

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

**Commonwealth of Pennsylvania,
Bureau of Professional and
Occupational Affairs**

vs.

**David M. Leach, M.D.,
Respondent**

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**Docket No. 0175-49-02
File No. 02-49-01042**

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Department of State

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 ("Board") 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. At all relevant and material times, David M. Leach, M.D. ("Respondent") held a license to practice medicine in the Commonwealth of Pennsylvania, license number MD-039284-E.

3. Respondent admits that the following facts are true:

- a. Respondent's license is current through December 31, 2002, and may be renewed thereafter upon the filing of the appropriate documentation and payment of the necessary fees.
- b. On February 11, 2002 the Probable Cause Screening Committee of the Board entered an Order of Temporary Suspension of Respondent's license to practice medicine and surgery pursuant to the Petition for Immediate Temporary Suspension filed pursuant to Section 40(a) of the Act, 63 P.S. §422.40(a).

- c. Respondent's last known address on file with the Board is 1426 Ridgewood Lane, Newtown, PA 18940-3733.
- d. Respondent has suffered from chemical abuse or dependency, specifically alcohol, cocaine and opiates, as well as a reported bipolar disorder.
- e. Respondent has suffered the following consequences as a result of the dependency or abuse: employment problems, including indefinite suspension from Temple University Health System and previously loss of anesthesiology residency; marital problems and emotional absence from his children, and otherwise alienation of friends and family; multiple overdoses on drugs and multiple vehicle accidents; ill health (including cardiac myopathy) which has resulted in loss of various hobbies, including loss of private pilot license ; expense and inconvenience of multiple treatment programs.
- f. Respondent was offered on multiple occasions the opportunity to enter into the voluntary recovery program, but Respondent failed to complete and/or otherwise follow through insofar as his enrollment within the program and execution of a Consent Agreement and Order in this regard.
- g. Respondent has not contested the issuance of the Order of Temporary Suspension and has consented to the additional 180 day period regarding continuation of same.

4. The actions of Respondent, described above, violated the Act at 63 P.S. §422.41(5) because Respondent was unable to practice the medical profession with reasonable skill and safety to patients by reason of illness, addiction to drugs or alcohol.

5. The participants consent to issuance of the following Order in settlement of this matter:

a. Respondent violated the Act at 63 P.S. §422.41(5) because Respondent was unable to practice the medical profession with reasonable skill and safety to patients by reason of illness, addiction to drugs or alcohol.

b. Respondent agrees to the **IMMEDIATE AND VOLUNTARY SURRENDER** of his license, number MD-039284-E. Upon adoption of this Consent Agreement and Order, Respondent shall immediately cease and desist from the practice of medicine, and shall not represent himself as a Board licensee in any manner whatsoever. If not previously accomplished, within 10 days of adoption of this Consent Agreement and Order, Respondent shall surrender his wall certificate, registration certificate and wallet card (if located) by mailing them or delivering them in person to:

Gregory S. Olsavick, Prosecuting Attorney
Legal Office
116 Pine Street
Harrisburg, PA 17101

c. In order for Respondent to seek reinstatement of his license to practice medicine and surgery, he must, in addition to any other requirements that may be imposed by the Board or by Pennsylvania law, submit to the Board satisfactory evidence of at least thirty-six (36) months of continuous sustained documented recovery, and such evidence shall include, but not be limited to the following:

1. Evidence of a completed treatment program that includes a discharge summary;
2. Documented attendance of at least twice a week at a support group recommended by a Board approved treatment provider. Such documentation shall include dates and meeting times and be signed by the provider;
3. Toxicology screens indicating the lack of illicit substances, the last screen to be completed no less than thirty (30) days prior to the petition for reinstatement;
4. An assessment from a provider dated no less than thirty (30) days prior to the petition for reinstatement that Respondent is fit to safely practice as a medical doctor. The Bureau of Professional and Occupational Affairs Professional Health Monitoring Programs case manager shall select the provider from a list of approved providers, and upon request of Respondent a copy of that list shall be supplied by the Board;
5. 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 medical profession in this Commonwealth.

