

# COPY

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

Commonwealth of Pennsylvania  
Bureau of Professional and  
Occupational Affairs

vs.

Heidi Robin Vidal, M.D.,  
Respondent

File No.: 12-49-12431

Docket No: 0663-49-13

FINAL ORDER

AND NOW, this 25<sup>th</sup> day of September 2017, noting that neither party filed an application for review and that the State Board of Medicine (Board) did not issue a Notice of Intent to Review, in accordance with 1 Pa. Code § 35.226(a)(3) and 49 Pa. Code § 16.57, the hearing examiner's Adjudication and Order dated August 21, 2017, appended to this order as **Attachment A**, is now the **FINAL ORDER** of the Board in this proceeding.

This Order shall take effect immediately.

BY ORDER:

BUREAU OF PROFESSIONAL AND  
OCCUPATIONAL AFFAIRS

IAN J. HARLOW  
COMMISSIONER

STATE BOARD OF MEDICINE

MARILYN J. HEINE, M.D.  
CHAIR

For Respondent:

Stretton C. Samuel, Esquire  
301 S. High St.  
P.O. Box 3231  
West Chester, PA 19381

For the Commonwealth:

Keith E. Bashore, Esquire  
Prosecuting Attorney  
Department of State  
P.O. Box 69521  
Harrisburg, PA 17106-9521

Board Legal Counsel:

Peter D. Kovach, Esq.

Date of Mailing:

September 25, 2017

# ATTACHMENT A

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

RECEIVED

AUG 21 2017

Department of State  
Prothonotary

Commonwealth of Pennsylvania,  
Bureau of Professional and  
Occupational Affairs

v.

Heidi R. Vidal, M.D.,  
Respondent

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Docket No.: 0663-49-13

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ADJUDICATION AND ORDER

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Hope S. Goldhaber  
Hearing Examiner

COMMONWEALTH OF PENNSYLVANIA  
GOVERNOR'S OFFICE OF GENERAL COUNSEL  
DEPARTMENT OF STATE  
OFFICE OF HEARING EXAMINERS  
P.O. Box 2649  
Harrisburg, PA 17105-2649  
(717) 772-2686

DATE DISTRIBUTED 8/21/17  
PROSECUTION \_\_\_\_\_  
COUNSEL \_\_\_\_\_  
HEARING EXAMINER \_\_\_\_\_  
OTHER \_\_\_\_\_

## HISTORY

This matter was initiated on April 25, 2013, by the filing of a single-count *Order to Show* in which the Commonwealth alleged that Heidi R. Vidal, M.D. ("Respondent") is subject to disciplinary action by the State Board of Medicine ("Board" or "Pennsylvania Board") under the Medical Practice Act of 1985 ("Act")<sup>1</sup>, at section 41(4), 63 P.S. § 422.41(4), in that Respondent had disciplinary action taken against her by the New Jersey State Board of Medical Examiners ("New Jersey Board"). More specifically, the Commonwealth alleged that the New Jersey Board had approved the surrender of Respondent's license to practice medicine and surgery in the State of New Jersey, which surrender was deemed to be a revocation of Respondent's license in the State of New Jersey. On June 5, 2013, Steven E. Angstreich, Esquire, filed an *Answer to Order to Show Cause* on behalf of Respondent.

This matter was originally scheduled for a hearing to be held on August 15, 2013. However, it was subsequently continued at the Commonwealth's request because the Prosecuting Attorney had a scheduling conflict on the date of the hearing. This matter was rescheduled for a hearing to be held on October 4, 2013. However, it was subsequently continued at the Commonwealth's request because, pursuant to a *Consent Agreement and Order* approved by the Board on July 23, 2013, Respondent had temporarily voluntarily surrendered her Pennsylvania medical license during the pendency of criminal proceedings involving felony drug charges in the Philadelphia County Municipal Court.

On September 24, 2014, the Commonwealth filed a two-count *Amended Order to Show Cause* ("Amended OTSC"). In the first count, the Commonwealth alleged that Respondent is subject to disciplinary action by the Board under section 41(4) of the Act, 63 P.S. § 422.41(4), in

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<sup>1</sup> Act of December 20, 1985, P.L. 457, No. 112, as amended, 63 P.S. §§ 422.1-422.51a.

that Respondent had disciplinary action taken against her by the New Jersey Board. More specifically, the Commonwealth alleged that the New Jersey Board had approved the surrender of Respondent's license to practice medicine and surgery in the State of New Jersey, which surrender was deemed to be a revocation of Respondent's license in the State of New Jersey. In the second count, the Commonwealth alleged that Respondent is subject to disciplinary action by the Board under section 41(3) of the Act, 63 P.S. § 422.41(3), in that Respondent was convicted of four misdemeanors relating to a health profession. On October 2, 2014, Samuel C. Stretton, Esquire, filed an *Answer to Amended Order to Show Cause* on behalf of Respondent.

On October 3, 2014, this matter was rescheduled for a hearing to be held on January 15, 2015. However, over the course of the next 27 months, this matter was subsequently continued and rescheduled seven times at Respondent's request based on the pending resolution of Respondent's request for reinstatement of her revoked medical license in New Jersey. Also at Respondent's request, the temporary voluntary surrender of her Pennsylvania medical license pursuant to a *Consent Agreement and Order* adopted by the Board on July 23, 2013, was continued indefinitely during the pendency of these proceedings.

The last *Order Granting Respondent's Motion for Continuance of Hearing*, issued on November 8, 2016, granted a continuance but only until March 15, 2017<sup>2</sup>; and directed the Prothonotary for the Department of State to reschedule this matter for hearing after March 15, 2017. Thereafter, on January 19, 2017, the Deputy Prothonotary for the Department of State issued a *Notice of Rescheduled Hearing*, rescheduling the administrative hearing for April 12, 2017 at 2601 N. Third Street, One Penn Center, Harrisburg, Pennsylvania.

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<sup>2</sup> The Commonwealth had objected to Respondent's Motion due to the length of delay in this matter.

The hearing was held as scheduled on April 12, 2017, before Hearing Examiner Maria Battista. The Commonwealth was represented by prosecuting attorney Keith E. Bashore, Esquire, who presented the Commonwealth's case through documentary evidence. Respondent appeared at the hearing with her attorney, Mr. Stretton, who presented Respondent's case through Respondent's testimony and documentary evidence. At the conclusion of the hearing, the parties waived the filing of post-hearing briefs but agreed that the record would remain open for a period of 90 days in order for Respondent to submit the New Jersey Board's reinstatement decision.

