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**BEFORE THE
MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA.**

In the Matter of the Accusation and Petition to
Revoke Probation Against:

STEPHEN RICHARD LAUTERBACH, M.D.
161 RIVERSIDE DRIVE SUITE 105
BINGHAMTON, NY 13905-4177

PHYSICIAN'S AND SURGEON'S CERTIFICATE NO. A74720

RESPONDENT.

Case No. 800-2017-029728

**DEFAULT DECISION
AND ORDER**

[Gov. Code, §11520]

On June 5, 2017, an employee of the Medical Board of California (Board) sent by certified mail a copy of Accusation and Petition to Revoke Probation No. 800-2017-029728, Statement to Respondent, Notice of Defense in blank, copies of the relevant sections of the California Administrative Procedure Act as required by sections 11503 and 11505 of the Government Code, and a request for discovery, to Stephen Richard Lauterbach, M.D. (Respondent) at his address of record with the Board, which was and is, 161 Riverside Drive Suite 105, Binghamton, NY 13905-4177. United States Post Office records show that the package could not be delivered. (Accusation and Petition to Revoke Probation package, proof of service, USPS printout, Exhibit Package, Exhibit 1¹).

On June 27, 2017 an employee of the Attorney General's Office sent by certified mail, addressed to Respondent at his address of record, and to the attorney who represented him in connection with the recent proceedings involving his New York medical license, a Courtesy Notice of Default, advising Respondent of the service Accusation and Petition to Revoke Probation, and providing him with an opportunity to file a Notice of Defense and request relief from default. The package sent to Respondent's address of record was returned marked "Attempted- Not Known Unable to Forward"; the green certified receipt for the package sent to

¹ The evidence in support of this Default Decision and Order is submitted herewith as the "Exhibit Package."

1 Respondent's New York attorney was signed as delivered on July 6, 2017. (Exhibit Package,
2 Exhibit 2, Courtesy Notice of Default, proof of service, return envelope, return receipt, USPS
3 tracking information).

4 Respondent has not responded to service of the Accusation and Petition to Revoke
5 Probation or the Courtesy Notice of Default. He has not filed a Notice of Defense. As a result,
6 Respondent has waived his right to a hearing on the merits to contest the allegations contained in
7 the Accusation and Petition to Revoke Probation.

8 FINDINGS OF FACT

9 I.

10 Kimberly Kirchmeyer is the Executive Director of the Board. The charges and allegations
11 in the Accusation and Petition to Revoke Probation were at all times brought and made solely in
12 the official capacity of the Board's Executive Director.

13 II.

14 On May 31, 2001, Physician's and Surgeon's Certificate No. A74720 was issued by the
15 Board to Stephen Richard Lauterbach, M.D. The certificate is in delinquent status, having
16 expired on November 30, 2016, and is suspended by virtue of an Order issued on April 14, 2017
17 pursuant to Business and Professions Code section 2310(a).

18 Prior disciplinary action was taken against the certificate as follows: On November 15,
19 2012, an Accusation was filed in Case No. 16-2012-223707; on April 10, 2013, a Decision
20 became effective under which Respondent's certificate was revoked, stayed, subject to five years
21 probation with terms and conditions. (Exhibit Package, Exhibit 3, license certification).

22 III.

23 On June 5, 2017, Respondent was duly served with an Accusation and Petition to Revoke
24 Probation, alleging causes for discipline against Respondent and cause for revocation of
25 probation. A courtesy Notice of Default was thereafter served on Respondent. Respondent failed
26 to file a Notice of Defense.

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1 IV.

2 The allegations of the Accusation and Petition to Revoke Probation are true as follows:

3 On October 6, 2016, the New York State Board for Professional Medical Conduct issued a
4 Consent Order to resolve a pending Statement of Charges regarding Respondent's New York
5 medical license. Under the terms of the Consent Order, Respondent's New York license was
6 suspended for an indefinite period, but no less than 18 months. The basis for the Consent Order
7 and license suspension was Respondent's consumption of alcohol, in violation of his New York
8 probation. (Copies of the Consent Order and the Statement of Charges issued by the New York
9 Board are attached to the Accusation and Petition to Revoke Probation, Exhibit Package, Exhibit
10 1).

11 The Medical Board's April 10, 2013 Decision required Respondent to, among other things,
12 abstain from drugs and alcohol, submit to biological fluid testing, undergo an evaluation if
13 requested, have a practice monitor, and not engage in solo practice. The basis for the 2013
14 Decision was Respondent's history of substance abuse. The Decision contained a tolling
15 provision under which periods of residence or practice outside California would not apply to the
16 reduction of the probationary period: Respondent was required to to obey all federal, state and
17 local laws and all rules governing the practice of medicine in California; he was required to
18 comply with the Board's probation unit, which included the maintenance of a current and
19 renewed California physician's and surgeon's license; he was required to abstain from drugs and
20 alcohol; and, required to submit to biological fluid testing. The 2013 Decision further provided
21 that if Respondent violated probation in any respect, the Board could revoke probation and carry
22 out the disciplinary order that was stayed., (Exhibit Package, Exhibit 4, April 10, 2013 Decision
23 and Order in Case No. 16-2012-223707).

24 **DETERMINATION OF ISSUES**

25 I.

26 Pursuant to the foregoing Findings of Fact, Respondent's conduct and the action of the
27 New York Board for Professional Medical Conduct constitute cause for discipline within the
28

1 meaning of Business and Professions Code sections 2305 and 141(a).

2 II.

3 Pursuant to the foregoing Findings of Fact, Respondent's alcohol relapse, failure to obey
4 laws, and failure to maintain a current and renewed physician's and surgeon's certificate
5 constitute cause to revoke his existing probation.

6 **DISCIPLINARY ORDER**

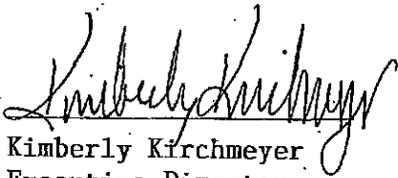
7 Physician's and Surgeon's certificate No. A74720 issued to Stephen Richard Lauterbach,
8 M.D. is hereby **REVOKED**.

9 Respondent shall not be deprived of making a request for relief from default as set forth in
10 Government Code section 11520(c) for good cause shown. However, such showing must be
11 made in writing by way of a motion to vacate the default decision and directed to the Medical
12 Board of California at 2005 Evergreen Street, Suite 1200, Sacramento, CA 95815 within seven
13 (7) days of the service of this Decision.

14 This Decision will become effective August 25, 2017

15 It is so ordered on July 28, 2017.

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17 MEDICAL BOARD OF CALIFORNIA
18 DEPARTMENT OF CONSUMER AFFAIRS
19 STATE OF CALIFORNIA

20 By 

21 Kimberly Kirchmeyer
22 Executive Director
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1 XAVIER BECERRA
Attorney General of California
2 JANE ZACK SIMON
Supervising Deputy Attorney General
3 State Bar No. 116564
4 455 Golden Gate Avenue, Suite 11000
San Francisco, CA 94102-7004
Telephone: (415) 703-5544
5 Facsimile: (415) 703-5480
E-mail: Janezack.simon@doj.ca.gov
6 *Attorneys for Complainant*

FILED
STATE OF CALIFORNIA
MEDICAL BOARD OF CALIFORNIA
SACRAMENTO June 6 20 17
BY: [Signature] ANALYST

7
8 **BEFORE THE
MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

10 In the Matter of the Accusation and Petition to
Revoke Probation Against:

Case No. 800-2017-029728

11 **STEPHEN RICHARD LAUTERBACH, M.D.**
12 161 Riverside Drive, Suite 105
13 Binghamton, NY 13905-4177

**ACCUSATION AND PETITION TO
REVOKE PROBATION**

14 Physician's and Surgeon's Certificate
No. A74720,

15 Respondent.

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18 Complainant alleges:

19 **PARTIES**

20 1. Kimberly Kirchmeyer (Complainant) brings this Accusation and Petition to Revoke
21 Probation solely in her official capacity as the Executive Director of the Medical Board of
22 California, Department of Consumer Affairs (Board).

23 2. On May 31, 2001, Physician's and Surgeon's Certificate No. A74720 was issued by
24 the Board to Stephen Richard Lauterbach, M.D. (Respondent). The certificate is in delinquent
25 status, having expired on November 30, 2016, and is suspended by virtue of an Order issued on
26 April 14, 2017 pursuant to Business and Professions Code section 2310(a).

27 Prior disciplinary action was taken against the certificate as follows: On November 15,
28 2012, an Accusation was filed in Case No. 16-2012-223707; on April 10, 2013, a Decision

1 became effective under which Respondent's certificate was revoked, stayed, subject to five years
2 probation with terms and conditions.

3 3. The 2013 Decision required Respondent to, among other things, abstain from drugs
4 and alcohol, submit to biological fluid testing, undergo an evaluation if requested, have a practice
5 monitor, and not engage in solo practice. The basis for the 2013 Decision was Respondent's
6 history of substance abuse. The Decision contained a tolling provision under which periods of
7 residence or practice outside California would not apply to the reduction of the probationary
8 period, although specific terms of the Decision were not subject to the tolling provision.

