

DISCIPLINARY PROCESS REVIEW COMMITTEE (DPRC) & DECISIONS

Texas Physician Health Program (Probationer/Licensee Violated PHP Agreement & Cases of Concern)

May 1, 2014

| New Cases for Discussion | | | |
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| | REMAIN WITH PHP | TMB ACCEPTED | CONTINUE |
| <p>1. 13-0286</p> <p>License Type: M.D.</p> <p>(Internal Medicine / Emergency Medicine)</p> <p><u>Background:</u></p> <ul style="list-style-type: none"> • Referral Type: TMB • Referral Date: 6/10/2013 • Referral Reason: Physical (Diabetes) • Sobriety Date: N/A • Drug(s) of Choice: N/A • Agreement Term: 6/26/2013 – 6/25/2016 <p><u>Issue(s):</u></p> <p>Non-compliance due to unacceptable and insufficient monitor reporting.</p> <p>The Board was notified that the participant was relieved of her shift after not responding right away to the ER to see patients. The participant was in the ER claiming she had low blood sugar reading (70ish). The participant was told to submit urine for the drug screen and following that she needed to go home.</p> <p>9/13/2013: Participant submitted the following update regarding</p> | <p>Remain under the management of PHP and PHP to request Respondent to obtain a neuropsychological evaluation and to produce to PHP the lacking reports, if evaluation is not completed within 30 days of the request, the case will be returned to the jurisdiction of the Texas Medical Board for further action.</p> | | |

her monitor reporting:

Dear. Mr. Torres,

I do not know if my lawyer Jennifer Jasper sent you my September 15 quarterly report. I am sending you mine in case she forgot.

I saw an endocrinologist Dr. Donald Gardner. He had lab and 4x/day check on my blood sugar. He said to stop insulin. I do not need it. My A1C is 5.6. He said he will gladly send you copies if you request it. His address is

*909 Frostwood, Ste224
Houston, Texas 77024
Ph. 713-984-8200*

I have been working with the group PRI. Our employer is Rebecca Orzabal. There is no report of sick episode which are reported to her. You can contact her at

*Physician Resources Inc.
1818 Memorial Drive, Suite 200
Houston, Texas 77007
Ph. 713-522-5355*

Since I found out I do not need insulin, I started to work back to ER with a group called ESS. I started only weekend ER work. I had to drive 12 hours without any incident. You can contact for confirmation my new job personnel

*Emergency Staffing Solutions
17304 Preston Rd, Suite 1400
Dallas, Texas 75252
% Mollie Mahan
Ph. 866-526-4930 x 145*

As the record show, I was only reported because my sugar got so low after using insulin and not being able to eat because of the busy ER. I am not on insulin anymore. Sincerely."

12/29/2013: Participant submitted the following update:

"I sent the quarterly report to the new coordinator that was assigned, the gentleman. If you are still the coordinator, let this be my December 2013 report. There are no new changes. I am doing well ever since my endocrinologist advised me to stop using insulin since my blood sugars are always normal. I am not due to report till March 2014. Let me know when my next payment is due."

1/12/2014: Participant submitted the following update:

"As per previous e-mail, I sent my September report to your mail Hispanic coordinator via e-mail because you sent me an e-mail that I have a new coordinator. I do not know what happened to your new coordinator or my report, but I always do my part."

1/19/2014: Participant submitted the following:

"Dear Ms.Bridgewater:

Please give me till the end of the month till you turn over my case to the board. I have no money to fix my computer. It does not scan. The IRS has taken my retirement plane, all my savings, and 3 moths of future salary.

I pay my taxes yearly but every 4 yrs., the government takes extra. This year they took everything.

Sincerely."

1/29/2014: Participant submitted the following status update regarding her monitor reporting:

"Dear Ms. Mariah Bridgewater

This will serve as my December report for the quarterly report to TXHP> I do not know where to send it.I hear from Michael Torres, the person I e-mailed my September report to but when I called back his number- 512-42709057, Verizon said it is not a

working number.