The hearing transcript was filed on April 28, 2017. On May 3, 2017, pursuant to the agreement of the parties, an *Order Keeping Record Open* for a period of 90 days was issued. On May 11, 2017, Respondent filed an email indicating what the terms of the New Jersey Board's reinstatement order were going to be. This matter was subsequently reassigned to Hearing Examiner Hope S. Goldhaber. On June 8, 2017, Respondent filed a draft opinion of the New Jersey Board and requested that it be made part of the record. On June 23, 2017, an *Order Denying Respondent's Request to Make Draft New Jersey Consent Order Part of the Record* was issued on grounds that the draft Consent Order was undated and unsigned and therefore had no legal effect. On June 26, 2017, and July 3, 2017, Respondent filed the fully executed Consent Order of the New Jersey Board and requested that it be made part of the record. On July 7, 2017, an *Order Admitting New Jersey Consent Order and Closing Record* was issued.

This matter is now ripe for disposition.

### FINDINGS OF FACT

1. Respondent holds a license to practice medicine and surgery in the Commonwealth of Pennsylvania, license no. MD061470L. (Official Notice – Board records<sup>3</sup>; Exhibits C-1 and C-2 ¶ 1)
2. Respondent's license was originally issued on May 15, 1997. (Board records)
3. Respondent's license has been temporarily voluntarily surrendered since July 23, 2013, initially due to pending criminal charges and then at Respondent's request during the pendency of these proceedings. (Board records; Exhibit C-1 ¶¶ 2, 5-6 and attached Exhibit 1; Exhibit C-2 ¶¶ 2, 5-6; Docket No. 0663-49-13)
4. At all times pertinent to the Factual Allegations in the Commonwealth's *Amended OTSC*, Respondent held a license to practice medicine and surgery in the Commonwealth of Pennsylvania. (Board records; Exhibits C-1 and C-2 ¶ 3)
5. Respondent's last known address on file with the Board is 534 Benner Street, Philadelphia, PA 19111. (Board records; Exhibits C-1 and C-2 ¶ 4)
6. In 1994, Respondent graduated from the University of Medicine & Dentistry of New Jersey. (N.T. 34; Exhibit R-7)
7. From 1994-1995, Respondent completed a one-year internship in Internal Medicine at Cooper Hospital in Camden, New Jersey. (N.T. 35; Exhibit R-7)
8. From 1995-1996, Respondent completed a one-year residency in Physical Medicine and

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<sup>3</sup> A licensing board may take official notice of its own records under the General Rules of Administrative Practice and Procedure, 1 Pa. Code § 31.1 *et seq.*, at § 35.173; *see also Falasco v. Commonwealth of Pennsylvania Board of Probation and Parole*, 521 A.2d 991 (Pa. Cmwlth. 1987) (the doctrine of official notice allows an agency to take official notice of facts which are obvious and notorious to an expert in the agency's field and those facts contained in reports and records in the agency's files); *Gleeson v. State Bd. of Medicine*, 900 A.2d 430, 440 (Pa. Cmwlth. 2006), *appeal denied*, 917 A.2d 316 (Pa. 2007) (licensing board may take official notice of its own records). All subsequent such references will be cited as "Board records."



- Rehabilitation at Graduate Hospital in Philadelphia, Pennsylvania. (N.T. 35; Exhibit R-7)
9. From 1997-2000, Respondent completed a three-year residency in General Psychiatry at Thomas Jefferson University in Philadelphia, Pennsylvania. (N.T. 34-35; Exhibit R-7)
  10. From 2000-2002, Respondent completed a two-year fellowship in Child & Adolescent Psychiatry at Thomas Jefferson University in Philadelphia, Pennsylvania. (N.T. 34-35; Exhibit R-7)
  11. From May of 2003 until February of 2013, Respondent worked as a psychiatrist at various places in New Jersey and/or Pennsylvania.<sup>4</sup> (N.T. 37-44; Exhibit R-7)
  12. From 2000 until August of 2009, Respondent was in treatment with a psychiatrist who prescribed her 300 milligrams of Adderall per day.<sup>5</sup> (N.T. 49, 75)
  13. Respondent got married in 2008. (N.T. 60)
  14. In August of 2009, Respondent stopped seeing her psychiatrist for prescriptions of Adderall because she found out she was pregnant. (N.T. 75, 77)
  15. Respondent had a miscarriage on or about September 29, 2009. (N.T. 77)
  16. By December of 2009, Respondent could not function and, even though she could have gone back to her psychiatrist or to another doctor, Respondent started prescribing Adderall for herself under the name of a former employee<sup>6</sup>; this continued until October of 2011.<sup>7</sup> (N.T. 74-78; Exhibit C-1 ¶¶ 13-19 and attached Exhibits 3-5; Exhibit C-1 ¶¶ 13-19)

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<sup>4</sup> Respondent has not practiced in New Jersey since October 24, 2012. (N.T. 42; Exhibit R-7) Respondent has not practiced in Pennsylvania since February of 2013. (N.T. 43-44; Exhibit R-7)

<sup>5</sup> Adderall is a Schedule II Controlled Substance. (N.T. 65)

<sup>6</sup> The amount Respondent prescribed for herself varied but it was no more than 120 milligrams per day. (N.T. 78-79)

<sup>7</sup> At the time, Respondent had a private practice by the name of DeAntonio Psychiatric Services PC in both Cinnaminson, New Jersey and Philadelphia, PA. (N.T. 40-41; Exhibit R-7) Also, at the time, Respondent worked intermittently as a community doctor at Tree of Life Behavioral Services in Philadelphia, PA; this business belonged to her husband's father. (N.T. 39-42; Exhibit R-7)

17. In October of 2011, Respondent went back to the psychiatrist who had been prescribing her 300 milligrams of Adderall per day and Respondent started to take that prescribed dose again. (N.T. 49-51, 80, 92)
18. In December of 2011, Respondent went to see Dr. Louis Baxter, the Medical Director of the Professional Assistance Program of New Jersey ("PAP"), and she agreed to participate in the PAP. (N.T. 46, 92)

