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COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF STATE
BEFORE THE STATE BOARD OF MEDICINE

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Department of State

Commonwealth of Pennsylvania,	:	
Bureau of Professional and	:	
Occupational Affairs,	:	
	:	Docket No.: <u>1419</u> -49-10
vs.	:	
	:	File No.: 07-49-02416
Allan William Clark, M.D.,	:	
Respondent.	:	

CONSENT AGREEMENT AND ORDER

The Commonwealth and Respondent stipulate as follows in settlement of the above-captioned case.

1. This matter is before the State Board of Medicine pursuant to the Medical Practice Act, Act of December 20, 1985, P.L. 457, No. 112, as amended ("Act"), 63 P.S. §422.1 et seq.
2. The Respondent is Allan William Clark, M.D., who at all times relevant was licensed to practice medicine in the Commonwealth of Pennsylvania, License No. MD062193L.
3. The Respondent's last known address on file with the Board is: 232 Rutledge Dr, McMurray, PA 15658.
4. At all times pertinent to the allegations in this Agreement, Respondent was licensed to practice medicine and surgery in the Commonwealth of Pennsylvania.
5. Respondent's license is current and will expire on 12/31/10, and may be continually renewed thereafter upon the filing of the appropriate documentation and the payment of the necessary fees.

6. Respondent admits that the following facts are true:

a. Respondent last practiced in Pittsburgh, PA .

b. Respondent was the subject of a Petition for Automatic Relief Order that was granted by the Probable Cause Screening Committee of the Board on July 27, 2010. A copy of the Board's Order and Application is attached hereto and incorporated by reference herein as **EXHIBIT 1**.

c. Respondent failed to submit to random unannounced and observed body fluid toxicology screen on July 30, 2009, May 27, 2010 and on July 12, 2010. Respondent admitted to this conduct in a letter attached in **EXHIBIT 1**.

7. Based upon the factual allegations in paragraph 6 above, the Board is authorized to suspend, revoke or otherwise restrict Respondent's license under the Act.

8. The parties, intending to be legally bound, consent to the issuance of the following Order in settlement of the referenced in **EXHIBIT 1** :

a. The Board is authorized to suspend, revoke or otherwise restrict Respondent's license under 63 P.S. §422.41 (5) as being unable to practice the profession with reasonable skill and safety to patients by reason of addiction to alcohol or drugs.

b. Respondent's license, No. MD063006-L, is indefinitely **SUSPENDED**, such suspension to be immediately **STAYED** in favor of **THIRTY DAYS (30) SUSPENSION commencing as of July 27, 2010** followed by **THREE YEARS OF PROBATION**, said probation to be subject to the following terms and conditions:

GENERAL

(1) Respondent shall fully and completely comply and cooperate with the Bureau of Professional and Occupational Affairs, Professional Health Monitoring Program ("PHMP"), Disciplinary Monitoring Unit ("DMU") and its agents and employees in their monitoring of Respondent's impairment under this Consent Agreement and Order ("Agreement").

(2) Respondent shall abide by and obey all laws of the United States, the Commonwealth of Pennsylvania and its political subdivisions and all rules and regulations and laws pertaining to the practice of the profession in this Commonwealth or any other state or jurisdiction in which Respondent holds a license to practice the profession. Summary traffic violations shall not constitute a violation of this Agreement.

(3) Respondent shall at all times cooperate with the PHMP and its agents and employees in the monitoring, supervision and investigation of Respondent's compliance with the terms and conditions of this Agreement, including requests for, and causing to be submitted at Respondent's expense, written reports, records and verifications of actions that may be required by the PHMP.

(4) Respondent's failure to fully cooperate with the PHMP shall be deemed a violation of this Agreement.

(5) Respondent shall not falsify, misrepresent or make material omission of any information submitted pursuant to this Agreement.

(6) Respondent may not be absent from the Commonwealth of Pennsylvania for any period exceeding twenty (20) days unless Respondent seeks and receives prior written permission from the PHMP subject to any additional terms and conditions required by the PHMP.

(7) In the event Respondent relocates to another jurisdiction, within five days (5) days of relocating Respondent shall either enroll in the other jurisdiction's impaired professional program and have the reports required under this Agreement sent to the Pennsylvania PHMP, or if the other jurisdiction has no impaired professional program, Respondent shall notify the licensing board of the other jurisdiction that Respondent is impaired and enrolled in this Program. In the event Respondent fails to do so, in addition to being in violation of this Agreement, the periods of suspension and probation shall be tolled.

