the Attorney General to communicate directly with his treatment provider(s) and to obtain copies of any and all notes, records, and documentation concerning his treatment.

d. PROFESSIONAL OVERSIGHT.

i. Clinical Setting. During the period of probation, Dr. Sterling shall practice medicine in an office and practices that includes other physicians. Prior to engaging in the active practice of medicine pursuant to this Consent Agreement, Dr. Sterling must have a Board-approved practice location. In complying with this requirement, Dr. Sterling shall submit to the Board for its approval any proposed practice location(s) and settings, which locations/settings the Board has the sole discretion to approve or deny.

ii. Physician Monitor. Prior to engaging in the active practice of medicine pursuant to this Consent Agreement, Dr. Sterling must have a Board-approved practice monitor who shall monitor his medical practice. In complying with this requirement, Dr. Sterling shall submit to the Board for its approval a practice monitor, which the Board has the sole discretion to approve or deny. The monitoring physician must be in direct contact with Dr. Sterling and observe him within his medical practice at least once a week, and inform the Board if Dr. Sterling demonstrates any issues with regard to isolation, inappropriate boundaries or decision-making, ability to

concentrate, absenteeism, alcohol or drug abuse, 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. Sterling understands that the monitoring physician will be an agent of the Board pursuant to Title 24 M.R.S. § 2511. Dr. Sterling shall permit the monitoring physician full access to his medical practice, including but not limited to all patient information.

e. SELF-HELP GROUP MEETINGS.

i. Attendance at AA and NA. Dr. Sterling agrees to attend Alcoholics Anonymous ("AA") and/or Narcotic Anonymous ("NA") or another non-faith-based self-help group meeting approved by the Board a minimum of twice per week from the effective date of this Consent Agreement for Conditional Licensure. After two (2) years of successful compliance with the terms and conditions of this Consent Agreement for Conditional Licensure, Dr. Sterling may file a written request with the Board to amend the minimum number of AA, NA or impaired professional self-help group meetings he must attend. The Board shall retain the sole discretion, without hearing, to grant or deny such application. Dr. Sterling acknowledges that any decision by the Board concerning this issue is not appealable.

ii. Impaired Physicians Self-Help Group. Dr. Sterling agrees that he shall attend self-help group meetings of an impaired medical professional group (i.e. Caduceus), on a regular basis for the term of this Consent Agreement for Conditional Licensure. Meetings of the impaired professional self-help groups may be substituted on a one-for-one basis with meetings of AA or NA.

iii. Reports of Attendance. Dr. Sterling shall submit a signed, written quarterly report of his attendance at AA, NA or impaired professional self-help group meetings to the Board beginning three months after the execution of this Consent Agreement for Conditional Licensure. Any instances of failure to attend the required numbers of meetings shall be noted, together with specific explanation detailing reasons.

iv. Failure to Meet This Requirement. It is the parties' understanding that, periodically, reasonable explanations may exist for occasionally missing a meeting; however, unexcused continuous or repeated failures to comply with the requirements of this section of the for Conditional Licensure shall constitute a violation of the Consent Agreement which, after hearing before the Board, can result in licensure discipline, including without limitation a fine, suspension, non-renewal, or revocation of Dr. Sterling's conditional Maine medical license.

f. REPORT OF ARREST. In the event that Dr. Sterling is arrested for any crime during the five (5) year probation of his medical license, he shall notify the Board of the arrest within fifteen (15) days of the arrest. In complying with this provision, Dr. Sterling shall provide the Board with the date of arrest and the identity of the arresting agency.

g. MAINTENANCE OF OBLIGATIONS WHEN AWAY FROM MAINE OR HOME.

i. General. Dr. Sterling agrees to maintain his obligations regarding substance monitoring and self-help group meetings at all times, including times when he is away from home but within the continental limits of the United States. Dr. Sterling will notify the Director of the Maine Medical Professionals Health Program sufficiently in advance of travel away from Maine or home to make whatever arrangements the Director deems appropriate for monitoring, testing and self-help group meetings before he leaves. It is the parties' understanding that if Dr. Sterling has been compliant with the terms of this Consent Agreement, the Director may make alternate arrangements for monitoring, or waive the monitoring and testing requirements while Dr. Sterling is away from Maine or home for no more than fourteen (14) days. Dr. Sterling shall ensure that any such waiver or alternate arrangements shall be noted in writing and sent to the Board prior to his travel away from Maine or home. In all other circumstances, it shall be Dr. Sterling's obligation to ensure that arrangements are made consistent with this Consent Agreement in such other location(s) to ensure the continuation and satisfaction of his obligations under this Consent Agreement.

ii. Failure to Comply. Absent a waiver of the monitoring and testing requirements and/or approval of alternative arrangements by the Director of the Maine Medical Professionals Health Program as set forth above, any failure by Dr. Sterling to meet the conditions of the Consent Agreement for Conditional Licensure outside of Maine shall constitute a violation of this Consent Agreement, and may result in the immediate suspension by the Board of Dr. Sterling's Maine medical license pending hearing, and, following hearing, other sanctions as permitted by law including but not limited to suspension, modification, or revocation of licensure.

h. INVOLVEMENT IN THE MAINE MEDICAL PROFESSIONALS HEALTH PROGRAM.