**New Jersey Consent Order of October 25, 2012**

19. On October 25, 2012, *In the Matter of the Suspension or Revocation of the License of Heidi Vidal, M.D., License No. 25MA07861200, to Practice Medicine and Surgery in the State of New Jersey*, the New Jersey Board approved a Consent Order which provided, in relevant part, as follows:
  - a. Respondent, Heidi Vidal, M.D., is hereby granted leave to surrender her license, which surrender is deemed to be a revocation of her license to practice medicine and surgery in the State of New Jersey;
  - b. Respondent has leave to apply for reinstatement no earlier than twenty-four (24) months from the entry of the within Order;
  - c. At a minimum, prior to re-application for licensure, Respondent shall:
    1. Participate in the Professional Assistance Program of New Jersey ("PAP") and comply with the requirements of the program.
    2. Appear before the Board, or a committee thereof, with the support of the PAP, to discuss her readiness to re-enter the practice of medicine. At that time, Respondent shall be prepared to propose her plans for future practice in New Jersey;
    3. Provide the Board with evidence that she is capable of discharging the functions of a licensee in a manner consistent with the public's health, safety, and welfare and that she is not then suffering from any impairment or limitation resulting from the use of alcohol or any drug which could affect her practice;

4. Provide the Board with discharge summaries from any inpatient programs and reports from each and every health care professional who has participated in Respondent's care and/or treatment for the disability in this matter during the period of time from the date the within Order is filed to her appearance before the Board;
5. Provide the Board with a report from the PAP detailing the nature and extent of her involvement with that entity, and whether she has abided by the recommendations made by the PAP;
6. Affirmatively establish her fitness, professional competence and capacity to re-enter the active practice of medicine and surgery within New Jersey; and
7. Provide the Board with a full account of her conduct during the intervening period of time from her entry into this Order to her appearance.

(Exhibit C-1 ¶¶ 8-10 and attached Exhibit 2; Exhibit C-2 ¶¶ 8-10)

**Philadelphia County Criminal Matter – September 3, 2014 Convictions**

20. On June 11, 2013, in the matter of *Commonwealth of Pennsylvania v. Heidi R. Vidal*, a Police Criminal Complaint was filed by BNI Officer Vincent Jackson of the Police Athletic League in Philadelphia County Municipal Court, charging Respondent with three felonies and one misdemeanor in connection with allegations that between December 22, 2009 and October 21, 2011, Respondent, in concert with her husband, Jonathan Vidal, fraudulently obtained prescription pills, namely Adderall, at EmmaCare Pharmacy, located at 6433 Rising Sun Avenue in Philadelphia, Pennsylvania, by using the complainant's name and personal information without her knowledge or permission. (Exhibit C-1 ¶¶ 13-14 and attached Exhibit 3; Exhibit C-1 ¶¶ 13-14)
21. On July 25, 2013, in the Court of Common Pleas of Philadelphia County, Pennsylvania, at Criminal Docket No. CP-51-CR-0009157-2013, an Information was filed charging

Respondent with:

- a. one felony count of acquiring or obtaining possession of a controlled substance by misrepresentation, fraud, forgery, deception or subterfuge, in violation of 35 P.S. § 780-113(a)(12);
- b. one felony count of conspiracy to acquire or obtain possession of a controlled substance by misrepresentation, fraud, forgery, deception, or subterfuge, in violation of 18 Pa.C.S.A. § 903;
- c. one felony count of identity theft, in violation of 18 Pa.C.S.A. § 4120(a); and
- d. one misdemeanor count of intentionally possessing a controlled substance by person not registered, in violation of 35 P.S. § 780-113(a)(16).

(“Philadelphia County criminal matter”) (Exhibit C-1 ¶¶ 15-16 and attached Exhibit 4; Exhibit C-2 ¶¶ 15-16)

22. On September 3, 2014, in the Philadelphia County criminal matter, a negotiated guilty plea was approved by the Philadelphia County Court of Common Pleas by which Respondent pleaded guilty to four misdemeanor counts of *Sale Give Controlled Substance to a Dependent Person*, in violation of the Controlled Substance, Drug, Device and Cosmetic Act at 35 P.S. § 780-113(a)(13); and the remaining charges were Nolle Prossed. (Exhibit C-1 ¶¶ 17-19 and attached Exhibit 5; Exhibit C-2 ¶¶ 17-19)
23. On September 3, 2014, in the Philadelphia County criminal matter, Respondent was sentenced to probation for a period of one year on each count to run concurrent.<sup>8</sup> (Exhibits C-1 ¶¶ 18, 20 and attached Exhibit 5; Exhibit C-2 ¶¶ 18, 20; Exhibit R-1)

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<sup>8</sup> In addition to her misdemeanor convictions in Pennsylvania, Respondent also has a misdemeanor conviction in New Jersey. (N.T. 45) Respondent pleaded guilty to obstruction of justice in New Jersey in relation to prescription pads that had been stolen from her office. (N.T. 44-45)

24. As of September 3, 2015, Respondent had successfully completed all requirements and responsibilities of her criminal probation. (Exhibit R-3)

**Respondent's Recovery**

25. Respondent started to participate in the PAP in December of 2011; and she continued to take Adderall at a prescribed dosage of 300 milligrams per day until July of 2013. (N.T. 46, 49-51, 92)
26. Respondent then went off Adderall completely for a period of about six months. (N.T. 51)
27. Since approximately February of 2014, Respondent has been taking Adderall at a prescribed dosage of 60 milligrams per day for a sleep disorder. (N.T. 49, 51-52, 62)
28. Respondent has been diagnosed with melancholic depression, obstructive sleep apnea with daytime somnolence, substance abuse disorder in remission, specifically Adderall, and generalized anxiety disorder. (N.T. 49, 62, 83)
29. Respondent's psychiatrist is Dr. Laurie Peterson-Deerfield. (N.T. 81)
30. Respondent has been treating with Dr. Peterson-Deerfield for almost two years, since June or July of 2015 to the present. (N.T. 81)
31. Respondent sees Dr. Peterson-Deerfield once a month. (N.T. 46)
32. Respondent also attends group therapy twice a month with other physicians; the group therapy is conducted by Dr. Peterson-Deerfield. (N.T. 46-47, 86-87)
33. Respondent also sees Dr. Charles Cantor, a neurologist, for sleep issues and Dr. Jeffrey Mazure, her primary care doctor; however, Dr. Peterson-Deerfield now does all the prescribing. (N.T. 82-84)
34. In addition to Adderall, Respondent takes the following medications: 40 milligrams of Viibryd in the morning for depression; 20 micrograms of Cytomel per day for her thyroid;

200 milligrams of Nuvigil in the morning for obstructive sleep apnea; and 75 milligrams of Doxepine at bedtime for sleep. (N.T. 55-58)

