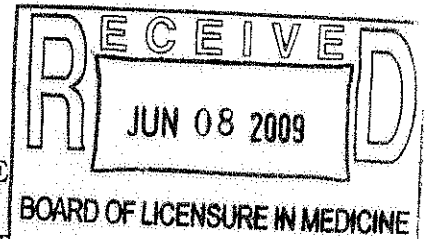


STATE OF MAINE
BOARD OF LICENSURE IN MEDICINE



In re:) CONSENT
Ronald Kessler, P.A.-C) AGREEMENT
Complaint CR08-316)

This document is a Consent Agreement, effective when signed by all parties, regarding disciplinary action against the license to practice as a physician assistant in the State of Maine formerly held by Ronald Kessler, P.A.-C. The parties to the Consent Agreement are: Ronald Kessler, P.A.-C ("Mr. Kessler"), the State of Maine Board of Licensure in Medicine ("the Board") and the State of Maine Department of the Attorney General ("the Attorney General"). This Consent Agreement is entered into pursuant to 10 M.R.S. § 8003(5)(B) and 32 M.R.S. § 3282-A.

STATEMENT OF FACTS

1. The Board first issued Mr. Kessler a license to practice as a physician assistant in the State of Maine on July 6, 1987.
2. On June 19, 2008, the Board received information from Correctional Medical Services (C.M.S.) that it had terminated Mr. Kessler's employment as a physician assistant on May 30, 2008, based in part upon the substandard medical care that he provided to patient L.C. on April 22, 2008. According to C.M.S., Mr. Kessler's substandard care for patient L.C. included: (a) failure to consult the patient's chart; (b) failure to perform further diagnostic work-up or refer the patient immediately to the hospital emergency department; (c) failure to consult with his supervising physician; and (d) failure to create a contemporaneous progress note or written order. According to

C.M.S., Mr. Kessler saw patient L.C. at approximately 1:30 p.m. on April 22, 2008, during which time patient L.C.'s vital signs were: (a) blood pressure 80/60; (b) pulse rate of 130 beats per minute; (c) respirations of 30 per minute; and (d) temperature of 100.6 degrees Fahrenheit. According to C.M.S., patient L.C. died on April 23, 2008.

3. On or about September 11, 2008, the Board initiated a complaint against Mr. Kessler's physician assistant license pursuant to 32 M.R.S. § 3282-A based upon the information received from C.M.S. The Board docketed the complaint as CR08-316.

4. On September 18, 2008, the Board investigator hand-delivered complaint CR08-316, together with a copy of the letter received from C.M.S., to Mr. Kessler's son at Mr. Kessler's last known address on file with the Board. The complaint directed Mr. Kessler to respond in writing to the Board within thirty (30) days of his receipt thereof.¹ To date, the Board has not received a response from Mr. Kessler to complaint CR08-316.

5. On January 13, 2009, Mr. Kessler entered into a consent agreement with the Board regarding a separate complaint, CR08-196. Pursuant to that consent agreement, Mr. Kessler conceded that the Board possessed sufficient evidence to conclude that on multiple occasions he issued prescriptions for controlled substances without possessing a valid DEA registration. As discipline for that conduct, Mr. Kessler agreed to the

¹ 32 M.R.S. § 3282-A required Mr. Kessler to respond to the complaint within thirty (30) days.

permanent revocation of his Maine physician assistant's license effective January 13, 2009.