9 JURISDICTION

10 4. This Accusation and Petition to Revoke Probation is brought before the Board, under
11 the authority of the following laws. All section references are to the Business and Professions
12 Code unless otherwise indicated.

13 5. Section 141 of the Code states:

14 "(a) For any licensee holding a license issued by a board under the jurisdiction of the
15 department, a disciplinary action taken by another state, by any agency of the federal
16 government, or by another country for any act substantially related to the practice
17 regulated by the California license, may be a ground for disciplinary action by the
18 respective state licensing board. A certified copy of the record of the disciplinary
19 action taken against the licensee by another state, an agency of the federal
20 government, or another country shall be conclusive evidence of the events related
21 therein.

22 "(b) Nothing in this section shall preclude a board from applying a specific statutory
23 provision in the licensing act administered by that board that provides for discipline
24 based upon a disciplinary action taken against the licensee by another state, an agency
25 of the federal government, or another country."

26 6. Section 2305 of the Code provides, in part, that the revocation, suspension, or other
27 discipline, restriction or limitation imposed by another state upon a license to practice medicine
28 issued by that state, that would have been grounds for discipline in California under the Medical
Practice Act, constitutes grounds for discipline for unprofessional conduct.

29 FIRST CAUSE FOR DISCIPLINE

30 (Discipline, Restriction, or Limitation Imposed by Another State)

31 7. On October 6, 2016, the New York State Board for Professional Medical Conduct
32 (New York Board) issued a Consent Order to resolve a pending Statement of Charges regarding

1 Respondent's New York medical license. Under the terms of the Consent Order, Respondent's
2 New York license was suspended for an indefinite period, but no less than 18 months. The basis
3 for the Consent Order and license suspension was Respondent's consumption of alcohol, in
4 violation of his New York probation. Copies of the Consent Order and the Statement of Charges
5 issued by the New York Board are attached as Exhibit A.

6 8. Respondent's conduct and the action of the New York Board set forth in paragraph 7,
7 above, constitute unprofessional conduct and cause for discipline within the meaning of section
8 2305 and conduct subject to discipline within the meaning of section 141.

9 CAUSE TO REVOKE PROBATION

10 9. The Medical Board of California's 2013 Decision contained a number of terms and
11 conditions that were not subject to the tolling provision: the 2013 Decision required Respondent
12 to obey all federal, state and local laws and all rules governing the practice of medicine in
13 California; he was required to comply with the Board's probation unit, which included the
14 maintenance of a current and renewed California physician's and surgeon's license; he was
15 required to abstain from drugs and alcohol; and, required to submit to biological fluid testing.
16 The 2013 Decision further provided that if Respondent violated probation in any respect, the
17 Board could revoke probation and carry out the disciplinary order that was stayed.

18 10. In December 2016, Respondent informed the Board's probation staff that he had
19 relapsed by consuming alcohol, which had resulted in the suspension of his New York license. In
20 addition, Respondent's California physician's and surgeon's certificate expired on November 30,
21 2016, and has not been renewed. Respondent has therefore violated the terms of the 2013
22 Decision, and has subjected his probation to revocation.

23 PRAYER

24
25 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
26 and that following the hearing, the Medical Board of California issue a decision:

27 1. Revoking the probation granted by the Medical Board of California in Case
28

1 No. 16-2012-223707, and revoking or suspending Physician's and Surgeon's Certificate Number
2 A74720, issued to Stephen R. Lauterbach, M.D.;

3 2. Revoking, suspending or denying approval of Respondent's authority to supervise
4 physician assistants and advanced practice nurses;

5 3. Ordering Respondent, if placed on probation, to pay the Board the costs of probation
6 monitoring; and

7 4. Taking such other and further action as deemed necessary and proper.

8
9 DATED: June 5, 2017


KIMBERLY KIRCHMEYER
Executive Director
Medical Board of California
Department of Consumer Affairs
State of California
Complainant

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Department
of Health

ANDREW M. CUOMO
Governor

HOWARD A. ZUCKER, M.D., J.D.
Commissioner

SALLY DRESLIN, M.S., R.N.
Executive Deputy Commissioner

October 11, 2016

CERTIFIED MAIL-RETURN RECEIPT REQUESTED

Stephen Richard Lauterbach, M.D.


Re: License No. 201398

Dear Dr. Lauterbach:

Enclosed is a copy of the New York State Board for Professional Medical Conduct (BPMC) Order No. 16-332. This order and any penalty provided therein goes into effect October 18, 2016.

Please direct any questions to: Board for Professional Medical Conduct, 90 Church Street, 4th Floor, New York, NY 10007-2919, telephone # 212-417-4445.

Sincerely,



Henry Spector, M.D.
Acting Executive Secretary
Board for Professional Medical Conduct

Enclosure

cc: Catherine A. Gale, Esq.
Gale, Gale & Hunt, LLC
PO Box 6527
Syracuse, New York 13217

NEW YORK STATE DEPARTMENT OF HEALTH
STATE BOARD FOR PROFESSIONAL MEDICAL CONDUCT

BPMC No. 16-332

IN THE MATTER

OF

STEPHEN RICHARD LAUTERBACH, M.D.

CONSENT
ORDER

Upon the application of (Respondent) STEPHEN RICHARD LAUTERBACH, M.D. in
the attached Consent Agreement and Order, which is made a part of this Consent Order, it is
ORDERED, that the Consent Agreement, and its terms, are adopted and

it is further

ORDERED, that this Consent Order shall be effective upon issuance by the Board,

either

by mailing of a copy of this Consent Order, either by first class mail to Respondent at
the address in the attached Consent Agreement or by certified mail to Respondent's
attorney, OR

upon facsimile transmission to Respondent or Respondent's attorney,

whichever is first.

SO ORDERED.

DATE: 10/06/2016


ARTHUR S. HENGERER, M.D.
Chair
State Board for Professional Medical Conduct

1

NEW YORK STATE DEPARTMENT OF HEALTH
STATE BOARD FOR PROFESSIONAL MEDICAL CONDUCT

IN THE MATTER
OF
STEPHEN RICHARD LAUTERBACH, M.D.

CONSENT
AGREEMENT

STEPHEN RICHARD LAUTERBACH, M.D., represents that all of the following statements are true:

That on or about November 14, 1995, I was licensed to practice as a physician in the State of New York, and issued License No. 201398 by the New York State Education Department.

My current address is [REDACTED] and I will advise the Director of the Office of Professional Medical Conduct of any change of address.

I understand that the New York State Board for Professional Medical Conduct (Board) has charged me with one or more specifications of professional misconduct, as set forth in a Statement of Charges, marked as Exhibit "A", attached to and part of this Consent Agreement.

I admit guilt to the specification in full satisfaction of the charges against me, and agree to the following penalty:

My license shall be suspended for an indefinite period but no less than 18 months. I shall be subject to a condition that I comply with attached Exhibit "C" ("Requirements for Closing a Medical Practice Following Medical License Revocation, Surrender, Limitation or

Suspension." During the period of suspension, I shall be precluded from reliance upon my license to practice medicine to exempt me from the license, certification or other requirements set forth in statute or regulation for the practice of any other profession licensed, regulated, or certified by the Board of Regents, Department of Education, Department of Health or the Department of State. Upon compliance with all the conditions of this Consent Order I may petition the Board for a Modification Order staying the indefinite suspension of my license.

I understand and agree:

That any Modification Order the Board may issue, in the exercise of its reasonable discretion, may include terms of probation, and/or further conditions on my practice.

That the Board will exercise its reasonable discretion upon my petition for a modification Order through a Committee on Professional Conduct after a proceeding in which I have met a burden of proof and persuasion, as further set forth in attached Exhibit "B";

That the Committee's exercise of discretion shall not be reviewable by the Administrative Review Board; and

I further agree that the Consent Order shall impose the following conditions:

- That Respondent shall comply with each and every penalty imposed by this Order pursuant to N.Y. Pub. Health Law § 230-a; and
- That Respondent shall remain in continuous compliance with all requirements of N.Y. Educ Law §6502 including, but not limited to, the

requirements that a licensee shall register and continue to be registered with the New York State Education Department (except during periods of actual suspension) and that a licensee shall pay all registration fees. Respondent shall not exercise the option provided in N.Y. Educ Law § 6502(4) to avoid registration and payment of fees. This condition shall take effect 120 days after the Consent Order's effective date and will continue so long as Respondent remains a licensee in New York State; and

- That Respondent shall remain in continuous compliance with all requirements of N.Y. Pub. Health Law § 2995-a(4) and 10 NYCRR 1000.5, including but not limited to the requirements that a licensee shall: report to the department all information required by the Department to develop a public physician profile for the licensee; continue to notify the department of any change in profile information within 30 days of any change (or in the case of optional information, within 365 days of such change); and, in addition to such periodic reports and notification of any changes, update his or her profile information within six months prior to the expiration date of the licensee's registration period. Licensee shall submit changes to his or her physician profile information either electronically using the department's secure web site or on forms prescribed by the department, and licensee shall attest to the truthfulness, completeness and correctness of any changes licensee submits to the department. This condition shall take effect 30 days after the Order's effective date and shall continue so long as Respondent

remains a licensee in New York State. Respondent's failure to comply with this condition, if proven and found at a hearing pursuant to N.Y. Pub. Health Law § 230, shall constitute professional misconduct as defined in N.Y. Educ. Law § 6530(21) and N.Y. Educ. Law § 6530(29). Potential penalties for failure to comply with this condition may include all penalties for professional misconduct set forth in N.Y. Pub. Health Law §230-a, including but not limited to: revocation or suspension of license, Censure and Reprimand, probation, public service and/or fines of up to \$10,000 per specification of misconduct found; and

