

STATE OF MAINE  
BOARD OF LICENSURE IN MEDICINE

IN RE:	)	CONSENT AGREEMENT
PAUL A. TESSIER, M.D.	)	FOR DISCIPLINE AND
CR10-036	)	RESTRICTED/CONDITIONAL
	)	LICENSURE

This document is a Consent Agreement For Discipline and Restricted/Conditional Licensure, effective when signed by all parties, regarding discipline imposed upon and the issuance of an active conditional license to practice medicine in the State of Maine to Paul A. Tessier, ~~Jr.~~<sup>[Handwritten Signature]</sup>, M.D. The parties to this Consent Agreement are: Paul A. Tessier, M.D. ("Dr. Tessier"), the State of Maine Board of Licensure in Medicine (the "Board") and the Maine Department of Attorney General.

STATEMENT OF FACTS

1. The Board first issued Dr. Tessier a medical license on June 1, 1971. Dr. Tessier retired from the active practice of medicine in 1999.
2. On September 26, 2006, the Board received an application from Dr. Tessier to renew his Maine medical license in "inactive" status. On October 1, 2006, the Board issued Dr. Tessier an inactive Maine medical license.
3. On November 16, 2009, the Board received a letter from Dr. Tessier informing it that he had been informed by his Regional Flight Surgeon that Dr. Tessier could no longer serve as an Aviation Medical Examiner (A.M.E.) due to his "inactive" Maine medical license status.
4. On or about November 24, 2009, the Board received an application

from Dr. Tessier to renew his Maine medical license in "active" status. While collecting information regarding this application, the Board received a letter sent by the U.S. Department of Transportation, Federal Aviation Administration (F.A.A.) to Dr. Tessier on November 13, 2009. According to that letter, the F.A.A. terminated Dr. Tessier's designation as an A.M.E. because he did not have an "active" license to practice medicine. Additional information revealed that Dr. Tessier had performed 75 aviation medical examinations each year since October 2006, during which time he held an "inactive" Maine medical license. F.A.A. Orders require an A.M.E. to hold an "active" medical license.

5. On or about November 25, 2009, the Board received a letter from Dr. Tessier requesting a provisional active medical license "limited to aviation medical examinations."

6. On December 8, 2009, the Board preliminarily denied Dr. Tessier's application for an "active" Maine medical license based upon his failure to demonstrate "active practice in another state for at least 3 months of the year preceding the request for conversion" as required by Board rule, Chapter 2, Section 3, Paragraph 2.

7. On February 4, 2010, the Board received a written request from Dr. Tessier to appeal the Board's decision.

8. On January 12, 2010, the Board initiated a complaint against Dr. Tessier's Maine medical license based upon his alleged practice of medicine

without a license by performing A.M.E. without an "active" Maine medical license as required by the F.A.A. The Board docketed the complaint as CR10-036.

9. On June 10, 2010, the Board received a response from Dr. Tessier to complaint CR10-036. In his response, Dr. Tessier indicated that since 1999 he has limited his practice of medicine to performing aviation medical examinations, and that if he found an anomaly during an examination, he did not treat them and referred the airman to his/her own practitioner. According to Dr. Tessier, since he did not treat the airmen, he did not feel that he was practicing medicine.

10. On July 13, 2010, the Board reviewed complaint CR10-036. Following its review, the Board voted to set the matter for an adjudicatory hearing. In addition, the Board authorized its legal counsel to offer a consent agreement to Dr. Tessier to resolve complaint CR10-036 and his pending license application.

11. This Consent Agreement has been negotiated by Dr. Tessier and legal counsel for the Board in order to resolve complaint CR10-036 and his pending license application without an adjudicatory hearing. Absent Dr. Tessier's acceptance of this Consent Agreement by signing it, dating it, having it notarized, and returning it to Maureen Lathrop, Investigative Secretary, Maine Board of Licensure in Medicine, 137 State House Station, Augusta, Maine 04333-0137 on or before September 10, 2010, the Board will resolve

these matters by holding a consolidated adjudicatory hearing at a later date.

12. By signing this Consent Agreement, Dr. Tessier 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 September 14, 2010. Dr. Tessier also forever waives any arguments of bias or otherwise against any of the Board members in the event that the Board fails to ratify this proposed Consent Agreement.

#### COVENANTS

In lieu of proceeding to an adjudicatory hearing to appeal the Board's preliminary denial, the Board and Dr. Tessier agree to the following:

13. Dr. Tessier concedes that based upon the facts described in paragraphs 1 to 8 above that the Board has sufficient evidence from which it could conclude that he engaged in unprofessional conduct by conducting F.A.A. aviation medical examinations without having an "active" Maine medical license. Dr. Tessier concedes that such conduct constitutes grounds for discipline and the denial of his application to renew/reinstate his Maine medical license pursuant to 32 M.R.S.A. § 3282-A(2)(F).

14. As discipline for the conduct admitted above, Dr. Tessier agrees to:

- a. Accept a REPRIMAND. As a medical professional and licensee of the Board, Dr. Tessier should have been aware of the limitations of his "inactive" medical license and the fact that he needed an "active" medical license in order to perform F.A.A. aviation medical examinations.

b. Pay a civil penalty of Three Thousand Dollars and Zero Cents (\$3000.00). Payment of the fine shall be made by certified check or money order made payable to "Treasurer, State of Maine," and be remitted to Maureen Lathrop, Investigative Secretary, Maine Board of Licensure in Medicine, 137 State House Station, Augusta, Maine 0433-0137. Full payment of the fine shall occur on or before September 14, 2011.