(8) Respondent shall notify the PHMP in writing within five (5) days of the filing of any criminal charges against Respondent, the initiation of any legal action pertaining to Respondent's practice of the profession, the initiation of charges,

action, restriction or limitation related to Respondent's practice of the profession by a professional licensing authority of any state or jurisdiction or the Drug Enforcement Agency of the United States Department of Justice, or any investigation, action, restriction or limitation related to Respondent's privileges to practice the profession at any health care facility.

(9) Respondent shall notify the PHMP by telephone within 48 hours and in writing within five (5) days of any change of Respondent's home address, phone number, employment status, employer and/or change in practice at a health care facility. Failure to timely advise the PHMP under this subsection due to the PHMP office being closed is not an excuse for not leaving a voice mail message with this information.

(10) Respondent shall cease or limit his/her practice if the PHMP case manager directs that Respondent do so.

EVALUATION - TREATMENT

(11) If an assessment/treatment evaluation has not been done by a PHMP-approved provider within sixty, (60) days prior to the effective date of this Agreement, or within sixty, (60) days subsequent to the effective date of this Agreement, Respondent shall have forwarded to the PHMP-DMU, P.O. Box 10749, Harrisburg, PA 17105-0749, (717) 783-4857, a written evaluation

by a PHMP-approved provider assessing Respondent's fitness to actively practice the profession. If the provider determines that Respondent is not fit to practice, Respondent shall immediately cease practicing the profession and not practice until a PHMP-approved provider and the PHMP case manager determine that Respondent is fit to resume practice with reasonable skill and safety to patients.

(12) Respondent shall provide the PHMP-approved provider with a copy of any prior evaluations and counseling records and a copy of this Agreement.

(13) Respondent shall authorize, in writing, the PHMP to have a copy of the PHMP-approved provider's written evaluation reports.

(14) If the PHMP provider's evaluation includes recommendations that Respondent obtain treatment, Respondent must fully comply with those recommendations as part of these probationary requirements.

(15) Respondent shall arrange and ensure that written treatment reports from all PHMP-approved providers are submitted to the PHMP upon request or at least every sixty (60) days after the effective date of this Agreement. The reports shall contain at least the following information:

- (a) Verification that the provider has received a copy of this Agreement and understands the conditions of this probation;
- (b) A treatment plan, if developed;
- (c) Progress reports, including information regarding compliance with the treatment plan;
- (d) Physical evaluations, if applicable;
- (e) The results of any testing;
- (f) Modifications in treatment plan, if applicable;
- (g) Administration or prescription of any drugs to Respondent; and
- (h) Discharge summary and continuing care plan at discharge.

(16) Respondent shall identify a primary care physician who shall send written notification to the Respondent's PHMP case manager certifying Respondent's health status as requested.

SUPPORT GROUP ATTENDANCE

(17) Respondent shall attend and actively participate in any support group programs recommended by the provider or the PHMP case manager at the frequency recommended by the provider, but no less than twice a week.

(18) Respondent shall provide written verification of any and all support group attendance to the PHMP on at least a monthly basis or as otherwise directed by the PHMP.

ABSTENTION

(19) Respondent shall completely abstain from the use of controlled substances, caution legend (prescription) drugs, mood altering drugs or drugs of abuse including alcohol in any form, except under the following conditions:

(a) Respondent is a bona fide patient of a licensed health care practitioner who is aware of Respondent's impairment and participation in the PHMP;

(b) Such medications are lawfully prescribed by Respondent's treating practitioner and approved by the PHMP case manager; and

(c) Respondent provides the PHMP, by telephone within 48 hours and in writing within five (5) days of receiving the medication, the name of the practitioner prescribing the drug, the illness or medical condition diagnosed, the type, strength, amount and dosage of the medication, and a signed statement consenting to the release of the medical information from the prescribing practitioner to the PHMP or its designated representative

for the purpose of verification.

MONITORED PRACTICE

(20) "Practice" includes employment in any position requiring the maintenance of a current professional license.

(21) Licensee shall not work in any practice setting without workplace monitoring as required by PHMP.

(22) If Respondent is practicing, Respondent shall give any employer and supervisor a copy of this Agreement within five (5) days of the effective date of this Agreement.

(23) Licensee shall give any prospective employer and supervisor a copy of this Agreement when applying for employment in the practice of the profession.

(24) Respondent shall provide the PHMP by telephone within 48 hours, and in writing within five (5) days of the effective date of this agreement or obtaining employment, notification of the following:

(a) Name and address of workplace monitor if a workplace monitor is required by PHMP;

(b) The name(s) and address(es) of the place(s) at which Respondent will practice the profession and a description of Respondent's duties and responsibilities at such places of practice; and

(c) Any restrictions on Respondent's practice.