• That Respondent shall provide the Director, Office of Professional Medical Conduct (OPMC), Riverview Center, 150 Broadway, Suite 355, Albany, New York 12204-2719, with the following information, in writing, and ensure that this information is kept current: a full description of Respondent's employment and practice; all professional and residential addresses and telephone numbers within and outside New York State; and all investigations, arrests, charges, convictions or disciplinary actions by any local, state or federal agency, institution or facility. Respondent shall notify OPMC, in writing, within 30 days of any additions to or changes in the required information. This condition shall take effect 30 days after the Order's effective date and shall continue at all times until Respondent receives written notification from the Office of Professional Medical Conduct, Physician Monitoring Program, that OPMC has determined that Respondent has fully

complied with and satisfied the requirements of the Order, regardless of tolling; and

- That Respondent shall cooperate fully with OPMC in its administration and enforcement of this Consent Order and in its investigation of all matters concerning Respondent. Respondent shall respond promptly to all OPMC requests for written periodic verification of Respondent's compliance with the terms of this Consent Order. Respondent shall meet with a person designated by the Director of OPMC, and shall promptly provide OPMC with all documents and information within Respondent's control, as directed. This condition shall take effect upon the Board's issuance of the Consent Order and will continue so long as Respondent remains licensed in New York State.

I stipulate that my failure to comply with any conditions of this Consent Order shall constitute misconduct as defined by N.Y. Educ. Law § 6530(29).

If I am charged with professional misconduct in future, I hereby stipulate and agree that this Application and Consent Order, and/or related Modification Orders, shall be admitted into evidence in that proceeding as part of the Department's case-in-chief, at the sole discretion of the Department.

I ask the Board to adopt this Consent Agreement.

I understand that if the Board does not adopt this Consent Agreement, none of its terms shall bind me or constitute an admission of any of the acts of alleged misconduct; this Consent Agreement shall not be used against me in any way and shall be kept in strict

confidence; and the Board's denial shall be without prejudice to the pending disciplinary proceeding and the Board's final determination pursuant to the Public Health Law.

I agree that, if the Board adopts this Consent Agreement, the Chair of the Board shall issue a Consent Order in accordance with its terms. I agree that this Consent Order shall take effect upon issuance by the Board, either by mailing of a copy of the Consent Order by first class mail to me at the address in this Consent Agreement, or to my attorney by certified mail, OR upon facsimile transmission to me or my attorney, whichever is first. This Consent Order, this Consent Agreement, and all attached Exhibits shall be public documents, with only patient identities, if any, redacted. As public documents, they may be posted on the Department's website. OPMC shall report this action to the National Practitioner Data Bank and the Federation of State Medical Boards, and any other entities that the Director of OPMC shall deem appropriate.

I stipulate that the proposed sanction and Consent Order are authorized by N.Y. Pub. Health Law §§ 230 and 230-a, and that the Board for Professional Medical Conduct and the Office of Professional Medical Conduct have the requisite powers to carry out all included terms. I ask the Board to adopt this Consent Agreement of my own free will and not under duress, compulsion or restraint. In consideration of the value to me of the Board's adoption of this Consent Agreement, allowing me to resolve this matter without the various risks and burdens of a hearing on the merits, I knowingly waive my right to contest the Consent Order for which I apply, whether administratively or judicially, I agree to be bound by the Consent Order, and I ask that the Board adopt this Consent Agreement.

7

I understand and agree that the attorney for the Department, the Director of the Office of Professional Medical Conduct and the Chair of the State Board for Professional Medical Conduct each retain complete discretion either to enter into the proposed agreement and Consent Order, based upon my application, or to decline to do so. I further understand and agree that no prior or separate written or oral communication can limit that discretion.

DATE

9/28/16
STEPHEN RICHARD LAUTERBACH, M.D.
RESPONDENT

The undersigned agree to Respondent's attached Consent Agreement and to its proposed penalty, terms and conditions.

DATE: 9/28/2016



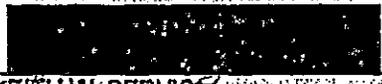
CATHERINE A. GALE, ESQ.
Attorney for Respondent

DATE: 9/29/16



DAVID W. QUIST
Associate Attorney
Bureau of Professional Medical Conduct

DATE: 10/5/16



KEITH W. SERVIS
Director
Office of Professional Medical Conduct

EXHIBIT "A"

NEW YORK STATE DEPARTMENT OF HEALTH
STATE BOARD FOR PROFESSIONAL MEDICAL CONDUCT

IN THE MATTER

OF

STEPHEN RICHARD LAUTERBACH, M.D.

STATEMENT

OF

CHARGES

STEPHEN RICHARD LAUTERBACH, M.D., the Respondent, was authorized to practice medicine in New York State on or about November 14, 1995, by the issuance of license number 201398 by the New York State Education Department.

FACTUAL ALLEGATIONS

A. On or about April 5, 2012, Respondent entered into a Consent Agreement with the New York State Board of Professional Medical Conduct, which resulted in a Consent Order ("Order") which became effective on or about April 26, 2012. The Order resulted from an Amended Statement of Charges, which Respondent did not contest, alleging that Respondent was a habitual user of alcohol, in violation of New York State Education Law § 6530(8). Pursuant to the terms of the Order, Respondent was made subject to three years stayed suspension of his license to practice medicine in New York, probation for a term of five years and other terms and conditions. Among the terms of probation were that Respondent remain drug and alcohol free.

B. During his probation, Respondent consumed alcohol in violation of the terms of probation.

FIRST SPECIFICATION

VIOLATING ANY TERM OF PROBATION OR CONDITION OR LIMITATION

Respondent is charged with committing professional misconduct as defined in N.Y. Educ. Law § 6530(29) by violating any term of probation or condition or limitation imposed on the licensee pursuant to section two hundred thirty of the public health law, as alleged in the facts of the following:

1. The facts in Paragraphs A and B.

DATE: September 29, 2016
Albany, New York


MICHAEL A. HISER
Deputy Counsel
Bureau of Professional Medical Conduct

EXHIBIT "B"

- 1) The suspension of Respondent's license shall be terminated only after Respondent makes a showing to the satisfaction of a Committee on Professional Conduct (Committee) of the State Board for Professional Medical Conduct (Board) that Respondent has successfully complied with or successfully completed a course of therapy and ongoing evaluation and is no longer incapacitated for the practice as a physician, and a Committee makes a determination that Respondent is both fit and clinically competent to practice as a physician. Respondent shall provide the Office of Professional Medical Conduct (OPMC) with a proposed treatment plan for advice as to whether it is generally appropriate; however, the determination of successful compliance with or completion of a course of therapy, and the determination that Respondent is no longer incapacitated for the active practice as a physician, shall be made solely by the Committee.
- 2) After Respondent completes at least 18 months of suspension pursuant to the terms of this Consent Order, and upon Respondent's request which may be initiated after 6 months of suspension, a Committee shall be convened to hear and evaluate Respondent's showing, as set forth in paragraph 1 above. The Board will make reasonable attempts to convene a Committee within 90 days of Respondent's request (although in no event shall it be convened prior to completion of 18 months of suspension); however, Respondent's request shall not be perfected until the Director of OPMC receives all the required documentation, and complies with all the Conditions, set forth in paragraph 3 below. The Board shall determine the procedural nature of the proceeding through the exercise of the Director of OPMC's reasonable discretion upon consultation with Counsel, Bureau of Professional Medical Conduct (Counsel). Proceedings before a Committee shall not be in the nature of a hearing pursuant to N. Y. Pub. Health Law § 230, but shall instead be informal and intended only to address any facts, evidence, information, circumstances, or issues relating to the advisability of terminating Respondent's license suspension. The Committee shall be given access to evidence including, but not limited to:
 - a) Any evidence pertaining to Respondent's compliance with the conditions imposed.
 - b) Any evidence that the Director or Counsel deems appropriate.
- 3) Upon requesting that a Committee be convened, pursuant to paragraph 2, Respondent shall provide the Director of OPMC with the following:
 - a) The signed acknowledgment and curriculum vitae from the proposed sobriety monitor referred to in paragraph 5c.

