

COMMONWEALTH OF MASSACHUSETTS

Middlesex, SS.

Board of Registration in Medicine
Adjudicatory No. 2010-007

In the Matter of

Steven Covici, M.D.

STATEMENT OF ALLEGATIONS

The Board of Registration in Medicine (Board) has determined that good cause exists to believe the following acts occurred and constitute a violation for which a licensee may be sanctioned by the Board. The Board therefore alleges that Steven Covici, M.D. (Respondent) has practiced medicine in violation of law, regulations, or good and accepted medical practice, as set forth herein. The investigative docket numbers associated with this order to show cause are 08-521 and 09-336.

BACKGROUND INFORMATION

1. The Respondent was born on June 7, 1967. He is a board certified ophthalmologist who has been licensed to practice medicine in Massachusetts since March 4, 1998 under certificate number 156564. The Respondent held privileges at Mercy Medical Center (Mercy) and BayState Medical Center (BayState).

FACTUAL ALLEGATIONS

2. On August 21, 2008, the Board accepted the Respondent's Voluntary Agreement Not to Practice Medicine. Said Agreement was ratified by the Board on September 3, 2008.

Docket No. 08-521:

3. On ~~September~~ 19, 2007, the Respondent took a syringe with Fentanyl from an anesthesia cart in an operating room at Mercy.

4 On September **19,2007**, staff at Mercy observed the Respondent taking something from an anesthesia cart in an operating room at Mercy.

5. The staff immediately reported the observations described in paragraph four to their superiors.

6. On September **28,2007**, the Respondent notified the President of Mercy that he was taking a temporary leave of absence, effective September **19,2007**.

7. On October **12,2007**, the Respondent entered **into** a Substance Use Monitoring Contract with Physician Health Services (**PHS**).

8. The Respondent resumed his active status with Mercy on October **24,2007**.

9. On or about August **18,2008**, the Respondent took a syringe of Fentanyl from a sharps container at **BayState**.

10. On August **21,2009**, **PHS** reported to the Board that the Respondent had tested positive for Fentanyl on August **19,2008**.

11. The Respondent was practicing medicine during this relapse.

12. The Respondent entered into another **PHS** contract for Substance Use Monitoring, effective September **4,2008**.

13. The Respondent has been in compliance **with** the second **PHS** contract.

Docker No. 09-336:

14. Patient A, a female, was thirty-nine years old when she had her first and only appointment with the Respondent on May **8,2000**.

15. Patient A was referred to the Respondent by her primary care physician for an eye examination.

16. On May **8,2000**, the Respondent conducted an eye examination on Patient A.

17. At the end of the may 8,2000 visit, the Respondent hugged Patient A in a way that made her feel uncomfortable.

LEGAL BASIS FOR PROPOSED RELIEF

A. Pursuant to G.L. c. 112, §5, ninth par. (c) and 243 C.M.R. 1.03(5)(a) 3, the Board may discipline a physician upon proof satisfactory to a majority of the Board that said physician engaged in conduct which calls into question his competence to practice medicine.

B. Pursuant to G.L. c. 112 § 5, ninth par. (d) and 243 C.M.R. 1.03(5)(a)4, the Board may discipline a physician upon proof satisfactory to a majority of the Board that said physician practiced medicine while his ability to do so was impaired by **drugs**.

C. Pursuant to 243 C.M.R. 1.03(5)(a)18, the Board may discipline a physician upon proof satisfactory to a majority of the Board that said physician committed misconduct.

D. Pursuant to *Levy v. Board of Registration in Medicine*, 378 Mass. 519 (1979) and *Raymond v. Board of Registration in Medicine*, 387 Mass. 708 (I 982), the Board may discipline a physician upon proof satisfactory to a majority of the Board that said physician has engaged in conduct that undermines the public confidence in the integrity of the medical profession.

The Board has jurisdiction of this matter pursuant to G.L c. 112, §§ 5, 61 and 62. This proceeding will be conducted according to the provisions of G.L. c. 30A and 801 C.M.R. 1.01 et seq.

