

STATE OF MAINE
BOARD OF LICENSURE IN MEDICINE

IN RE:)	FIRST AMENDMENT TO
Henry J. Fisk, M.D.)	CONSENT AGREEMENT
Complaint No. CR06-071)	

This document is a First Amendment to a Consent Agreement effective December 12, 2006, regarding a disciplinary action concerning and conditions imposed upon the license to practice medicine in the State of Maine held by Henry J. Fisk, M.D. The parties to this First Amendment of that Consent Agreement are: Henry J. Fisk, M.D. (“Dr. Fisk”), the State of Maine Board of Licensure in Medicine (“the Board”), and the Office of the Attorney General (the “Attorney General”).

BACKGROUND

1. On December 12, 2006, the parties entered into a Consent Agreement for discipline regarding Complaint No. CR06-071.
2. On September 12, 2007, the Board received a written request from Dr. Fisk to amend the Consent Agreement to eliminate the requirement of mandatory counseling with a provider pre-approved by the Board. In support of his request, Dr. Fisk provided the Board with a letter from his Board pre-approved counselor.
3. On November 13, 2007, the Board reviewed Dr. Fisk’s written request to amend the Consent Agreement by eliminating the requirement of mandatory counseling with a provider pre-approved by the Board. Following its review, the Board voted to grant Dr. Fisk’s

request to amend the Consent Agreement by eliminating the requirement of mandatory counseling with a provider pre-approved by the Board by deleting subparagraph b of paragraph 10.

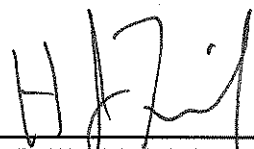
AMENDMENT

4. Dr. Fisk, the Board, and the Office of Attorney General hereby agree to amend the Consent Agreement dated December 12, 2006 by eliminating the requirement of mandatory counseling by deleting subparagraph b of paragraph 10.

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

I, HENRY J. FISK, M.D., HAVE READ AND UNDERSTAND THE FOREGOING FIRST AMENDMENT TO CONSENT AGREEMENT AND AGREE WITH ITS CONTENTS AND TERMS. I FURTHER UNDERSTAND THAT BY SIGNING I WAIVE CERTAIN RIGHTS INCLUDING THE RIGHT TO FURTHER HEARINGS REGARDING THIS AMENDMENT. I ALSO WAIVE THE RIGHT TO APPEAL TO THE COURT REGARDING THIS AMENDMENT. KNOWING THIS, I SIGN IT VOLUNTARILY, WITHOUT ANY THREAT OR PROMISE. I UNDERSTAND THAT THIS FIRST AMENDMENT, TOGETHER WITH THE CONSENT AGREEMENT, CONTAINS THE ENTIRE AGREEMENT AND THERE IS NO OTHER AGREEMENT OF ANY KIND, VERBAL, WRITTEN, OR OTHERWISE. I ACKNOWLEDGE THAT I HAVE HAD THE OPPORTUNITY TO DISCUSS THIS AGREEMENT WITH LEGAL COUNSEL PRIOR TO SIGNING IT.

Dated: 30 Nov 07



HENRY J. FISK, M.D.

STATE OF MAINE

Quoddy, SS.

Before me this 30th day of November, 2007,
personally appeared Henry J. Fisk, M.D., who after first being duly
sworn, signed the foregoing First Amendment to Consent Agreement in
my presence or affirmed that the signature above is his own.

Cynthia R. Knapp

Notary Public/Attorney at Law

My commission expires:

CYNTHIA K. KNAPP
MY COMMISSION EXPIRES NOV. 09, 2012

STATE OF MAINE
BOARD OF LICENSURE IN
MEDICINE

DATED: 12/11/07

Sheridan R. Oldham, M.D.
SHERIDAN R. OLDHAM, M.D.,
Chairman

STATE OF MAINE OFFICE
OF THE ATTORNEY GENERAL

DATED: 12/11/07

[Signature]
DENNIS E. SMITH
Assistant Attorney General

Effective Date:

STATE OF MAINE
BOARD OF LICENSURE IN MEDICINE

In re:)	CONSENT
Henry J. Fisk, M.D.)	AGREEMENT
Complaint No. CR06-071)	

This document is a Consent Agreement, effective when signed by all parties, regarding a disciplinary and re-licensure action concerning and conditions imposed upon the license to practice medicine in the State of Maine held by Henry J. Fisk, M.D. The parties to the Consent Agreement are: Henry J. Fisk, M.D. ("Dr. Fisk"), the State of Maine Board of Licensure in Medicine ("the Board") and the State of Maine Department of the Attorney General. This Consent Agreement is entered into pursuant to 10 M.R.S.A. § 8003(5)(B) and 32 M.R.S.A. § 3282-A.