- b) The signed acknowledgment and curriculum vitae from the proposed supervising physician referred to in paragraph 5d.
- c) The signed acknowledgment and curriculum vitae from the proposed health care professional referred to in paragraph 5e.
- d) Certified true and complete copies of all evaluation and treatment records relating to Respondent's substance abuse/dependence, psychological, psychiatric and/or mental health treatment, whether in an in-patient, out-patient, after-care or consultation setting; the certified records shall be forwarded directly to OPMC by the treatment providers, facilities and evaluators. The records shall reflect all treatment and evaluation provided, and shall include the results of all tests conducted to evaluate Respondent's fitness and clinical competence to practice medicine, whether the treatment, evaluation and testing occurred before, or while, the suspension was in effect.
- e) Documentation of Respondent's participation in the program(s) of the Committee for Physicians' Health of the Medical Society of the State of New York or other equivalent program(s). Documentation shall include but not be limited to verification of compliance and results of forensically valid alcohol/drug screening.
- f) Fully executed waivers of patient confidentiality concerning any previous and prospective treatment records; these waivers shall comply with the requirements of federal confidentiality laws and regulations, including but not limited to: HIPAA, Public Law 104-191, et seq., and the laws governing confidentiality of substance abuse records, at 42 U.S.C. §§ 290dd-3 and ee-3 and 42 C.F.R., Part 2.
- g) A current, independent, in-depth chemical dependency and psychiatric evaluation by a board-certified psychiatrist specializing in addiction medicine.
- h) Upon request of the Director of OPMC, Respondent shall attend, participate in and cooperate with an interview with designated personnel from the OPMC.

Provision of the documents listed in this paragraph shall not, alone, constitute a showing that Respondent is no longer incapacitated for active practice as a physician.

- 4) At least 14 days before the scheduled date of the proceeding referred to in paragraph 2, Respondent shall provide OPMC with the following:

a) Certified true and complete copies of records updating treatment and alcohol/drug screening since the date of the original submissions referred to in paragraph 3d.

b) Evidence that Respondent has maintained adequate knowledge and competence to practice as a physician; this evidence shall include documentation of continuing medical education and, at the Director of OPMC's request, a report of an independent evaluation of Respondent's medical knowledge and competence.

Submission of the evidence listed in this paragraph shall not, alone, constitute a showing that Respondent is no longer incapacitated for active practice as a physician.

5) If the Chair of the Committee issues an Order finding that Respondent has successfully completed the prescribed course of treatment and has regained fitness and competence to practice medicine, and therefore terminates the suspension of Respondent's license, the Order shall further impose a period of probation pursuant to N.Y. Pub. Health Law § 230-a, during which Respondent's practice as a physician shall be subject to conditions imposed for a period of no less than five years. The minimum conditions shall include the following:

a) Respondent shall be required to comply with the terms of a continuing after-care treatment plan addressing the major problems associated with Respondent's illness.

b) At the direction of the Director of OPMC, Respondent shall submit to periodic interviews with, and evaluations by, a board-certified psychiatrist or other licensed mental health practitioner designated by the Director. This practitioner shall report to the Director regarding Respondent's condition and Respondent's fitness or incapacity to practice as a physician.

c) Respondent's sobriety will be monitored by a health care professional proposed by Respondent and approved, in writing, by the Director of OPMC ("sobriety monitor"). The sobriety monitor shall not be a personal friend. The sobriety monitor shall be familiar with Respondent's history of chemical dependence, with this suspension and with the terms of probation to be set forth. The sobriety monitor shall acknowledge willingness to comply with the monitoring terms by executing the acknowledgment provided by OPMC.

i) Respondent shall remain free from alcohol and all other mood altering substances other than those prescribed for Respondent's

treatment by a licensed health care professional aware of Respondent's history of chemical dependency and mental illness. Respondent shall not self-prescribe any medications.

- ii) The sobriety monitor shall see Respondent at least twice during each month.
 - iii) The sobriety monitor shall direct Respondent to submit to unannounced tests of Respondent's blood, breath, hair, and/or urine for the presence of drugs or alcohol and shall report to OPMC within 24 hours if at any time a test is positive or is refused by Respondent. Respondent shall avoid all substances that may cause positive urine drug screens such as poppy seeds, mouthwash, cough medicine, etc. Any positive result shall be considered a violation of probation.
 - iv) The sobriety monitor shall report to OPMC any non-compliance with the imposed conditions.
 - v) Respondent shall ensure that the sobriety monitor submits quarterly reports to OPMC certifying Respondent's compliance, or detailing Respondent's failure to comply, with each of the conditions imposed. The reports shall include the results of all body fluid and/or breath tests for drugs and/or alcohol performed during that quarter.
- d) Respondent's medical practice shall be supervised by a licensed physician ("practice supervisor") proposed by Respondent and approved, in writing, by the Director of OPMC. The supervising physician shall be familiar with Respondent's history of impairment and with the Order and its conditions. The supervising physician shall supervise Respondent's compliance with the conditions of practice imposed by the Order. The supervising physician shall be in a position to regularly observe and assess Respondent's medical practice. The supervising physician shall oversee Respondent's prescribing, administering, dispensing, inventorying and wasting of controlled substances. The supervising physician shall acknowledge willingness to comply with the supervision terms by executing the acknowledgment provided by OPMC.
- i) Respondent shall ensure that the supervising physician submits quarterly reports to OPMC regarding the quality of Respondent's medical practice, any unexplained absences from work and certifying Respondent's compliance with each condition imposed, or detailing Respondent's failure to comply.

8) In addition to the terms set out in paragraph 5, and any other terms added by the Committee, upon the termination of Respondent's license suspension, Respondent shall also be subject to the following standard terms of probation:

- a) Respondent's conduct shall conform to moral and professional standards of conduct and governing law.
- b) Any civil penalty not paid by Respondent by the prescribed date shall subject Respondent to all legal provisions pertaining to debt collection, including the imposition of interest, late payment charges and collection fees, referral of the debt to the New York State Department of Taxation and Finance for collection, and the non-renewal of permits or licenses. [Tax Law § 171 (27); State Finance Law § 18; CPLR § 5001; Executive Law § 32].
- c) The probation period shall toll when Respondent is not engaged in active medical practice in New York State for a period of 30 consecutive days or more. Respondent shall notify the Director of OPMC, in writing, if Respondent is not currently engaged in, or intends to leave, active medical practice in New York State for a consecutive 30 day period. Respondent shall then notify the Director again at least 14 days before returning to active practice. Upon Respondent's return to active practice in New York State, the probation period shall resume and Respondent shall fulfill any unfulfilled probation terms and such additional requirements as the Director may impose as reasonably relate to the matters set forth in Exhibit "A" or as are necessary to protect the public health.
- d) 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, hospital charts, and/or electronic records, as well as interviews and/or periodic visits with Respondent and staff at practice locations or OPMC offices.
- e) Respondent shall adhere to federal and state guidelines and professional standards of care with respect to infection control practices. Respondent shall ensure education, training and oversight of all office personnel involved in medical care, with respect to these practices.
- f) Respondent shall maintain legible and complete medical records which accurately reflect the evaluation and treatment of patients. The medical records shall contain all information required by state rules and regulations regarding controlled substances.

g) Respondent shall comply with this Consent Order and all its terms, conditions, restrictions, limitations and penalties and shall be responsible for all associated compliance costs. Upon receiving evidence of non-compliance with the Consent Order, or any violation of its terms, the Director of OPMC and/or the Board may initiate a violation of probation proceeding and/or any other proceeding against Respondent authorized by law.

EXHIBIT "C"

Requirements for Closing a Medical Practice Following a
Revocation, Surrender, Limitation or Suspension of a Medical License

1. Licensee shall immediately cease and desist from engaging in the practice of medicine in New York State, or under Licensee's New York license, in accordance with the terms of the Order. In addition, Licensee shall refrain from providing an opinion as to professional practice or its application and from representing that Licensee is eligible to practice medicine.
2. Within 5 days of the Order's effective date, Licensee shall deliver Licensee's original license to practice medicine in New York State and current biennial registration to the Office of Professional Medical Conduct (OPMC) at Riverview Center, 150 Broadway, Suite 355, Albany, New York 12204-2719.
3. Within 15 days of the Order's effective date, Licensee shall notify all patients of the cessation or limitation of Licensee's medical practice, and shall refer all patients to another licensed practicing physician for continued care, as appropriate. Licensee shall notify, in writing, each health care plan with which the Licensee contracts or is employed, and each hospital where Licensee has privileges, that Licensee has ceased medical practice. Within 45 days of the Order's effective date, Licensee shall provide OPMC with written documentation that all patients and hospitals have been notified of the cessation of Licensee's medical practice.
4. Licensee shall make arrangements for the transfer and maintenance of all patient medical records. Within 30 days of the Order's effective date, Licensee shall notify OPMC of these arrangements, including the name, address, and telephone number of an appropriate and acceptable contact persons who shall have access to these records. Original records shall be retained for at least 6 years after the last date of service rendered to a patient or, in the case of a minor, for at least 6 years after the last date of service or 3 years after the patient reaches the age of majority, whichever time period is longer. Records shall be maintained in a safe and secure place that is reasonably accessible to former patients. The arrangements shall include provisions to ensure that the information in the record is kept confidential and is available only to authorized persons. When a patient or a patient's representative requests a copy of the patient's medical record, or requests that the original medical record be sent to another health care provider, a copy of the record shall be promptly provided or forwarded at a reasonable cost to the patient (not to exceed 75 cents per page.) Radiographic, sonographic and similar materials shall be provided at cost. A qualified person shall not be denied access to patient information solely because of an inability to pay.