6. On February 24, 2009, the Board received the medical records of patient L.C. from the Maine State Prison. In addition, it received copies of the interviews conducted of the nursing and medical staff regarding the care and treatment of patient L.C. between April 22-23, 2008. A review of these materials indicated the following with regard to Mr. Kessler's medical care and record keeping regarding patient L.C. between April 22-23, 2008:

a. Between February 26, 2008 and April 11, 2008, patient L.C.'s blood pressure and pulse were recorded on four occasions and were all within normal ranges.

b. On April 22, 2008, patient L.C. requested medical assistance.

c. Patient L.C.'s vital signs on April 22, 2008, were all outside of the normal ranges: (a) blood pressure 80/60; (b) pulse rate of 130 beats per minute; (c) respirations of 30 per minute; and (d) temperature of 100.6 degrees Fahrenheit.

d. Patient L.C. underwent an electrocardiogram (E.C.G.), which rendered an "autodiagnosis" of "Abnormal ECG" and "Sinus tachycardia, rate 136; right axis deviation; diffuse T wave abnormalities; cannot exclude ischemia." "Ischemia" is defined as an insufficient supply of blood to an organ.

e. Patient L.C.'s vital signs on April 22, 2008, were medically indicative of septic shock requiring immediate emergent medical care to prevent serious illness or death.

f. Mr. Kessler examined patient L.C. on April 22, 2008, and was advised of patient L.C.'s vital signs. Mr. Kessler did not re-check patient L.C.'s vital signs. Mr. Kessler diagnosed patient L.C. with a lung infection and prescribed Tylenol and an antibiotic as treatment. Mr. Kessler failed to create a contemporaneous medical record of his examination, diagnosis and treatment for patient L.C.

g. Patient L.C. was returned to his cell, where he died at approximately 0530 hours on April 23, 2008.

h. On April 23, 2008, following patient L.C.'s death, Mr. Kessler created a "late" medical entry note regarding his evaluation and treatment of patient L.C. on April 22, 2008.

7. On or about March 13, 2009, the Board received a copy of the medical examiner's report with regard to the cause of death of patient L.C. According to the report, the immediate cause of death of patient L.C. was "Sepsis." "Sepsis" is defined as the presence of bacteria or other infectious organisms or their toxins in the blood or in other tissue of the body that is a serious, life-threatening condition requiring urgent and comprehensive medical care.

8. On April 14, 2009, following its initial review of complaint CR08-316, the Board voted to schedule complaint CR08-316 for an adjudicatory

hearing. In the course of making this decision, the Board was aware of Mr. Kessler's permanent license revocation on January 13, 2009 for separate conduct in complaint CR08-196. The Board has interpreted the initiation of a complaint pursuant to 32 M.R.S. § 3282-A(1) as the commencement of "disciplinary proceedings and sanctions." In addition, the Board has consistently maintained that it retains the jurisdiction to discipline a licensee or former licensee for acts or omissions committed by the licensee at the time that the licensee held a valid license issued by the Board. Thus, since Mr. Kessler possessed an active and valid physician assistant license issued by the Board at the time of his medical treatment of and record keeping regarding patient L.C. on April 22-23, 2008, the Board determined that it retained jurisdiction to discipline his physician assistant license for that conduct.

9. This Consent Agreement has been negotiated by Mr. Kessler and legal counsel for the Board in order to resolve complaint CR08-316 without an adjudicatory hearing. Absent ratification of this proposed Consent Agreement by a majority vote of the Board on June 9, 2009, the matter will be scheduled for an adjudicatory hearing.

10. By signing this Consent Agreement, Mr. Kessler waives any and all objections to, and hereby consents to allow the Board's legal counsel to present this proposed Consent Agreement to the Board for possible ratification on June 9, 2009. Mr. Kessler waives forever any arguments of bias or otherwise against any of the Board members in the event that the Board fails to ratify this proposed Consent Agreement.

COVENANTS

11. Mr. Kessler concedes that, with regard to complaint CR08-316, the Board possesses sufficient evidence from which it could reasonably conclude by the preponderance of the evidence that:

a. Mr. Kessler provided substandard medical care to patient L.C. by failing to: (i) consult the patient's chart; (ii) recognize that the patient was in "septic shock" and refer the patient immediately to the hospital emergency department; and (iii) consult with his supervising physician. Mr. Kessler admits that such conduct constitutes gross incompetence and unprofessional conduct and grounds to discipline his Maine physician assistant's license pursuant to 32 M.R.S. § 3282-A(2)(E) & (F).

b. Mr. Kessler violated the standard of care for medical record keeping by failing to create a contemporaneous progress note or written order regarding his examination, diagnosis, and treatment of patient L.C. on April 22, 2008. Mr. Kessler admits that such conduct constitutes incompetence and unprofessional conduct and grounds to discipline his Maine physician assistant's license pursuant to 32 M.R.S. § 3282-A(2)(E) & (F).