(25) Respondent shall ensure that Respondent's supervisor submits to the PHMP the following information in writing:

(a) Verification that the employer and supervisor have received a copy of this Agreement and understand the conditions of this probation;

(b) An evaluation of Respondent's work performance on a 60-day or more frequent basis as requested by the PHMP; and

(c) Immediate notification of any suspected violation of this probation by Respondent.

BODY FLUID TOXICOLOGY SCREENING

(26) Respondent shall submit to random unannounced and observed body fluid toxicology screens for the detection of substances prohibited under this Agreement as directed by the PHMP. A positive result on a body fluid toxicology screen shall constitute an irrefutable violation of this Agreement unless Respondent has complied with the provisions of this Agreement pertaining to the use of drugs. Failure to provide a specimen when requested will be considered a violation of this Agreement.

(27) Respondent shall avoid all foods that contain poppy

seeds. Ingestion of poppy seeds will not be accepted as a valid explanation for a positive screen.

REPORTING/RELEASES

(28) Respondent, Respondent's providers, supervisor(s), employer(s) or other persons required to submit reports under this Agreement shall cause such reports, data or other information to be filed with the PHMP, unless otherwise directed, at:

PHMP-DMU
Box 10749
Harrisburg, PA 17105-0749

(29) Respondent consents to the release by the PHMP of any information or data produced as a result of this probation, including written provider evaluations, to any treatment provider, supervisor, Commonwealth's attorney, hearing examiner, and Board members in the administration and enforcement of this Agreement.

(30) Respondent shall sign any required waivers or release forms requested by the PHMP for any and all records, including medical or other health-related and psychological records, pertaining to treatment and monitoring rendered to Respondent during this probation and any corresponding criminal probation, as well as any employment, personnel, peer review or review records pertaining to Respondent's practice of the

profession during this probation, to be released to the PHMP, the Commonwealth's attorney, hearing examiner and Board members in the administration and enforcement of this Agreement.

COSTS

(31) Respondent shall be responsible for all costs incurred in complying with the terms of this Agreement, including but not limited to psychiatric or psychotherapy treatments, PHMP-required toxicology screens prior to each screen's being conducted, and reproduction of treatment or other records. Any toxicology screens and any subsequent reanalysis of specimens required by PHMP shall be paid for by Licensee. Failure of Licensee to pay any of these costs in a timely manner shall constitute a violation of this Agreement.

BUREAU/PHMP EVALUATIONS

(32) Upon request of the PHMP, the Respondent shall submit to mental or physical evaluations, examinations or interviews by a PHMP-approved treatment provider or the PHMP. Respondent's failure to submit to such an evaluation, examination or interview shall constitute a violation of this Agreement.

VIOLATION OF THIS ORDER

(33) Notification of a violation of the terms or conditions of this Agreement shall result in the **IMMEDIATE VACATING** of the stay order, **TERMINATION** of the period of probation, and **ACTIVATION** of the suspension, imposed in paragraph 8(c) above, of Respondent's license(s) to practice the profession in the Commonwealth of Pennsylvania, as follows:

(a) The prosecuting attorney for the Commonwealth shall present to the Board's Probable Cause Screening Committee ("Committee") a Petition which indicates that Respondent has violated any terms or conditions of this Agreement.

(b) Upon a probable cause determination by the Committee that Respondent has violated any of the terms or conditions of this Agreement, the Committee shall, without holding a formal hearing, issue a preliminary order vacating the stay of the within suspension, terminating this probation and activating the suspension of Respondent's license.

(c) Respondent shall be notified of the Committee's preliminary order within three (3) business days of its issuance by certified mail and first class mail, postage prepaid, sent to Respondent's last registered address on file with the Board, or by personal service if necessary.

(d) Within twenty (20) days of mailing of the preliminary order, Respondent may submit a written answer to the Commonwealth's petition and request that a formal hearing be held concerning Respondent's violation of probation, in which Respondent may seek relief from the preliminary order activating the suspension. Respondent shall mail the original answer and request for hearing, as well as all subsequent writings in the matter, to the Department of State, Bureau of Professional and Occupational Affairs' Prothonotary, 2601 North Third Street, Harrisburg, PA 17110 and a copy to the prosecuting attorney for the Commonwealth.

(e) If Respondent submits a timely answer and request for a formal hearing, the Board or a designated hearing examiner shall convene a formal hearing within forty-five (45) days from the date of the Prothonotary's receipt of Respondent's request for a formal hearing.