- d. If, but only if, the foregoing are satisfied, Respondent may file a petition for reinstatement requesting a hearing which will be held pursuant to 1 Pa. Code §31.1 et seq., during which time Respondent shall bear the burden of proof. At such hearing, the facts and statements of this Consent Agreement shall be deemed admitted and uncontested.
- e. The Board accepts the surrender of Respondent's license.

6. Respondent waives the filing 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; the right 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.

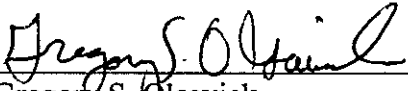
7. This Consent Agreement is between the Commonwealth and Respondent only. Except as otherwise noted, this Agreement is to have no legal effect unless and until the Office of General Counsel approves the contents as to form and legality and the Board issues the stipulated Order.

8. Should the Board not approve this Consent Agreement, presentation to and consideration of this Consent Agreement and other documents and matters 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 Consent Agreement.

9. Respondent agrees, as a condition of entering into this Consent Agreement, not to seek modification at a later date of the Stipulated Order adopting and implementing this Consent Agreement without first obtaining the express written concurrence of the Prosecution Division.

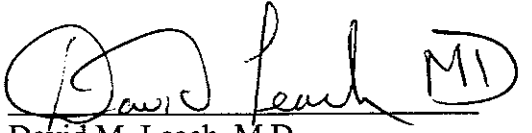
10. This agreement contains the whole agreement between the participants. There are no other terms, obligations, covenants, representations, statements or conditions, or otherwise, of any kind whatsoever concerning this agreement.

11. 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.



Gregory S. Olsavick
Prosecuting Attorney
Department of State

DATED: 3-8-02



David M. Leach, M.D.
Respondent

DATED: 3/6/02

ORDER

AND NOW, this 26TH day of *March*, 2002, the State Board of Medicine adopts and approves the foregoing Consent Agreement and incorporates the terms of paragraph 5, 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**

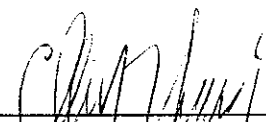


Albert H. Masland
Commissioner

For the Commonwealth:

Respondent:

STATE BOARD OF MEDICINE



Charles D. Hummer, Jr., M.D.
Chairman

Gregory S. Olsavick, Esquire
P. O. Box 2649
Harrisburg, PA 17105-2649

David M. Leach, M.D.
1426 Ridgewood Lane
Newtown, PA 18940-3733

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF STATE
STATE BOARD OF MEDICINE

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Department of State

Commonwealth of Pennsylvania,
Bureau of Professional and
Occupational Affairs

v.

David Mark Leach, M.D.
Respondent

Docket No. O175-49-02

File No. 01-49-04039

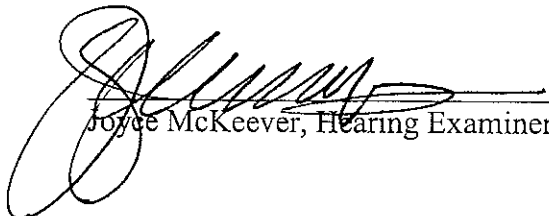
MEMORANDUM AND ORDER

Pursuant to a Notice of Hearing issued on February 13, 2002 a hearing was conducted before with the hearing examiner at 1:30 P.M. on March 8, 2002, at the office of the hearing examiner, 2nd Floor, 124 Pine Street, Harrisburg, Pennsylvania, in accordance the order of the Board on February 11, 2001 in which the license of Respondent to practice medicine and surgery in the Commonwealth was temporarily suspended. Evidence was presented by Gregory S. Olsavick, prosecuting attorney, on behalf of the Commonwealth. The Respondent was not present.

The hearing examiner finds that the Commonwealth has presented prima facie evidence to support the continued suspension of Respondent's license in accordance with Section 40(a) of the Medical Practice Act of 1985, Act of December 20, 1985, P.L. 457, *as amended*, 63 P.S. § 422.40(a).

It is therefore ORDERED that the temporary suspension be, and the same hereby shall,

remain in effect until vacated by the Board, but in no event longer than 180 days.