STATEMENT OF FACTS

1. Dr. Fisk has held a license to practice medicine in the State of Maine since September 1, 1977, and is Board certified in General Surgery.
2. At all times relevant to this Consent Agreement, Dr. Fisk has been a licensee of the Board.
3. On or about March 14, 2006, the Board received information, including: an article from the *Bangor Daily News* dated February 10, 2006 concerning your convictions in U.S. District Court; and a copy of the United States District Court Judgment. Based upon its review of this information, the Board voted to initiate a complaint against Dr. Fisk's Maine medical license. The Board docketed that complaint as CR06-071.

4. On or about June 19, 2006, the Board received a response from Dr. Fisk to complaint CR06-071.

5. On or about September 12, 2006, the Board reviewed the complaint materials, including Dr. Fisk's response, and voted to set the complaint for an adjudicatory hearing. In addition, the Board voted to authorize its legal counsel to offer Dr. Fisk a Consent Agreement in order to resolve complaint CR06-071 without hearing.

6. Absent Dr. Fisk'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 December 11, 2006, the Board will resolve this matter by holding an adjudicatory hearing.

7. This Consent Agreement has been negotiated by counsel for Dr. Fisk and counsel for the Board in order to resolve complaint CR06-071 without an adjudicatory hearing. Absent the Board's acceptance of this Consent Agreement by ratifying it on December 12, 2006, the matter will proceed to an adjudicatory hearing on a later date.

8. By signing this Consent Agreement, Dr. Fisk and his legal counsel waive any and all objections to, and hereby consent to the presentation of this Consent Agreement to the Board for possible ratification. Dr. Fisk and his legal counsel also forever waive any arguments of bias or otherwise against any of the Board members in the event that the Board fails to ratify this proposed Consent Agreement.

COVENANTS

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

9. Dr. Fisk admits that with regard to complaint CR06-071 the Board has sufficient evidence from which it could reasonably conclude that he had been convicted of federal crimes, and that such convictions constitute grounds for the discipline of his Maine medical license pursuant to 32 M.R.S.A. § 3282-A(2)(G) and 5 M.R.S.A., Chapter 341.

10. As discipline for the conduct admitted in paragraph 9 above, Dr. Fisk agrees to accept, and the Board agrees to issue, the following discipline:

- a. a REPRIMAND;
- b. a MODIFIED/CONDITIONAL LICENSE subject to the

following conditions:

- (i) Dr. Fisk shall engage in counseling, including anger management counseling, with a provider¹ who is pre-approved by the Board and pursuant to a treatment plan that is also pre-approved by the Board²;

¹ On November 14, 2006, the Board approved Jeanne Edwards as Dr. Fisk's counselor for the purposes of this Consent Agreement. By ratifying this Consent Agreement, the Board agrees to suspend the counseling and reporting requirements of this Consent Agreement during the four months that Dr. Fisk is in Florida (January to April) so long as Dr. Fisk remains in compliance with the terms of his federal probation.

² Pursuant to this condition, within thirty (30) days following the effective date of this Consent Agreement, Dr. Fisk shall submit to the Board for review and approval the proposed treatment plan. For the purposes of this Consent Agreement, the "effective date" is the date on which the final signature is affixed to this Consent Agreement following ratification by the Board.

(ii) Dr. Fisk shall ensure that his Board-approved counselor provides quarterly³ reports to the Board regarding his counseling, including but not limited to: the number of counseling sessions scheduled; the number of sessions actually attended; the length of the sessions; and the progress made during the sessions in light of the Board-approved treatment plan; and

(iii) Dr. Fisk shall execute any and all releases necessary for the Board to have full and complete access to his counselor, counseling and treatment records, including but not limited to: individual session, progress or treatment notes; and discussions with his counselor regarding his counseling and treatment.