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

13. Mr. Kessler waives his right to a hearing before the Board or any court regarding all facts, terms and conditions of this Consent Agreement. Mr. Kessler agrees that this Consent Agreement is a final order resolving complaint

CR08-316. This Consent Agreement is not appealable and is effective until modified or rescinded by the parties hereto. This Consent Agreement cannot be amended orally. It can only be amended by a writing signed by the parties hereto and approved by the Office of Attorney General. Any decision by the Board as a result of Mr. Kessler's request to modify this Consent Agreement need not be made pursuant to an adjudicatory hearing and is not appealable to any court.

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

18. Mr. Kessler acknowledges by his signature hereto that he has read this Consent Agreement, that he has had an opportunity to consult with an attorney before executing this Consent Agreement, that he executed this

Consent Agreement of his own free will and that he agrees to abide by all terms and conditions set forth herein.

I, RONALD KESSLER, P.A.-C, HAVE READ AND UNDERSTAND THE FOREGOING CONSENT AGREEMENT AND AGREE WITH ITS CONTENTS AND TERMS. I FURTHER UNDERSTAND THAT BY SIGNING THIS AGREEMENT, I WAIVE CERTAIN LEGAL RIGHTS, INCLUDING THE RIGHT TO 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.

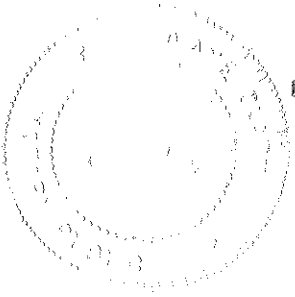
DATED: 6/5/09 Ronald Kessler
RONALD KESSLER, P.A.-C

STATE OF MAINE
CUMBERLAND COUNTY, S.S.

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

DATED: 6-5-09 Diane Clark
NOTARY PUBLIC/ATTORNEY
MY COMMISSION ENDS: 7-11-2013

DIANE CLARK
Notary Public, Maine
My Commission Expires July 11, 2013




STATE OF MAINE
BOARD OF LICENSURE IN MEDICINE

DATED: 6/9/09 Sheridan R. Oldham ACTING
~~SHERIDAN R. OLDDHAM~~, M.D., Chairman
GARY R. HATFIELD, M.D.

STATE OF MAINE DEPARTMENT
OF THE ATTORNEY GENERAL

DATED:

6/9/09



DENNIS E. SMITH
Assistant Attorney General

Effective Date:

STATE OF MAINE
BOARD OF LICENSURE IN MEDICINE

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

This document is a Consent Agreement, effective when signed by all parties, regarding disciplinary action against and conditions imposed upon the license to practice as a physician assistant in the State of Maine held by Ronald Kessler, P.A.-C. The parties to the Consent Agreement are: Ronald Kessler, P.A.-C ("Mr. Kessler"), the State of Maine Board of Licensure in Medicine ("the Board") and the State of Maine Department of the Attorney General ("the Attorney General"). This Consent Agreement is entered into pursuant to 10 M.R.S.A. § 8003(5)(B) and 32 M.R.S.A. § 3282-A.

STATEMENT OF FACTS

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

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

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

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

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

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

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

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

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

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

9. By signing this Consent Agreement, Mr. Kessler waives any and all objections to, and hereby consents to the presentation of this proposed Consent Agreement to the Board for possible ratification by Board's legal counsel. Mr. Kessler waives forever any arguments of bias or otherwise against any of the Board members in the event that the Board fails to ratify this proposed Consent Agreement.