(f) Respondent's submission of a timely answer and request for a hearing shall not stay the suspension of Respondent's license under the preliminary order. The suspension shall remain in effect unless the Board or the hearing examiner issues an order after the formal hearing staying the suspension again and reactivating the probation.

(g) The facts and averments in this Agreement shall be deemed admitted and uncontested at this hearing.

(h) If the Board or hearing examiner after the formal hearing makes a determination against Respondent, a final order will be issued sustaining the suspension of Respondent's license and imposing any additional disciplinary measures deemed appropriate.

(i) If Respondent fails to timely file an answer and request a hearing, the Board shall issue a final order affirming the suspension of Respondent's license.

(j) If Respondent does not make a timely

answer and request for a formal hearing and a final order affirming the suspension is issued, or the Board or hearing examiner makes a determination against Respondent sustaining the suspension of Respondent's license, after at least five (5) years of active suspension and any additional imposed discipline, Respondent may petition the Board for reinstatement based upon an affirmative showing that Respondent has at least sixty (60) months of sustained documented recovery, a PHMP-approved provider's evaluation that Respondent is fit to safely practice, and verification that Respondent has abided by and obeyed all laws of the United States, the Commonwealth of Pennsylvania and its political subdivisions, and all rules and regulations pertaining to the practice of the profession in this Commonwealth.

(k) If the stay is terminated, Respondent shall still comply with all terms and conditions of probation during the active suspension, other than those terms and conditions pertaining to practicing the profession.

(l) Continued failure by the Respondent to comply with the unaffected terms and conditions of probation shall result in further disciplinary action against Respondent.

9. Respondent's failure to fully comply with any terms of this Agreement may also constitute grounds for additional disciplinary action.

10. Nothing in this Agreement shall preclude the prosecuting attorney for the Commonwealth from filing charges or the Board from imposing disciplinary action or corrective measures for violations not contained in this Agreement.

11. This Agreement shall take effect immediately upon its approval and adoption by the Board.

12. Respondent acknowledges receipt of an Order to Show Cause in this matter. Respondent knowingly and voluntarily waives the right to an administrative hearing in this matter, and to the following rights related to that hearing: to be represented by counsel at the hearing; to present witnesses and testimony in defense or in mitigation of any sanction that may be imposed for a violation; to cross-examine witnesses and to challenge evidence presented by the Commonwealth; to present legal arguments by means of a brief; and to take an appeal from any final adverse decision.

13. Respondent agrees, as a condition of entering into this Agreement, not to seek modification of it at a later date without first obtaining the express written concurrence of the Prosecution Division of the Department of State.


14. This Agreement is between the prosecuting attorney and Respondent only. Except as otherwise noted, this Agreement is to have no legal effect unless and until the Office of General Counsel approves the contents as to form and legality and the Board approves and adopts the Agreement.

15. Should the Board not approve this Agreement, presentation to and consideration of it


by the Board shall not prejudice the Board or any of its members from further participation in the adjudication of this matter. This paragraph is binding on the participants even if the Board does not approve this Agreement.

16. This Agreement contains the whole agreement between the participants. There are no other terms, obligations, covenants, representations, statements or conditions, or otherwise, of any kind whatsoever concerning this Agreement.

17. Respondent verifies that the facts and statements set forth in this Agreement are true and correct to the best of Respondent's knowledge, information and belief. Respondent understands that statements in this Agreement are made subject to the criminal penalties of 18 Pa.C.S. §4904 relating to unsworn falsification to authorities.


Andrew E. Demarest
Prosecuting Attorney
Department of State

DATED: 8/24/10


Allan William Clark, M.D.,
Respondent

DATED: 8/24/10


ORDER

AND NOW, this ^{27th} day of August, 2010, the State Board Of Medicine approves and adopts the foregoing Consent Agreement and incorporates the terms of paragraph 8, which shall constitute the Board's Order and is now issued in resolution of this matter.

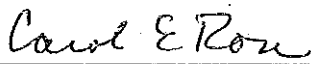
This Order shall take effect immediately.

BY ORDER:

BUREAU OF PROFESSIONAL AND OCCUPATIONAL AFFAIRS STATE BOARD OF MEDICINE



Basil L. Merenda
Commissioner



Carole E. Rose, M.D.
Chairperson

File No. 07-49-02416

Date of Mailing:

For the Commonwealth: Andrew E. Demarest, Prosecuting Attorney
P. O. Box 2649
Harrisburg, PA 17105-2649

For Respondent: William I. Arbuckle, III
3081 Enterprise Drive
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State College, PA. 16801