

COMMONWEALTH OF MASSACHUSETTS

MIDDLESEX, SS

Board of Registration in Medicine
Adjudicatory Case No: 2013-027

In the Matter of)
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)
James H. Avruch, M.D.)
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_____)

PROBATION AGREEMENT

I. COMPLIANCE WITH AGREEMENT

The Respondent agrees that violation of this Probation Agreement, including such provisions which survive this Agreement, shall constitute sufficient grounds for the immediate suspension of the Respondent's license to practice medicine, or any such lesser sanction as the Board may deem fit to impose, without prior notice to the Respondent. The Respondent hereby waives any claim or defense to any subsequent action by the Board to suspend the Respondent's license or impose such other lesser sanction, for any such violation or violations, except that the Respondent shall be entitled to defend against the assertion of a violation of this Agreement. The Respondent acknowledges and agrees that by entering into this Agreement, the Respondent is relinquishing important procedural and substantive rights.

II. PARTIES

The parties to this Probation Agreement are the Board of Registration in Medicine ("Board") and James H. Avruch, M.D. ("Respondent").

III. JURISDICTION

The parties agree that the Board has the authority to enter into this Probation Agreement, and that the Board may enforce the terms of this Agreement in accordance with applicable laws and regulations and the provisions of this Agreement.

IV. CONDITIONS OF PROBATION

During the probationary period, which shall be effective on the date the Board accepts this Agreement, the Respondent shall comply with each of the following requirements:

A. The Respondent agrees to undergo monitoring by the Board until at least five years from the date in which the Board approves the Probation Agreement and for such further period thereafter as the Board shall for reasonable cause order. The Respondent understands that issuance of subsequent limited licenses, a full license or renewals of either may be conditioned upon an extension of this Agreement. At the Board's discretion, any periods during which the Respondent is not practicing medicine, during the probationary period, may extend the probationary period.

B. The Respondent shall refrain from all consumption of alcohol, and use of all controlled substances, unless specifically prescribed by a treating physician who has been informed of the Respondent's chemical dependency history, for a legitimate medical purpose and in the usual course of the treating physician's medical practice.

C. The Respondent shall not prescribe any controlled substances to himself or any member of his family; and agrees that this provision contained in this sentence will survive the probationary period. Prescribing of controlled substances under this paragraph must be in accordance with all applicable state and federal controlled substance registration requirements.

D. The Respondent has entered into a contract, dated March 20, 2013, and in a form acceptable to the Board, with Physician Health Services ("PHS") of the Massachusetts Medical Society. The Respondent agrees to abide fully by all terms of this contract. This contract includes a provision that PHS will promptly inform the Board of any lapse or violation of its terms by the Respondent, and the contract provides for any necessary waivers of privilege or confidentiality by the Respondent. PHS shall submit quarterly reports to the Board which detail the Respondent's compliance with this contract.

E. The Respondent shall undergo random bodily fluid screenings as required by PHS or as may be required by the Board, this requirement may be reasonably

modified from time to time consistent with scientific or practical advances in the field of alcohol and drug detection. The Respondent shall submit random samples at least weekly on average, or at such other frequency as the Board or PHS may require. An officer of PHS shall file reports of the screening evaluations completed during the previous three months with the Board within thirty (30) days as part of their quarterly report. Said reports shall specify the dates on which samples were taken and shall specify the results of the analysis of such samples and shall be signed by the person in charge. In addition, the Respondent shall obtain the written agreement of PHS to notify the Board immediately by telephone and in writing.

1. a) in the event that Respondent's sample is found to contain any evidence of alcohol or any controlled substance in violation of this Probation Agreement; or
b) in the event that PHS has other reliable evidence that the Respondent has used alcohol or any controlled substance in violation of this Probation Agreement;
2. in the event that the Respondent misses any random bodily fluid test, excluding an administrative or laboratory mistake beyond the Respondent's control;
3. in the event that the Respondent refuses to cooperate with PHS in monitoring bodily fluids in any manner; or
4. in the event that the Respondent withdraws any waiver filed in connection with this Probation Agreement; or
5. in the event that the PHS contract is terminated for any reason other

than successful completion of the contract, as determined by the Director of PHS.

The Respondent agrees to waive any privileges he may have concerning such reports and disclosures to the Board by PHS.

F. The Respondent shall at all times during the length of the probationary period be reasonably available to provide an immediate bodily fluid screen at the request of the Board.

G. The Respondent shall immediately notify the Board in writing any time that any treating physician writes a prescription for the Respondent for a controlled substance in Schedules II through IV, inclusive.

H. The Respondent shall be under the care of a licensed or certified health care professional experienced in the treatment of substance use disorders who shall submit written reports, including reports on all missed sessions, to the Board or its designee as often as the Board deems necessary but in any event at least once every three months. Copies of these attendance reports shall be part of the quarterly report that PHS submits to the Board. The health care professional shall immediately notify the Board by telephone whenever, in her professional judgment, the Respondent poses a potential danger to the health, safety and welfare of the Respondent's patients. In addition, the health care professional shall immediately notify the Board by telephone and in writing in the event that the Respondent terminates treatment, or is non-compliant with the treatment plan. In the event that the health care professional notifies the Board that the Respondent poses a danger to the health, safety or welfare of the Respondent's patients, or terminates treatment, the Board may obtain any and all

information, reports and records for a period not to exceed ninety (90) days prior to the date of said notification from the health care provider concerning the Respondent. The Respondent hereby waives any privileges concerning such information, reports, records and disclosures to the Board. The health care professional shall confirm in writing, within ten (10) days of the Board's accepting this agreement, her agreement and undertaking with respect to the obligations set forth in this Agreement, and shall notify the Board if the Respondent withdraws any waiver filed in connection with this Agreement. The Respondent may not terminate treatment with, or change the identity of the health care professional without prior Board approval. The Respondent has chosen Mark Green, M.D. as the healthcare professional who shall fulfill the monitoring requirements of this paragraph.

I. The Respondent shall participate at least weekly in a group-counseling program for persons with substance use disorders, approved in advance by the PHS. The Respondent shall keep a diary of his attendance at such meetings. The Respondent shall submit this diary to PHS for periodic verification and PHS shall submit current copies of the diary in its quarterly report to the Board.

J. The Respondent shall file, within thirty (30) days of the execution of this Probation Agreement, written releases and authorizations sufficiently broad in scope so as to allow the Board to obtain any and all medical and laboratory reports, treating physicians' reports and records concerning the Respondent's treatment during the probationary period. PHS may retain as confidential the identity of informants who have disclosed suspected or known substance misuse to those programs under the promise of confidentiality.

K. All agreements whereby third parties are to provide written reports, releases, records or any other information to the Board under this Probation Agreement shall be submitted to the Board for approval within thirty (30) days after the Probation Agreement is approved by the Board. All such releases and agreements must, in addition to waiving any relevant state law privileges or immunities, provide the Board with access to all material covered by 42 CFR, Part 2, and the Criminal Offender Records Information (CORI) Act, so-called, M.G.L. c. 6, ss. 167-178; all such releases and agreements must provide that the released party shall notify the Board if any waiver is withdrawn. In the event that any such releases or waivers are not sufficient to obtain access to any information which the Board in its discretion considers relevant, the Respondent agrees to obtain personally such information and furnish it to the Board, to the extent permitted by law.

L. In the event that the Respondent seeks licensure to practice medicine in another state, the Respondent shall notify the Board of such fact and shall disclose to the licensing authority in such state his status with this Board. The Respondent shall submit to the Board copies of all correspondence and application materials submitted to another states' licensing authority.

M. In the event the Respondent should leave Massachusetts to reside or practice out of the state, the Respondent shall promptly notify the Board in writing of the new location as well as the dates of departure and return. Periods of residency or practice outside Massachusetts will not apply to the reduction of any period of the Respondent's probationary licensure, unless the Respondent enters into a monitoring agreement, approved by the Board, in the new location.

N. The Respondent shall appear before the Board or a committee of its members at such times as the Board may request, upon reasonable advance notice, commensurate with the gravity or urgency of the need for such meeting as determined by the Board or such committee.

O. The Respondent shall provide a complete copy of this Probation Agreement, with all exhibits and attachments within ten (10) days by certified mail, return receipt requested, or by hand delivery to the following designated entities: any in- or out-of-state hospital, nursing home, clinic, other licensed facility, or municipal, state, or federal facility at which he practices medicine; any in- or out-of-state health maintenance organization with whom he has privileges or any other kind of association; any state agency, in- or out-of-state, with which he has a provider contract; any in- or out-of-state medical employer, whether or not he practices medicine there; the Drug Enforcement Agency, Boston Diversion Group; Department of Public Health, Bureau of Health Care Safety and Quality, and the state licensing boards of all states in which he has any kind of license to practice medicine. The Respondent shall also provide this notification to any such designated entities with which he becomes associated for the duration of this Agreement. The Respondent is further directed to certify to the Board within ten (10) days that he has complied with this directive. The Board expressly reserves the authority to independently notify, at any time, any of the entities designated above, or any other affected entity, of any action it has taken.

P. The Respondent may engage in the practice of medicine under such conditions as the Board may impose. The Respondent shall engage in the practice of medicine only pursuant to the St. Elizabeth Medical Center's Surgical Residency Program in Brighton, Massachusetts.

Q. Until the Board, upon petition of the Respondent, orders otherwise, the Respondent shall be monitored by Scott Johnson, M.D. and Alan Hackford, M.D. and any Board approved successor. Dr. Hackford shall submit reports once per month for the first twelve months that the Respondent returns to the practice of medicine. Dr. Johnson shall submit quarterly reports. The Respondent's monitors shall immediately report any concerns about potential violations of this Probation Agreement by telephone, and in writing, directly to the Board in writing.

R. The Respondent, and not the Board, shall be responsible for the payment of any fee or charge occasioned by the Respondent's compliance with this Probation Agreement.

S. The Respondent may request that the Board modify any of the conditions set forth above. The Board may, in its discretion, grant such modification. Except for requests for modifications related to the identity of the health care professionals referenced in Paragraphs H, and the Respondent's employment, the Respondent may make such a request not more than once in any one year period, nor any sooner than one year from the date of this Probation Agreement.

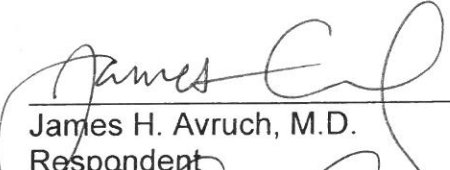
TERMINATION OF PROBATION

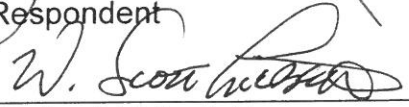
A. If the Respondent complies with his obligations as set forth above, the Board, at the expiration of the five-year period, shall, upon petition by the Respondent, terminate the Respondent's probationary period and probation with the Board, unless the Respondent's probation is extended in accordance with paragraph IV(A).

B. If the Respondent fails to comply with his obligations as set forth above, the Respondent's license to practice medicine may be immediately suspended, as agreed in Section I.

7.7.15
Date

July 7, 2015
Date


James H. Avruch, M.D.
Respondent


W. Scott Liebert, Esq.
Attorney for the Respondent

Accepted this 10th day of September, 2015, by the Board
of Registration in Medicine.