Joyce McKeever, Hearing Examiner

To: David Mark Leach, M.D., Respondent Gregory S. Olsavick, Esquire, Prosecuting Attorney
1426 Ridgewood Lane P.O. Box 2649
Newtown PA 17940-3733 Harrisburg PA

Dated: *March 8, 2002*
Date of Mailing: *3/12/02*

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**COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF STATE
BUREAU OF PROFESSIONAL AND OCCUPATIONAL AFFAIRS**

Department of State

BEFORE THE STATE BOARD OF MEDICINE

**IN THE MATTER OF THE APPLICATION FOR REINSTATEMENT
OF THE LICENSE TO PRACTICE MEDICINE AND SURGERY OF**

**DAVID M. LEACH, M.D.,
LICENSE NO. MD-039284-E
Petitioner**

**DOCKET NO. 0127-49-07
FILE NO. 06-49-09534**

FINAL ADJUDICATION AND ORDER

**BASIL L. MERENDA, COMMISSIONER
BUREAU OF PROFESSIONAL AND
OCCUPATIONAL AFFAIRS**

**CHARLES D. HUMMER, JR., M.D., CHAIRMAN
STATE BOARD OF MEDICINE**

2601 North Third Street
Post Office Box 2649
Harrisburg, Pennsylvania 17105-2649

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HISTORY

This case comes before the State Board of Medicine (Board) from the Adjudication and Order of a Board hearing examiner dated May 25, 2007. The Board hereby reviews the order of the Hearing Examiner who ordered reinstatement of Petitioner's license to practice medicine and surgery under a two-year period of probation. The prior history of this matter is fully discussed in the Hearing Examiner's Adjudication and Order (appended as Attachment "A").

FINDINGS OF FACT, CONCLUSIONS OF LAW AND DISCUSSION

Pursuant to the General Rules of Administrative Practice and Procedure, 1 Pa. Code §§35.1 et seq., when an application for review of a hearing examiner's decision is filed, the Board reviews the evidence and, if deemed advisable by the Board, hear argument and additional evidence. It is the Board's duty and obligation to make a final decision and issue the same with the findings of fact on which it is based.

It is consistent with the Board's responsibility and its authority to adopt the findings of fact and conclusions of law of its hearing examiner if it determines that they are complete and are supported by the evidence and the law. The Board reaches that conclusion in this case. Accordingly, the findings of fact, with the technical correction of Petitioner's license number, conclusions of law and discussion contained in the Hearing Examiner's Adjudication and Order are hereby adopted by the Board and are incorporated herein by reference as fully set forth.

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

In the Matter of the Application	:	
for Reinstatement of the License to	:	
Practice Medicine and Surgery of	:	
	:	Docket No. 0127-49-07
	:	File No. 06-49-09534
David M. Leach, M.D.,	:	
Petitioner	:	

FINAL MEMORANDUM OPINION AND ORDER ADOPTING
HEARING EXAMINER'S PROPOSED ADJUDICATION
AND SUBSTITUTING THE BOARD'S ORDER

This matter comes before the State Board of Medicine (Board) on the Board's own Motion. Having reviewed the evidentiary record of this proceeding, together with the hearing examiner's proposed adjudication and order, the Board, upon consideration of the above, hereby **ORDERS** that the proposed findings of fact, correcting Petitioner's license number to read **MD-039284-E**, the adjudication including the proposed conclusions of law, and discussion issued by the hearing examiner on May 25, 2007, hereby be **ADOPTED** as the Final Adjudication of the State Board of Medicine in this disciplinary proceeding. A copy of the hearing examiner's adjudication and order is appended to this Order as Attachment "A".

The Board **SUBSTITUTES** its own **ORDER** that Petitioner's license be reinstated and **placed on probation for a period of two years**, under the following terms and conditions:

GENERAL

(1) Petitioner shall only practice in a group setting where his work is subject to supervision by one or more licensed physicians, for the initial 10 months of his probationary period.

(2) Petitioner 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 Petitioner's impairment under this Order.

(3) Petitioner 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 Petitioner holds a license to practice the profession. Summary traffic violations shall not constitute a violation of this Order.

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

(5) Petitioner's failure to fully cooperate with the PHMP shall be deemed a violation of this Order.

(6) Petitioner shall not falsify, misrepresent or make material omission of any information submitted pursuant to this Order.