15. The Board agrees to issue and Dr. Tessier agrees to accept an "active" Maine medical license subject to the following restrictions/conditions:

a. Dr. Tessier will limit his practice of medicine to the following only:

(i) Performing as an aviation medical examiner, conducting aviation medical examinations for the F.A.A. and Transport Canada.<sup>1</sup>

(ii) Performing adult physical examinations for the Coast Guard, the Department of Transportation, or life insurance companies.

b. Dr. Tessier shall not apply to the Board for a full and unrestricted "active" medical license in light of his lack of active medical practice since 1999.

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<sup>1</sup> Transport Canada is the Department of Transport for Canada, which is the federal department responsible for Canadian transportation policies. Its oversight activities include civil aviation medical examinations. This Consent Agreement permits Dr. Tessier to perform civil aviation medical examinations for Transport Canada in accordance with Canadian laws.

- c. Dr. Tessier will keep careful records of all his examinations.
- d. Dr. Tessier will not hold himself out to the public as a fully practicing physician and will not accept patients for clinical care.
- e. Dr. Tessier will not advertise services other than as an aviation medical examiner.
- f. Dr. Tessier will not seek hospital privileges.
- g. Dr. Tessier will keep current with the continuing medical education requirements and will conform to all requirements imposed by this license.

16. Dr. Tessier waives his right to a hearing before the Board or any court regarding all findings, terms, restrictions and conditions of this Consent Agreement. Dr. Tessier agrees that this Consent Agreement is a final order resolving complaint CR10-036 and his pending application for licensure. This Consent Agreement is not appealable and is effective until or unless modified or rescinded in writing by the parties hereto. This Consent Agreement cannot be amended orally. It can only be amended by a writing signed by the parties hereto and approved by the Office of Attorney General.

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

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

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

20. The Board and Dr. Tessier agree that no further agency or legal action will be initiated against him by the Board based upon complaint CR10-036, except or unless he fails to comply with the terms and conditions of this Consent Agreement.

21. Dr. Tessier acknowledges that, pursuant to Title 10 M.R.S. § 8003(5)(B), his failure to comply with any of the terms or conditions of this Consent Agreement shall constitute grounds for additional disciplinary action against his Maine medical license, including but not limited to an order, after hearing, imposing additional fines and costs.

22. Dr. Tessier 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.

*P.A. TESSIER*

I, PAUL A. TESSIER, JR., M.D., HAVE READ AND UNDERSTAND THE FOREGOING CONSENT AGREEMENT AND AGREE WITH ITS CONTENTS AND TERMS. I FURTHER UNDERSTAND THAT BY SIGNING IT, 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: 09/08/2010

*Paul A. T.*  
\_\_\_\_\_  
PAUL A. TESSIER, M.D.

STATE OF New Hampshire  
Rochester, S.S.

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

DATED: 9-8-10

*Betty Ann Fisk*  
\_\_\_\_\_  
NOTARY PUBLIC/ATTORNEY

MY COMMISSION ENDS:  
BETTY ANN FISK  
NOTARY PUBLIC  
STATE OF NEW HAMPSHIRE  
My Commission Expires October 5, 2010

STATE OF MAINE BOARD OF  
LICENSURE IN MEDICINE

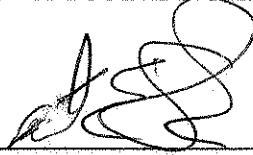
Dated: 9/14/2010

*Sheridan R. Oldham, MD*  
\_\_\_\_\_  
SHERIDAN R. OLDHAM, M.D., Chairman



STATE OF MAINE DEPARTMENT  
OF ATTORNEY GENERAL

Dated: 9/14/10



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DENNIS E. SMITH  
Assistant Attorney General

Effective Date: 9/14/10



4. While under investigation for failing to disclose the adverse action taken by Irwin Army Community Hospital, the Licensee resigned from the medical staff of Mayo Regional Hospital in Dover-Foxcroft, Maine.

5. The Licensee failed to disclose the adverse action taken by Irwin Army Community Hospital when he applied for privileges at Maine Coast Memorial Hospital in Ellsworth, Maine.

6. The Licensee admits that his failure to disclose the restriction of clinical privileges to perform vasectomies at Irwin Army Community Hospital violates standards of professional conduct.

#### AGREEMENT

In lieu of proceeding to an adjudicatory hearing, the Licensee agrees to the following:

1. The Board has jurisdiction over the Licensee and over the disciplinary matters raised by the complaint issued by the Board.
2. The Licensee agrees to accept a REPRIMAND and to a pay fine of One Thousand Five Hundred Dollars (\$1,500.00) as discipline for his actions.
3. The Licensee waives his right to a hearing before the Board or any court regarding all findings, terms and conditions of the Consent Agreement.
4. The Licensee has been advised of his right to seek legal counsel with respect to the terms of this agreement.

**I, PAUL A. TESSIER, M.D., HAVE READ AND UNDERSTAND THE FOREGOING CONSENT AGREEMENT. I UNDERSTAND THAT BY SIGNING IT, I WAIVE CERTAIN RIGHTS. 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: 12/12/99 Paul A. Tessier  
PAUL A. TESSIER, M.D.

STATE OF MAINE

Franklin County, S.S.

Personally appeared before me the above-named Paul A. Tessier, 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: 12-13-99 [Signature]  
NOTARY PUBLIC  
RICHARD M. SCHWALBENBERG  
Notary Public, Maine  
My Commission Expires February 10, 2003

STATE OF MAINE  
BOARD OF LICENSURE IN MEDICINE

DATED: 1-11-00 [Signature]  
EDWARD DAVID, M.D., Chairman

STATE OF MAINE  
DEPARTMENT OF THE  
ATTORNEY GENERAL

DATED: 1/11/00 [Signature]  
RUTH E. McNIFF  
Assistant Attorney General

APPROVED  
EFFECTIVE: 1/11/00