35. Respondent thinks that the Adderall used to affect her judgment, by making her reactive and emotional, but it does not do that now due to the decrease in dosage and the other drugs that are balancing her mood. (N.T. 95-96)
36. Respondent also has a therapist, Dr. Elaine Alexander, who she has been seeing since approximately December of 2015. (N.T. 85)
37. Respondent initially saw Dr. Alexander once a week but this was reduced to once a month in May of 2016. (N.T. 85-86)
38. Through all her treatment, Respondent has more insight into where her weaknesses lie and what her problems are. (N.T. 92-93)
39. Respondent believes that her triggers are stress and isolation. (N.T. 93)
40. If Respondent has stress and feels like she is isolating herself, she knows that she can reach out to her family<sup>9</sup> and her church<sup>10</sup> as well as a very good friend who is a pediatrician. (N.T. 94-95)
41. Respondent also knows that she can see her therapist, she can share with her group, and she can talk to her psychiatrist. (N.T. 94-95)
42. Respondent got divorced in 2014 and her ex-husband is out of her life now; this was a positive thing for Respondent because her ex-husband had serious addiction issues to alcohol during the marriage. (N.T. 60)
43. Respondent currently lives in a house in New Jersey; she rents a room from a man who

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<sup>9</sup> Respondent lives near her mother and her sister; and she sees them with some regularity. (N.T. 61)

<sup>10</sup> Respondent attends Wiley Church in Marlton. (N.T. 93)

- takes care of his mother. (N.T. 60-61)
44. Respondent has been working hard, making \$10.00 an hour, to pay her rent and her medical bills. (N.T. 71-72)
  45. While her license has been suspended in both New Jersey and Pennsylvania, Respondent has worked several jobs to support herself: she worked at Macy's doing seasonal work; she has been selling pot stickers (Asian dumplings) at Sam's Club; and she was going to start working for a company called Sales Makers selling cell phones at Walmart. (N.T. 58-59, 72-73)
  46. While her license has been suspended in both New Jersey and Pennsylvania, Respondent has completed numerous continuing medical education ("CME") courses. (Exhibits R-8 through R-13)
  47. "Appropriate Prescribing of Controlled Substances," consisting of 100 Category II CME's, was one of the courses which Respondent completed; it was an intensive blackboard course over a period of three months. (N.T. 97; Exhibits R-8, R-11 and R-12)
  48. After taking "Appropriate Prescribing of Controlled Substances," Respondent feels that she will appropriately and safely prescribe controlled substances in a very limited fashion because she has personally seen what can happen to a person when controlled substances are prescribed far too liberally. (N.T. 97-98)
  49. Respondent wants to be a doctor again because it is what she loves; she enjoys helping people and being able to make a difference. (N.T. 73-74)
  50. Ideally, Respondent would like to work as a psychiatrist in a VA hospital because she enjoys working with veterans and feels that she is very good at treating PTSD not just with psychotropic medications. (N.T. 63)

51. In any event, Respondent will be working in a setting with other physicians and not by herself. (N.T. 63-64)
52. As of April 11, 2017, the day before the hearing, Respondent remained in good standing with the PAP and, also, the New Jersey Board had indicated that it would reinstate Respondent's license with conditions that were then under consideration. (Exhibit R-4)
53. The conditions would include, among other things, Respondent's continued participation in the PAP. (N.T. 68)

**New Jersey Consent Order of Licensure with Conditions - June 7, 2017**

54. On June 7, 2017, *In the Matter of the Suspension or Revocation of the License of Heidi Vidal, M.D., License No. 25MA07861200, to Practice Medicine and Surgery in the State of New Jersey*, the New Jersey Board approved a Consent Order of Licensure with Conditions based upon the following considerations:

On May 6, 2015, Respondent appeared before a PEC with legal counsel, Rasha B. Foda, and Louis Baxter, M.D., of the Professional Assistance Program (PAP), in support of her petition to reinstate her license.

The Board advised Respondent that the application for reinstatement was premature through correspondence dated October 16, 2015, and prior to Respondent's request for reinstatement to be considered, she must provide the Board with the following; 1) an in-depth psychological or psychiatric evaluation performed by a practitioner pre-approved by the Board; 2) complete treatment records of all diagnostic and rehabilitative therapy, discharge summaries from any in-patient programs, and reports, from each and every mental health professional who participated in her care and/or treatment during the period of time from January 1, 2015 through the date of her next PEC to discuss her readiness to reenter practice as a physician; 3) an updated position statement from the PAP; and 4) documentation to the Board of successful completion of criminal probation.

In support of her petition for reinstatement, Respondent appeared before a Committee of the Board on December 7, 2016, with Louis Baxter, M.D. of the PAP, and submitted documentation that she has fully complied with all aspects of the Consent Order dated October 25, 2012, and all of the conditions listed above. Specifically, the Board reviewed Respondent's



psychiatric evaluation by Laurie Dee[r]field, D.O. dated May 6, 2016 and supplemental reported [sic] dated April 26, 2017. Dr. Deerfield recommended that Respondent is capable to return to the practice of medicine in a supervised setting, with limited CDS prescribing, continued psychotherapy, medication monitoring and participation with PAP. Further, Dr. Baxter testified that he fully supports Respondent's return to practice with conditions.

(Exhibit R-14, pp. 2-3)

55. Pursuant to the June 7, 2017 Consent Order, Respondent is eligible for reinstatement of her license to practice medicine and surgery in New Jersey subject to terms and conditions which include, among other things, that:

- Respondent shall maintain absolute abstinence from alcohol, all controlled dangerous substances, and any other potentially addictive substances, except as duly prescribed by a treating health care practitioner for legitimate medical reasons. Respondent shall advise all of her treating health care practitioners, of her CDS history. Respondent shall report any such prescriptions to the PAP and the Board in writing within five (5) days of receiving such a prescription together with the name of the prescribing physician/dentist/advanced practice nurse or other authorized prescriber and the reason for its use.
- Respondent shall undergo random witnessed urine monitoring for controlled dangerous substances and alcohol a minimum of once per month for a minimum of the first twelve (12) months of licensure reinstatement.
- Respondent shall be responsible to ensure that the PAP shall supply monthly reports beginning on the "filed" date of this Order to the Board regarding her progress with the monitoring program for six (6) months and then quarterly reports thereafter, for at least a minimum of twelve (12) months.
- Respondent shall obtain the agreement of the PAP via a signature of its representative on this Order to notify the Board within 24 hours of its receipt of information of any "slip or relapse" of impairment, including but not limited to any positive urine screen or failure to appear for urine monitoring or any scheduled appointment or any discontinuance of the PAP rehabilitation program whether initiated by Respondent or by the PAP.
- Respondent shall attend regular face-to-face meetings with a staff member of the PAP on a monthly basis for a minimum of twelve (12) months from the filing date of this Order.