EXHIBIT "C"

5. In the event that Licensee holds a Drug Enforcement Administration (DEA) certificate for New York State, Licensee shall, within fifteen (15) days of the Order's effective date, advise the DEA, in writing, of the licensure action and shall surrender his/her DEA controlled substance privileges for New York State to the DEA. Licensee shall promptly surrender any unused DEA #222 U.S. Official Order Forms Schedules 1 and 2 for New York State to the DEA. All submissions to the DEA shall be addressed to Diversion Program Manager, New York Field Division, U.S. Drug Enforcement Administration, 99 Tenth Avenue, New York, NY 10011.
6. Within 15 days of the Order's effective date, Licensee shall return any unused New York State official prescription forms to the Bureau of Narcotic Enforcement of the New York State Department of Health. If no other licensee is providing services at Licensee's practice location, Licensee shall properly dispose of all medications.
7. Within 15 days of the Order's effective date, Licensee shall remove from the public domain any representation that Licensee is eligible to practice medicine, including all related signs, advertisements, professional listings (whether in telephone directories, internet or otherwise), professional stationery or billings. Licensee shall not share, occupy, or use office space in which another licensee provides health care services.
8. Licensee shall not charge, receive or share any fee or distribution of dividends for professional services rendered by Licensee or others while Licensee is barred from engaging in the practice of medicine. Licensee may be compensated for the reasonable value of services lawfully rendered, and disbursements incurred on a patient's behalf, prior to the Order's effective date.
9. If Licensee is a shareholder in any professional service corporation organized to engage in the practice of medicine, Licensee shall divest all financial interest in the professional services corporation, in accordance with New York Business Corporation Law. Such divestiture shall occur within 90 days. If Licensee is the sole shareholder in a professional services corporation, the corporation must be dissolved or sold within 90 days of the Order's effective date.
10. Failure to comply with the above directives may result in a civil penalty or criminal penalties as may be authorized by governing law. Under N.Y. Educ. Law § 6512, it is a Class E Felony, punishable by imprisonment of up to 4 years, to practice the profession of medicine when a professional license has been suspended, revoked or annulled. Such punishment is in addition to the penalties for professional misconduct set forth in N.Y. Pub. Health Law § 230-a, which include fines of up to \$10,000 for each specification of charges.

of which the Licensee is found guilty, and may include revocation of a suspended license.

BEFORE THE
MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation)
Against:)
)
)
STEPHEN R. LAUTERBACH, M.D.) Case No. 16-2012-223707
)
Physician's and Surgeon's)
Certificate No. A-74720)
)
Respondent)
_____)

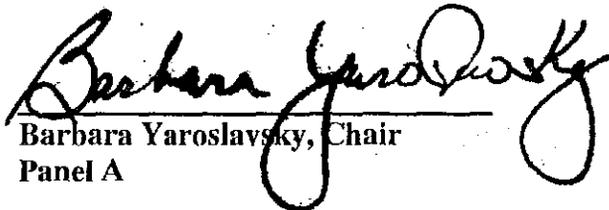
DECISION

The attached Stipulated Settlement and Disciplinary Order is hereby adopted as the Decision and Order of the Medical Board of California, Department of Consumer Affairs, State of California.

This Decision shall become effective at 5:00 p.m. on May 10, 2013.

IT IS SO ORDERED: April 10, 2013.

MEDICAL BOARD OF CALIFORNIA


Barbara Yaroslavsky, Chair
Panel A

1 KAMALA D. HARRIS
Attorney General of California
2 JOSE R. GUERRERO
Supervising Deputy Attorney General
3 JANE ZACK SIMON [SBN 116564]
Deputy Attorney General
4 455 Golden Gate Avenue, Suite 11000
San Francisco, CA 94102-7004
5 Telephone: (415) 703-5544
Fax: (415) 703-5480

6 *Attorneys for Complainant*

7
8 **BEFORE THE**
9 **MEDICAL BOARD OF CALIFORNIA**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. 16-2012-223707

13 **STEPHEN R. LAUTERBACH, M.D.**

14 Faxton 4th Floor
1676 Sunset Avenue
Utica, NY 13502

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER**

15 Physician's and Surgeon's Certificate No. A74720

16 Respondent.

17
18 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the
19 above-entitled proceedings that the following matters are true:

20 1. Linda K. Whitney (Complainant) is the Executive Director of the Medical
21 Board of California. This action has at all times been brought and maintained in the official
22 capacity of the Medical Board's Executive Director. Complainant is represented in this matter by
23 Kamala D. Harris, Attorney General of the State of California, by Jane Zack Simon, Deputy
24 Attorney General.

25 2. Stephen R. Lauterbach, M.D. (Respondent) is represented by Catherine
26 Gale of Gale Gale & Hunt, LLC, Attorneys at Law, P.O. Box 6527, Syracuse, NY 13217.

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1 3. On May 31, 2001, the Medical Board of California issued Physician's and
2 Surgeon's Certificate No. A74720 to Respondent. Said certificate is renewed and current with an
3 expiration date of November 30, 2014.

4 4. Accusation No. 16-2012-223707 (Accusation) was duly filed before the
5 Medical Board of California (Board), and is currently pending against Respondent. The
6 Accusation and all other statutorily required documents were properly served on Respondent and
7 Respondent filed a Notice of Defense contesting the Accusation. A copy of the Accusation is
8 attached as Exhibit A.

9 5. Respondent has carefully read, fully discussed with his counsel and
10 understands the charges and allegations in the Accusation. Respondent has also carefully read,
11 fully discussed with counsel, and understands the effects of this Stipulated Settlement and
12 Disciplinary Order (Stipulation.)

13 6. Respondent is fully aware of his legal rights in this matter, including the
14 right to a hearing on the charges and allegations in the Accusation; the right to be represented by
15 counsel at his own expense; the right to confront and cross-examine the witnesses against him;
16 the right to present evidence and to testify on his own behalf; the right to the issuance of
17 subpoenas to compel the attendance of witnesses and the production of documents; the right to
18 reconsideration and court review of an adverse decision; and all other rights accorded by the
19 California Administrative Procedure Act and other applicable laws.

20 7. Respondent voluntarily, knowingly, and intelligently waives and gives up
21 each and every right set forth above.

22 8. Respondent admits that based on the Consent Order issued by the New
23 York State Board for Professional Conduct as set forth in the Accusation, Complainant could
24 establish a *prima facie* case with respect to the charges and allegations set forth in the Accusation.
25 Respondent agrees that his California Physician's and Surgeon's Certificate is subject to
26 discipline and he agrees to be bound by the Board's imposition of discipline as set forth in the
27 Disciplinary Order below.

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1 prescription. This prohibition does not apply to medications lawfully prescribed to Respondent by
2 another practitioner for a bona fide illness or condition. Within 15 calendar days of receiving any
3 lawful prescription medications, Respondent shall notify the Board or its designee of the: issuing
4 practitioner's name, address, and telephone number; medication name and strength; and issuing
5 pharmacy name, address, and telephone number. Respondent shall abstain completely from the
6 use of products or beverages containing alcohol.

7 2. **Biological Fluid Testing:** Respondent shall immediately submit to
8 biological fluid testing, at Respondent's expense, upon the request of the Board or its designee.
9 Biological fluid testing may include, but is not limited to, urine, blood, breathalyzer, hair follicle
10 testing, or similar screening approved by the Board or its designee. Within 30 days of this
11 Decision, Respondent shall, at his expense, contract with a laboratory or service approved in
12 advance by the Board or its designee that will conduct random, unannounced, observed biological
13 fluid testing. The contract shall require results of the tests to be transmitted by the laboratory or
14 service directly to the Board or its designee within four hours of the results becoming available.
15 Respondent shall maintain this laboratory or service contract during the period of probation. A
16 certified copy of any laboratory test results may be received in evidence in any proceedings
17 between the Board and the Respondent. If Respondent has a positive biological fluid test, he shall
18 receive written and/or oral notification from the Board or its designee to immediately cease the
19 practice of medicine. Respondent shall not resume the practice of medicine until a final decision
20 has issued on an accusation and/or a petition to revoke probation.

21 3. **Evaluation:** Prior to practicing medicine in California, Respondent shall
22 provide the Board or its designee access to information or documentation requested by the Board
23 or its designee pertaining to his monitoring agreement, biological fluid testing, or other
24 information pertaining to his compliance with the Consent Order issued by the New York State
25 Board for Professional Medical Conduct. Respondent may be required by the Board or its
26 designee to undergo and complete an addiction evaluation (and psychological testing, if deemed
27 necessary) by a Board-appointed specialist in addiction medicine who shall consider any
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1 information provided by the Board or its designee and any other information the examiner(s)
2 deems relevant, and shall furnish a written evaluation report(s) to the Board or its designee. In
3 addition to the terms and conditions set forth in this Stipulation, Respondent shall comply with all
4 restrictions or conditions recommended by the evaluator(s) within 15 calendar days after being
5 notified by the Board or its designee. Failure to undergo and complete the evaluation(s) and any
6 psychological testing, or comply with any required additional conditions or restrictions, is a
7 violation of probation. During the course of probation, and on such a periodic basis as may be
8 required by the Board or its designee, respondent shall undergo and complete additional
9 evaluation(s). During any evaluation(s) Respondent shall cooperate fully with the evaluator(s),
10 and shall provide the evaluator(s) with access to any information, records or documents that the
11 evaluator(s) may deem pertinent or necessary. Respondent shall pay the cost of all evaluations
12 and psychological testing. Respondent shall not engage in the clinical practice of medicine in
13 California until notified in writing by the Board or its designee of its determination that he is
14 medically and mentally fit to practice safely.

15 4. **Practice Monitor:** At least 30 days prior to engaging in the practice of
16 medicine in California, Respondent shall submit to the Board or its designee for prior approval as
17 a practice monitor, the name and qualifications of one or more licensed physicians and surgeons
18 whose licenses are valid and in good standing, and who are preferably American Board of
19 Medical Specialties (ABMS) certified. A monitor shall have no prior or current business or
20 personal relationship with Respondent, or other relationship that could reasonably be expected to
21 compromise the ability of the monitor to render fair and unbiased reports to the Board, including
22 but not limited to any form of bartering, shall be in Respondent's field of practice, and must agree
23 to serve as Respondent's monitor. Respondent shall pay all monitoring costs. The Board or its
24 designee shall provide the approved monitor with copies of the Decision(s) and Accusation(s),
25 and a proposed monitoring plan. Within 15 calendar days of receipt of the Decision(s),
26 Accusation(s), and proposed monitoring plan, the monitor shall submit a signed statement that the
27 monitor has read the Decision(s) and Accusation(s), fully understands the role of a monitor, and
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1 agrees or disagrees with the proposed monitoring plan. If the monitor disagrees with the proposed
2 monitoring plan, the monitor shall submit a revised monitoring plan with the signed statement.
3 Throughout probation, Respondent's practice shall be monitored by the approved monitor.
4 Respondent shall make all records available for immediate inspection and copying on the
5 premises by the monitor at all times during business hours and shall retain the records for the
6 entire term of probation. The monitor shall submit a quarterly written report to the Board or its
7 designee which includes an evaluation of Respondent's performance, indicating whether
8 Respondent's practices are within the standards of practice of medicine, and whether Respondent
9 is practicing medicine safely. It shall be the sole responsibility of Respondent to ensure that the
10 monitor submits the quarterly written reports to the Board or its designee within 10 calendar days
11 after the end of the preceding quarter. If the monitor resigns or is no longer available, respondent
12 shall, within 5 calendar days of such resignation or unavailability, submit to the Board or its
13 designee, for prior approval, the name and qualifications of a replacement monitor who will be
14 assuming that responsibility within 15 calendar days. If Respondent fails to obtain approval of a
15 replacement monitor within 60 days of the resignation or unavailability of the monitor,
16 Respondent shall be suspended from the practice of medicine until a replacement monitor is
17 approved and prepared to assume immediate monitoring responsibility. Respondent shall cease
18 the practice of medicine within 3 calendar days after being so notified by the Board or designee.
19 Failure to maintain all records, or to make all appropriate records available for immediate
20 inspection and copying on the premises, or to comply with this condition as outlined above is a
21 violation of probation.

22 In lieu of a monitor, Respondent may participate in a professional enhancement
23 program equivalent to the one offered by the Physician Assessment and Clinical Education
24 Program at the University of California, San Diego School of Medicine, that includes, at
25 minimum, quarterly chart review, semi-annual practice assessment, and semi-annual review of
26 professional growth and education. Respondent shall participate in the professional enhancement
27 program at Respondent's expense during the term of probation.

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1 5. **Solo Practice:** Respondent is prohibited from engaging in the solo
2 practice of medicine. Prohibited solo practice includes, but is not limited to, a practice where
3 Respondent merely shares office space with another physician but is not affiliated for the
4 purposes of providing patient care or Respondent is the sole physician practitioner at that
5 location.

6 6. **Notification:** Prior to engaging in the practice of medicine, the
7 Respondent shall provide a true copy of the Decision(s) and Accusation(s) to the Chief of Staff or
8 the Chief Executive Officer at every hospital where privileges or membership are extended to
9 Respondent, at any other facility where Respondent engages in the practice of medicine,
10 including all physician and locum tenens registries or other similar agencies, and to the Chief
11 Executive Officer at every insurance carrier which extends malpractice insurance coverage to
12 Respondent. Respondent shall submit proof of compliance to the Board or its designee within 15
13 calendar days. This condition shall apply to any change(s) in hospitals, other facilities or
14 insurance carrier.

15 7. **Supervision of Physician Assistants:** During probation, Respondent is
16 prohibited from supervising physician assistants.

17 8. **Obey all Laws:** Respondent shall obey all federal, state and local laws,
18 all rules governing the practice of medicine in California, and remain in full compliance with any
19 court ordered criminal probation, payments and other orders.

20 9. **Quarterly Declarations:** Respondent shall submit quarterly declarations
21 under penalty of perjury on forms provided by the Board, stating whether there has been
22 compliance with all the conditions of probation. Respondent shall submit quarterly declarations
23 not later than 10 calendar days after the end of the preceding quarter.

24 10. **Probation Unit Compliance:** Respondent shall comply with and
25 fully cooperate with the Board's probation unit. Respondent shall, at all times, keep the Board
26 informed of Respondent's business and residence addresses. Changes of such addresses shall be
27 immediately communicated in writing to the Board or its designee. Under no circumstances shall
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1 a post office box serve as an address of record, except as allowed by Business and Professions
2 Code section 2021(b). Respondent shall not engage in the practice of medicine in Respondent's
3 place of residence. Respondent shall maintain a current and renewed California physician's and
4 surgeon's license. Respondent shall immediately inform the Board, or its designee, in writing, of
5 travel to any areas outside the jurisdiction of California which lasts, or is contemplated to last,
6 more than 30 calendar days.

7 **11. Interview With the Board, or its Designee:**

8 Respondent shall be available in person for interviews either at Respondent's place of business or
9 at the probation unit office, with the Board or its designee, upon request at various intervals, and
10 either with or without prior notice throughout the term of probation.

11 **12. Non-practice While on Probation:**

12 Respondent shall notify the Board or its designee in writing within 15 calendar days of
13 any periods of non-practice lasting more than 30 calendar days and within 15 calendar days of
14 Respondent's return to practice. Non-practice is defined as any period of time Respondent is not
15 practicing medicine in California as defined in Business and Professions Code sections 2051 and
16 2052 for at least 40 hours in a calendar month in direct patient care, clinical activity or teaching,
17 or other activity as approved by the Board or its designee. All time spent in an intensive training
18 program which has been approved by the Board or its designee shall not be considered non-
19 practice. Practicing medicine in another state of the United States or Federal jurisdiction while on
20 probation with the medical licensing authority of that state or jurisdiction shall not be considered
21 non-practice. A Board-ordered suspension of practice shall not be considered as a period of non-
22 practice.

23 In the event Respondent's period of non-practice while on probation exceeds 18
24 calendar months, Respondent shall successfully complete a clinical training program equivalent
25 to the Physician Assessment and Clinical Education Program (PACE) offered at the University of
26 California-San Diego School of Medicine prior to resuming the practice of medicine.

27 Respondent's period of non-practice while on probation shall not exceed two (2) years. Periods
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1 of non-practice will not apply to the reduction of the probationary term. Periods of non-practice
2 or practice in another state of the United States or Federal jurisdiction while on probation with the
3 medical licensing authority of that state or jurisdiction will relieve respondent of the
4 responsibility to comply with the probationary terms and conditions with the exception of this
5 condition and the following terms and conditions of probation: Notification; Obey All Laws;
6 Probation Unit Compliance; Controlled Substances/Dangerous Drugs/Alcohol- Abstain From
7 Use; Biological Fluid Testing.

8 Any respondent disciplined under B&P Code sections 141(a) or 2305 (another
9 state discipline) may petition for modification or termination of penalty: 1) if the other state's
10 discipline terms are modified, terminated or reduced; and 2) if at least one year has elapsed from
11 the effective date of the California discipline.

12 13. **Completion of Probation:** Respondent shall comply with all financial
13 obligations (e.g., restitution, probation costs) not later than 120 calendar days prior to the
14 completion of probation. Upon successful completion of probation, Respondent's certificate shall
15 be fully restored.

16 14. **Violation of Probation:** Failure to fully comply with any term or
17 condition of probation is a violation of probation. If Respondent violates probation in any
18 respect, the Board, after giving Respondent notice and the opportunity to be heard, may revoke
19 probation and carry out the disciplinary order that was stayed. If an Accusation, Petition to
20 Revoke Probation, or an Interim Suspension Order is filed against respondent during probation,
21 the Board shall have continuing jurisdiction until the matter is final, and the period of probation
22 shall be extended until the matter is final.