COVENANTS

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

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

12. Mr. Kessler waives his right to a hearing before the Board or any court regarding all facts, terms and conditions of this Consent Agreement. Mr. Kessler agrees that this Consent Agreement is a final order resolving complaint CR08-196. This Consent Agreement is not appealable and is effective until modified or rescinded by the parties hereto. This Consent Agreement cannot be amended orally. It can only be amended by a writing signed by the parties

hereto and approved by the Office of Attorney General. Any decision by the Board as a result of Mr. Kessler's request to modify this Consent Agreement need not be made pursuant to an adjudicatory hearing and is not appealable to any court.

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

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

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

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

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

I, RONALD KESSLER, P.A.-C, HAVE READ AND UNDERSTAND THE FOREGOING CONSENT AGREEMENT AND AGREE WITH ITS CONTENTS AND TERMS. I FURTHER UNDERSTAND THAT BY SIGNING THIS AGREEMENT, I WAIVE CERTAIN LEGAL RIGHTS, INCLUDING THE RIGHT TO LEGAL REPRESENTATION AND THE RIGHT TO A HEARING BEFORE THE BOARD. I SIGN THIS CONSENT AGREEMENT VOLUNTARILY, WITHOUT ANY THREAT OR PROMISE. I UNDERSTAND THAT THIS CONSENT AGREEMENT CONTAINS THE ENTIRE AGREEMENT AND THERE IS NO OTHER AGREEMENT OF ANY KIND, VERBAL, WRITTEN OR OTHERWISE.

DATED: 1/12/09



RONALD KESSLER, P.A.-C

STATE OF MAINE
KENNEBEC COUNTY, S.S.

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

DATED: 1/12/09



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

STATE OF MAINE
BOARD OF LICENSURE IN MEDICINE


DATED: 1/13/09



SHERIDAN R. OLDHAM, M.D., Chairman

STATE OF MAINE DEPARTMENT
OF THE ATTORNEY GENERAL

DATED: 1/13/09



DENNIS E. SMITH
Assistant Attorney General

Effective Date:



STATE OF MAINE
BOARD OF LICENSURE IN MEDICINE
137 STATE HOUSE STATION
AUGUSTA, MAINE
04333-0137

SHERIDAN R. OLDHAM, M.D.
CHAIRMAN

JOHN ELIAS BALDACCI
GOVERNOR

RANDAL C. MANNING
EXECUTIVE DIRECTOR

December 10, 2008

**FIRST CLASS AND CERTIFIED MAIL 7007 0710 0000 0935 6421
RETURN RECEIPT REQUESTED**

Ronald W. Kessler, P.A.-C
60 Mayall Rd
Gray, ME 04039

RE: NOTICE OF IMMEDIATE SUSPENSION OF LICENSE

Dear Mr. Kessler:

During its meeting on December 9, 2008, the Maine Board of Licensure in Medicine reviewed information indicating that you allegedly: between December 14, 2007 and April 18, 2008, on multiple occasions, wrote or issued prescriptions without possessing a valid DEA registration while employed by Correctional Medical Services to work in the Maine prison; failed to respond to the Board's complaint regarding this matter as required by law; and have been found to have engaged in the unlicensed practice of medicine in the past.

After review of this information, the Board voted to suspend your license to practice medicine effective December 9, 2008, pursuant to 5 M.R.S.A. § 10004 (3) because of the immediate jeopardy your continued practice of medicine poses to the health and physical safety of the public. Your license is suspended for thirty (30) days pending an adjudicatory hearing before the Board on January 13, 2009, at the Board offices at 161 Capitol Street, Augusta, Maine. A notice of hearing for that adjudicatory hearing will be sent to you forthwith.

You must forward your medical license to the Board office immediately.

If you have any questions, please contact me at 287-3605.

Sincerely,

Randal C. Manning
Executive Director

RCM/msl

CR 08-196

cc: Dennis Smith, Assistant Attorney General