NATURE OF RELIEF SOUGHT

The Board is authorized and empowered to order appropriate disciplinary action, which may include revocation or suspension of the Respondent's license to practice medicine. The Board may, in addition to or instead of revocation or suspension, order one or more of the following: admonishment, reprimand, censure, fine, the performance of uncompensated public

service, a course of education or training, or other limitation on the Respondent's practice of medicine.

ORDER

Wherefore, it is hereby ORDERED that the Respondent show cause why he should not be disciplined for the conduct described herein.

By the
Board of Registration in Medicine,



Date: March 3, 2010

Peter G. Paige, M.D.
Chairman

COMMONWEALTH OF MASSACHUSETTS

Middlesex, SS.

Board of Registration in Medicine
Adjudicatory No. 2010-007

In the Matter of
Steven Covici, M.D.

CONSENT ORDER

Steven Covici, M.D. (the Respondent) and the Complaint Counsel agree that the Board of Registration in Medicine (the Board) may issue this Consent Order with all the force and effect of a Final Decision within the meaning of 801 C.M.R. 1.01(11)(d). The Respondent admits to the **findings** of fact described below and agrees the Board may make conclusions of law and impose a sanction in resolution of Docket Nos. 08-521 and 09-336.

BIOGRAPHICAL INFORMATION

1. The Respondent was **born** on June 7, 1967. He is a board certified ophthalmologist **who has** been licensed to practice medicine in Massachusetts since March 4, 1998 under **certificate** number 156564. The Respondent held privileges at Mercy Medical Center (Mercy) and **BayState** Medical Center (**BayState**).

FINDINGS OF FACT

2. On August 21, 2008, the Board accepted the Respondent's Voluntary Agreement Not to Practice Medicine. Said Agreement **was ratified** by the Board on September 3, 2008.

Docket No. 08-521:

3. **On** September 19, 2007, the Respondent took a syringe with **Fentanyl** from an anesthesia *cart* in an operating room at Mercy.

4. **On** September 19, 2007, staff at Mercy observed the **Respondent** taking something from an anesthesia *cart* in an operating room at Mercy.

5. The staff immediately reported the observations described in paragraph four to their superiors.
6. On September 28,2007, the Respondent notified the President of Mercy that he was taking a temporary leave of absence, effective September 19,2007.
7. On October 12,2007, the Respondent entered into a Substance Use Monitoring Contract with Physician Health Services (**PHS**).
8. The Respondent resumed his active status with Mercy on October 24,2007.
9. On or about August 18,2008, the Respondent took a syringe of Fentanyl **from** a sharps container at **BayState**.
10. On August 21,2008, **PHS** reported to the Board that the Respondent had tested positive for Fentanyl on August 19,2008.
11. The Respondent **was** practicing medicine during this relapse.
12. The Respondent entered into another **PHS** contract for Substance Use Monitoring, effective September 4,2008.
13. The Respondent has been in compliance with the second **PHS** contract.

Docket No. 09-336:

14. Patient A, a female, **was** thirty-nine years old when she had her **first** and only appointment with the Respondent on May 8,2000.
15. Patient A was referred to the Respondent by her primary care physician for an eye examination.
16. On May 8,2000, the Respondent conducted an eye examination on Patient **A**.
17. At the end of the may 8,2000 visit, the Respondent hugged Patient A in a way that made her feel uncomfortable.

CONCLUSIONS OF LAW

- A. The Respondent has violated G.L. c. 112 § 5, ninth par. (c) and 243 C.M.R. 1.03(5)(a) 3 in that he engaged in conduct which places into question his competence to practice medicine.
- B. The Respondent has violated G.L. c. 112 § 5, ninth par. (d) and 243 C.M.R. 1.03(5)(a)4 in that he practiced medicine while his ability to do so was impaired by drugs.
- C. The Respondent has violated 243 C.M.R. 1.03(5)(a)18 in that he committed misconduct.
- D. The Respondent has engaged in conduct that **undermines** the public confidence in the integrity of the medical profession, in violation of the standards set forth in *Levy v. Board of Registration in Medicine*, 378 Mass. 519 (1979) and *Raymond v. Board of Registration in Medicine*, 387 Mass. 708 (1982).

SANCTION

The Respondent's license to practice medicine is hereby **indefinitely** suspended. The Respondent may petition the Board for a stay of suspension upon: (1) entry into a Probation Agreement, eight years in duration, as recommended by the Board-designee approved evaluator, retroactive to September 4, 2008—the date of entry into the Respondent's current **PHS** contract. The Probation Agreement must include, but not be limited to, **incorporating** the recommendations from the independent psychiatric evaluation, compliance with a **PHS** substance use monitoring contract for a total of eight years, participation in individual and group therapy to address his addiction issues, a Board-approved chaperone for all encounters with female patients, and any other terms and conditions the Board deems appropriate. As part of the **PHS** contract requirement, Dr. Covici must enter into a standard five year **PHS contract**, retroactive to September 4, 2008, followed by a three-year Extended Voluntary Physician Substance Use Monitoring Contract with **PHS**.

This sanction is imposed for Conclusions of Law A, B, C and D individually and not for any combination of them.

EXECUTION OF THIS CONSENT ORDER


The parties **agree** that the approval of this Consent Order is left to the discretion of the Board. The signature of the Respondent and Complaint Counsel are expressly conditioned on the Board accepting this Consent Order. If the Board rejects this Consent Order in whole or in part, then the stipulations contained herein shall be null and void; thereafter Complaint Counsel, the Respondent or anyone else may not rely on these stipulations in this proceeding. As to any matter that this Consent Order leaves to the discretion of the Board, neither the Respondent, nor anyone acting on his behalf, has received any promises or representations regarding the same.

The Respondent waives any right of appeal that he may have resulting from the Board's acceptance of this Consent Order.

The Respondent shall provide a complete copy of this Consent Order 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 state licensing boards of all states in which he has any kind of license; the Drug Enforcement **Administration** Boston Diversion Group; and Massachusetts Department of Public Health Drug Control Program. The Respondent shall also provide this notification to any such designated entities with which he becomes associated for the

duration of this suspension. The Respondent is further **directed** to certify to the Board within ten (10) days that he has complied with this **directive**,

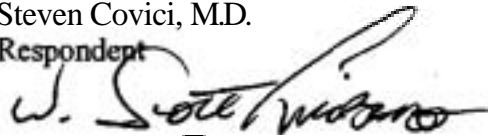
The Board expressly reserves the authority to independently notify, at any time, any of the entities designated above, or any other affected entity, of any action it has taken.



Steven Covici, M.D.
Respondent

2/24/10

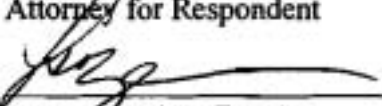
Date



W. Scott Liebert, Esq.
Attorney for Respondent

3/1/10

Date

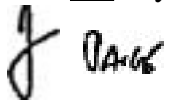


Luz A. Carrion, Esquire
Complaint Counsel

3/1/10

Date

So ordered by the Board of Registration in Medicine this 3rd day of March, 2010.



Peter G. Paige, M.D.
Chairman

COMMONWEALTH OF MASSACHUSETTS

MIDDLESEX, ss.

BOARD OF REGISTRATION
IN MEDICINE

Docket Nos. 08-521 & 09-336

IN THE MATTER OF

Steven Covicci, M.D.

ORDER

The Respondent's Voluntary Agreement Not to Practice Medicine, dated September 3, 2008, is hereby TERMINATED.

Date: March 3, 2010



Peter Paige, M.D.
Chairman
Board of Registration in Medicine

COMMONWEALTH OF MASSACHUSETTS

MIDDLESEX, SS

BOARD OF REGISTRATION
IN MEDICINE

Adjudicatory Case No. 2010-007

In the Matter of)

Steven Covici, M.D.)
_____)

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 (hereinafter the "Board") and Steven Covici, M.D. (hereinafter the "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 September 4, 2016 and for such further period thereafter as the Board shall for reasonable cause order. 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 substance use 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 Substance Use Monitoring Contract with Physician Health Services ("PHS") of the Massachusetts Medical Society, dated September 4, 2008. The form of the Respondent's **PHS** contract is acceptable to the Board. The Respondent agrees to abide fully by all terms of this contract, which **shall** remain in effect until the date of termination

of this Probation Agreement. As part of this requirement, the Respondent must remain in his Substance Use Monitoring Contract with **PHS** for a five-year period, retroactive to September 4, 2008, directly followed by entry into a three-year Extended Voluntary Physician Substance Use Monitoring Contract with **PHS**. The Respondent's **PHS** 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, which requirement may be reasonably modified from time to time consistent with scientific or practical advances in the field of alcohol and drug detection. 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 the 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;
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 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 his 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 (including medication and therapy), is non-compliant with the treatment plan, or is hospitalized. 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 professional 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, his 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 Jonathan Greenberg, 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 chemically dependent persons, approved in advance by 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 any other state's licensing authority.

M. In the event the Respondent should change his residence or practice out of the state of Massachusetts, the Respondent shall promptly notify the Board in writing of the new location as well as the dates of departure and return. Periods of 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 Administration, Boston Diversion Group; Bureau of Health Care Safety & Quality of the Massachusetts Department of Public Health; 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 as an ophthalmologist only at: (1) the Respondent's private **office** practice, located at 125 Liberty Street, Suite #308, Springfield, Massachusetts; and (2) **BayState** Medical Center ("**BayState**"), located at 759 Chestnut Street, Springfield, Massachusetts.

Q. Until the Board, upon petition of the Respondent, orders otherwise, the Respondent's clinical practice at his private office practice and at BayState shall be monitored by Peter **Viera**, M.D. Dr. Viera, and any Board-approved successor, shall submit quarterly evaluations of the

Respondent to the Board. The Respondent's monitor shall immediately report any concerns about potential violations of this Probation Agreement by telephone, and in writing, directly to the Board.

R. Until the Board, upon petition of the Respondent, orders otherwise, the Respondent shall use a chaperone for all encounters with female patients. Kathleen Longo and Toni Bovino shall perform these chaperoning responsibilities at the Respondent's office practice. The Respondent's office practice chaperones shall sign their names, next to any patient chaperoned, on a computer-generated printout containing all of the patients seen by the Respondent each day. This documentation will be made available to the Respondent's office workplace monitor, Dr. Vieira. The Respondent's office practice chaperones shall immediately report any concerns about potential violations of this Probation Agreement by telephone, and in writing, directly to the Board. For all encounters with female patients in the Emergency Department and inpatient units at BayState, the Respondent shall have a chaperone **who** will sign the patient's record that **he/she** was present during the examination. For all encounters with female patients in the Operating Room at BayState, the Operating Room circulating nurse shall indicate in the patient's record who was present during the operation and shall provide **his/her** signature attesting to the same. For all encounters with female patients at BayState, the Respondent shall maintain a log including the patient's name, the date and time the Respondent saw each patient, and the name of the chaperone. For patients seen in the Operating Room, the Respondent's log shall include the name of the Operating Room circulating nurse. John **Papale**, M.D., Chief of Ophthalmology at BayState, shall send reports to the Board on a quarterly basis, stating that he has reviewed the Respondent's logs and each patient's medical records and attests to the fact that the documentation confirms the presence of a chaperone for each encounter with a female patient.

S. 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.

T. 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 Paragraph 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.

V. TERMINATION OF PROBATION


A. If the Respondent complies with his obligations as set forth above through September 4, 2016, the Board 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).

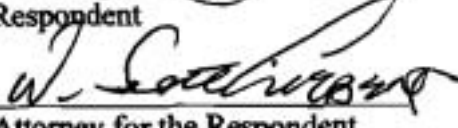
B. If the Respondent fails to comply with his obligations as set forth above, the Respondent's license to practice medicine may be immediately suspended, as agreed in Section I.

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 1.

2/26/10
Date


3/1/10
Date



Respondent


Attorney for the Respondent

Accepted this 3rd day of March, 2010, by the Board of Registration in Medicine.



Peter G. Paige, M.D., Chairman
Board of Registration in Medicine