A general health-care license should exist that permits any adult without a substance-abuse or domestic-violence criminal record to practice health care, upon signing an affidavit promising to pay for any medical or surgical care made necessary by his/her error, even if the victim of such an error has medical insurance.

Reason: It would allow people to take care of themselves if they know how to do so. This saves a fortune in health care expense. Also, the requirement that people pay for their mistakes protects medical insurers and the state treasury from the consequences of anything that might go wrong.

Offering a second class of health-care license might be appropriate, with slightly more stringent requirements, if federal laws that prohibit drug prescribing and ownership of various medical devices cannot otherwise be circumvented.

All health care boards to be merged into one

Reason: What constitutes bad health care can be inferred from the bad effect on the patient, except for obvious misconduct such as showing up for work drunk, assaulting patients or co-workers, doing surgery with a tremor, etc. If a physician on the board disapproves of vitamin C as cancer therapy but a naturopath on the board considers it a legitimate treatment (and it is defensible in the medical literature), then we need the input of all disciplines to make a fair determination as to what is right. We really do need only one form of due process for all health care boards combined. Of course, the board members who pass judgment on a licensee must include some members with the same kind of license as the licensee. But other health-care approaches should be considered, too.

Keeping multiple approaches within the board helps avoid closed-mindedness and is a safeguard against elitism.

Board members 1/3 by governor, 1/3 by legislator, 1/3 by popular vote

Reason: A political bias in the board will not easily develop. Voters will have some control; dissent in the board interferes with overreaching and tyranny and a weak board makes for strong personal freedom (checks and balances). If all the board members are chosen in the same way, then that way is prone to bias. (See for example Maroulla Gleaton, now Secretary of the Board of Licensure in Medicine, who campaigned actively for Elizabeth Mitchell and was appointed by a Democrat governor.) When a group discusses an issue and the group is approximately homogeneous, the arrived-at consensus on the issue tends to be very narrow, with little room for dissent or for individual variation. A homogeneous board is a prescription for harassment for differing in mindset from the board members, therefore for tyranny.

The board should be large and should have subcommittees to do discipline

and to assess credentials and to make recommendations to appropriate health organizations

Reason: Based on the assumption that health divisions in the government will not disappear as fast as we would like. Hard-to-decide issues come up, for example the ex-alcoholic physician, the applicant who committed obvious malpractice but since then went back to a residency to relearn, etc. How should such licensees, or licensee applicants, be handled? Individual consideration is needed, true; but subcommittees can be formed to handle such tasks.

The health licensure board shall act as the prescriber for all preventive screening, including laboratory tests, so that everyone in Maine can pay for preventive screening of choice and get it without additional expense. Same for the purchase of medical equipment that is restricted by federal law to health care licensees.

A comprehensive blood and urine screening, as I write this, costs $30 plus shipping to Illinois (total about $50). If the results are reported normal, then the screening costs any uninsured Maine resident $50. Much cheaper than seeing a physician and paying also for the lab tests. Why not? Abnormal tests need followup, true; but let's save the money if the screening turns out to be normal. If someone wants to buy an ECG machine, why not?

The board shall create and maintain an entity to which providers can submit claims for the uninsured poor, structured to meet the federal requirements of a medical insurer, but without ability to collect any money.

The reason for creating such an entity (and I oppose big government and needless bureaus and agencies) is to react credibly to the existing Medicare rule: if a physician accepts Medicare, then by doing so he promises to give Medicare the best price and cannot charge anyone less for providing the same service. *This rule makes free care to the uninsured poor a federal felony.* To offset this rule, a physician (or other provider) can be asked to send an insurance claim to the free-care-for-the-poor entity, promising to accept its payments as payment in full (and none will be made; everyone understands that) so that offering ordinary free care will be indisputably legal.

The board shall maintain a legal defense fund to assist licensees who violate federal law if such violation is (1) unrelated to activity that directly harms patients or that commits fraud against an insurer or other source of payment, (2) violates a regulation (not a law explicitly passed by Congress) of which the content is such that it could have been enacted by any of two or more federal agencies, boards, or commissions, (3) not a violation of any law or regulation other than federal, and (4) not common knowledge of the public or of health care providers generally unless such providers have hired compliance officers or other staff members or consultants to learn and explain such a law. The board shall have the authority to announce to its licensees from time to time that it will not

defend specified categories of violations. The board's refusal to defend various violations shall not be construed as evidence that the violations are evidence of bad health-care practice and may not be entered into legal evidence so as to disparage licensees committing them in any context whatever.

Protection from federal repression, as by HIPAA and PPACA, is very important to physicians and I assume other practitioners too. Legal defense will cost money, but it will be cheaper than building a medical school and will make Maine very attractive to physicians who are leaving residencies and deciding where to live and work. Having the state formally stand up to federal oppression will make it appear more business-friendly generally and may bring in so much business with income taxes and property taxes that the legal defense expense will be a worthy investment from a cash-flow perspective.

If the health board, while seeking legal assistance from any person or organization for which the primary mission is to assist health boards, licensure boards, hospital administrators, or any group of people other than the licensees themselves, or an attorney or other person with an affiliation with such an organization, in order to prosecute or complain against an alleged wrongdoing health-care licensee, then all communications between the board and such a person or organization must be disclosed in full to the licensee against which the prosecution or complaint is being considered or is in effect.

Reason: A medical board is free to use whatever legal representation it prefers, as can its members acting individually. But if the board seeks legal assistance to further it own interests, as opposed to merely deterring bad health care practice that can be identified as bad by ordinary criteria, then it may be trying to increase its own power rather than simply enforcing reasonable standards of practice. To protect against misuse of power, such communications should be made public or at least disclosed to any defendant whenever it occurs.

I am thinking of the Federation of State Medical Boards as I write this paragraph. It is an organization dedicated to the increase of power of state medical boards. It is an enemy of freedom. Its communications should never be secret.

The medical board may not establish and maintain communication with any organization outside the state of Maine if by doing so there is any implicit forfeiture of power, including by forming the habit of accepting recommendations from such organization with a significant probability.

Reason: to the extent there is power it belongs with the state citizenry, not the outside. The state government and the state licensure board do not have the right to surrender it to a national or foreign government. Habitually accepting recommendations from an "advisory" body such as the Federation of State Medical Boards is essentially equivalent to surrendering power to it. Same for giving rubber-stamp approval for continuing medical education to various

accrediting agencies instead of directly accepting the burden of deciding what health-care people need to know.

The opinion of the board, and all of its recommendations and actions, shall be in full compliance with the principle that the federal government has no jurisdiction over health care. Any board member disagreeing with that principle may not use government letterhead, mailings or e-mail, or other communication methods that are expected to be interpreted as issued by the board. Any board member disagreeing with that principle may so state only with a disclaimer that it is a difference of opinion from that of the board. If there is a hearing or other meeting in which a board member announces a disagreement, then he must do so in his capacity as an ordinary citizen and the hearing or meeting must be open to the public, public citizens get the same opportunity to speak as do board members, and proper notice in the press must be given in advance.

Reason: the federal government must stay out of health care. The Tenth Amendment is in full force.

If a licensee does something illegal, and it would also be illegal for the same reason if a non-licensee did it, then the board may not initiate a license-related complaint. But it may turn the matter over to law enforcement and, if law enforcement does not pursue it, then initiate a license complaint if what the licensee did is appropriately related to health care.

Reason: penalties for wrongdoings exist apart from any medical licensure laws; they are adequate. There should be no code of conduct that is separate from the actual administration of treatment that is under the board's jurisdiction. Licensees are not above the law, entitled to a more lenient treatment for smoking marijuana or other misconduct. Conversely, the board should not punish licensees more vigorously than through ordinary criminal-law proceedings so as to create an elite subculture among health-care workers.

No anonymous complaints, except that the board may react to them by inquiring and investigating without doing anything that an ordinary person does not have the authority to do and, if the facts so warrant, initiate its own complaint.

Reason: competitors of a physician will not be able to wreak revenge, and the defendant of such a complaint may be able to take legal action.

No discipline may be imposed unless there is actual or probable cause of harm to a patient. Preventably high health-care cost due to failure to inform a patient of low-cost alternatives including the option to seek competitors is grounds for discipline.

Reason: if it does not hurt the patient, don't prevent it. Meanwhile, offering comparison-shopping to the patient is good for health care cost control and

prevents corruption or other dishonest alliances between powerful health-care organizations and the health-care board.

A defendant in a licensure complaint shall have, and be told of, the right to have the complaint, response, and all subsequent materials made public, such right to be rescindable at the defendant's sole discretion at any time.

Reason: See for example Noah Robinson and Oregon State University. Noah and siblings were expelled from OSU when their father, an outspoken opponent of subsidies to higher education, ran for Congress. The university, when queried by concerned citizens, pleaded confidentiality even though Noah and siblings signed releases so that the complaint details could be made public. This provision prevents stonewalling and forces the board and its members to be accountable for their actions if a defendant notes that he loses less by public disclosure of the proceedings than does the board.

If a complaint by a patient or on behalf of a patient is found to be without basis, then the complaint and the findings that the complaint is without merit may be attached to the medical record of the patient and, whenever any portion of such record is released, the complaint and findings may also be released. The right to release all or part of the medical record may be granted and withheld from time to time by the patient, but the right to release the complaint and findings will always be present whenever any right to release any part of the record is in effect.

Reason: if patients are disruptive, they can be described as such. Allowing threats against patients to exist may scare off the abusive patients and also encourage primary care physicians to enter the state if they know that they have some recourse against such nonsense. Physicians may decide not to accept a problem patient, or may insist on being paid extra for the risk.

A board member with a conflict of interest when there is a matter of licensure approval or of discipline must recuse himself and may not participate in any relevant proceedings unless the defendant requests him to do so, in which case he may participate as a witness but may not vote. Actual or probable loss of income to a competitor or a competing treatment process is a conflict of interest.

Reason: no conflict of interest. See for example the sending of the Internet site printout under implicit orders from a practitioner with (I presume) a high percentage of her income from procedures of which most of the cost is fixed.

Any disciplinary or credentialing proceedings may, at the option of the defendant/applicant, be audiorecorded or recorded by a stenographer. Audio recordings and stenographer reports shall be admissible as evidence in any subsequent proceedings. Board members agree to waiving the right to testify against themselves, if such recordings and reports are later used to sue them, or if they are submitted to professional associations

including hospitals with intent to induce disciplinary action, by accepting their positions on the board.

Reason: Absolute defense against bullying by board members. Yes, it has been a problem in Texas. There is no way to know for sure in Maine unless recording devices are consistently used and the recordings so created are made available to defendants and, if the defendant so permits, the mass media.

Board members may use expert witnesses to explain complicated issues to them during proceedings as appropriate. Medical records that are presented to such witnesses for review must have the defendant's name redacted. The witnesses must either be actively practicing and derive a small percentage of their income from expert-witness work or be physically impaired so that they cannot practice in their specialty.

Reason: no fake expert witnesses who say what they are told to say and are not current with real medical practice, unless they can't work in the operating room any longer because of some physical infirmity (tremor, bad leg/can't stand for a long time, etc.).

Consensus is not a defense. Nonstandard practice method is not grounds for an attack. Board members must assess any nonstandard health-care treatment protocol on its merits and must learn what is needed; they may not merely insist that their licensees be like everybody else.

Reason: the board is not to defend tradition and homogeneity and role playing; it is to get out of the way and allow natural scientific progress to occur.

Actions by a licensee that relate to health care, if such actions are under the board's jurisdiction and are observed and reported to the board and the board does not issue a cease-and-desist order or otherwise penalize or induce to stop, shall be an absolute defense against substantially identical actions by other licensees that have the same kind of license; and the board shall, if such actions are observed and not prosecuted, be required to establish regulations that explicitly permit it if so demanded by the person who reported them to the board.

Reason: if one practitioner, a favored or politically influential one, breaks the law and gets away with it, then the law has to be repealed. Favoritism is thereby made impossible.

The board may not interfere with the health care practices or behavior of its licensees beyond what is directly necessary to assure health and good health care. It may also not ask questions on licensure applications or licensure renewals not directly relevant to a licensee's or potential licensee's capacity to acquire or maintain the applied-for health care license. By way of example and precedent, the health care board may not ask about Internet sites (except for probable cause of false and deceptive advertising) or hospital affiliations.

Reason: Boards otherwise may ask numerous questions that are irrelevant to health practice and/or invasive of privacy. The board needs to be prevented from enforcing lifestyle covenants on its licensees beyond those directly required for health-care duties (no deep-sea diving while on call, for example). Representation of physicians as having an aristocratic lifestyle and pestering physicians who have a blue-collar appearance, for example, should be forbidden. Blanket permission to ask all imaginable questions permits harassment by the board. I am not affiliated with any hospital. The medical board, every two years, sets my license renewal aside because I say I am not with a hospital and I have to explain myself. The board does not answer my (my attorney's) inquiry as to why the question is asked, instead merely saying that it has the legal right to ask. It does. But why should it do so even if such inquiry is legal? I infer that the board is trying to make sure that its licensees are on hospital medical staffs so that they can be controlled by hospital administrators and that it has some fear of the hard-to-control freestanding physicians such as me.

Medical societies, however, are private organizations and can choose to admit members and add their own rules as they see fit. Same for specialty boards.

Any disciplinary action, any restrictions on or encumbrances to, and any refusal to grant a license shall, if reportable to any data bank that is customarily used to assess licensees' competence or if it leads to an unfavorable answer on a question generally asked on a liability insurance application, be subject to appeal to a jury.

Reason: safeguards against unreasonable board action

The process of approving or denying a license, or a license renewal, shall not be affected by lack of knowledge relating only to billing, insurance, paperwork, or other matter not directly related to patient care. Regulation of health care shall not include mandating or interfering with licensees by requiring the knowledge or use of insurance coding or insurance claims-filing protocols. The board shall not have the authority to interpose between a licensee and a patient if the former is willing to work for the latter at an agreed-on price, unless bait-and-switch or other deceptive advertising occurs.

Reason: Health care proficiency is important, and licenses arguably protect the citizenry from ineptitude. A licensee who does not offer any insurance reimbursement services can nevertheless do good work and should be allowed to do so. Insurance companies and other organizations can demand proficiency with and use of insurance coding protocols as they see fit. But such proficiency is not a requirement for good health care and the board has no right to demand it. Hospitals, insurance companies, and such can impose whatever regulations they wish. Meanwhile, licensees who do not submit claims to a specified insurer or who otherwise don't need to bother with such information do not need to waste

their time learning it.

When investigating credentials and complaints, the board may not demand anything not directly related to the allegations of the complaint or the evidence that an applicant may be incompetent.

Reason: prevents harassment. An appeals procedure needs to be in place so that a defendant harassed by irrelevant demands can insist on having the complaint transferred to a judge.

A license applicant or a licensee defendant may petition the administrative court for a ruling that sufficient evidence is present for the board to make a decision on the application or complaint. If the petition is approved, then the proceedings are sent back to the board and the board must stop the investigation and make the decision.

Reason: prevents harassment.

If a licensee is in a union, then the licensee must be told of the proportion or absolute dollar amount of any union dues that he has paid that are used to defend any other union members against board actions.

Reason: if the board is constrained to enforce competence only when appropriate (react to genuine incompetence not merely harassing people), then such defense expense pertains to incompetent licensees. If the union takes money without direct permission from one licensee and spends it to defend another, then the first one is being taxed (not really ethical) and deserves to know what is going on.

Health care boards may include certifications on Internet licensee lookup screens and other information sources for licensees as they see fit. But if the certifications are derived from normed examinations (in which the score, or the pass-fail cutoff, is calculated from the percentile raw scores of the people who took the test at the same time), then the certification must be labeled as based on normed criteria and a simple and clear definition of normed criteria must be supplied also. If the certifications are derived from examinations or assessments in which the material tested is secret, then the certification must be labeled as based on deliberately undisclosed criteria. If the certifications, as renewed or otherwise, are based on anything that does not directly relate to competence, then the distinction between certification and competence must be shown. Engaging in a practice-improvement process is by way of example and precedent not directly related to competence; it shows improvement and therefore relative competence and not absolute competence.

Reason: Specialty board certifications are coming under fire nowadays for being based on irrelevant criteria. Patients deserve to know the truth; but if the truth is that the specialty board uses a poor test for certification or renewal of certification, then the board should say so.

Health care licensees are, from time to time, asked to review a licensee for improper conduct, perhaps in connection with medical practice at a hospital. The Health Care Quality Improvement Act (federal) provides immunity from retaliation if a hospital reviews a physician and the physician is penalized but the grounds for the penalty are frivolous or fictitious. Therefore, the health licensure board shall establish protocols for physicians wrongly disciplined by such review proceedings (sham peer review) so that they can file complaints against such reviewers. By accepting a health-care license, all licensees waive immunity conferred by HCQIA. Peer reviewers who wrongly discipline a licensee shall be liable to complaints by the board for such reviewing, with penalties of compensatory damages, punitive damages, license suspension or revocation, and prison as appropriate.

Reason: Many a good physician has has his career ruined by sham peer review. There was a scandal at Machias a few years ago, requiring the expulsion of at least one hospital administrator. It's a BIG problem.

Regulations imposed by the board against the sale of medical supplies, supplements, drugs, etc. in licensees' offices shall apply also to prescribed substances administered to patients.

Reason: It's blatant hypocrisy for the medical licensure board to stop physicians from selling drugs in their offices while at the same time not requiring physicians to let patients buy the material infused during cancer chemotherapy sessions at discount pharmacies. (It's a BIG markup, perhaps hundreds of dollars per dose. Ever wonder why many a physician opposes discussion of alternatives to cancer chemotherapy? Now you know.)

No regulation imposed by any health care board shall interfere with business activity unrelated to health care occurring in a health practitioner's office, unless such activity is obviously harmful to patients. A health care practitioner may, while doing health care activity, also do unrelated business during the same office hours and in the same location. The board may require that the sale of health care drugs and other materials be accompanied by a disclosure of the markup for such materials and a statement of how to purchase them elsewhere, but may not otherwise regulate them.

Health care costs and reimbursement trends being what they are, we must prepare for the inability of health care providers to support themselves only on earnings from health care activity. Also, this prohibition destroys the image of health-care personnel being different from ordinary people; the godlike image of physicians in particular is harmful to good patient care.

If physicians are under contractual obligations to confine their referrals to specified hospital staffs or are otherwise restricted in their referral patterns, or are required to bring in a specified amount of business to a medical complex, then they must so disclose to their patients.

Reason: patients otherwise assume falsely that the physician is acting in their best interest. The conflict of interest must be disclosed.

Referral services offered by hospitals and hospital complexes, for people seeking a physician or other practitioner, must announce that they refer only to hospital-affiliated physicians and practitioners.

Reason: There is nowadays an impression that all practitioners are affiliated with hospitals. Hospital referral staffs do not disabuse the public of this impression, implying that physicians and others whom they do not offer do not exist. We who buy food know that if one supermarket is unsatisfactory we can seek another, if one gas station has a price too high we can seek another, and so forth. Lack of information needs to be corrected.

A physician who purchases a prescription-required substance for dispensing or administering to a patient, unless the substance is controlled by the Drug Enforcement Administration, is free to do so without stating the patient's name or otherwise incurring the cost of a formal prescription.

Reason: This ruse is used by the medical board to increase the cost of ethylene diamine tetra-acetate (EDTA), which is used to remove lead and which also removes arterial deposits and reverses coronary and cerebral and other artery disease. In Florida, no such prescription formality is needed for EDTA and everyone gets along well. EDTA works. The Florida Board of Medicine lost an important case several years ago and was told not to interfere with its use. The medical board here is using a prescription technicality to increase medical cost to the uninsured, an abhorrent practice.

Also, epinephrine is available in a 10-dose vial for about $13.50 from a pharmacy wholesaler. A prescription for epinephrine in prefilled syringes costs over $200 for only two doses. An uninsured nurse asked me about injectable epinephrine for a bee-sting allergy and I had to give her a multidose vial, incurring the loss, because I am not per board regulations allowed to sell it. She did, of course, save a fortune. Of course as a nurse she can buy insulin syringes and get them ready for herself.

Professional liability (malpractice) insurance policies may not charge a higher premium of those clients who practice EDTA chelation than they charge other clients.

Reason: EDTA chelation patients essentially never sue. Physicians doing EDTA chelation are, therefore, a very good risk to a malpractice insurer. This fact is independent of the actual benefit of such chelation. But malpractice underwriters shake down chelation physicians with too-high premiums. They must be stopped.

Similar prohibitions need to be placed on price discrimination of other malpractice-rate-friendly procedures.

No continuing medical education requirement except for special training, ordered by the governor or legislature, due to an unpredictable event such as an epidemic or a credible threat of war.

Reason: Medical care changes over the years, due to improved surgical techniques, better drugs, and various research breakthroughs. But the underlying issues, human physiology, methods of examining a patient and arriving at a diagnostic algorithm before ordering various lab and radiology tests, are timeless. Refresher courses on history-physical examination may be be useful, but they are never offered--and they would be if the need for continuing education were genuine instead of a racket for the educators. That's why I consider continuing medical education a scam instead of a policy that benefits patients. (Considerable money could be saved if detailed physical findings were generally known; check the syllabus for the licensure examination of the Professional Linguistics Assessment Board of London, England, if you don't believe me.)

Meddlers are trying to make physicians go through retraining protocols for Maintenance of Licensure if and only if they do not go through protocols for Maintenance of Certification if they are board-certified. But if there are specified things that every physician should know, and a fair Maintenance of Licensure protocol were instituted, then bypassing such a Maintenance of Licensure task on the say-so of a specialty board, which in turn is not accountable to the state licensure board, would not occur. Specialty boards for such diverse specialties as ophthalmology, trauma surgery, addiction medicine, and digestive disorders cannot each be expected to offer retraining or assessments that are common to all physicians.

Patients may ask about recent training in one therapeutic modality or another, and hospitals may require competence in various processes from time to time. But for the license itself, it is superfluous.