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

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

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

related to Petitioner'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 Petitioner's privileges to practice the profession at any health care facility.

(10) Petitioner shall notify the PHMP by telephone within 48 hours and in writing within five (5) days of any change of Petitioner'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.

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

EVALUATION - TREATMENT

(12) If an assessment/treatment evaluation has not been done by a PHMP-approved provider within thirty (30) days prior to the effective date of this Order, or within thirty (30) days subsequent to the effective date of this Order, Petitioner shall have forwarded to the PHMP-DMU, P.O. Box 10569, Harrisburg, PA 17105-0569, (717) 783-4857, a written evaluation by a PHMP-approved provider

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

(13) Petitioner shall provide the PHMP-approved provider with a copy of any prior evaluations and counseling records and a copy of this Order.

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

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

(16) Petitioner 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 Order. The reports shall contain at least the following information:

(a) Verification that the provider has received a copy of this Order 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 Petitioner; and

(h) Discharge summary and continuing care plan at discharge.

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

SUPPORT GROUP ATTENDANCE

(18) Petitioner 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.

(19) Petitioner 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

(20) Petitioner shall completely abstain from the use of controlled substances, mood altering drugs or drugs of abuse including alcohol in any form, except under the following conditions:

- (a) Petitioner is a bona fide patient of a licensed health care practitioner who is aware of Petitioner's impairment and participation in the PHMP;
- (b) Such medications are lawfully prescribed by Petitioner's treating practitioner and approved by the PHMP case manager; and
- (c) Petitioner provides the PHMP, within 48 hours 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 medical information from the prescribing practitioner to the PHMP or its designated representative for the purpose of verification.

MONITORED PRACTICE

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

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

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

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

(24) Petitioner shall provide the PHMP by telephone within 48 hours, and in writing within five (5) days of the effective date of this Order of 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 Petitioner will practice the profession and a description of Petitioner's duties and responsibilities at such places of practice; and

(c) Any restrictions on Petitioner's practice.

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

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

(b) An evaluation of Petitioner'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 Petitioner.

BODY FLUID TOXICOLOGY SCREENING

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

(27) Petitioner 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) Petitioner, Petitioner's providers, supervisor(s), employers or other persons required to submit reports under this Order shall cause such reports, data or other information to be filed with the PHMP, unless otherwise directed, at:

PHMP-DMU
Box 10569
Harrisburg, PA 17105-0569

(29) Petitioner 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 Order.

(30) Petitioner 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 Petitioner during this probation and any corresponding criminal probation, as well as any employment, personnel, peer review or review records pertaining to Petitioner'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 Order.

COSTS

(31) Petitioner shall be responsible for all costs incurred in complying with the terms of this Order, 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.

BUREAU/PHMP EVALUATIONS

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

VIOLATION OF THIS ORDER

a. Notification of a violation of the terms or conditions of this Order shall result in the **IMMEDIATE TERMINATION** of the period of probation, and **ACTIVATION** of the suspension of Petitioner's license(s) to practice the profession in the Commonwealth of Pennsylvania as follows:

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

(2) Upon a probable cause determination by the Committee that Petitioner has violated any of the terms or conditions of this Order, 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 Petitioner's license.

(3) Petitioner 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 the Petitioner's last registered address on file with the Board, or by personal service if necessary.

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

(5) If the Petitioner 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 Petitioner's request for a formal hearing.

(6) Petitioner's submission of a timely answer and request for a hearing shall not stay the suspension of Petitioner'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.

(7) The facts and averments in this Adjudication and Order shall be deemed admitted and uncontested at this hearing.

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

(9) If Petitioner fails to timely file an answer and request for a hearing, the Board, upon motion of the prosecuting attorney, shall issue a final order affirming the suspension of Petitioner's license.

(10) If Petitioner 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 the hearing examiner makes a determination against Petitioner sustaining the suspension of Petitioner's license,

after at least years of active suspension and any additional imposed discipline, Petitioner may petition the Board for reinstatement based upon an affirmative showing that Petitioner has at least months of sustained documented recovery, a PHMP-approved provider's evaluation that Petitioner is fit to safely practice, and verification that Petitioner 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.

c. Petitioner's failure to fully comply with any terms of this Order may also constitute grounds for additional disciplinary action.

d. After successful completion of probation, Petitioner may petition the Board to reinstate Petitioner's license to unrestricted, non-probationary status upon an affirmative showing that Petitioner has complied with all terms and conditions of this Order and that Petitioner's resumption of unsupervised practice does not present a threat to the public health and safety.