- Respondent shall continue medication management and group aftercare therapy with Dr. Deerfield or her successor approved by the Board, until such time Dr. Deerfield, in consultation with Dr. Baxter of the PAP, agree that it is no longer required and the PAP recommends discontinuance to the Board and the Board approves such discontinuance. Such discontinuance will not be entertained until Dr. Vidal has been in practice for eighteen (18) months. Respondent shall ensure that her psychiatrist submits quarterly reports to the Board through the PAP in which she details the status and progress of Respondent's therapy and reports immediately (within 24 hours) orally and in writing, any discontinuance of Respondent's treatment.
- Respondent shall continue therapy with Elaine Alexander or her successor psychologist approved by the Board, until such time Elaine Alexander, in consultation with Dr. Baxter of the PAP, agree that it is no longer required and the PAP recommends discontinuance to the Board and the Board approves such discontinuance. Such discontinuance will not be entertained until Dr. Vidal has been in practice for eighteen (18) months. Respondent shall ensure that the therapist/psychologist submits quarterly reports to the Board through the PAP which detail the status and progress of Respondent's therapy and reports immediately (within 24 hours) orally and in writing, any discontinuance of Respondent's treatment.
- Respondent's work week shall not exceed twenty-four (24) hours for her first year of licensure reinstatement.
- Prior to reinstatement, Respondent shall have a Board pre-approved board certified psychiatrist agree to work as her supervisor, for a minimum of eighteen (18) months. Respondent shall only work in a group setting where she will be supervised. Respondent's supervisor shall be required to review a minimum of twenty (20) patient files a month. The supervisor shall submit a report to the Board on a quarterly basis regarding his/her observations of Respondent's practice of psychiatric medicine including her prescribing of CDS medications. The supervisor shall notify the Board within twenty-four (24) hours of knowledge of any violation of this supervisory agreement and/or any behavior indicative of psychiatric difficulties. The eighteen (18) month minimum will not begin until Respondent begins working under supervision.
- Respondent shall only work in a group setting until further approval of the Board.

(Exhibit R-14) .

56. Respondent is willing to comply with reinstatement conditions in Pennsylvania that are

similar to the reinstatement conditions in New Jersey. (N.T. 87)

**Notice and Due Process**

57. Respondent was served with all pleadings, orders and notices filed of record in this matter.  
(Docket No. 0663-49-13)
58. Respondent appeared at the formal administrative hearing held on April 12, 2017, and was represented by counsel, who presented Respondent's case through her testimony and documentary evidence. (N.T., *passim*)

### CONCLUSIONS OF LAW

1. The Board has jurisdiction in this matter. (Findings of Fact 1-4)
2. Respondent has been afforded reasonable notice of the charges against her and an opportunity to be heard in this proceeding, in accordance with the Administrative Agency Law, 2 Pa.C.S.A. § 504. (Findings of Fact 57-58)
3. Respondent is subject to disciplinary action under section 41(4) of the Act, 63 P.S. § 422.41(4), in that her medical license was disciplined on October 25, 2012, by the proper licensing authority in another state, New Jersey. (Finding of Fact 19)
4. Respondent is also subject to the revocation or suspension of her license under the CHRIA at 18 Pa.C.S.A. § 9124(c)(2), because on September 3, 2014, she was convicted of four counts of *Sale Give Controlled Substance to a Dependent Person*, all misdemeanors related to the practice of medicine. (Findings of Fact 20-23)

## DISCUSSION

### Violation

In Count One of the *Amended OTSC*, the Commonwealth alleged that Respondent is subject to disciplinary action under section 41(4) of the Act, 63 P.S. § 422.41(4), because her medical license in New Jersey was disciplined by the proper licensing authority of that state.

Section 41(4) of the Act provides as follows:

**Section 41. Reasons for refusal, revocation, suspension or other corrective actions against a licensee or certificate holder**

The board shall have authority to impose disciplinary or corrective measures on a board-regulated practitioner for any or all of the following reasons:

\* \* \*

- (4) Having a license or other authorization to practice the profession revoked or suspended or having other disciplinary action taken, or an application for a license or other authorization refused, revoked or suspended by a proper licensing authority of another state, territory, possession or country, or a branch of the Federal Government.

\* \* \*

63 P.S. § 422.41 (4).

Additionally, in Count Two of the *Amended OTSC*, the Commonwealth alleged that Respondent is subject to disciplinary action under the CHRIA at 18 Pa.C.S.A. § 9124(c)(2), because she was convicted of four counts of *Sale Give Controlled Substance to a Dependent Person*, misdemeanors related to the practice of medicine. Section 9124(c)(2) of the CHRIA provides as follows:

**§ 9124. Use of records by licensing agencies**

\* \* \*

- (c) **State action authorized.** – Boards, commissions or departments of the Commonwealth authorized to license, certify, register or permit the practice of trades, occupations or professions may refuse to grant or renew, or may suspend or revoke any license, certificate, registration or permit for the following causes:

\* \* \*

- (2) Where the applicant has been convicted of a misdemeanor which relates to the trade, occupation or profession for which the license, certificate, registration or permit is sought.

18 Pa.C.S.A. § 9124(c)(2).

The Commonwealth's evidence at the hearing consisted of the *Amended OTSC* and Respondent's *Answer to the Amended OTSC*, in which she admitted that the New Jersey Board disciplined her license to practice medicine and surgery in that state on October 25, 2012, when it accepted the surrender of her license, which surrender was deemed to be a revocation of her license. In her *Answer to the Amended OTSC*, Respondent also admitted that she was convicted of four misdemeanors related to the practice of medicine on September 3, 2014, when she pleaded guilty to four misdemeanor counts of *Sale Give Controlled Substance to a Dependent Person*, in violation of 35 P.S. § 780-113(a)(13). Based upon Respondent's admissions, the Commonwealth has met its burden of proof<sup>11</sup> as to the charges set forth in the *Amended OTSC*.

### **Sanction**

The Commonwealth has met its burden of proof on both counts of the *Amended OTSC*.

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<sup>11</sup> The degree of proof required to establish a case before an administrative tribunal in an action of this nature is a preponderance of the evidence. *Lansberry v. Pennsylvania Pub. Util. Comm'n*, 578 A.2d 600, 602 (Pa. Cmwlth. 1990), *appeal denied*, 602 A.2d 863 (Pa. 1992). A preponderance of the evidence is generally understood to mean that the evidence demonstrates a fact is more likely to be true than not to be true, or if the burden were viewed as a balance scale, the evidence in support of the Commonwealth's case must weigh slightly more than the opposing evidence. *Se-Ling Hosiery, Inc. v. Margulies*, 70 A.2d 854, 856 (Pa. 1950). The Commonwealth therefore has the burden of proving the charges against Respondent with evidence that is substantial and legally credible, not by mere "suspicion" or by only a "scintilla" of evidence. *Lansberry*, 578 A.2d at 602.

The only question remaining is the appropriate sanction to be imposed. Under the Act, the Board is charged with the responsibility and authority to oversee the profession and to regulate and license professionals to protect the public health and safety. *Barran v. State Bd. of Medicine*, 670 A.2d 765, 767 (Pa. Cmwlth. 1996), *appeal denied*, 679 A.2d 230 (Pa. 1996).

For a violation of the Act, the Board is authorized to impose disciplinary or corrective measures or a civil penalty pursuant to section 42(a) of the Act, 63 P.S. § 422.42(a), which provides, in relevant part, as follows:

**Section 42. Types of corrective action**

**(a) Authorized actions.**—When the board is empowered to take disciplinary or corrective action against a board-regulated practitioner under the provisions of this act or pursuant to other statutory authority, the board may:

\* \* \*

- (2) Administer a public reprimand with or without probation.
- (3) Revoke, suspend, limit or otherwise restrict a license or certificate.
- (4) Require the board-regulated practitioner to submit to the care, counseling or treatment of a physician or a psychologist designated by the board.
- (5) Require the board-regulated practitioner to take refresher educational courses.
- (6) Stay enforcement of any suspension, other than that imposed in accordance with section 40 [footnote omitted], and place a board-regulated practitioner on probation with the right to vacate the probationary order for noncompliance.
- (7) Impose a monetary penalty in accordance with this act.

\* \* \*

63 P.S. § 422.42.

Additionally, a maximum civil penalty of up to ten thousand dollars (\$10,000.00) for each violation of the Act is authorized under either section 908 of the Medical Care Availability and Reduction of Error Act<sup>12</sup>, 40 P.S. § 1303.908, or section 5(b)(4) of Act 48<sup>13</sup>, 63 P.S. § 2205(b)(4). Finally, under the CHRIA at 18 Pa.C.S.A. § 9124(c)(2), the Board has the authority to suspend or revoke Respondent's license.

Respondent's disciplinary action in New Jersey and her misdemeanor convictions in Pennsylvania stemmed from her abuse of Adderall, a Schedule II Controlled Substance. In mitigation of the sanction to be imposed by the Pennsylvania Board, Respondent presented convincing evidence that she has been stable in her recovery for several years and that, as a result, the New Jersey Board was planning to reinstate her license with conditions which would include her continued participation in the PAP. In addition, Respondent testified that she would be willing to comply with reinstatement conditions in Pennsylvania that are similar to the reinstatement conditions in New Jersey.

At the conclusion of the hearing, the parties agreed to leave the record open for 90 days so that, if issued within that time frame, Respondent could submit the New Jersey Board's reinstatement decision. (N.T. 103-109) If the New Jersey Board decided to lift the surrender of Respondent's license in that state, the Commonwealth recommended that Respondent be placed in Pennsylvania's Professional Health Monitoring Programs ("PHMP") for a period of three years of probation. (N.T. 103) After the hearing, and while the record was still open, Respondent submitted a Consent Order of Licensure with Conditions entered by the New Jersey Board on June 7, 2017, which was marked for identification and admitted as Exhibit R-14. Pursuant to the June

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<sup>12</sup> Act of March 20, 2002, P.L. 154, No. 13, 40 P.S. §§ 1303.101-1303.910.

<sup>13</sup> Act of July 2, 1993, P.L. 345, No. 48, *as amended*, 63 P.S. §§ 2201-2207.



7, 2017 Consent Order, the New Jersey Board and Respondent agreed that Respondent is eligible for reinstatement of her license subject to terms and conditions which include her continued participation in the PAP.

Upon consideration of the mitigating evidence which Respondent presented at the hearing, in conjunction with the provisions of the June 7, 2017 Consent Order and Respondent's willingness to be monitored in Pennsylvania, the Hearing Examiner agrees with the Commonwealth's recommendation. Therefore, in fulfillment of the Board's duty to protect the public health and safety of the citizens of this Commonwealth, the Hearing Examiner believes that Respondent's license should be indefinitely suspended for no less than three years with the suspension immediately stayed in favor of no less than three years of probation in the PHMP, Disciplinary Monitoring Unit.

Accordingly, based upon the foregoing, the following order shall issue:

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

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

**v.**

**Heidi R. Vidal, M.D.,  
Respondent**

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:  
:  
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:

**Docket No.: 0663-49-13**

**File No.: 12-49-12431**

**ORDER**

**AND NOW**, this 21<sup>st</sup> day of **August, 2017**, upon consideration of the foregoing findings of fact, conclusions of law and discussion, it is hereby **ORDERED** that the license to practice medicine and surgery issued to Respondent, **Heidi R. Vidal, M.D.**, license no. MD061470L, shall be **INDEFINITELY SUSPENDED** for no less than **THREE YEARS**. Said suspension shall be **IMMEDIATELY STAYED** in favor of **AN INDEFINITE PERIOD OF PROBATION** of no less than **THREE YEARS**, which shall be subject to the following terms and conditions:

**GENERAL**

1. **Within 10 days of the issuance of this Order**, Respondent shall contact the Bureau of Professional and Occupational Affairs, Professional Health Monitoring Programs ("PHMP"), Disciplinary Monitoring Unit ("DMU") to begin monitoring. PHMP's DMU contact information is:

Professional Health Monitoring Programs Disciplinary Monitoring Unit P.O. Box 10569 Harrisburg, PA 17105-0569 Tele (717)783-4857 or in PA (800)554-3428
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2. Respondent shall fully and completely comply and cooperate with the PHMP and its agents and employees in their monitoring of Respondent's impairment under this Order.

3. 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 an authorization to practice the profession. Summary traffic violations shall not constitute a violation of this Order; however, a violation of any conditions of a criminal probation and/or parole is a violation of this Order.

4. Respondent shall at all times cooperate and comply 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 Order. Respondent shall cooperate and comply with any requests for written reports, records or verifications of actions that may be required by the PHMP; the requested shall be obtained and submitted at Respondent's expense.