23 15. **License Surrender:** Following the effective date of this Decision, if
24 Respondent ceases practicing due to retirement, health reasons or is otherwise unable to satisfy
25 the terms and conditions of probation, Respondent may request the voluntary surrender of
26 Respondent's license. The Board reserves the right to evaluate Respondent's request and to
27 exercise its discretion whether or not to grant the request, or to take any other action deemed
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1 appropriate and reasonable under the circumstances. Upon formal acceptance of the surrender,
2 Respondent shall within 15 calendar days deliver Respondent's wallet and wall certificate to the
3 Board or its designee and Respondent shall no longer practice medicine. Respondent will no
4 longer be subject to the terms and conditions of probation and the surrender of Respondent's
5 license shall be deemed disciplinary action. If Respondent re-applies for a medical license, the
6 application shall be treated as a petition for reinstatement of a revoked certificate.

7 16. **Probation Monitoring Costs:** Respondent shall pay the costs associated
8 with probation monitoring each and every year of probation, as designated by the Board, which
9 are currently set at \$3,999.00, but may be adjusted on an annual basis. Such costs shall be
10 payable to the Medical Board of California and delivered to the Board or its designee no later
11 than January 31 of each calendar year. Failure to pay costs within 30 calendar days of the due
12 date is a violation of probation.

13 **ACCEPTANCE**

14 I have carefully read the Stipulated Settlement and Disciplinary Order and have
15 fully discussed it with my counsel. I understand the stipulation and the effect it will have on my
16 Physician's and Surgeon's Certificate. I enter into this Stipulated Settlement and Disciplinary
17 Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order
18 of the Medical Board of California.

19 DATED: 3-14-13

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21 
22 STEPHEN R. LAUTERBACH, M.D.
23 Respondent

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APPROVAL

I have read and fully discussed with respondent, Stephen R. Lauterbach, M.D. the terms and conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order. I approve its form and content.

DATED: 3/18/2013

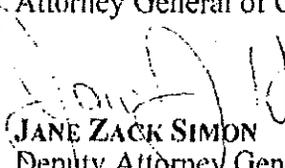


CATHERINE A. GALE
Gale Gale & Hunt, LLC
Attorneys for Respondent

ENDORSEMENT

The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully submitted for consideration by the Medical Board of California.

Dated: 3/18/2013

Respectfully Submitted,
KAMALA D. HARRIS
Attorney General of California

JANE ZACK SIMON
Deputy Attorney General
Attorneys for Complainant

ATTACHMENT

FILED
STATE OF CALIFORNIA
MEDICAL BOARD OF CALIFORNIA
SACRAMENTO November 15 2012
BY: R. A. N. [Signature] ANALYST

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8 *Medical Board of California*

9 **BEFORE THE**
10 **MEDICAL BOARD OF CALIFORNIA**
11 **DEPARTMENT OF CONSUMER AFFAIRS**
12 **STATE OF CALIFORNIA**

13 In the Matter of the Accusation Against:
14 **STEPHEN R. LAUTERBACH, M.D.**
15 Faxton 4th Floor
16 1676 Sunset Avenue
17 Utica, NY 13502
18 Physician's and Surgeon's
Certificate No. A74720

Respondent.

Case No. 16-2012-223707
ACCUSATION

19
20 The Complainant alleges:

21 1. Complainant Linda K. Whitney is the Executive Director of the Medical
22 Board of California, Department of Consumer Affairs, and brings this Accusation solely in her
23 official capacity.

24 2. On May 31, 2001, Physician's and Surgeon's Certificate No. A74720 was
25 issued by the Medical Board of California (Board) to Stephen R. Lauterbach, M.D. (Respondent.)
26 The certificate is renewed and current with an expiration date of November 30, 2012.

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1 JURISDICTION

2 3. This Accusation is brought before the Medical Board of California¹, under
3 the authority of the following sections of the California Business and Professions Code ("Code")
4 and/or other relevant statutory enactment:

5 A. Section 2227 of the Code provides that the Board may revoke,
6 suspend for a period not to exceed one year, or place on probation, the license of any
7 licensee who has been found guilty under the Medical Practice Act, and may recover the
8 costs of probation monitoring.

9 B. Section 2305 of the Code provides that the revocation, suspension,
10 or other discipline, restriction or limitation imposed by another state upon a license to
11 practice medicine issued by that state, that would have been grounds for discipline in
12 California under the Medical Practice Act, constitutes grounds for discipline for
13 unprofessional conduct.

14 C. Section 141 of the Code provides:

15 "(a) For any licensee holding a license issued by a board
16 under the jurisdiction of a department, a disciplinary action taken by
17 another state, by any agency of the federal government, or by another
18 country for any act substantially related to the practice regulated by the
19 California license, may be ground for disciplinary action by the respective
state licensing board. A certified copy of the record of the disciplinary
action taken against the licensee by another state, an agency of the federal
government, or by another country shall be conclusive evidence of the
events related therein.

20 "(b) Nothing in this section shall preclude a board from
21 applying a specific statutory provision in the licensing act administered by
22 the board that provides for discipline based upon a disciplinary action
taken against the licensee by another state, an agency of the federal
government, or another country."

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27 ¹. The term "Board" means the Medical Board of California; "Division of Medical
Quality" shall also be deemed to refer to the Board.

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FIRST CAUSE FOR DISCIPLINE

(Discipline, Restriction, or Limitation Imposed by Another State)

4. On April 26, 2012, the New York State Board for Professional Medical Conduct (New York Board) issued a Consent Order against Respondent's license to practice medicine in New York. The Consent Order was based on a determination that Respondent was a habitual user of alcohol in 2010. Respondent's New York license was suspended for three years, stayed, with terms and conditions of probation. Under the terms of the Consent Order, Respondent must adhere to state and federal guidelines and standards regarding infection control practices, maintain complete and legible medical records, remain drug and alcohol free, remain active in self-help groups such as Narcotics Anonymous, Alcoholics Anonymous and Caduceus. He must notify all treating physicians of his history of substance abuse, and submit to mental health evaluations as requested. He must enroll and continue in the Committee for Physician Health, and undergo treatment for substance abuse. A copy of the Consent Order issued by the New York Board is attached as Exhibit A.

5. Respondent's conduct and the action of the New York Board Board as set forth in paragraph 4, above, constitute cause for discipline pursuant to sections 141 and 2305 of the Code.

PRAYER

WHEREFORE, the complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Board issue a decision:

1. Revoking or suspending Physician's and Surgeon's Certificate Number A74720 issued to respondent Stephen R. Lauterbach, M.D.;

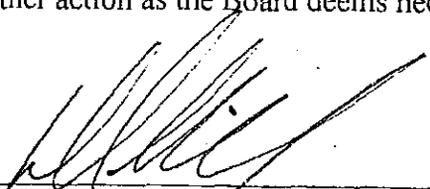
2. Revoking, suspending or denying approval of Respondent's authority to supervise physician assistants;

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- 3. Ordering Respondent, if placed on probation, to pay the costs probation monitoring; and
- 4. Taking such other and further action as the Board deems necessary and proper.

DATED: November 15, 2012



LINDA K. WHITNEY
Executive Director
Medical Board of California
Department of Consumer Affairs
State of California

Complainant

EXHIBIT A

IN THE MATTER

CONSENT

OF

ORDER

STEPHEN R. LAUTERBACH, M.D.

Upon the application of STEPHEN R. LAUTERBACH, M.D., Respondent, of the attached Consent Agreement, that is made a part of this Consent Order, it is

ORDERED that the Consent Agreement and its terms, are adopted and that it is

ORDERED that this Consent Order shall be effective upon issuance by the Board either by mailing of a copy of this Consent Order, either by first class mail to Respondent at the address in the attached Consent Agreement or by certified mail to Respondent's attorney or upon facsimile or email transmission to Respondent or Respondent's attorney, whichever is first.

SO ORDERED

DATED 4/26/2012

REDACTED

~~KENDRICK A. SEARS, M.D.~~
Chair
State Board for Professional
Medical Conduct

STATE OF NEW YORK DEPARTMENT OF HEALTH
STATE BOARD FOR PROFESSIONAL MEDICAL CONDUCT

IN THE MATTER

CONSENT

OF

AGREEMENT

STEPHEN R. LAUTERBACH, M.D.
SY-10-12-7857-A

STEPHEN R. LAUTERBACH, M.D. (Respondent), representing that all of the following statements are true, deposes and says

That on or about November 14, 1995, I was licensed to practice medicine in the State of New York and issued license number 201398 by the New York State Education Department.

My current address is REDACTED

and I will advise the Director (Director) of the Office of Professional Medical Conduct (OPMC) of any change of my address within thirty (30) days, thereof.

I understand that the New York State Board for Professional Medical Conduct (Board) has charged me with one (1) Specification of professional misconduct.

A copy of the Statement of Charges, marked as Exhibit A, is attached to and part of this Consent Agreement.

I do not contest the one (1) Specification, and agree to the following sanction:

Three (3) years suspension of my license to practice medicine, stayed:

Pursuant to N.Y. Pub. Health Law § 230-a(9), I shall be placed on probation for a period of five (5) years, subject to the terms set forth in attached Exhibit B, and any extension and/or modifications, thereto.

I agree, further, that the Consent Order shall impose the following conditions:

That Respondent shall remain in continuous compliance with all requirements of New York Education Law § 6502 including, but not limited to, the requirements that a licensee shall register and continue to be registered with the New York State Education Department (except during periods of actual suspension) and that a licensee shall pay

all registration fees. Respondent shall not exercise the option provided in New York Education Law § 6502(4) to avoid registration and payment of fees. This condition shall take effect 30 days after the effective date of the Consent Order and will continue so long as Respondent remains a licensee in New York State and

That Respondent shall cooperate fully with the OPMC in its administration and enforcement of the Consent Order and in its investigations of matters concerning Respondent. Respondent shall respond in a timely manner to all OPMC requests for written periodic verification of Respondent's compliance with this Consent Agreement. Respondent shall meet with a person designated by the Director, OPMC, as directed. Respondent shall respond promptly and provide all documents and information within Respondent's control as directed. This condition shall take effect upon the Board's issuance of the Consent Order and will continue so long as Respondent remains licensed in New York State.

I stipulate that my failure to comply with any conditions of the Consent Order shall constitute misconduct as defined by New York Education Law § 6530(29).

I agree that, if I am charged with professional misconduct in future, this Consent Agreement and the Consent Order shall be admitted into evidence in that proceeding.

I ask the Board to adopt this Consent Agreement.

I understand that if the Board does not adopt this Consent Agreement, none of its terms shall bind me or constitute an admission of any of the acts of alleged misconduct, this Consent Agreement shall not be used against me in any way and shall be kept in strict confidence and the Board's denial shall be without prejudice to the pending disciplinary proceeding and the Board's final determination pursuant to New York Public Health Law.

I agree that, if the Board adopts this Consent Agreement, the Chair of the Board shall issue a Consent Order in accordance with its terms. I agree that the Consent Order shall take effect upon its issuance by the Board, either by mailing of a copy of the Consent Order by first class mail to me at the address in this Consent Agreement, or to my attorney by certified mail, or upon facsimile or email transmission to me or my attorney, whichever is first. The Consent Order, this Consent Agreement, and all attached Exhibits shall be public documents, with only patient identities, if any, redacted. As public documents, they may be posted on the Department of Health website.

I stipulate that the proposed sanction and Consent Order are authorized by New York Public Health Law §§ 230 and 230-a, and that the Board and OPMC have the requisite powers to carry out all included terms. I ask the Board to adopt this Consent Agreement of my own free will and not under duress, compulsion or restraint. In consideration of the value to me of the Board's adoption of this Consent Agreement, allowing me to resolve this matter without the various risks and burdens of a hearing on the merits, I knowingly waive my right to contest the Consent Order for which I apply, administratively and/or judicially, I agree to be bound by the Consent Order, and I ask that the Board adopt this Consent Agreement.

I understand and agree that the attorney for the Department, the Director OPMC, and the Chair of the Board each retain complete discretion either to enter into the proposed Consent Agreement and Consent Order based upon my application or to decline to do so. I further understand and agree that no prior or separate written or oral communication can limit that discretion.

AFFIRMED:

DATED: 4/5/12

REDACTED
STEPHEN R. LAUTERBACH, M.D.
Respondent

DATED: 4/14/2012

REDACTED
CATHERINE A. GALE, ESQ.
Attorney for Respondent

The undersigned agree to Respondent's attached Consent Agreement and to its proposed penalty, terms and conditions.

DATE: 4/11/12

REDACTED
JOEL E. ABELOVE
Associate Counsel
Bureau of Professional Medical Conduct

DATE: 4/25/12

REDACTED
KEITH W. SERVIS
Director
Office of Professional Medical Conduct

STATE OF NEW YORK : DEPARTMENT OF HEALTH
STATE BOARD FOR PROFESSIONAL MEDICAL CONDUCT

IN THE MATTER
OF
STEPHEN R. LAUTERBACH, M.D.

AMENDED
STATEMENT
OF
CHARGES

STEPHEN R. LAUTERBACH, M.D., Respondent, was authorized to practice medicine in New York State on November 14, 1995, by the issuance of license number 201398 by the New York State Education Department, with a registration address of REDACTED

FACTUAL ALLEGATIONS

A. Respondent, during 2010, was a habitual user of alcohol

FIRST SPECIFICATION

BEING A HABITUAL USER OF ALCOHOL

Respondent is charged with being a habitual user of alcohol, in violation of N.Y. Education Law § 6530(8), in that Petitioner charges the following:

I. The facts in Paragraphs A.

DATED: April 17, 2012
Albany, New York

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

EXHIBIT B
Terms of Probation

Respondent's conduct shall conform to moral and professional standards of conduct and governing law. Any act of professional misconduct by Respondent as defined by N.Y. Educ. Law §§ 6530 or 6531 shall constitute a violation of probation and may subject Respondent to an action pursuant to N.Y. Pub. Health Law § 230(19).

Respondent shall maintain active registration of Respondent's license (except during periods of actual suspension) with the New York State Education Department, Division of Professional Licensing Services and shall pay all registration fees.

Respondent shall provide the Director, Office of Professional Medical Conduct (OPMC), Herdley Park Place, 433 River Street Suite 303, Troy, New York 12180-2299 with the following information, in writing, and ensure that this information is kept current: a full description of Respondent's employment and practice; all professional and residential addresses and telephone numbers within and outside New York State; all current and past affiliations and/or privileges, with hospitals, institutions, facilities, medical practices and managed care organizations, and/or applications for such affiliations, and/or privileges; and all investigations, arrests, charges, convictions and/or disciplinary actions by any local, state or federal agency, institution or facility. Respondent shall notify OPMC, in writing, within 30 days of any additions to or changes in the required information.

4. Respondent shall cooperate fully with, and respond in a timely manner to, OPMC requests to provide written periodic verification of Respondent's compliance with the terms of this Consent Order. Upon the request of the Director, OPMC, Respondent shall meet in person with the Director's designee.

5. Respondent's failure to pay any monetary penalty by the prescribed date shall subject Respondent to all provisions of law relating to debt collection by New York State, including but not limited to: the imposition of interest, late payment charges and collection fees, referral to the New York State Department of Taxation and Finance for collection, and non-renewal of permits or licenses (Tax Law § 171(27); State Finance Law § 18; CPLR § 5001; Executive Law § 32).

6. The probation period shall toll when Respondent is not engaged in active medical practice in New York State for a period of 30 consecutive days or more. Respondent shall notify the Director, OPMC, in writing, if Respondent is not currently engaged in, or intends to leave, active medical practice in New York State for a consecutive 30 day period or more. Respondent shall then notify the Director again at least 14 days before returning to active practice. Upon Respondent's return to active practice in New York State, the probation period shall resume and Respondent shall fulfill any unfulfilled probation terms and such additional requirements as the Director may impose as reasonably relate to the matters set forth in Exhibit "A" or as are necessary to protect the public health.

The Director, OPMC, may review Respondent's professional performance. This review may include but shall not be limited to: a review of office records - patient records, hospital charts, and/or electronic records; and interviews with or periodic visits with Respondent and staff at practice locations or OPMC offices.

- 8 Respondent shall adhere to federal and state guidelines and professional standards of care with respect to infection control practices. Respondent shall ensure education, training and oversight of all office personnel involved in medical care, with respect to these practices.
- 9 Respondent shall maintain complete and legible medical records that accurately reflect the evaluation and treatment of patients and contain all information required by state rules and regulations concerning controlled substances.
- 10 Respondent shall remain drug and alcohol free.
- 11 Respondent shall remain active in self-help groups such as, but not limited to, Narcotics Anonymous, Alcoholics Anonymous and Caduceus.
- 12 Respondent shall notify all treating physicians of Respondent's history of substance abuse. Respondent shall advise OPMC of any controlled or mood-altering substance given or prescribed by treating physicians.
- 13 At the direction of the Director of OPMC, Respondent shall submit to evaluations by a board-certified psychiatrist, licensed mental health practitioner or other health care professional or program designated by the Director (hereafter "Evaluator.") Respondent shall provide the Evaluator with a copy of this Order and copies of all previous treatment records. OPMC, at its discretion, may provide information or documentation from its investigative files concerning Respondent to Respondent's Evaluator. The Evaluator shall report to the Director regarding Respondent's condition and fitness or incapacity to practice medicine. Respondent shall comply with all treatment recommendations based upon the evaluation; failure to comply with such treatment recommendations shall constitute professional misconduct.
- 14 Respondent shall enroll, or continue enrollment, in the Committee for Physician Health (CPH) and shall engage in a contract with CPH that defines the terms, conditions and duration of Respondent's recovery program. Respondent shall comply with the contract. Respondent shall give written authorization for CPH to provide the Director of OPMC with all information or documentation requested by OPMC to determine whether Respondent is in compliance with the contract and with this Order, including full access to all records maintained by CPH with respect to Respondent.
 - A Respondent shall cause CPH to report to OPMC promptly if Respondent refuses to comply with the contract, refuses to submit to treatment or if Respondent's impairment is not substantially alleviated by treatment.
 - B Respondent shall cause CPH to report immediately to OPMC if Respondent is regarded at any time to be an imminent danger to the public.
- 15 Respondent shall comply with this Consent Order and all its terms, and shall bear all associated compliance costs. Upon receiving evidence of noncompliance with or a violation of, these terms, the Director, OPMC, and/or the Board may initiate a violation of probation proceeding, and/or any other such proceeding authorized by law, against Respondent.