Dr. Sterling shall enter into a contract with the Maine Medical Professionals Health Program and fully participate in that program as long as this Consent Agreement for Conditional Licensure remains in force.

i. MAINTAINENCE OF LICENSE.

Dr. Sterling shall be required to maintain his Maine license to practice medicine for as long as this Consent Agreement for Conditional Licensure is in effect. In the event that Dr. Sterling applies for licensure in other jurisdictions during the term of this Consent Agreement, Dr. Sterling shall notify said jurisdiction of the existence of this Consent Agreement for Conditional Licensure.

j. WAIVER OF CONFIDENTIALITY AND RELEASE OF RECORDS.

Dr. Sterling agrees and understands that the Board and the Department of Attorney General shall have complete access to his present and future personal medical and counseling records regarding chemical dependency and mental health issues and to all otherwise confidential data pertaining to treatment or monitoring of Dr. Sterling for substance abuse and mental health issues. Dr. Sterling waives any privileges concerning such information, reports, or records, and agrees to execute any and all releases necessary to permit the Board access to such information. All releases must, in addition to waiving any relevant State law privileges or immunities, provide the Board with access to all material covered by 42 C.F.R., Part 2. In the event that the releases are not sufficient to obtain access to any information which the Board considers relevant, Dr. Sterling agrees to personally obtain such information and furnish it to the Board, to the extent permitted by law.

7. SANCTION FOR VIOLATION OF LICENSE CONDITIONS.

a. Automatic Suspension. Any reliable oral or written report to the Board of violation(s) of the conditions of licensure as described above shall result in the immediate, indefinite and automatic suspension of Dr. Sterling's Maine medical license. The automatic suspension of Dr. Sterling's Maine medical license shall become effective at the time that he receives actual notice from the Board that a report of violation(s) has been made. Actual notice can be provided by telephone, in person, in writing, by another means or any combination of the above-referenced means. The indefinite, automatic suspension shall continue until the Board holds a hearing on the matter, unless the Board earlier determines that the report is without merit or decides that no further sanction is warranted.

b. Continued Suspension; Other Sanctions. Dr. Sterling's indefinite automatic suspension shall continue for such time until the Board holds a hearing and reaches a decision. The Board will hold a hearing within 60 days of the automatic suspension or as soon thereafter as practicable (unless both Dr. Sterling and the Board agree to hold the hearing later) and shall be held pursuant to the Maine Administrative Procedure Act. The Board may impose such other discipline, including without limitation, fines, further

suspension, probation, non-renewal or revocation of licensure, as the Board after hearing deems appropriate.

c. General Acknowledgment. Dr. Sterling acknowledges that, pursuant to Title 10 M.R.S. § 8003(5)(B), his failure to comply with any of the terms or conditions of this Consent Agreement for Conditional Licensure shall constitute grounds for disciplinary action against his Maine medical license, including but not limited to an order, after hearing, modifying, suspending, or revoking his license.

8. DESIGNATED COPY OF CONSENT AGREEMENT.

Dr. Sterling shall have his supervising physician, monitoring physician and all treatment providers read, date, and sign a copy of the Consent Agreement for Conditional Licensure (the "Designated Copy"). Dr. Sterling shall retain a copy of the Consent Agreement for Conditional Licensure signed by all of the aforementioned individuals at his office and shall produce it upon request of the Board or its agent(s). A copy of the signature page shall be made and sent to the Board. Dr. Sterling agrees that if new individuals assume the roles set forth in this Consent Agreement during the existence of this Consent Agreement, such individuals shall also read, date and sign the Consent Agreement.

Dr. Sterling shall provide a copy of this Consent Agreement to any hospital or medical practice with whom he becomes affiliated.

9. BOARD'S JURISDICTION.

Dr. Sterling acknowledges that the Board has jurisdiction over his license. Dr. Sterling understands that, at the time the Board is agreeing to issue him this Conditional, Modified License, the Board has the statutory jurisdiction to revoke licenses. Pursuant to 10 M.R.S. § 8003(5)B, in consideration for the Board's issuing Dr. Sterling his Maine medical license pursuant to this Consent Agreement for Conditional Licensure, he agrees that, regarding any alleged violation of this Consent Agreement, the Board is granted jurisdiction to revoke his license or take such other disciplinary action as is available to the Courts, following an adjudicatory hearing conducted in accordance with the Maine Administrative Procedure Act. Such revocation by the Board shall be deemed final agency action appealable only to the Superior Court pursuant to 5 M.R.S. § 11001, and not be reviewable de novo in the District Court pursuant to 10 M.R.S. § 8003(5)F.

10. MISCELLANEOUS PROVISIONS.

a. Notice. Unless otherwise specified in this Consent Agreement for Conditional Licensure, written notice shall be deemed served upon mailing by first class mail, postage prepaid.