5. Respondent's failure to fully cooperate and comply with the PHMP shall be deemed a violation of this Order.

6. Upon request of the PHMP case manager, Respondent shall enroll in a peer assistance program, when available, including, but not limited to, Physician's Health Program ("PHP"), Secundum Artem Reaching Pharmacists with Help ("SARPH"), and Pennsylvania Nurse Peer Assistance Program ("PNAP"), and shall fully and completely comply with all of the terms and conditions of Respondent's Order with the peer assistance program. Respondent's failure to fully and completely comply with Respondent's Order with the peer assistance program shall constitute a violation of this Order.

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

8. 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.

9. Respondent may not engage in the practice of the profession in any other state or

jurisdiction without first obtaining written permission from the PHMP. Once written permission is granted by the PHMP, Respondent shall notify the licensing board of the other state or jurisdiction that Respondent suffers from an impairment and is enrolled in the DMU prior to engaging in the practice of the profession in the other state or jurisdiction.

10. In the event Respondent relocates to another jurisdiction, within five (5) days of relocating, Respondent 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 Respondent is impaired and enrolled in this Program. In the event Respondent fails to do so, in addition to being in violation of this Order, the periods of suspension and probation herein shall be tolled. It is a violation of this Order if Respondent violates and/or fails to fully and completely comply with the impaired professional program in another jurisdiction.

11. Respondent shall notify the PHMP by telephone within forty-eight (48) hours and in writing within five (5) days of the filing of any criminal charges against Respondent; the final disposition of any criminal charges against Respondent; the violation of any terms and conditions of a criminal probation or parole; 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.

12. Respondent shall notify the PHMP by telephone within forty-eight (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.

13. Respondent shall cease or limit Respondent's practice of the profession if the PHMP case manager directs that Respondent do so.

**EVALUATION - TREATMENT**

14. As requested by the PHMP, Respondent shall have forwarded to the PHMP, a written mental and/or physical evaluation by a provider approved by the PHMP (hereinafter "treatment provider") assessing Respondent's fitness to actively practice the profession. Unless otherwise directed by PHMP, the evaluation shall be forwarded to:

PHMP –DMU P.O. Box 10569 Harrisburg, PA 17105-0569 Tele: 717-783-4857 In PA: 800-554-3428
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If the treatment provider determines that Respondent is not fit to practice, Respondent shall immediately cease practicing the profession and not practice until the treatment provider and the PHMP case manager determine that Respondent is fit to resume practice with reasonable skill and safety to patients.

15. The evaluation described in the previous paragraph is in addition to any other evaluation already provided.

16. Respondent shall provide copies of any prior evaluations and counseling records and a copy of this Order to the treatment provider.

17. Respondent shall authorize, in writing, the PHMP to receive and maintain copies of the written evaluation reports of the treatment provider(s).

18. If a treatment provider recommends that Respondent obtain treatment, Respondent must fully comply with those recommendations as part of these probationary requirements.

19. Respondent shall arrange and ensure that written treatment reports from all treatment providers approved by the PHMP are submitted to the PHMP upon request or at least every ninety

(90) days after the effective date of this Order. The reports shall contain at least the following information:

- a. Verification that the treatment 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 including any testing for therapeutic levels of prescribed medications when deemed appropriate by the treatment provider;
- 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.
- i. Any change in the treatment provider's assessment of the Respondent's fitness to actively practice the profession.

20. 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**

21. Respondent shall attend and actively participate in any support group programs recommended by the treatment provider or the PHMP case manager at the frequency recommended by the treatment provider; however, Respondents with a chemical dependency or abuse diagnosis shall attend no less than twice a week.

22. 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**

23. 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;
- c. **Upon receiving the medication**, Respondent must provide to the PHMP, **within forty-eight (48) hours by telephone and within five (5) days in writing**, 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; and
- d. **Upon refilling a medication**, Respondent must provide to the PHMP, **within forty-eight (48) hours by telephone and within five (5) days in writing**, 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.

## **DRUG TESTING**

24. Respondent shall submit to random unannounced and observed drug and alcohol tests

(drug testing), inclusive of bodily fluid, breath analysis, hair analysis or another procedure as may be directed by the PHMP for the detection of substances prohibited under this Order as directed by the PHMP. A positive, adulterated or substituted result on a drug test shall constitute an irrefutable violation of this Order unless Respondent has complied with the provisions of this Order pertaining to the use of drugs. Failure to provide a specimen or a specimen of sufficient quantity for testing when requested will be considered a violation of this Order.

25. 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.

26. Respondent shall avoid all substances containing alcohol, including alcohol in food or beverages, medications, chemical solutions, cleaning solutions, gasoline, hand sanitizers, or other skin preparations. Incidental use of alcohol will not be accepted as a valid explanation for a positive drug test unless Respondent has complied with the provisions of this Order pertaining to the use of drugs as set forth in the Abstinence Section above.

### **MONITORED PRACTICE**

27. For purposes of this Order, the terms “*practice*”, “*practice of the profession*,” and “*practice the profession*” shall include any and all activities requiring a license, registration, certificate, approval, authorization, or permit from the Board to perform. It also includes attendance at any educational program/course that includes a clinical practice component with patients and/or requires a current license to practice the profession.

28. Respondent shall not practice the profession unless a provider approved by the PHMP approves the practice in writing and the PHMP Case Manager gives written permission to practice.

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

30. If Respondent is practicing or attending any educational program/course that includes a clinical practice component with patients and/or requires a current license to practice the



profession, Respondent shall give any employer, supervisor, preceptor, or instructor (hereinafter referred to collectively as "supervisor") a copy of this Order within five (5) days of the effective date of this Order.

31. Respondent shall give any prospective employer and supervisor a copy of this Order when applying for employment in the practice of the profession and to any prospective school/program when applying for any educational program/course that includes a clinical practice component with patients and/or requires a current license to practice the profession.

32. Within five (5) days of the effective date of this Order, and by telephone within forty-eight (48) hours and in writing within five (5) days upon obtaining employment, or entering an educational program/course that includes a clinical practice component with patients and/or requires a current license to practice, Respondent shall provide the following to PHMP:

- a. Name and address of the supervisor responsible for Respondent's practice;
- 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.

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

- a. Verification that the supervisor has received a copy of this Order and understand the conditions of this probation;
- b. An evaluation of Respondent's work performance on a ninety (90) day or more frequent basis as requested by the PHMP; and
- c. Immediate notification of any suspected violation of this probation by Respondent.