This Order shall take effect immediately.

BY ORDER:

**BUREAU OF PROFESSIONAL AND
OCCUPATIONAL AFFAIRS**



**BASIL L. MERENDA
COMMISSIONER**

STATE BOARD OF MEDICINE



**CHARLES D. HUMMER, JR., M.D.
CHAIRMAN**

Petitioner's Attorney:

John Rogers Carroll, Esquire
The Curtis Center
Suite 1150 West
601 Walnut Street
Philadelphia, PA 19106

Hearing Examiner:

Joycè McKeever, Esquire

Prosecuting Attorney:

Robert B. Armour, Esquire

Board Counsel:

Sabina I. Howell, Esquire

Date of Mailing:

July 25, 2007.

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Department of State

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

In the Matter of the Application for Reinstatement
of the License to Practice Medicine and Surgery of
David M. Leach, M.D.,
Petitioner

:
:
: Docket No. 0127-49-07
: File No. 06-49-09534
:

PROPOSED ADJUDICATION AND ORDER

Joyce McKeever
Hearing Examiner

2601 North Third Street
Harrisburg, PA 17110

5-25-07

ATTACHMENT A

HISTORY

This matter comes before a hearing examiner for the State Board of Medicine on an petition for reinstatement submitted by David M. Leach, M.D. (Petitioner) following an order issued by the State Board of Medicine (Board) on March 26, 2002, accepting the surrender of Petitioner's license to practice medicine and surgery in the Commonwealth. The petition was filed on October 25, 2006. A formal administrative hearing was held on February 26, 2007. Petitioner attended the hearing with his counsel, John Rogers Carroll, Esquire. Robert Armour, Esquire, represented the Commonwealth as prosecuting attorney. The parties waived the filing of briefs and the notes of testimony was filed March 7, 2007.

FINDINGS OF FACT

no. 39284-E

1. Petitioner holds license no. ~~MD-3092-E~~, issued by the Board, authorizing him to practice medicine and surgery in this Commonwealth. (Board records)

2. On March 26, 2002, the Board issued an order adopting a consent agreement by which Petitioner voluntarily surrendered his license to practice medicine due to illness and addiction to drugs and Alcohol. (Petition Exhibit 1)

3. Consent Agreement and Order imposed the following requirements for the reinstatement of Petitioner's license:

- A completed program that includes a discharge summary.
- Documented attendance of twice weekly support group meetings.
- Toxicology screens showing absence of illicit substances within 30 days of the petition.
- A provider's assessment within 30 days of the petition that Petitioner is fit to practice safely.
- Evidence that he has obeyed all laws and regulations pertaining to the practice of medicine. (*Id.*)

4. In the Consent Agreement Petitioner acknowledged chemical abuse or dependency, specifically alcohol, cocaine and opiates which resulted in the temporary suspension of his position at Temple University Health System and previously, the loss of an anesthesiology residency. (*Id.*)

5. Petitioner, after graduating from Ohio State University Medical School, began an internship in anesthesiology at Hahnemann University Hospital in Philadelphia in 1988; after three months he entered treatment for drug dependency for four months. (N.T. 27)

6. From 1988 to 2001, Petitioner had two relapses in 1990 and 1995 when he quit attendance at Alcoholic Anonymous (AA) meetings and resumed drinking alcohol. (N.T. 28)

7. During this period Petitioner worked as a physician at North Philadelphia Health System and Newman Medical Center without any incident involving his use of drugs or alcohol. (N.T. 29)

8. In the week following September 11, 2001, Petitioner relapsed to the use of alcohol and heroin and was hospitalized for a drug overdose. (N.T. 32)

9. Following his relapse Petitioner decided to withdraw from the practice of medicine and dedicate himself to his recovery. (N.T. 33)