11. Failure by Dr. Fisk to comply with any of the terms and conditions of this Consent Agreement shall constitute grounds for additional discipline of his Maine medical license, including but not limited to modification, suspension, or revocation of licensure or the denial of re-licensure.

12. Any report received by the Board of any allegations of violence or threats of violence by Dr. Fisk shall constitute additional grounds for discipline and may, in the Board's discretion, result in the summary suspension of Dr. Fisk's Maine medical license pending hearing.

13. Dr. Fisk waives his right to a hearing before the Board or any court regarding all findings, terms and conditions of this Consent Agreement.

Dr. Fisk agrees that this Consent Agreement and Order is a final order

³ For the purposes of this Consent Agreement, "quarterly" shall mean once every three months following the effective date of this Consent Agreement.

resolving the complaints CR06-071. 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. Requests for amendments by Dr. Fisk shall be made in writing and submitted to the Board. Dr. Fisk may, at reasonable intervals, petition the Board for amendment of the terms and conditions of this Consent Agreement. Upon making such a petition, Dr. Fisk shall bear the burden of demonstrating that the Board should amend the Consent Agreement. The Board shall have the discretion to: (a) deny Dr. Fisk's petition; (b) grant Dr. Fisk's petition; and/or (c) grant Dr. Fisk's petition in part as it deems appropriate to ensure the protection of the public. Any decision by the Board on this issue need not be made pursuant to a hearing and is not appealable.

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

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

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


17. The Board and Dr. Fisk agree that no further agency or legal action will be initiated against him by the Board based upon the facts described

herein, except or unless he fails to comply with the terms and conditions of this Consent Agreement. The Board may however consider the conduct described above as evidence of a pattern of misconduct in the event that similar true allegations are brought against Dr. Fisk in the future. The Board may also consider the fact that discipline was imposed by this Consent Agreement in determining appropriate discipline in any further complaints against Dr. Fisk's license.


18. The term of this Consent Agreement is indefinite from its effective date, and its terms and conditions remain in full force and effect until it is modified in writing by agreement of the parties. Dr. Fisk may request amendments or changes to this Consent Agreement by submitting such request in writing to the Board which may decide the matter without a hearing pursuant to paragraph 11 above.

19. Dr. Fisk 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, HENRY J. FISK, M.D., HAVE READ AND UNDERSTAND THE FOREGOING CONSENT AGREEMENT AND AGREE WITH ITS CONTENTS AND TERMS. I FURTHER UNDERSTAND THAT BY SIGNING THIS AGREEMENT, I WAIVE CERTAIN RIGHTS, INCLUDING THE RIGHT TO A HEARING BEFORE THE BOARD. I SIGN THIS CONSENT AGREEMENT VOLUNTARILY, WITHOUT ANY THREAT OR PROMISE. I UNDERSTAND THAT THIS CONSENT AGREEMENT CONTAINS THE ENTIRE AGREEMENT AND THERE IS NO OTHER AGREEMENT OF ANY KIND, VERBAL, WRITTEN OR OTHERWISE.

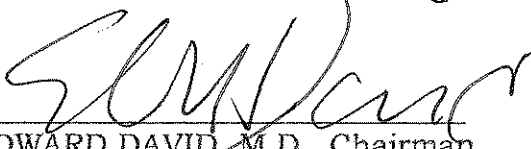
DATED: 30 Nov 06 
HENRY J. FISK, M.D.
STATE OF Maine
ARADSTOCK, S.S.

Personally appeared before me the above-named Henry J. Fisk, 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: 11/30/06 
NOTARY PUBLIC/ATTORNEY
DARCY L. WORTHLEY
MY COMMISSION EXPIRES AUG. 30, 2009
MY COMMISSION ENDS: _____

DATED: 12-4-06 
RICHARD HARTLEY, ESQ.
ATTORNEY FOR DR. FISK

STATE OF MAINE
BOARD OF LICENSURE IN MEDICINE

DATED: 12-12-06 
EDWARD DAVID, M.D., Chairman

STATE OF MAINE DEPARTMENT
OF THE ATTORNEY GENERAL

DATED: 12/12/06 
DENNIS E. SMITH
Assistant Attorney General

Effective Date: