



STATE OF NEW YORK
DEPARTMENT OF HEALTH

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

Richard F. Daines, M.D.
Commissioner

Public

James W. Clyne, Jr.
Executive Deputy Commissioner

October 22, 2010

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Richard Coveney Anderson II, M.D.

REDACTED

Peter D. Van Buren, Esq.
NYS Department of Health
ESP – Corning Tower – Room 2509
Albany, New York 12237

RE: In the Matter of Richard Coveney Anderson II, M.D.

Dear Parties:

Enclosed please find the Determination and Order (No. 10-200) 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

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
RICHARD COVENEY ANDERSON II, M.D.

DETERMINATION
AND
ORDER
BPMC #10-200

COPY

A hearing was held on September 23, 2010, 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 May 14, 2010, were served upon the Respondent, **Richard Coveney Anderson II, M.D.** Pursuant to Section 230(10)(e) of the Public Health Law, **Lyon Greenberg, M.D., Chair, John D. Thomas, II, M.D., and Janet M. Miller, R.N.,** 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 G. Conway, Esq.,** General Counsel, by **Robert Bogan, Esq.,** of Counsel. The Respondent appeared without counsel, *pro se*.

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. The Respondent is also charged with violation of New York Education Law Section 6530(9)(d) by having surrendered his license to practice medicine after a disciplinary action was instituted 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:

Richard Coveney Anderson II, M.D.

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. **Richard Coveney Anderson II, M.D.**, the Respondent, was authorized to practice medicine in New York State on July 30, 1998, by the issuance of license number 211418 by the New York State Education Department. (Petitioner's Ex. 4)

2. The Respondent was a licensed Medical Doctor in the State of Rhode Island holding license number MD 12555. (Petitioner's Ex. 5)

3. On or about May 20, 2009, the State of Rhode Island, Department of Health, Board of Medical Licensure, by a Consent Order accepted the surrender of Respondent's license to practice medicine, based on Respondent voluntarily seeking treatment for opiate and cocaine addiction and subsequently discontinuing treatment prior to completion. (Petitioner's Ex. 5)

4. The Respondent signed the above stated Consent Order on May 19, 2009. (Petitioner's Ex. 5.)

5. The Respondent is also licensed to practice medicine in the Commonwealth of Massachusetts and, on May 26, 2010, he entered into a Consent Probation Agreement with the Physician Health Services of the Commonwealth of Massachusetts and said agreement is to terminate in three years and may be extended based on the length of time of any extended

absence in monitoring. A copy of this agreement is attached to this Determination and Order as Appendix 2. (Respondent's Ex. A)

6. The Respondent has agreed in the above Probation Consent Agreement not to use illegal drugs or ingest alcohol and has consented to random drug tests twice a week for the first three months of the contract and weekly random tests thereafter or as otherwise determined by the Physician Health Services of the Commonwealth of Massachusetts. (Respondent's Ex. A)

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 opiates and cocaine 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 surrendered his license to practice medicine due to his abuse of opiates and cocaine.

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 July 30, 1998, by the issuance of license number 211418 by the New York State Education Department and that he was also a licensed Medical Doctor in the State of Rhode Island holding a Rhode Island medical license # MD 12555. In addition, the Respondent is licensed to practice medicine in the Commonwealth of Massachusetts.

The Respondent testified on his own behalf and did not deny the fact that he entered a Consent Order in the State of Rhode Island to surrender his license and that he was also currently on a three year probation, again by a Consent Agreement, with Physician Health Services of the Commonwealth of Massachusetts (T. 24).

The panel was impressed with the frankness and integrity of the respondent. He realized, on his own, that he had a problem with drugs and began the process, on his own initiative, to address the problem. The panel recognized that the Respondent has been fully compliant with the requests of the Physicians Health Services board in Massachusetts and that his efforts to maintain sobriety have satisfied the Massachusetts board for the present. Of significance was the fact that it was the Respondent himself who, initially, 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 in any 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. The panel was of the opinion, unanimously, that revocation would be excessive in view of all the circumstances in this case. The panel determined that the Respondent's license to practice in New York should be suspended until such time as he is cleared for full practice by the Health Services of the Commonwealth of Massachusetts and the probation in that state has been lifted. The panel decided that the people of New York would be adequately protected by such a suspension and a term of probation, co-terminus with the probation already in place Massachusetts. The panel was unanimous in its decision that such a penalty would suffice to protect the people of the State of New York.

The Respondent indicated that he did not intend to return to practice in New York. The panel decided that if the Respondent should, however, return to New York before the expiration of the Massachusetts probation, he would then be placed under a five-year probation with terms to be determined by the Department.

ORDER

IT IS HEREBY ORDERED THAT:

1. The specifications of professional misconduct, as set forth in the Statement of Charges, are **SUSTAINED**.
2. The Respondent's license to practice medicine in New York is **Suspended** until such time as he is cleared for full practice by the Physician Health Services of the Commonwealth of Massachusetts and the term of probation in that State has been lifted.

3. Respondent is placed on a term of probation co-terminus and concurrent with the Massachusetts probation. The terms of the Massachusetts probation are attached hereto as Appendix 2 and are incorporated into this Order.

4. 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.

5. 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.

6. 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.

7. The Respondent must comply with the terms and conditions of the Massachusetts Agreement (Appendix 2) 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 this Massachusetts Agreement and shall personally meet with a person designated by OPMC when so requested.

The Respondent shall authorize the Director of the Massachusetts Physician Health Services, Inc., to provide OPMC with any and all documentation that OPMC requests regarding the Respondent's compliance with said probation Agreement. The terms of the Massachusetts Probation Agreement are attached hereto as Appendix 2 and are incorporated into this Order.

8. Should the Respondent return to New York State to practice medicine, prior to the termination the Massachusetts probation, 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 Massachusetts Physician Health Services, Inc. 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 Massachusetts. 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 and be subject to New York probation for a period of five years.

9. 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.

10. The Respondent shall give written authorization for the Massachusetts Physician Health Services, Inc. to provide information concerning the Respondent and his probation to OPMC.
11. In January and July of each year for the remainder of his probation in Massachusetts the Respondent shall provide OPMC with a signed declaration of compliance with the terms of the Massachusetts Physician Health Services, Inc. probation.
12. 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.
13. This Order shall be effective upon service on the Respondent in accordance with the requirements of Public Health Law Section 230(10)(h).

**DATED: Albany, New York
October 21, 2010**

REDACTED


Lyon Greenberg, M.D., Chair

John D. Thomas, II, M.D.
Janet M. Miller, R.N

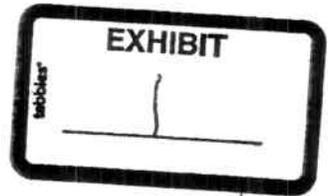
TO: Richard Coveney Anderson II, M.D.
Respondent

REDACTED

Peter D. Van Buren, Esq.
Attorney for Petitioner
Deputy 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
RICHARD COVENEY ANDERSON II, M.D.
CO-09-05-3318-A

NOTICE OF
REFERRAL
PROCEEDING

TO: RICHARD COVENEY ANDERSON II, M.D.
REDACTED

RICHARD COVENEY ANDERSON II, M.D.
REDACTED

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 22nd day of July, 2010, 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, that 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 and/or sworn testimony on your behalf. Such evidence and/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 that 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. JAMES F. HORAN, ACTING 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 (10) 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 (10) 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 (6) copies of all papers you submit must be filed with the Bureau of Adjudication at the address indicated above, no later than fourteen (14) 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 demands, hereby, disclosure of the evidence that 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 and/or other evidence that cannot be photocopied.

YOU ARE ADVISED, HEREBY, THAT THE ATTACHED CHARGES WILL BE MADE PUBLIC FIVE (5) BUSINESS DAYS AFTER THEY ARE SERVED.

Department attorney: Initial here _____

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 (5) 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

May 14, 2010

REDACTED

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
RICHARD COVENEY ANDERSON II, M.D.
CO-09-05-3318-A

STATEMENT
OF
CHARGES

RICHARD COVENEY ANDERSON II, M.D., Respondent, was authorized to practice medicine in New York state on July 30, 1998, by the issuance of license number 211418 by the New York State Education Department.

FACTUAL ALLEGATIONS

A. On or about May 20, 2009, the State of Rhode Island, Department of Health, Board of Medical Licensure and Discipline (hereinafter "Rhode Island Board"), by a Consent Order (hereinafter "Rhode Island Order"), inter alia, accepted the surrender of Respondent's license to practice medicine, based on Respondent voluntarily seeking treatment for opiate and cocaine addiction and subsequently discontinuing treatment prior to completion.

B. The conduct resulting in the Rhode Island 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 dependent on or a habitual user of narcotics, barbiturates, amphetamines, hallucinogens, or other drugs having similar effects).

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 Education Law §6530(9)(d) by having surrendered his license to practice medicine after a disciplinary action was instituted by a duly authorized professional disciplinary agency of another state and/or having disciplinary action taken by a duly authorized professional disciplinary agency of another state, where the conduct resulting in the license surrender and/or disciplinary action would, if committed in New York state, constitute professional misconduct under the laws New York state, in that Petitioner charges:

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

DATED: *May 14*, 2010
Albany, New York

REDACTED

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

APPENDIX 2

PHYSICIAN HEALTH SERVICES
A MASSACHUSETTS MEDICAL SOCIETY CORPORATION

PHS ID #: 1828

PHYSICIAN HEALTH SERVICES, INC.

PHYSICIAN SUBSTANCE USE MONITORING CONTRACT

I, Richard C. Anderson, agree to the terms of this contract with Physician Health Services (PHS). I understand that this contract is intended to monitor substance use disorders and substance related disorders or risks related to the same. I understand that PHS will provide documentation of my abstinence from drug/alcohol use which, upon my written authorization or request, will be made available to third parties. I also understand that failure to abide by the terms of this contract may result in information regarding my lack of compliance being reported to the Board of Registration in Medicine, my chief(s) of service, my monitor(s), my therapist, my primary care physician and any others as authorized by the releases that I may sign. With this understanding, I hereby agree to the following terms and conditions:

1. PHS ASSOCIATE DIRECTOR

PHS will designate an associate director to assist me with this contract. I agree to maintain contact with this associate director on a regular basis and to have a face-to-face meeting with him or her at least once a month. I will increase the frequency of meetings at the request of the associate director or the director of PHS.

2. PROHIBITION ON DRUG USE

I agree to not use illegal drugs on any occasion. In Massachusetts, all prescription medications are considered to be "controlled." If I require treatment with a controlled substance, it will be administered or prescribed by another practitioner who is aware of the purpose of this contract and my medical history. All controlled substances will be prescribed for a legitimate medical purpose. I shall immediately inform my PHS associate director of my use of any such controlled substance and shall not practice medicine while taking the controlled substance unless otherwise agreed by the director of PHS. I shall not take any controlled substance, over-the-counter medication or mood altering substance for any purpose other than the medical purpose for which it is intended.

3. PROHIBITION ON ALCOHOL USE

I agree to not ingest alcohol on any occasion including any food or other products containing alcohol (mouthwash, rum cake, "non-alcoholic" beer or wine, etc.).

4. RANDOM DRUG TESTS - PROCEDURE

I will have random drug tests twice a week for at least the first three months of this contract. I will have weekly random drug tests for the remainder of this contract unless otherwise determined by PHS.

I agree to submit to each test within twelve (12) hours of being notified by telephone by PHS. Failure to do so may be considered a missed test and constitute a violation of this contract. Missed tests that are not caused by administrative mistakes or otherwise excused by the director of PHS shall be reported to the Board of Registration in Medicine and others named in this contract.

I understand that the procedure for the collection of specimens and any changes to these procedures during the course of this contract must be approved by the director of PHS. The procedures are subject to change at any time during the course of this contract at the discretion of the director of PHS.

Testing Location: Quest Worcester

Test Monitor (If other than Quest Diagnostics): _____

I agree to increase the frequency of testing at the request of my associate director or the director of PHS at any time in the course of this contract if the director of PHS determines there is any reason to believe that I am at increased risk for substance use, have used drugs or alcohol or otherwise not been in compliance with this contract. In addition, I agree to submit to urine, blood, breathalyzer, hair or other laboratory drug tests at any time upon the request of my associate director or the director of PHS.

5. POSITIVE TEST RESULTS – REPORTS

I understand that I must inform PHS of prescriptions or over-the-counter medications that I am taking. I understand that all positive urine, blood, breathalyzer, hair or other positive laboratory results will be reported to the Board of Registration in Medicine, my chief of service, my monitor(s), my therapist, and may be reported to others according to releases that I have signed, with the exception of those medications that have been properly prescribed for a legitimate medical purpose and of which PHS has been informed in advance or of which PHS has approved. I understand that it is my responsibility not to ingest products that may produce positive test results such as foods containing alcohol, mouthwash, "non-alcoholic" beer or wine, poppy seed cake, etc.

6. VERIFICATION OF PRESCRIPTIONS

I agree to provide PHS with copies or other verification of all prescriptions that I receive. I understand that ingestion of certain medications may result in a positive drug test result, which is reportable to the Board of Registration in Medicine, my chief of service, my monitor(s), my therapist and others named in applicable releases that I have signed, unless PHS is provided with advance verification of such medications.

7. AVAILABILITY FOR TESTING

For the first three months of this contract I will submit to drug tests as required by this contract regularly without exception. After three months, I must inform my PHS associate director or the director of PHS in advance of any circumstances that might cause me to miss a drug test. If I am planning a vacation or know that I will otherwise be unavailable for testing, I will provide two weeks prior written notification to PHS. In the event I am traveling or otherwise unavailable for drug tests for more than a two-week period, I will do the following: (1) provide my PHS associate director with the scheduled date of my return (2) submit to a laboratory drug test upon my return (3) not practice medicine until the result of the drug test is received by PHS and is negative (4) submit to two drug tests per week for the first two weeks following my return.

I agree that unavailability for testing of two weeks or more are subject to the approval of the director of PHS. Letters of compliance written on my behalf may exclude such periods of time in which my compliance was not documented. The length of this contract may be extended based on the length of time of any extended absences in monitoring.

8. THERAPY

I will see a licensed therapist who is approved by PHS on an ongoing basis at a frequency determined by my therapist. In the event that my therapist does not believe that regular sessions are indicated, I will still retain this therapist who will be available to me as needed and meet with me at least quarterly. The selection of my therapist and schedule of appointments is subject to the approval of the director of PHS.

I have selected _____, MD, as the psychiatrist who will be my therapist.

Under certain limited circumstances the director of PHS may approve a non-MD therapist. In these circumstances the therapist will associate with a psychiatrist who will be available as needed.

My therapist is Todd Buckley PhD

The psychiatrist is Harriet Scheft, M.D.

I have asked, and my therapist/psychiatrist has agreed, to provide quarterly reports to PHS documenting compliance with prescribed and over-the-counter medications, adherence to treatment recommendations and the frequency of meetings. Otherwise the specific content of my therapy remains confidential.

I understand that my therapist/psychiatrist is also obligated by this contract to report to the director of PHS when I may pose a risk to myself or others.

9. SUPPORT GROUPS

I will attend Alcoholics Anonymous, Narcotics Anonymous, or other support groups throughout the term of this contract. My choice of support group is subject to the approval of the director of PHS. For the first three months, I will attend a support group three times a week, including one physician support group. After the first three months of this contract, I shall attend at least one approved support group meeting per week.

I agree to increase the frequency of meetings at the request of the director of PHS or my associate director at any time in the course of this contract. I agree to attend any support group that is sponsored by PHS upon the request of my associate director.

I will keep an accurate record of my attendance at support group meetings on a form that will be provided by PHS. I will submit this form to PHS on a quarterly basis.

10. PRIMARY CARE PHYSICIAN AND PHYSICAL EXAMINATION

I have selected John Pandiscio, M.D. as my primary care physician. I have informed this physician of the purpose of this contract and my medical history, and he or she has agreed to assist with my care. I agree to comply with primary care physician visits at a frequency determined by my primary care physician.

I will have/have had a physical examination within 60 days. I will provide PHS with documentation of a physical examination within 60 days from the effective date of this contract.

I agree to submit to any other examination or testing requested by the director of PHS, my primary care physician and/or therapist. I realize this contract may be amended following the results of those exams.

11. CONSULTATION

If recommended, I agree to seek consultation and evaluation about the usefulness of and indications for the prescription of disulfiram, naltrexone, or other anti-abuse medications. I understand that I must adhere to the following recommendations:

Physician: _____

Recommendations: _____

Type and Dosage: _____

12. MONITOR AND CHIEF OF SERVICE

I have selected a monitor at each of my work sites who is a physician who is aware of the purpose of this contract. I will see this monitor regularly (at least weekly) so that he or she can attest to my abstinence from alcohol and substances of abuse. If I am working, I shall have contact with my monitor at my workplace unless approved by the director of PHS. If for any reason my monitor becomes unavailable to me on a regular basis, I will notify my PHS associate director and make alternative arrangements that meet with the approval of the director of PHS.

I agree to designate a chief of service at each of my work sites and make this individual aware of this contract and my health history. In the absence of a chief of service, I will make alternative arrangements that meet the approval of the director of PHS. I authorize my chief of service to exchange information with PHS relevant to my health, monitoring or any risk of impairment or my ability to practice.

13. MONITORS/QUARTERLY REPORTS

I have selected the following individuals who have agreed to assist in my monitoring. I agree that the monitors will provide information and written reports to PHS. I understand that all monitors are subject to the approval of the director of PHS.

Hospital Chief of Service (1) (for trainees, the training director): _____

Hospital Chief of Service (2): _____

Monitor: ERROL MORTIMER MD

Alternate Monitor: _____

Therapist: TOOP BOCKLEY MD

Psychiatrist: HARRIET SCHEFT, M.D.

Test Monitor: _____

Alternate Test Monitor: _____

I authorize the individuals named above to provide written reports to PHS every three months, and to provide any information to PHS at any time that there is information relevant to my behavioral health, impairment, or risk for impairment.

14. DUTY TO NOTIFY

If I drink alcohol or ingest drugs in violation of the provisions of this contract. I will immediately suspend the practice of medicine and inform my chief of service, monitor(s), therapist and PHS.

15. INPATIENT AND OTHER TREATMENT

I agree to enter an inpatient hospital and/or treatment center for evaluation, detoxification, and/or rehabilitation therapy, if recommended by my therapist or the director of PHS, on or by _____, 20__ and will remain until discharged with the approval of my therapist, treatment provider or independent evaluator. I will provide notification to PHS of the date I begin treatment and of the date I complete or leave treatment, and will immediately resume PHS monitoring.

Facility: OUTPATIENT PROGRAM TBD ^{HS}

Therapist/Treatment Provider: _____

I further agree that I will participate in evaluation, or any treatment modality at any time over the course of this contract if requested by my therapist or recommended by the director of PHS.

PHS is authorized to notify my chief of service, my monitor(s), and my therapist of my treatment status and my involvement with PHS.

16. DISCHARGE FROM TREATMENT/RETURN TO PRACTICE

I will notify PHS prior to my discharge from inpatient treatment. I will make all monitoring arrangements promptly upon discharge from inpatient treatment and will not practice medicine until all monitoring arrangements are approved by the director of PHS. I also agree to not practice medicine until my therapist, treatment provider or an independent evaluator indicates to the director of PHS that it is advisable. I authorize PHS to notify the Board of Registration in Medicine, my chief of service, and monitor(s) if I return to practice prior to having obtained the requisite approval.

17. DOCUMENTS

I will furnish PHS with copies of all correspondence with and legal documents from the Board of Registration in Medicine and the licensing boards of any states in which I have licensure. I will provide PHS with a copy of any licensing applications and renewal forms that I submit to the Board of Registration in Medicine during the course of this contract.

I will disclose and furnish PHS with verbal or written copies of any and all complaints about my professional performance, including malpractice complaints, Board of Registration in Medicine complaints, and adverse reports from peer review agencies, credentialing agencies or hospital or other health care facility or organization departments.

18. LETTERS OF COMPLIANCE

PHS shall provide documentation of my participation in the monitoring program to third parties upon my written request and signing of the appropriate releases.

19. BREACH OF CONTRACT – REPORTS

I understand that my failure to abide by any of the conditions set forth in this contract shall constitute a breach of contract and may be reported to the Board of Registration in Medicine, my chief of service, monitors, therapist, primary care physician and other third parties named in signed releases and such other agencies, entities, or individuals as PHS deems necessary to protect the public. I also agree that the Board of Registration in Medicine will be notified and relevant information disclosed as to any of the following conditions:

1. If I fail to correct, within a reasonable period of time, a failure to provide documentation of my continuing abstinence from the use of drugs and/or alcohol except medications properly prescribed under the conditions of section 6.
2. If PHS has a reasonable basis to believe that I have used drugs and/or alcohol in violation of this contract, if I exhibit relapse behavior, if I am in relapse, if a laboratory drug test result is positive, or if I miss a drug test that is not excused by the director of PHS.
3. If PHS has a reasonable basis to believe that I, for any reason, cannot render professional services without undue risk to the public.
4. If I revoke consent to disclose information to the Board of Registration in Medicine during the course of this contract.
5. If this contract is terminated for any reason other than my successful completion of the contract, in which the director of PHS concurs.
6. If I return to work prior to the approval of my therapist, treatment provider or approved evaluator.
7. Information required under the terms of any probationary agreement, letter of agreement, or final decision or order of the Board of Registration in Medicine.

I agree to waive any confidentiality protections that may be available to me under state or federal laws so that the above-referenced reports may be made to the Board of Registration in Medicine, my chief of service, my therapist, my monitors and others named in releases that I may sign.

If I fail to meet my obligations under this contract, PHS may notify anyone to whom representations as to my compliance with this contract have been made, alerting them to such failure.

20. EFFECTIVE DATE

This contract shall take effect on 3/26/2010 ^{MT} and shall terminate in three years. It may be extended so that I may comply with a Letter of Agreement, Probation Agreement, or condition of licensure that may be required by the Board of Registration in Medicine. This contract will not, however, take effect until the appropriate releases have been signed and all monitoring arrangements have been made as determined by the director of PHS. The length of this contract may be extended based on the length of time of any extended absences in monitoring.

21. PAYMENT OF LAB FEES

I understand that I am responsible for all laboratory fees. PHS may pay for lab tests on my behalf, but it is my responsibility to reimburse PHS. I will prepay for all such tests in a timely manner unless other arrangements are made with the director of PHS. Failure to make timely payments may result in an interruption or cessation of testing which could result in a breach of this contract.

22. COMMUNICATION AMONG PHS, MONITORS, AND PHYSICIANS

I agree to waive any confidentiality protections that may be available to me under state or federal laws so that PHS, my treating physicians and monitors may communicate openly about issues

23. INTERSTATE AGREEMENT

I agree that PHS may contact the physician health program of any state where I am presently licensed or where I may relocate during the term of this contract. I agree to execute a release of information to facilitate this communication. I understand that failure to do so will be considered lack of compliance with this contract.

I have read, understand, and agree to abide by the provisions set forth in this contract.

AGREED TO:

REDACTED

Physician Signature

REDACTED

Please Print Name

Date

12/23/09

ACCEPTED BY:

REDACTED

Associate Director Signature

REDACTED

Luis T. Sanchez, M.D.

Director, Physician Health Services

Date

3/26/10