10. Petitioner last used a controlled substance or alcohol on September 19, 2001. (Exhibit P-2; N.T. 36-38, 40)

11. In 2003, Petitioner began psychotherapy with Rochelle Polao, LCSW, at Clinical Resource Group to assist him in his recovery. (N.T. 36, Exhibit P-2)

12. Ms. Polao currently sees Petitioner every two months; she finds that he is stable, and has been actively involved in his recovery through psychotherapy and AA. (Exhibit P-2)

13. Petitioner's AA sponsors James Burkhart and John Morton have observed Petitioner's recovery in AA and his active participating in organizing meetings and helping others in recovery. (N.T. 9-10, Exhibit P-3, P-4)

14. Petitioner has submitted to random drug screens for three years from June 2004 to

August 2006. (Exhibits P-5, P-6, and P-7)

15. Petitioner's treating physicians Christopher D'Amanda, M.D. and Charles P. O'Brien, M.D., who also supervised drug screening support Petitioner's request for reinstatement of his license. (*Id.*)

CONCLUSIONS OF LAW

1. The Board has jurisdiction over Petitioner in this matter. (Finding of Fact no. 1)
2. Petitioner has been afforded reasonable notice of a hearing and an opportunity to be heard in this proceeding. (Finding of Fact no. 6)
3. Petitioner has presented credible evidence in his petition and at hearing that he has met all requirements for reinstatement in accordance with the Board's March 26, 2002 order. (Findings of Fact nos. 9-15)

DISCUSSION

Petitioner's license was suspended by order of the Board dated December 20, 2005, adopting a consent agreement in which Petitioner voluntarily surrendered his license to practice medicine in the Commonwealth due to a relapse to the use of drugs. The Board's order provided that in order to seek reinstatement of his license he must demonstrate at least 36 months of continuous sustained documented recovery.

Petitioner submitted a Petition for Reinstatement which was filed on October 25, 2006. With his application Petitioner included, *inter alia*, letters from his current treating physicians including a psychiatrist, and an addictions medicine specialist. Both urged that his license be reinstated subject to monitoring for a period of one to two years. (Exhibit P-7)

The record presented with Petitioner's application for reinstatement and confirmed by testimony at hearing demonstrates that he has met the conditions set forth by the Board in its March 26 2002 order. At the conclusion of the hearing, the Commonwealth recommended that reinstatement be subject to a period of probation for at least two years of monitoring by the Disciplinary Monitoring Unit of the Professional Health Monitoring Program. Following the hearing counsel for Petitioner filed a response indicating that he would consent to such terms. Accordingly, the following proposed order shall issue.

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

In the Matter of the Application for Reinstatement	:	
of the License to Practice Medicine and Surgery of	:	Docket no. 1625-49-06
David M. Leach, M.D.,	:	DOS File no. 06-49-08864
Petitioner	:	

PROPOSED ORDER

AND NOW, this 24th day of May, 2007, in accordance with the foregoing findings of fact, conclusions of law and discussion, it is hereby **ORDERED** that the license to practice medicine and surgery issued to **David M. Leach, M.D.**, license no. MD-3092-E, be, and hereby is **REINSTATED**, subject to a **period of probation for two years** under the following terms and conditions:

GENERAL

1. Petitioner shall fully and completely comply and cooperate with the Bureau of Professional and Occupational Affairs (BPOA) Professional Health Monitoring Program (PHMP), Disciplinary Monitoring Unit (DMU), and its agents and employees in the monitoring of Petitioner's impairment under the Consent Agreement and Order dated December 20, 2005.

2. Petitioner 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 Petitioner holds a license to practice a health care profession.

Summary traffic violations shall not constitute a violation of this Order.

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

4. Petitioner's failure to fully cooperate with the PHMP shall be deemed a violation of this Order.

5. Petitioner shall not falsify, misrepresent or make material omission of any information submitted pursuant to this Order.

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

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

8. Petitioner shall notify the PHMP, in writing, within five (5) days of the filing of any criminal charges against Petitioner, the initiation of any legal action pertaining to Petitioner's practice of the profession, the initiation, action, restriction or limitation relating to Petitioner 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 relating to Petitioner's privileges to practice the profession at any health care facility.

9. Petitioner shall notify the PHMP by telephone within 48 hours and in writing within five (5) days of any change of Petitioner'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. Petitioner shall cease or limit his practice if the PHMP case manager directs that Petitioner do so.

EVALUATION - TREATMENT

11. Petitioner shall authorize, in writing, the PHMP to have a copy of written evaluation reports prepared by his current PHMP-approved treatment provider, and such other treatment provider from whom Petitioner may seek treatment in the future.

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

- (a) Verification that the provider has received a copy of this Order 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 Petitioner;
- and
- (h) Discharge summary and continuing care plan at discharge.

13. Petitioner shall identify a primary care physician who shall send written notification to the Petitioner's PHMP case manager certifying Petitioner's health status as requested.

MONITORED PRACTICE

14. Petitioner shall not work in any practice setting without workplace monitoring as required by the PHMP.

15. Petitioner shall give any employer or prospective employer and any supervisor or prospective supervisor a copy of this Order.

16. Petitioner shall provide the PHMP by telephone within 48 hours, and in writing within five (5) days, notification of the following:

(a) Name and address of the supervisor responsible for Petitioner's practice;

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

(c) Any restrictions on Petitioner's practice.

17. Petitioner shall ensure that Petitioner's supervisor submits to the PHMP the following information in writing:

(a) Verification that the supervisor has received a copy of this Order and understands the conditions of this probation;

(b) An evaluation of Petitioner'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 Petitioner.

REPORTING/RELEASES

18. Petitioner, Petitioner's providers, supervisor(s), employers or other persons required to submit reports under this Order 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

19. Petitioner 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 Order.

20. Petitioner shall sign any required waivers or release forms requested by the PHMP for any and all records, inclusive of medical or other health related and psychological records, pertaining to treatment and monitoring rendered to Petitioner during this probation and any corresponding criminal probation, and any employment, personnel, peer review or review records pertaining to Petitioner'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 Order.

COSTS

21. Petitioner shall be responsible for all costs incurred in complying with the terms of this Order, including but not limited to psychiatric or psychotherapy treatments, PHMP-required toxicology screens prior to each screen being conducted, and reproduction of treatment or other records.

BUREAU/PHMP EVALUATIONS

22. Upon request of the PHMP, the Petitioner shall submit to mental or physical evaluations, examinations or interviews by a PHMP-approved treatment provider or the PHMP. Petitioner's failure to submit to such an examination, evaluation or interview when directed shall constitute a violation of this Order.

VIOLATION OF THIS ORDER

a. Notification of a violation of the terms or conditions of this Order shall result in the **IMMEDIATE VACATING** of the stay order, **TERMINATION** of the period of probation, and **ACTIVATION** of the suspension in ¶ above of Petitioner's license(s) to practice the profession in the Commonwealth of Pennsylvania as follows:

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

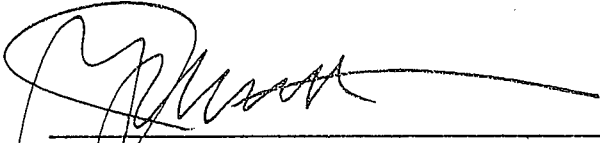
- 2) Upon a probable cause determination by the Committee that Petitioner has violated any of the terms or conditions of this Order, the Committee shall, without holding a formal hearing, issue a preliminary order vacating the stay of the within suspension, terminating this probation and activating the suspension of Petitioner's license.
- 3) Petitioner 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 the Petitioner's last registered address on file with the Board, or by personal service if necessary.
- 4) Within twenty (20) days of mailing of the preliminary order, Petitioner may submit a written answer to the Commonwealth's Petition and request that a formal hearing be held concerning Petitioner's violation of probation, in which Petitioner may seek relief from the preliminary order activating the suspension. Petitioner shall mail the original answer and request for hearing to the Bureau of Professional and Occupational Affairs' Prothonotary, 2601 North Third Street, Harrisburg, PA 17110, and a copy to the prosecuting attorney for the Commonwealth, as well as all subsequent filings in the matter.
- 5) If the Petitioner 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 Petitioner's request for a formal hearing.

- 6) Petitioner's submission of a timely answer and request for a hearing shall not stay the suspension of Petitioner'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.
- 7) The facts and averments in this Adjudication and Order shall be deemed admitted and uncontested at this hearing.
- 8) If the Board or hearing examiner after the formal hearing makes a determination against Petitioner, a final order will be issued sustaining the suspension of Petitioner's license and imposing any additional disciplinary measures deemed appropriate.
- 9) If Petitioner fails to timely file an answer and request for a hearing, the Board, upon motion of the prosecuting attorney, shall issue a final order affirming the suspension of Petitioner's license.
- 10) If Petitioner 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 the hearing examiner makes a determination against Petitioner sustaining the suspension of Petitioner's license, after at least years of active suspension and any additional imposed discipline, Petitioner may petition the Board for reinstatement based upon an affirmative showing that Petitioner has at least months of sustained documented recovery, a PHMP-approved provider's evaluation that Petitioner is fit to safely practice, and verification that Petitioner 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.

- b. Petitioner's failure to fully comply with any terms of this Order may also constitute grounds for additional disciplinary action.
- c. After successful completion of probation, Petitioner may petition the Board to reinstate Petitioner's license to unrestricted, non-probationary status upon an affirmative showing that Petitioner has complied with all terms and conditions of this Order and that Petitioner's resumption of unsupervised practice does not present a threat to the public health and safety.

This Proposed Order shall be final in 30 days unless otherwise ordered by the State Board of Medicine.



Joyce McKeever
Hearing Examiner

For Petitioner:
John Rogers Carroll, Esquire
CARROLL & BROTMAN
Suite 1150 W, 601 Walnut Street
Philadelphia, PA 19106

For the Commonwealth:
Robert B. Armour, Esquire
OFFICE OF GENERAL COUNSEL
2601 North Third Street, P.O. Box 2649
Harrisburg, PA 17105-2649

Date of Mailing: 5-25-07

Notice

The attached Final Adjudication and Order represents the final agency decisions in this matter. It may be appealed to the Commonwealth Court of Pennsylvania by the filing of a Petition for Review with that Court in accordance with the Pennsylvania Rules of Appellate Procedure. If you take an appeal to the Commonwealth Court, you must serve the Board with a copy of your Petition for Review. The agency contact for receiving service of such appeals is:

Board Counsel
P.O. Box 2649
Harrisburg, PA 17105-2649

The name of the individual Board Counsel is identified on the Order page of the Final Order.

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

In the Matter of the Application for
Reinstatement of the License of
David M. Leach, M.D.,
Respondent

: Docket No. 1464-49-09
: File No. 09-49-07546
:
: Previous File No. 06-49-09534

Department of State

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PROTHONOTARY

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FINAL ORDER REINSTATING RESPONDENT'S LICENSE

AND NOW, August 10, 2009, the State Board of Medicine (Board), upon consideration of Respondent's Petition for Reinstatement to Unrestricted Status together with supporting documentation that Respondent has successfully completed all the terms and conditions of the Disciplinary Monitoring Unit (DMU) Board Order of July 25, 2007, which placed Respondent's license on probation subject to certain terms and conditions pertaining to Professional Health Monitoring Program (Unit 2) monitoring, abstention, evaluation/treatment, support group attendance, urine/blood screening and supervised practice, and noting the Respondent's case manager concurs with Respondent's petition and the Commonwealth's prosecuting attorney does not oppose reinstatement, the Board hereby determines that David M. Leach, MD, has successfully completed the terms and conditions of his probation. It is hereby **ORDERED** that Respondent's probation is terminated, and Respondent's license, license number MT016861T, is hereby reinstated to unrestricted, non-probationary status. Retroactive to August 4, 2009. This order shall take effect immediately.

BY ORDER:

BUREAU OF PROFESSIONAL AND
OCCUPATIONAL AFFAIRS

Basil L. Merenda

BASIL L. MERENDA,
COMMISSIONER

Respondent:

Prosecuting Attorney:

Board Counsel:

Date of Mailing:

STATE BOARD OF MEDICINE

Ollice Bates, Jr.

OLLICE BATES, JR., MD
CHAIRPERSON

1426 Ridgewood Lane
Newtown, PA 18940

Bridget K. Guilfoyle, Esquire

Sabina I. Howell, Esquire

August 10, 2009