(i). Notice to the Board:

State of Maine Board of Licensure in Medicine
Attention: Board Investigator
137 State House Station
Augusta, Maine 04333-0137
Telephone: (207) 287-3601

(ii). Notice to the Licensee:

Robert E. Sterling, M.D.

Redacted Address

b. Address Change. If Dr. Sterling changes jobs, moves his residence or practice, changes telephone numbers at work or at home, or secures privileges at a hospital, he shall provide written notice to the Board within ten (10) days of any such change. In addition, Dr. Sterling shall notify the Board of any attempts to seek licensure in another jurisdiction, and shall disclose to the licensing authority in such jurisdiction his status with this Board.

c. Costs. All costs incurred in performance of the Modifications and Conditions of this Consent Agreement for Conditional Licensure shall be borne by Dr. Sterling. If a violation of this Consent Agreement is proven to have occurred, regardless of the sanctions imposed, the Board may require Dr. Sterling to reimburse the Board for all costs and attorney's fees incurred in proving such violation.

d. Hearings. Unless otherwise specified, hearings shall be held consistent with the Maine Administrative Procedure Act.

e. Severance. If any clause of this Consent Agreement for Conditional Licensure is deemed illegal or invalid, then that clause shall be deemed severed from this Consent Agreement.

11. AMENDMENT OF CONSENT AGREEMENT FOR CONDITIONAL LICENSURE.

Dr. Sterling waives his right to a hearing before the Board or any court regarding all findings, terms and conditions of this Consent Agreement for Conditional Licensure. Dr. Sterling agrees that this Consent Agreement for Conditional Licensure is a final order resolving his application for a Maine medical license. This Consent Agreement for Conditional Licensure is not appealable and is effective until modified or rescinded by the parties hereto. This Consent Agreement for Conditional Licensure 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 to this Consent Agreement for Conditional Licensure by Dr. Sterling shall be made in writing and submitted to the Board. Dr. Sterling may, at reasonable intervals, petition the Board for amendment of the terms and conditions of this Consent Agreement for Conditional Licensure. Upon making such a petition, Dr. Sterling shall bear the burden of demonstrating that the Board should amend the Consent Agreement. The Board shall have the sole discretion to: (a) deny Dr. Sterling's petition; (b) grant Dr. Sterling's petition; and/or (c) grant Dr. Sterling's petition in part as it deems appropriate to ensure the protection of the public. Any decision by the Board as a result of Dr. Sterling's request to modify this Consent Agreement for Conditional Licensure need not be made pursuant to a hearing and is not appealable to any court.

12. COMMUNICATIONS. The Board and the Attorney General may communicate and cooperate regarding Dr. Sterling's practice or any other matter relating to this Consent Agreement.

13. PUBLIC RECORD. This Consent Agreement for Conditional Licensure 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. Dr. Sterling understands that this Consent Agreement for Conditional Licensure shall be reported to the National Practitioner Data Bank (NPDB), the Healthcare Integrity and Protection Data Bank (HIPDB), and the Federation of State Medical Boards (FSMB).

14. ADVICE OF COUNSEL. Dr. Sterling acknowledges that he has a right to be represented by an attorney at his own cost concerning the negotiation of this Consent Agreement for Conditional Licensure.

15. WAIVER OF RIGHT TO APPEAL CONSENT AGREEMENT FOR CONDITIONAL LICENSURE.

Dr. Sterling waives his right to a hearing before the Board or any court regarding all facts, terms and conditions of this Consent Agreement for Conditional Licensure. Dr. Sterling agrees that this Consent Agreement for

Conditional Licensure is a final order resolving his application for a Maine medical license now pending before the Board. This Consent Agreement for Conditional Licensure is not appealable and is effective until modified or rescinded in writing by the parties hereto.

I, ROBERT E. STERLING, M.D., HAVE READ AND UNDERSTAND THE FOREGOING CONSENT AGREEMENT FOR CONDITIONAL LICENSURE AND AGREE WITH ITS CONTENTS AND TERMS. I FURTHER UNDERSTAND THAT BY SIGNING THIS CONSENT 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: July 2, 2009

Redacted Signature

ROBERT E. STERLING, M.D.

STATE OF Maine

Redacted Signature

074-38-3096

S.S. #?

4/6/09

Personally appeared before me the above-named Robert E. Sterling, 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: July 6, 2009

Redacted Signature

NOTARY PUBLIC/ATTORNEY

MY COMMISSION ENDS: June 7, 2014

DATED: July 7, 2009

Redacted Signature

ELIZABETH A. OLIVIER, ESQ.
ATTORNEY FOR ROBERT STERLING,
M.D.

STATE OF MAINE
BOARD OF LICENSURE IN MEDICINE

DATED:

7/9/09

Redacted Signature

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

STATE OF MAINE DEPARTMENT
OF THE ATTORNEY GENERAL

DATED:

7/8/09

Redacted Signature

DENNIS E. SMITH
Assistant Attorney General

Effective Date: