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

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**BEFORE THE STATE BOARD OF MEDICINE**

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**IN THE MATTER OF  
THE PETITION FOR REINSTATEMENT OF  
THE LICENSE TO PRACTICE MEDICINE AND SURGERY OF  
ROGER JOSEPH CADIEUX, M.D.**

**DOCKET NO. 2383-49-16  
FILE NO. 16-49-14841**

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**FINAL ADJUDICATION AND ORDER**

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**IAN J. HARLOW  
COMMISSIONER OF PROFESSIONAL AND  
OCCUPATIONAL AFFAIRS**

**MARILYN J. HEINE, M.D.  
CHAIRPERSON  
STATE BOARD OF MEDICINE**

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**WJR**

PROHIBITORY  
2017 SEP 12 AM 7:44  
Department of State

## HISTORY

This case is before the State Board of Medicine (Board) for consideration of the petition to reinstate the license to practice medicine and surgery to unrestricted, non-probationary status of Petitioner, Roger Joseph A. Cadieux, M.D. (Petitioner), filed in December 2016. Petitioner seeks reinstatement from the suspension that the Board imposed in its October 22, 2013 Consent Agreement and Order entered at file number 11-49-09997 and docket number 0522-49-13. On December 28, 2016, the Board delegated this matter to a hearing examiner to conduct a formal hearing and to issue a proposed adjudication addressing whether Petitioner has satisfied the requirements for reinstatement set forth in the October 22, 2013 Consent Agreement and Order. The delegation order also directed that the proposed adjudication to address whether Petitioner can safely and competently practice medicine, including demonstrating that he does not have an illness or addiction to drugs or alcohol that renders him unable to practice the profession with reasonable skill and safety to patients.

On January 5, 2017, the Prothonotary scheduled the formal hearing for February 15, 2017. On January 11, 2017, the Commonwealth filed an answer to the petition for reinstatement. On February 6, 2017, the parties jointly filed a *Stipulation Regarding Documents*, which identified the agreement of the parties regarding the authenticity and admissibility of specific documents into evidence. (Notes of Testimony (NT) at Exhibit B-4). The hearing examiner conducted the hearing as scheduled on February 15, 2017. Petitioner appeared at the hearing with counsel, testified on his own behalf, called other witnesses and offered documentary evidence in support of his petition. Prosecuting Attorney David M. Green represented the Commonwealth.

On March 3, 2017, the transcript of the formal hearing was filed, and on March 15, 2017, the hearing examiner filed a proposed adjudication and order. On May 17, 2017, the Board notified

the parties of its intent to review the proposed adjudication and order. On June 15, 2017, Petitioner filed a Brief on Exceptions, which identified two alleged errors. Petitioner asserts that (1) the record does not support the hearing examiner's recommendation of probation with "special requirements" since he demonstrated that he can safely and competently practice medicine and (2) there is no need for an indefinite period of probation and "special requirements" if he is precluded from clinical practice. The Commonwealth filed a reply to Petitioner's exceptions on June 20, 2017.

The Board reviewed the entire record in this matter, including Petitioner's brief on exceptions, at its July 24, 2017 regularly scheduled meeting, and now issues this adjudication and order in final disposition of the matter.<sup>1</sup>

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<sup>1</sup> All Board members participating in the deliberation and decision in this matter have reviewed the entire record.

## FINDINGS OF FACT

1. Petitioner holds a license to practice medicine and surgery in the Commonwealth of Pennsylvania, license number MD020877E. (Official Notice of Board records).<sup>2</sup>

2. The Board issued Petitioner's license to practice medicine and surgery on July 1, 1978, and which expired December 31, 2014. (Board records).

October 22, 2013 Consent Agreement and Order

3. The Board suspended Petitioner's license to practice medicine and surgery for a minimum period of three (3) years in its October 22, 2013 *Consent Agreement and Order* entered at file number 11-49-09997 and at docket number 0522-49-13. (Board Records; Notes of Testimony (NT) at Exhibit J-1).

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<sup>2</sup> Official notice of such matters as might be judicially noticed by courts is permissible under the General Rules of Administrative Practice and Procedure, 1 Pa. Code § 31.1 *et. seq.*, at § 35.173, which provides, in pertinent part, as follows:

**§ 35.173. Official notice of facts.**

Official notice may be taken by the agency head or the presiding officer of such matters as might be judicially noticed by the courts of this Commonwealth, or any matters as to which the agency by reason of its functions is an expert. . . .

1 Pa. Code § 35.173.

Official notice is also permitted under case law. *See Falasco v. Commonwealth of Pennsylvania Board of Probation and Parole*, 521 A. 2d 991 (Pa. Cmwlth. 1987), in which the Commonwealth Court explained:

"Official notice" is the administrative counterpart of judicial notice and is the most significant exception to the exclusiveness of the record principle. The doctrine 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, in addition to those facts which are obvious and notorious to the average person. Thus, official notice is a broader doctrine than is judicial notice and recognizes the special competence of the administrative agency in its particular field and also recognizes that the agency is a storehouse of information on that field consisting of reports, case files, statistics and other data relevant to its work.

521 A. 2d at 994, n. 6.

All subsequent such references are cited as "Board Records."

4. Petitioner filed a petition to reinstate his license to practice medicine and surgery to unrestricted, non-probatonary status on December 28, 2016. (Docket No. 2383-49-16).

5. Petitioner specialized in the practice of psychiatry prior to the suspension of his license. (NT at Exhibit J-1).

6. At all times related to the suspension of his license, Petitioner practiced at "Commonwealth Affiliates, P.C., a Psychiatric and Psychological Association," located in Harrisburg, Pennsylvania. (NT at Exhibits J-1, J-2 and J-3).

7. On or about February 2, 2007, Petitioner conducted an initial psychiatric evaluation of a 45 year-old female patient, referred to as "Patient A." (NT at Exhibits J-1, J-2 and J-3).

8. From approximately August 2008 until mid-June 2011, Petitioner and Patient A engaged in a sexual relationship. (NT at Exhibit J-1).

9. On or about July 2011, Petitioner referred Patient A to another physician. (NT at Exhibit J-1).

10. Petitioner's sexual relationship with Patient A constituted an act involving moral turpitude, dishonesty, or corruption that directly or indirectly affected the health, welfare or safety of Patient A and/or the citizens of this Commonwealth. (NT at Exhibit J-1).

11. In settlement of the matter, the Board found that sections 41(6) and 41(8) of the Act, 63 P.S. §§ 422.41(6) and 422.41(8), authorized it to suspend, revoke or otherwise restrict Petitioner's license because he engaged in immoral and unprofessional conduct in the form of sexual behavior with a current patient other than his spouse, when he was involved with the management or treatment of that patient for a mental health disorder; and because he disclosed to another individual confidential information that he obtained from a patient other than Patient A during the practitioner-patient relationship without the patient's consent. (NT at Exhibit J-1)

12. The October 22, 2013 Consent Agreement and Order indefinitely suspended Petitioner's license for a minimum period of three (3) years. (NT at Exhibit J-1; Consent Agreement and Order, Docket No. 0522-49-12 and File No. 11-49-09997).

*Education and Professional Career*

13. Petitioner began his professional medical career as a registered nurse, which led to him becoming a certified registered nurse anesthetist. (NT at 149).

14. From 1969-1971, Petitioner was the sole anesthetist at the U.S. Air Force Base in Alexandria, Louisiana. (NT at 149 and Exhibit P-1).

15. Petitioner obtained his medical degree in 1977 from the Louisiana State University School of Medicine. (NT at 149 and Exhibit P-1)

16. From 1977 through 1981, Petitioner was enrolled in a 4-year psychiatric internship and residency at the Milton S. Hershey Medical Center ("Hershey Medical Center"). (NT at 149 and Exhibit P-1).

17. Between 1980-1981, Petitioner had a fellowship in psychogeriatrics. (NT at 149 and Exhibit P-1).

18. From approximately 1981 through approximately 2001, Petitioner became an attending physician at the Hershey Medical Center. (NT at 149-150, and Exhibit P-1).

19. Petitioner served as an expert on behalf of the Commonwealth in licensing matters before various healthcare boards. (NT at 168-170).

20. Beginning in 1987, Petitioner worked as a physician consultant for the PACE program and the Department of Aging (NT at 152 and Exhibit P-1).

21. Bradley Kohler ("Kohler") retired December 31, 2016 as the operations director for Magellan Health Services ("Magellan") where he supervised over 115 employees. (NT at 41-51 and Exhibit P-4).

22. Kohler has known Petitioner and worked with Petitioner as a result of Petitioner's association with the PACE program through the Pennsylvania Department of Aging for over ten (10) years. (NT at 43 and 45-46).

23. About three years ago, Petitioner began working for Magellan as a contractor/consultant for that program. (NT at 43, 46 and 49).

24. Petitioner informed those at Magellan about his suspended medical license and the reason for suspension prior to being hired. (NT at 43 and Exhibit P-4).

25. Petitioner is working approximately 30 hours per week at Magellan where he is a research and development assistant. (NT at 43-44, 46-47, 49-50, NT 150 and Exhibits P-1 and P-4).

26. In his current position at Magellan, he has contact with pharmacists and other staff, but he does not have any patient contact (NT at 43-44, 46-47, 49-50, 150 and Exhibits P-1 and P-4).

27. Since Petitioner's suspension of his medical license, he has had no contact with physicians or other prescribers in his role at Magellan. (NT at 151, Petitioner; Exhibit P-4)

28. In his position at Magellan, Petitioner reviews prescribing practices, develops protocols and develops programs that have examined how to prevent fraud, abuse, and misuse of medications for cardholders in the PACE program and also provides information to pharmacists to help set policy and goals for that program. (NT at 43-44, 46-47, 49-50, 150-151 and Exhibit P-4).

29. Petitioner's work at Magellan included developing a morphine equivalency per day criteria that no PACE cardholder could exceed, which helps prevent opioid abuse. (NT at 151-152).

30. In the opinion of Kohler, Petitioner is good at his job at Magellan, is a conscientious worker, and works well with staff. (NT at 43-44 and Exhibit P-4).

31. In the opinion of Kohler, Petitioner is an asset at Magellan, with no complaints or concerns about his work or conduct. (NT at 45, 51 and Exhibit P-4).

32. Thomas Snedden ("Snedden") has been the director of the Pennsylvania PACE program for thirty-two (32) years. (NT at 52-70)

33. One hundred and sixty (160) people work supporting various activities in PACE with Magellan handling the day-to-day claims adjudication, application adjudication, drug utilization review rebate administration, and other pharmacy related matters. (NT at 53) .

34. The PACE program has other contacts for outreach in Pennsylvania as well as other public benefit programs such as property tax and rent rebate, low income heating assistance, Medicare part D, Medicare part D subsidies and similar programs. (NT at 53).

35. The PACE program also has contracts with medical schools for physician education and medical intervention for those enrolled in the PACE benefit. (NT at 53).

36. Snedden was first introduced to Petitioner in April of 1987 by the Secretary of Aging, Linda Rhodes, who wanted Snedden to speak with Petitioner regarding a particular problem that the PACE program was having with inappropriate prescribing of medications from enrollment. (NT at 53-54).

37. In May of 1987, Snedden gave Petitioner a contract as a consultant to the PACE program. (NT at 54 and 59).



38. Snedden and Petitioner traveled through the entire state beginning sometime in 1988 to do presentations to county medical societies related to issues of the PACE program. (NT at 54).

39. The PACE program receives input from about a dozen respected physicians in the country, with Petitioner being one of them, and Snedden ranks Petitioner's insights and expertise equivalent to the other physicians. (NT at 55).

40. Snedden is aware that Petitioner's medical license has been suspended for three years due to an inappropriate relationship with a patient (NT at 55).

41. Petitioner was open to Snedden about the situation. (NT at 55).

42. From 1987 through 2007, Petitioner's role with the PACE program and at Magellan was a case-by-case effort but his role at Magellan since Petitioner's license suspension in 2013 is more a review of an entire program area or population of individuals and how to make it better. (NT at 56-57, 63-64 and 67-69).

43. Snedden is aware of Petitioner's quality of work at Magellan, states that Petitioner is doing an exceptional job in his role as consultant at Magellan, and that Petitioner has taken on various initiatives at Snedden's request, including Petitioner's evaluation of thousands of cases of PACE enrollees who have Alzheimer's or other related dementia and are on medication regimens that are extremely hazardous to those people; Petitioner has recommended interventions that have been very effective. (NT at 56 and 63).

44. As a consultant at Magellan, Snedden also works with Petitioner on opioid intervention, including reviewing multiple cases and recommending possible interventions. (NT at 56 and 63).

45. As a consultant at Magellan, Petitioner has also done an extensive evaluation of the drug utilization review criteria that the PACE program issued. (NT at 56-57).

46. At some point, Petitioner's contract with the PACE program was added to the Magellan contract. (NT at 61).

47. At the time Petitioner's medical license was suspended, Petitioner was a contractor, not an employee of the Commonwealth of Pennsylvania, with a subcontract under the Magellan contract. (NT at 62).

48. Over the past thirty (30) years, Snedden views Petitioner as one of the most valuable people for the PACE program. (NT at 57).

49. Petitioner has a great relationship with Magellan staff. (NT at 57).

50. Petitioner also had a great relationship with the Department of Aging staff. (NT at 58).

51. If Petitioner has his medical license reinstated, he could help Snedden with the PACE program by interacting with physicians regarding prescribing methods, which he cannot do now. (NT at 58-59 and 69-70).

52. Despite Petitioner's prior transgressions, Snedden views Petitioner as a physician who has empathy, which is rare with patient care. (NT at 58-59).

53. John A. Biever, M.D. ("Biever") is a board-certified psychiatrist in both general and child and adolescent psychiatry who has maintained a private practice since 1984. (NT at 29-41 and Exhibit P-23).

54. Biever has known Petitioner since 1979, at which time Petitioner was two years ahead of Biever in his residency at Hershey Medical Center with their relationship changing from

colleague to supervisor and then faculty member with Petitioner then becoming Biever's mentor. (NT at 30-31, 36 and 38-39).

55. Biever has maintained a friendship with Petitioner over the years and sees Petitioner about one time per month. (NT at 31 and 35).

56. Biever and Petitioner have over the years discussed work with each other, and Biever found Petitioner to be a knowledgeable doctor. (NT at 32).

57. Should Petitioner have his license reinstated, Biever would permit Petitioner to rent space from him at the campus of Quittie Glen, LLC, in Annville, Lebanon County, Pennsylvania, and use it for clinical purpose with Petitioner having a monthly rental agreement with Biever and Biever and Petitioner offering each other cross supervision and patient care. (NT at 37-40).

58. Prior to the hearing in this matter, Petitioner told Biever that he does not intend to enter private practice and would not accept Biever's offer to resume private practice. (NT at 40).

59. Prior to Petitioner's suspension of his medical license in 2013, he was Board certified, but his certification was revoked upon his suspension. (NT at 150).

60. Petitioner has published 50 articles and is also published in textbooks. (NT at 150 and Exhibit P-1).

61. Petitioner has remained current with the continuing legal education associated with the medical license, which also connects him to the medical community. (NT at 163 and Exhibits P-10 through P-15).

#### *Petitioner's History of Boundary Violations and Treatment*

62. Petitioner had a boundary violation with his second wife, in that he became attracted to her, approached her when she was getting ready to be discharged from his care in terms

of wanting to establish a relationship, which they did, and ultimately, they were married for nine years. (NT at 152).

63. Petitioner had a subsequent boundary violation with Patient A towards the end of Petitioner's marriage with his second wife (around the seventh year of their marriage) which led to the suspension of Petitioner's license to practice medicine and surgery. (NT at 153 and Exhibit J-1).

64. Petitioner's boundary violation with Patient A began in August of 2008, during which time Petitioner's wife was thinking about separation and divorce, which had been going on for about a year before Petitioner's boundary violation with Patient A. (NT at 153).

65. Petitioner's boundary violation with Patient A started with transference issues that came up in therapy after about a year and a half of doing therapy with Patient A. (NT at 154-155).

66. Petitioner's sexual relationship with Patient A continued on and off intermittently for three years beginning in August 2008 until June 2011. (NT at 155-157 and Exhibit J-2).

67. During the period of when Petitioner's sexual relationship with Patient A began, he was depressed, losing weight, his wife was living in the house with him until her home was built, and he was anxious. (NT at 156).

68. Petitioner had a gun in his home, which he told Patient A he was getting rid of in 2009, due to concerns he would use it because of his suicidal thoughts. (NT at 156-157).

69. Petitioner's suicidal ideations lasted for about one and a half to two years after he started treatment with anti-depressants. (NT at 157).

70. In July 2011, Petitioner referred Patient A to another psychiatrist. (NT at 157 and Exhibit J-1).

71. Petitioner did not discuss his inappropriate relationship with Patient A until he spoke with Biever who suggested he seek professional help. (NT at 31-32, 36 and 158).

72. Based on Biever's suggestion, Petitioner sought professional help in July of 2012 from Edward Russek, M.D. ("Russek"), a Board-certified psychiatrist who maintains a private practice in the field of psychiatry. (NT at 32, 36, 72-87, 158 and Exhibits P-18 and Exhibit P-19).

73. Russek has known Petitioner since Russek was a chief resident in the Department of Psychiatry residency training program in the 1970s, when Petitioner started his psychiatry residency in Hershey. (NT at 72-73)

74. Subsequently, Russek knew Petitioner in a professional capacity and then as a patient beginning on July 12, 2012. (NT at 73 and Exhibits P-19 and P-19.1).

75. Approximately 16 years ago, Russek rented office space from Petitioner to see patients, some of whom Petitioner referred to Russek and vice versa. (NT at 78-81).

76. Petitioner disclosed to Russek that he was involved in an inappropriate sexual relationship with a patient, and Russek began to treat him in July 2012. (NT at 73 at Exhibit P-19).

77. Petitioner had been very depressed and anxious for some time despite being treated by a primary care physician with antidepressant and medications for anxiety and insomnia. (NT at 72-73, 76, 158-159, 173 and Exhibit P-19).

78. Petitioner sought Russek's help for an ongoing higher level of care. (NT at 72-73, 76, 158-159, 173 and Exhibit P-19).

79. Russek came up with a treatment plan for Petitioner, which included continued medication therapy for depression, anxiety, and insomnia; Russek also used talk therapy to address any problems that Petitioner would describe to him such as addressing Petitioner's tumultuous

marriage and divorce as well as Petitioner's licensing issues with the Board, due to Petitioner's professional boundary violations. (NT at 74, 76 and 83).

80. Under Russek's care, Petitioner's medications were changed. (NT at 159-160 and Exhibit P-19.1).

81. Initially, Russek used talk therapy treatment on a biweekly basis to address Petitioner's boundary violations because Petitioner was still practicing as a physician for about six months, but talk therapy treatment changed after Petitioner's medical license was suspended to a focus on having balance in Petitioner's life since Petitioner was no longer practicing. (NT at 159-160 and 176-177).

82. During his sessions with Russek, Petitioner learned to create a better balance in his life between his work and his personal life. (NT at 163).

83. Petitioner hopes to maintain a 30-hour work week and nothing further to continue to maintain balance in his life. (NT at 163).

84. Petitioner shared with Russek that he took a boundary violation course, which Russek stated was an excellent idea. (NT at 75).

85. Russek's diagnosis of Petitioner was for depression and anxiety; Petitioner saw Russek weekly for a period of time, which is now approximately one time per month and includes medication management. (NT at 75, 78 and Exhibits P-19, P-19.1, P-20).

86. Petitioner was compliant with Russek's recommendations and regularly attended his appointments with Russek. (NT at 76).

87. On or around the middle of 2014, Russek was able to stop Petitioner's antidepressant medication with Russek currently prescribes Petitioner sleep medicine and a small

dose of anti-anxiety medicine for situational anxiety and depression related to the incident. (NT at 76, 160 and 173).

88. In Russek's opinion, Petitioner's difficult marriage along with his depression and anxiety were contributing factors to Petitioner's boundary violation. (NT at 76-77).

89. Russek saw Petitioner within the week preceding the hearing in this matter. (NT at 78).

90. Petitioner intends to continue to see treatment with Russek regardless if his license is reinstated. (NT at 176-177).

*Comprehensive Boundary Violation Course and Treatment Plan*

91. Petitioner enrolled in a 52-hour boundary violation course shortly after beginning treatment with Russek. (NT at 96-97 and 160-161).

92. Petitioner enrolled and successfully completed the boundary violation course which helped him understand how he allowed himself to get in this type of situation on more than one occasion and how to help him recognize it before it would occur again. (NT at 161).

93. Biever is aware that Petitioner took an extensive boundary violation course which Biever says he believes benefited Petitioner. (NT at 32).

94. Before his license was suspended, Petitioner designed a boundary violation protocol during the time he was still practicing to help him with his ongoing practice at that time. (NT at 176).

95. It is Petitioner's position that the protocol would have little value should his license be reinstated since he has made the decision not to return to the clinical practice of medicine. (NT at 176).

96. Petitioner acknowledges that, if at any time the Board permits him to engage in a clinical practice again, a boundary violation protocol would be appropriate. (NT at 177).

*Petitioner's Volunteer Work*

97. After treating with Russek, and realizing that he did not have balance in his personal life and work, Petitioner became involved in the community. (NT at 161).

98. Petitioner has volunteered at the Harrisburg Food Bank four to five hours per month for the past two years. (NT at 162).

99. Petitioner is also involved with Honor Flight, to help veterans from World War II, the Korean, and Vietnam wars to see the memorials in Washington, D.C. and the changing of the guard at the Arlington Cemetery. (NT at 162 and Exhibit P-7).

100. Petitioner is a volunteer at A Friends of Horses Rescue & Adoption. (NT at Exhibit P-8).

101. Petitioner is a volunteer for Disabled American Veterans ("DAV"). (NT at Exhibit P-9).

*Petitioner's Personal Situation at time of Hearing*

102. At the time of the hearing, Petitioner was divorced. (NT at 150).

103. Petitioner has two children and has an excellent relationship with them. (NT at 150).

*Petitioner's Rehabilitation and Request for Reinstatement of Medical License*

104. John Sebastian O'Brien is a psychiatrist who is Board certified in psychiatry and forensic psychiatry. (NT at 87-148 and Exhibit P-21).

105. O'Brien has done several psychiatric evaluations as an expert or for a party in various courts across the Commonwealth of Pennsylvania and for the Board; O'Brien also has an



outpatient clinical practice where he treats patients; O'Brien has approximately 50 patients in outpatient treatment at any given time. (NT at 89-92 and Exhibit P-21).

106. O'Brien was admitted as an expert in the field of psychiatry with no objection from the Commonwealth. (NT at 92 and Exhibit P-21).

107. In preparation of O'Brien's evaluation and expert report, he reviewed multiple documents, including the *Order to Show Cause, Answer, and Consent Agreement and Order*, eighty-five letters written on Petitioner's behalf by colleagues and patients, all of whom speak about Petitioner in glowing terms. (NT at 111, 119-120, 122-123 and Exhibit P-22).

108. Transference is a "psychiatric term that refers to the feelings that patients develop within the context of therapy. They don't have to be sexual, but they can be sexual feelings." (NT at 92-93).

109. Transference is an issue that can come up between a patient and psychiatrist but then the issue is how to deal with it appropriately. (NT at 93).

110. If an attempt to address transference with a patient is not working in therapy, the psychiatrist can refer the patient to another physician for treatment. (NT at 93-95).

111. O'Brien performed a psychiatric evaluation of Petitioner on September 22, 2016. (NT at 96 and Exhibit P-22).

112. Eighty-two (82) patient letters from both men and women written on Petitioner's behalf were all positive of Petitioner's ability to have a clinical practice and exemplary career, and demonstrates to O'Brien the the quality of Petitioner's work as a physician and his treatment of those patients and Petitioner's impact on their life and overall functioning. (NT at 98-99 and 134).

113. O'Brien's review of the records of Russek and his treatment of Petitioner indicated that Russek was initially treating Petitioner for depression and anxiety with such treatment successful (NT at 99-100, 107 and 135).

114. When O'Brien saw Petitioner in September 2016, Petitioner's anti-depressant medication had been discontinued because he no longer needed it, Petitioner was taking medication on an as-needed basis for situational anxiety, and he continued his sleep medication. (NT at 99-100, 107 and 135).

115. O'Brien also gleaned from his evaluation that Petitioner previously did not have a balance between his personal and professional life to the detriment of his personal life, but Petitioner's life is more balanced now with Petitioner now participating in a variety of voluntary activities. (NT at 100, 125 and 139-140).

116. Maintenance and balance in Petitioner's life is a positive step and should be maintained. (NT at 100, 125 and 139-140).

117. O'Brien also found it positive that Petitioner is learning from his experience that he can be alone and feel comfortable being alone. (NT at 101, 125 and 139-140).

118. O'Brien also found it significant that Petitioner took a boundary violation course and was proactive in developing a professional boundary protection plan; O'Brien deems this proactive step as a way for Petitioner to identify his triggers and a strategy to deal with any future triggers, should they arise. (NT at 101, 108-109, 114-116, 125-126, 128-132, and 139-140).

119. Petitioner's past triggers were the imbalance in his life and his loneliness. (NT at 140-141).

120. O'Brien also became aware of Petitioner's difficult marriage, which Petitioner described as a terribly stressful time for him; O'Brien opines that since Petitioner previously was

so primarily focused on his work that he did not see his separation coming and such realization of what was happening in his marriage increased the severity of Petitioner's symptoms with depression and anxiety. (NT at 102-105).

121. Petitioner's disclosure of his personal situation to Patient A, including having suicidal thoughts, demonstrates to O'Brien the degree in the breakdown of the professional relationship between physician and patient that occurred after Petitioner's separation from his wife. (NT at 104-105).

122. The circumstances surrounding Petitioner when he had his boundary violation, his depression, anxiety and his marital separation were contributing factors in Petitioner's boundary violation with Patient A. (NT at 105-106).

123. As a result of O'Brien's September 2016 evaluation of Petitioner, O'Brien diagnosed Petitioner with situational related anxiety and depressed which he describes as adjustment disorder with anxiety and depression, which appeared to be substantially in remission. (NT at 106-107 and 135).

124. At the time of the evaluation, Petitioner had improved enough that his situation anxiety was not severe enough to warrant a specific diagnostic label or psychiatric diagnosis. (NT at 106-107 and 135).

125. At the time of O'Brien's evaluation, Petitioner was no longer drinking heavily and his prior use was stress related based on Petitioner's prior circumstances. (NT at 106).

126. O'Brien opined that Petitioner does not have an alcohol or substance abuse diagnosis. (NT at 106).

127. O'Brien also found it significant that Petitioner has an ongoing relationship with Russek in his treatment and that Russek can provide supervisory guidance to Petitioner with any

future patients including telephonic consultation as needed. (NT at 108, 116-118, 126, 133-137 and 140-142).

128. O'Brien is aware that Petitioner may like to have a limited part-time practice should he be reinstated with a focus primarily on the geriatric population and providing services to the underserved. (NT at 108-109 and 115-116).

129. O'Brien has no reservations in recommending that Petitioner's medical license be reinstated, especially in light of Petitioner proactively addressing his prior transgression by having a boundary protection plan prepared and ready for use should his license be reinstated and Petitioner took his suspension time seriously to work on the issues that factored into his conduct leading up to the suspension, his depression, anxiety, his deteriorating marriage and his vulnerability to disregard or violate the barriers of a physician and patient relationship. (NT at 108-110, 113-115, 125-126, 128-132, 134-135 and Exhibit P-2).

130. O'Brien also took into consideration when formulating his opinions that Petitioner's ex-wife was also a former patient, which demonstrates to O'Brien that Petitioner had boundary violation tendencies and that Petitioner's unauthorized disclosure of patient information to another is also an example of a boundary violation. (NT at 112-114 and 118-125).

131. O'Brien's opined that Petitioner complied with the terms and conditions of his suspension and that he does not have a diagnosis that renders him unable to practice his profession with reasonable skill and safety to patients. (NT at 126).

132. The factors that contributed to Petitioner's boundary transgressions are no longer an issue for him or are being managed: depression, anxiety, separation, divorce, loneliness. (NT at 125-127 and 132-133).

133. Petitioner's continued ongoing treatment with Russek, and Russek's supervision of Petitioner is necessary should Petitioner have his medical license reinstated. (NT at 127, 133-144).

134. A three- to five-year period of monitoring of Petitioner should the Board reinstate his license is reasonable and appropriate should Petitioner return to a clinical practice. (NT at 137-139 and 144-147).

135. O'Brien provided his opinions to a reasonable degree of medical certainty. (NT at 110, *passim*).

136. Petitioner realizes that he caused Patient A hurt, sorrow, and sadness for herself and her family. (NT at 164 and 178).

137. Petitioner has significant and complete remorse, regret and contrition for what he did and takes full responsibility for what occurred with Patient A and Petitioner has accepted the wrongfulness of his actions. (NT at 31-32, 55, 78, 164, 175 and 178).

138. At the age of 72, Petitioner does not intend to return to clinical practice if the Board reinstates his practice.. (NT at 164-166, and 175).

139. Petitioner desires to continue to work for Magellan, and if his license is reinstated to an active status, he can focus more on the PACE program and be able to speak to physicians again as well as help with the Department of Aging. (NT at 165).

140. On a personal level, Petitioner states that to have his license reinstated means everything to him, as it is part of his identity and he has not felt whole since his suspension. (NT at 165).

141. Petitioner recognizes that the suspension was solely his responsibility and it gave him the time to process what he did and how he can be a better person and physician in the future. (NT at 165).

142. In terms of addressing the suspension of his license and seeking reinstatement of his license, Petitioner has done soul searching in terms of addressing his boundary violations, taking full responsibility for his past actions, attending an extensive boundary violation course, seeking and obtaining therapy from Dr. Russek, and also having Dr. Russek serve as his mentor by helping Petitioner assess on a daily basis his vulnerabilities and inventory what he must do to ensure such a situation never happens again. (NT at 171 and 175).

143. Kohler never questioned Petitioner's integrity while working at Magellan. (NT at 44).

144. Biever has seen personal growth in Petitioner who has worked through his sincere remorse, has gained insight and understanding of what went wrong in his professional career, and sought therapy which was substantial and complete. (NT at 32-33).

145. Biever's insights and recommendations to the Board are based on his friendship and discussions with Petitioner. (NT at 34-35).

146. Russek opined that Petitioner is not likely to repeat a boundary violation because he has extended his understanding of professional boundaries, he is no longer in his marriage, he has people in his life who he can talk to, and he has made a "tremendous effort to do what is right and aspires to achieve excellence with higher level of responsibility in all that he does." (NT at 77, and Exhibits P-19.1 and P-20).

147. Russek recommends the reinstatement of Petitioner's medical license because Petitioner has shown complete remorse and acceptance of his wrongful actions, he has sincerely embraced his rehabilitation, and is recommitted to the ethical practice of medicine and psychiatry; Russek believes that Petitioner is an excellent physician, and if permitted to practice again, would

be of value to the people with whom he would work. (NT at 77-78, 85-86 at Exhibits P-19.1 and P-20).

148. Russek has no concerns with Petitioner having an unrestricted, non-probationary license to practice medicine and surgery because he states Petitioner has been fully rehabilitated; Russek fully supports Petitioner's applying for reinstatement of his license. (NT at 85-87, and Exhibits P-19.1 and P-20).

149. Reinstatement of his license to practice medicine and surgery would allow Petitioner the ability to speak to fellow physicians about their prescription processes with his work at Magellan. (NT at 176).

150. Petitioner is willing to comply with any restrictions or recommendations of the Board to have his license reinstated. (NT at 165).

151. Petitioner attended the February 15, 2017 hearing with counsel, testified on his own behalf, called other witnesses and offered documentary evidence in support of his petition.

### CONCLUSIONS OF LAW

1. The Board has jurisdiction in this matter. (Findings of Fact 1-4).
2. Petitioner has been afforded notice and opportunity to be heard in accordance with the Administrative Agency Law, 2 Pa.C.S.A. § 504. (Findings of Fact 4 and 151).
3. The record supports the reinstatement of Petitioner's license to practice medicine and surgery to non-suspended status subject to probationary terms for at least three (3) years. (Findings of Fact 5-150).



## DISCUSSION

On October 22, 2013, by way of *Consent Agreement and Order*, the Board indefinitely suspended Petitioner's license to practice medicine and surgery for a minimum period of three years because he engaged in immoral and unprofessional conduct in the form of sexual behavior with a current patient ("Patient A") other than his spouse while in the management or treatment of the patient and because he disclosed to another individual confidential information that he obtained from a patient during a practitioner-patient relationship without the patient's consent.

Under the terms and conditions of the *Consent Agreement and Order*, Petitioner can apply for reinstatement of his license on meeting the following requirements: (1) his license has been suspended for a minimum period of three (3) years; (2) he is in compliance with all aspects of the *Consent Agreement and Order*; and (3) he demonstrates to the satisfaction of the Board that he can safely and competently practice medicine, including demonstrating that he does not have an illness or addiction to drugs or alcohol that renders him unable to practice the profession with reasonable skill and safety to patients.

As the moving party, Petitioner has the burden of proof in seeking to have his license reinstated. The degree of proof required to establish a case before an administrative tribunal is the same degree of proof used in most civil proceedings: a preponderance of the evidence. Petitioner must therefore satisfy his burden of proof with evidence that is substantial and legally credible, not with mere "suspicion" or by only a "scintilla" of evidence. *Lansberry v. Pennsylvania Public Utility Commission*, 578 A. 2d 600 (Pa. Cmwlth. 1990).

The threshold question in this matter is whether Petitioner has provided sufficient evidence to demonstrate that he has made significant progress in personal rehabilitation since his suspension in 2013 such that his reinstatement should not be expected to create a substantial risk of harm to

the health and safety of his patients or the public or a substantial risk of further boundary violations. Petitioner presented evidence of his rehabilitation and recognition of what led to his boundary violations and the disclosure of patient information. Moreover, the witness testimony and corroborating documentary evidence, including that of Petitioner's expert, further support the reinstatement of Petitioner's license, albeit on a probationary status as explained more fully below.

As Petitioner's license to practice medicine and surgery has been suspended since October 22, 2013, he has met the first requirement of an active suspension for a minimum of three years. The second issue is whether Petitioner has complied with the terms and conditions of the *Consent Agreement and Order*. In support of his *Petition for Reinstatement*, Petitioner signed a verification of non-practice on December 1, 2016, representing that he has fully complied with the Board's October 22, 2013 Order at file number 11-49-09997 and docket number 0522-49-13, and has not practiced in violation of the order.

While the Commonwealth raised the issue in closing argument of whether Petitioner's duties and responsibilities with Magellan after his suspension were essentially the same to those duties prior to his license being suspended, which could then raise the concern that Petitioner was not in compliance with the October 22, 2013 Order, there was sufficient testimony related to Petitioner's current duties for the Board to conclude that Petitioner's current responsibilities do not violate the suspension order. Petitioner's current work has a broader scope focusing on entire populations of individuals, such as Alzheimer and dementia related patients, rather than specific case matters. Currently, Petitioner does not communicate or consult with other physicians because of his license suspension.

When considering the definition of "medicine and surgery" under section 2 of the Act, 63 P.S. § 422.2, and the phrase "the practice of" medicine and surgery, Petitioner is not "practicing"

the art and science of medicine for the purpose of curing a disease or the preservation of the health of man in a patient-physician relationship. Rather, Petitioner is an independent contractor to Magellan where he evaluates the drug utilization review criteria, opioid intervention protocols, and other pharmacy related matters.

While some of the duties that Petitioner had prior to his license suspension as a contractor/consultant for Magellan overlap with his current duties with the company, the duties may not have required an active medical license in the first instance. The distinction in Petitioner's duties at Magellan after the suspension of his license is that no longer speaks directly to physicians regarding their opioid prescribing practices with PACE cardholders or addresses other issues of concern which impact the PACE program directly with any physician who has an active practice with patients. If the Board reinstates Petitioner's license, he can once again deal directly with physicians, consult with them related to specific patients, and provide further assistance to Magellan and ultimately the Department of Aging and the PACE program.

The third criteria, and the most burdensome for Petitioner to meet, is whether Petitioner is able to practice the profession with reasonable skill and safety to patients and whether he has an illness or addiction to drugs or alcohol that renders him unable to practice with reasonable skill and safety to patients. The most important testimony to address Petitioner's current mental condition, as well as his ability to practice medicine with reasonable skill and safety should his license be reinstated, is the testimony of Russek, Petitioner's treating psychiatrist, and O'Brien, the expert who evaluated Petitioner in September 2016.

Russek described his long-standing relationship with Petitioner that began in the 1970s when they were in residency together at the Hershey Medical Center, and continued as they both worked in the same professional field over the years. Most recently, Russek has been Petitioner's

treating psychiatrist since July of 2012. Russek agreed to engage in a physician-patient relationship with Petitioner in 2012 and provided medication therapy to Petitioner for his depression, anxiety and insomnia. As Petitioner's treating psychiatrist, Russek also used talk therapy initially to address Petitioner's boundary violations of Petitioner and later to address how Petitioner could have a better balance between his work and his personal life.

Based on his testimony, which Petitioner and O'Brien corroborated, Russek's treatment of Petitioner is working. Petitioner is no longer taking antidepressant medications although he uses medication for situational anxiety and for sleep due to physical conditions. Moreover, since Petitioner's therapy with Russek and the subsequent suspension of his medical license, Petitioner is working less (about 30 hours per week for Magellan), is volunteering in the community, which helps with his self-esteem, and has learned to be alone. Additionally, Petitioner is now divorced and maintains a positive relationship with his children. Petitioner is no longer involved with a tumultuous separation and divorce situation or living in the same household with his ex-wife and now has more balance in his life. However, the Board also recognizes that Petitioner has not faced the stresses of practicing medicine in the last three years. How Petitioner will react if the Board reinstates his license is unknown. Whether Petitioner will continue to maintain a successful balance in his life if his license is restored is unknown. This factor supports the requirement that Petitioner continue his care, counseling and treatment with Russek or another practitioner in the event that the Board reinstates his license.

While there are no excuses for Petitioner's behavior with Patient A regardless of his personal situation with his wife at the time or his depression or anxiety, they were contributing factors according to Russek and O'Brien that resulted in the slippery slope that led to Petitioner's misconduct. The Commonwealth noted that Petitioner had a similar boundary violation with his

second wife when he pursued her before discharging her as a patient. So, despite them being married for almost nine years, the Commonwealth essentially argued that the tendency for a boundary violation was present for Petitioner before his violation with Patient A. However, O'Brien took into consideration in his ultimate conclusions Petitioner's prior transgressions and boundary violations. O'Brien reviewed multiple documents, including those associated with Petitioner's underlying suspension, and evaluated Petitioner, including his history, in formulating his conclusions. Additionally, O'Brien noted that forensically he considers where the patient is when he evaluates him, including what his treatment was and the purpose of the treatment, which would also address any other transgressions Petitioner had similar to his relationship with Patient A.

Based on O'Brien's evaluation of Petitioner, to a reasonable degree of medical certainty, Petitioner had situational related anxiety and depression that he described as adjustment disorder with anxiety and depression, which is now resolved, with Petitioner's antidepressant medication discontinued because he no longer needed it; Petitioner does not manifest symptoms to warrant a current psychiatric diagnosis; Petitioner does not have an alcohol or substance abuse diagnosis; Petitioner has a more balanced life and is able to be alone with no urge to fulfill himself with the involvement of another; and Petitioner has taken multiple proactive steps to address his boundary violations, including taking an intense boundary violation course and seeking treatment. O'Brien also found it significant that Petitioner is willing to continue to treat with Russek, who is willing to help Petitioner in a supervisory capacity, especially if Petitioner would resume a clinical practice. O'Brien's opinion provides further support for the Board requiring Petitioner to continue his care, counseling and treatment if it reinstates his license.

O'Brien recommended the reinstatement of Petitioner's medical license. Should Petitioner engage in a clinical practice, O'Brien found it paramount and reasonable that Petitioner have monitoring for a period of three to five years to ensure that he adheres to the implementation of the boundary protection plan so that no future transgressions occur. O'Brien also opined that Petitioner's continued treatment with Russek is necessary should the Board reinstates Petitioner's medical license. Russek also concurred with O'Brien that Petitioner is able to safely practice medicine and surgery at this time. Biever, a friend of Petitioner's and a board-certified psychiatrist who initially recommended that Petitioner to seek treatment for his boundary violation, supported the reinstatement of Petitioner's license. Biever also offered Petitioner the ability to rent space from him should Petitioner decide to have a clinical practice.

There is evidence in the record to support that Petitioner is a competent, knowledgeable, and respected physician. Both Snedden, who has worked with Petitioner since 1987 with the PACE program and then with Petitioner when he became a consultant for Magellan, and Kohler, who worked with Petitioner until December of 2016 when Kohler retired from Magellan, found that Petitioner has a great relationship with staff in both organizations, is viewed as a valued consultant whose medical expertise and experience is a tremendous asset, and is held in the highest regard. Both Kohler and Snedden, who have worked with Petitioner daily, had no reservations regarding the reinstatement of Petitioner's license. Reinstatement would enable Petitioner to do more in his capacity as a consultant for Magellan and for the PACE program.

Finally, the testimony of Petitioner, O'Brien, Russek, Snedden, Kohler and Biever support the conclusions that Petitioner has remorse and contrition for his actions. Petitioner was proactive in his treatment to address the factors that led to his conduct and regrets his mistakes. Petitioner also recognizes that despite any other contributing factors to his transgressions as a clinical

psychiatrist, he takes responsibility for his actions and has taken the steps necessary and recommended to him to ensure that it never happens again. Snedden testified that one thing that sets Petitioner apart from other physicians is his empathy for those around him and for patient care. While a tremendous compliment, such empathy may have also contributed to Petitioner's transgressions. Additionally, Petitioner's misconduct was significant and it occurred more than once.

The Board finds that Petitioner has presented sufficient evidence to reinstate his license to non-suspended status. The Board's next question is the extent to which it should reinstate Petitioner's license. It is the position of Petitioner that he should receive a non-probationary, unrestricted license. The Commonwealth made no recommendation but provided the alternatives that are ultimately left to the Board to consider. What is clear, however, is that Petitioner is willing to abide by any recommendations should his license be reinstated. Petitioner also unequivocally testified that he no longer wishes to enter a clinical practice at the age of 72. However, the Board recognizes that the inherent difficulties in differentiating between a clinical and non-clinical practice, especially with the manner in which technology is rapidly redefining the practice of medicine. To reinstate Petitioner's license to practice medicine but to limit Petitioner to the non-clinical practice of medicine is the equivalent of continuing Petitioner's suspension and is fraught with difficulties.

O'Brien's recommendation for the reinstatement of Petitioner's license with three to five years of monitoring was related to any clinical practice that Petitioner may engage in, albeit on a limited part-time basis. O'Brien's other recommendation related to Petitioner's return to the practice of medicine was that Petitioner maintain an ongoing relationship with Russek, including in a supervisory capacity, should Petitioner reenter a clinical practice. The Board will accept the

recommendation as in accordance with section 42(a)(4) of the Act, 63 P.S. § 422.42(a)(4), and require Petitioner to continue his “care, counseling, and treatment” with Russek or other physician or psychologist.

The Board must determine how to fashion an Order which allows Petitioner the privilege to practice medicine while protecting the health and safety of the general public. In this case, the logical conclusion for any reinstatement of Petitioner’s license to practice medicine and surgery is to place it on probation, restrict his clinical practice, and require that he continue his care, counseling and treatment with Russek or another provider of Petitioner’s selection but approved by the Board for a period of at least three (3) years. Such a recommendation strikes a balance with the desires and needs of both the Board to protect the public, and Petitioner to have the ability to have his license reinstated. Given the significance of his prior misconduct, the repeated nature of his prior misconduct, and recognizing the strides that Petitioner has made in his rehabilitation occurred outside the stresses of practicing medicine, the Board will preclude him from engaging in the solo practice of medicine at this point in time. The solo practice of medicine would place additional burdens and stresses on Petitioner that do not otherwise exist when practicing medicine in a group or employment setting. Practicing in a group or employment setting also offers the benefits of providing Petitioner with additional support and reducing the probability that he would engage in the type of misconduct that resulted in his license suspension. In his testimony, Dr. O’Brien recognized the protection offered about having a staff member on site. (NT at 117-118 and 130). Section 42(a)(3) of the Act, 63 P.S. § 422.42(a)(3) authorizes the Board to “otherwise restrict” a license when it is empowered to take corrective action against a board-regulated practitioner as the Board is in this reinstatement matter.