## **REPORTING/RELEASES**

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

36. 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, and 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 Order.

## **COSTS**

37. Respondent shall be responsible for all costs incurred in complying with the terms of this Order, including but not limited to psychiatric or psychotherapy treatments, and reproduction of treatment or other records. Respondent shall pay the costs for any drug testing and any subsequent reanalysis of specimens required by the PHMP. Failure of Respondent to pay any of these costs in a timely manner shall constitute a violation of this Order.

## **BUREAU/PHMP EVALUATIONS**

38. Upon request of the PHMP, Respondent shall submit to mental or physical evaluations,

examinations or interviews by a treatment provider approved by the PHMP or the PHMP. Respondent's failure to submit to such an examination, evaluation or interview when directed shall constitute a violation of this Order.

#### **VIOLATION OF THIS ORDER**

39. 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 of Respondent's authorizations 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 that indicates Respondent has violated any terms or conditions of this Order.
- b. Upon a probable cause determination by the Committee that Respondent 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 Respondent's authorization(s) to practice the profession.
- 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 the 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. **The answer shall be set forth in numbered**

paragraphs corresponding to the numbered paragraphs of the Petition.  
Respondent shall admit or deny each of the allegations set forth in the  
paragraphs in the Petition. Respondent shall mail the original answer and request  
for hearing, as well as all subsequent filings in the matter, to:

Prothonotary 2601 North Third Street P.O. Box 2649 Harrisburg, PA 17105-2649
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Respondent shall also mail a copy of all filings to the prosecuting attorney for the  
Commonwealth.

e. If the 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 Order 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 for a hearing, the Board, upon motion of the prosecuting attorney, 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 the hearing examiner makes a determination against Respondent sustaining the suspension of Respondent's license, after at least **three (3) 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 **thirty-six (36) months** of sustained documented recovery, an evaluation by a treatment provider approved by the PHMP that Respondent is fit to safely practice the profession, 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 Board issues a Preliminary Order terminating the stay of the suspension and actively suspending Respondent's license to practice the profession in accordance with the procedure set forth above, Respondent shall immediately cease the practice of the profession. Respondent shall continue to comply with all of the terms and conditions of probation in this Order during the active suspension until the Board issues a Final Order. Continued failure by Respondent to comply with the unaffected terms and conditions of probation while awaiting the issuance of a Final Order by the Board may result in further disciplinary action against Respondent.

40. Respondent's failure to fully comply with any terms of this Order may also constitute

grounds for additional disciplinary action.

41. Nothing in this Order shall preclude the prosecuting attorney for the Commonwealth from filing charges or the Board from imposing disciplinary or corrective measures for violations or facts not contained in this Order.

#### **COMPLETION OF PROBATION**

42. After successful completion of the minimum period of probation, Respondent may petition the Board, upon a form provided by the PHMP, to reinstate Respondent's authorizations to practice the profession to unrestricted, non-probationary status upon an affirmative showing that Respondent has complied with all terms and conditions of this Order and that Respondent's resumption of unsupervised practice does not present a threat to the public health and safety. **Respondent is required to remain in compliance with all terms and conditions of this Order until the Board issues the order terminating Respondent's probationary status.**

This order shall take effect 20 days from the date of mailing shown below, unless otherwise ordered by the State Board of Medicine.

**BY ORDER:**

  
Hope S. Goldhaber  
Hearing Examiner

<b>For Respondent:</b>	Samuel C. Stretton, Esquire LAW OFFICE OF SAMUEL C. STRETTON 103 South High Street P.O. Box 3231 West Chester, PA 19381-3231
<b>For the Commonwealth:</b>	Keith E. Bashore, Esquire GOVERNOR'S OFFICE OF GENERAL COUNSEL DEPARTMENT OF STATE OFFICE OF CHIEF COUNSEL PROSECUTION DIVISION P.O. Box 69521 Harrisburg, PA 17106-9521
<b>Date of mailing:</b>	August 21, 2017

## NOTICE

### REHEARING AND/OR RECONSIDERATION

A party may file an application for rehearing or reconsideration **within 15 days of the mailing date** of this adjudication and order. The application must be captioned "*Application for Rehearing*", "*Application for Reconsideration*", or "*Application for Rehearing or Reconsideration*". It must state specifically and concisely, in numbered paragraphs, the grounds relied upon in seeking rehearing or reconsideration, including any alleged error in the adjudication. If the adjudication is sought to be vacated, reversed, or modified by reason of matters that have arisen since the hearing and decision, the matters relied upon by the petitioner must be set forth in the application.

### APPEAL TO BOARD

An application to the State Board of Medicine for review of the hearing examiner's adjudication and order must be filed by a party **within 20 days of the date of mailing** of this adjudication and order. The application must be captioned "*Application for Review*". It must state specifically and concisely, in numbered paragraphs, the grounds relied upon in seeking the Board's review of the hearing examiner's decision, including any alleged error in the adjudication. Within an application for review a party may request that the Board hear additional argument and take additional evidence.

An application to the Board to review the hearing examiner's decision may be filed irrespective of whether an application for rehearing or reconsideration is filed. However, the filing of an application for rehearing and/or reconsideration does not extend, or in any other manner affect, the time period in which an application for review may be filed.

### STAY OF HEARING EXAMINER'S ORDER

Neither the filing of an application for rehearing and/or reconsideration nor the filing of an application for review operates as a stay of the hearing examiner's order. To seek a stay of the hearing examiner's order, the party must file an application for stay directed to the Board.

### FILING AND SERVICE

An original and three (3) copies of all applications shall be filed with:

Prothonotary  
P.O. Box 2649  
Harrisburg, PA 17105-2649

A copy of all applications must also be served on all parties.

Applications must be received for filing by the Prothonotary within the time limits specified. The date of receipt at the office of Prothonotary, and not the date of deposit in the mail, is determinative.

## NOTICE

The attached Final Order represents the final agency decision in this matter. It may be appealed to the Commonwealth Court of Pennsylvania by the filing of a Petition for Review with that Court within 30 days after the entry of the order in accordance with the Pennsylvania Rules of Appellate Procedure. See Chapter 15 of the Pennsylvania Rules of Appellate Procedure entitled "Judicial Review of Governmental Determinations," Pa. R.A.P 1501 – 1561. Please note: An order is entered on the date it is mailed. 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 an appeal is:

Board Counsel  
P.O. Box 69523  
Harrisburg, PA 17106-9523

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