In addition to protecting the public health and safety, an order that stays the suspension of Petitioner's license in favor of probation for a three-year period subject to his continuing to receive care, counseling and treatment and limiting his clinical practice to a group or employment setting addresses the exceptions that Petitioner presented. Petitioner took issue with the proposed indefinite period of probation that banned his clinical practice, including his examination and treatment of patients, being on-call for another physician with a clinical practice, and prescribing medication. (*Petitioner's Brief on Exceptions to Hearing Examiner's Proposed Adjudication and Order*, pages 3, 4 and 8). The Board's order identifies a minimum period of probation, within the range contemplated by Petitioner's expert, and does not ban Petitioner's clinical practice of medicine.

Petitioner also took exception to requiring Petitioner to submit to continued therapy if he does not engage in clinical practice. (*Petitioner's Brief on Exceptions to Hearing Examiner's Proposed Adjudication and Order*, pages 10-11 and 12). Although Petitioner indicated that his intention is not to return to the clinical practice of medicine, he takes exception to his preclusion from clinical practice that includes examining and treating patients, being on-call for another physician who has a clinical practice and prescribing medications or controlled substances. (*Petitioner's Brief on Exceptions to Hearing Examiner's Proposed Adjudication and Order*, page 10). As previously noted, the Board's order will not preclude Petitioner from engaging in the clinical practice of medicine, so continued care, counseling and treatment is appropriate and consistent with the opinion of Petitioner's expert. Petitioner also told Dr. O'Brien that "he was interested in resuming some clinical practice." (NT at 108). One of the reasons that Dr. Russek does not anticipate any future impact of triggers on Petitioner is because Petitioner "has an ongoing doctor/patient relationship with me." (NT at 86 and 116-117). Similarly, Dr. O'Brien noted that

“in preparing himself for any future situations that might trigger his interest in a patient in terms of an intimate relationship” Petitioner “is actively going to rely on Dr. Russek’s treatment as not only a sounding board but as a supervisor . . . in terms of his treatment and his interaction with patients.” (NT at 108 and 127).

Accordingly, the Board enters the following order:

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

**In the Matter of the Petition for Reinstatement :  
of the License to Practice Medicine and Surgery :      File No.      16-49-14841  
of Roger Joseph Cadieux, M.D., :      Docket No.    2383-49-16**

**FINAL ORDER**

**AND NOW**, this 13<sup>TH</sup> day of September 2017, the State Board of Medicine (Board), upon consideration of the entire record in this matter and the foregoing findings of fact, conclusions of law and discussion hereby **STAYS** the suspension of the license to practice medicine and surgery of Petitioner **ROGER JOSEPH CADIEUX, M.D.**, license number **MD020877E**, in favor of **PROBATION** for no less than **THREE (3) YEARS** subject to the following terms and conditions:

**SPECIAL**

1. Petitioner shall not engage in the solo practice of medicine and surgery.
2. Petitioner shall continue with his care, counseling, and treatment under the direction of Edward Russek, M.D.
3. If Edward Russek, MD, is unable at any time to continue to direct Petitioner's care, counseling, or treatment, Petitioner shall notify the Probation Compliance Officer, Bureau of Enforcement and Investigation, Box 2649, Harrisburg, PA 17105-2649, within thirty (30) days of the physician or psychologist he has selected to provide continued care, counseling or treatment.
4. Petitioner shall ensure that Edward Russek, M.D., or the other physician or psychologist that Petitioner has selected to provide continued care, counseling or treatment, provides quarterly reports to the Probation Compliance Officer, Bureau of Enforcement and Investigation, Box 2649, Harrisburg, PA 17105-2649. The quarterly reports shall verify that

Petitioner is continuing to receive care, counseling or treatment; that Petitioner is complying with his provider's recommendations; and that Petitioner is capable of practicing medicine with reasonable skill and safety to patients.

#### **GENERAL**

5. 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.

6. Petitioner shall at all times cooperate with the Bureau of Professional and Occupational Affairs 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 Bureau of Professional and Occupational Affairs.

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

8. Petitioner shall notify the Bureau of Professional and Occupational Affairs, 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 Bureau of Professional and Occupational Affairs 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.

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

10. 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 Petitioner's license(s) to practice the profession in the Commonwealth of Pennsylvania as follows:

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

b. 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.

c. 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.

d. 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 N. Third Street, Harrisburg, PA 17110, and a copy to the prosecuting attorney for the Commonwealth, as well as all subsequent filings in the matter.

e. 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.

f. 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.

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 Petitioner, a final order will be issued sustaining the suspension of Petitioner's license and imposing any additional disciplinary measures deemed appropriate.

i. 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.

j. 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 1 years of active suspension and any additional imposed discipline, Petitioner may petition the Board for reinstatement upon verification that Petitioner has complied with the Board's order, 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. Petitioner's failure to fully comply with any terms of this Order may also constitute grounds for additional disciplinary action.

11. 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.

After successful completion of probation, Petitioner may petition the Board to administratively reinstate Petitioner's license to unrestricted, non-probationary status upon a verification that he has complied with and not practiced in violation of this Order and the written opinion of Dr. Edward Russek, M.D., the other physician or psychologist that Petitioner has selected and the Board has approved to provide continued care, counseling or treatment that Petitioner is fit to resume the unmonitored practice of medicine and surgery.

This order shall be effective immediately.

**BY ORDER:**

**BUREAU OF PROFESSIONAL AND  
OCCUPATIONAL AFFAIRS**

  
\_\_\_\_\_  
**IAN J. HARLOW,  
COMMISSIONER**

**STATE BOARD OF MEDICINE**

  
\_\_\_\_\_  
**MARILYN J. HEINE, M.D.,  
CHAIRPERSON**

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Prosecuting attorney:

Anita K. Shekletski, Esquire

Board counsel:

Wesley J. Rish, Esquire

Date of Mailing:

SEPTEMBER 13, 2017



## NOTICE

The attached Adjudication and 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 Order page of the Adjudication and Order.