I still work with PRI-Physician Resource Inc. The owner is Rebecca Orzabal. I get my assignment from her. Any work problem is reported to her. Her phone number is 713-522-0744 if you want to verify any work problem.

I still go to Memorial City Endocrine Consultants-713984-8200. I had no problem since my insulin was stopped. I am only taking Metformin 500 mg twice a day. My sugars are in the 100 to 110 mg. I am 105 lbs.

I hope this is all you needed. I am mailing this via overnight if my computer copier is working.

Sincerely.”

The participant has been non-compliant with the required monitor reporting after several attempts from TXPHP to get the participant into compliance. Furthermore, the participant continues to submit email updates in lieu of the required TXPHP reporting forms from her designated monitors.

3/23/2014: Participant submitted the following status update regarding her monitor reporting:

“This will serve as my March report. I have had no problem with my health since my doctor stopped my insulin and kept me on Metformin only. My sugars are in the 100’s and my Alc is between 6 and 7. I have kept my 105 weight. I exercise regularly. Sincerely. P.S. I still have the same job though I work less.”

3/28/2014: TXPHP Governing Board recommended that the TXPHP Medical Director speak with the participant and see if compliance can be established by providing the required monitor reports in the proper format.

4/18/2014: TXPHP Clinical Coordinator spoke with the participant and provided clarification as to what was required and what was not acceptable regarding the monitor reports submitted thus far. Furthermore, the participant was informed that her case would be

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| <p>referred back to TMB if compliance was not established.</p> <p>TXPHP Medical Director requested that he have a phone interview scheduled for 4/22/2014.</p> <p>4/22/2014: Participant was provided with the specific TXPHP forms/formats needed to be used by monitors, via email, and was reminded of her scheduled phone interview with the TXPHP Medical Director.</p> <p>4/23/2014: TXPHP Medical Director spoke with the participant. Additionally, a copy of the participant's Monitoring and Assistance Agreement was provided, including further clarification and instruction regarding the required monitor reporting.</p> | | | |
| | REMAIN WITH PHP | TMB ACCEPTED | CONTINUE |
| <p>2. 12-0170</p> <p>License Type: M.D.</p> <p>(Pain Management / Anesthesiology)</p> <p><u>Background:</u></p> <ul style="list-style-type: none"> • Referral Type: TMB • Referral Date: 1/11/2012 • Referral Reason: Behavioral / Physical (Dysthymic Disorder / Type 1 Diabetes) • Sobriety Date: N/A • Drug(s) of Choice: N/A (DWI) • Agreement Term: 2/8/2012 – 2/7/2017 <p><u>Issue(s):</u></p> <p>Non-compliance due to a history of excessive missed check-ins for drug testing.</p> <p><u>Findings:</u></p> | | | <p>Be tabled until next meeting, for consideration of additional information regarding the case.</p> |

In May 2004, the participant voluntarily surrendered his privileges at Medical Center of Plano while under investigation for providing false information regarding an arrest for DWI on his re-credentialing application, and for back-dating the application to avoid having to report the arrest.

9/16/2011: An Informal Settlement Conference (ISC) was held with the participant and the Texas Medical Board to address allegations the participant violated the standard of care, prescribed medications in a non-therapeutic manner, and kept inadequate medical records for two patients. In addition, there were allegations that the participant engaged in unprofessional conduct and disruptive behavior, and was subject to disciplinary action by his peers at three (3) different facilities.

5/30/2012: Missed check-in and did not provide test specimen.

5/31/2012: Participant was issued a warning letter regarding his missed check-in.

6/1/2012: Participant provided the following explanation regarding the missed check-in:

"I just got this email. Please text or call me when you send an email as sometimes I do not check my email for a couple of days. I notified you as soon as I figured out I had not called. My wife told me she set my phone to alarm in am. I woke up on Wednesday am. It was the first day the kids were out of school and our normal routine was changed. I woke up and my blood sugar was low. I got a snack and drove to the office. While I was driving the practice manager's phone accidentally called me and I heard for 20 minutes her and the clinical manager "cat fighting" and arguing with each other. We had scheduled that day as a day off for office meetings. I spent 3 hours visiting with those two and the staff. Then we reviewed protocol and had an office meeting which lasted until 530 pm. My wife called me and asked me to meet her and the kids and her aunt and grandmother for dinner at 6 pm. When I was there I realized while telling my wife's uncle about the urine testing that I had not called. I did not remember my code called 3 times then I went to office and found my pin and called and they said it was too late. I called the first

advantage that night and emailed you with messages to call me to let me know the protocol for this situation. I spent all day in clinic on Thursday and talking to staff till 6 pm about fall out from the staff argument the day before. Friday I went to eye doctor for retina exam and he said my eyes did not even look like I ever had diabetes (I've had for 35 years) then I went to clinic and did not finish until 7pm. Family time and I checked message while rising to my sons baseball game today. When called in Thursday and it said no test, and I did not hear from you or first advantage I figured I was overstressing and should just see what happened. I am sorry. It was only my second day and I had gone through getting tested the day before. I just forgot and had family visiting great grandmother and great grandfather just died 2 weeks ago. Sorry. Do I need to check my email daily for instructions. I get far enough behind in clinic and the major problem I had with the state board was medical records so I am diligently trying to get this fixed. Thank you I do not think it will happen again."

7/13/2012: Missed check-in.

7/20/2012: Participant was issue a warning letter regarding his missed check-in and the following explanation was provided:

"I am sorry. I thought I called and forgot to write it down that morning. I normally get up 7 to 8 and call immediately. On that Friday my schedule changed. I saw two patients at hospital 630 to 730. I met my wife at 735 to drive to Dallas for 8 am appt with Dr Nace, psychiatrist/counseling. Dr Nace and his adm Asst showed up at 815. I got back to office and met with architect for office 930 to 1230. Met with new billing company and office manager 1230 to 245. Electrical expert for office revision showed up at 300 and met to 5 pm. Had office mtg all staff for medical records 230 to 530 (delayed. Because of billing, architect & electrician). Went home and told wife I thought I may have missed call for UA. She said she thought I called. Thought I just was in hurry and forgot to record. Normally a message comes on my phone 645 to 730. And my says in am "remember to call." I screwed up sorry. I will try to set a later reminder 930ish to make me insure I don't forget or miss? Recommendations on methods?"

7/23/2012: TXPHP responded to the participant and provided no recommendations other than to make sure some sort of alarm or mental note is in place to help not forget in the future.

7/25/2012: Participant provided the following response:

"Thank you. I set up on my phone that it pops up at 930 reminder. I record the conf number every time I call in phone notes. This way if I have some urgency to see pt in am and don't call when I get the reminder at 930. I really don't think about it at all. I just do it in am and then go about working on my medical records problems and pt care. Thank you."

9/12/2012: Missed check-in. Participant was issued a warning letter regarding his missed check-in.

9/13/2012: Participant provided the following response regarding his missed check-in:

"I agree with your call today at 330 pm that I apparently did not call. I had a hospital consult and it ran over in the am. When I saw my reminder to call at 930 I guess I thought I had when I had not. Thank you for the call. I am trying to adjust to the new system with my schedule."

9/26/2012: Missed check-in. Participant submitted an email to TXPHP that he had gone to CareNow in Garland for a urine drug screen.

10/11/2012: Missed check-in, however provided test specimen.

10/25/2012: Missed check-in, however provided test specimen. In addition, participant provided the following responses:

"Yeah I tried to call you at 105 pm but u were not in. I was hoping I could get the results. I could have still made it by 3pm. I am at primacare getting UA done in mesquite. Let me know if you guys don't get it? Do I ever get to see results? Not that I care."

"Got tested. Heading home with food for kids. Still don't know which test to do on no call days? When I get Yes on line. Check

in it tells you what test. Ideas?"

10/26/2012: TXPHP responded and notified the participant that he should be tested for Panel A for all missed check-ins, unless specified otherwise.

10/29/2012: TXPHP Medical Director was notified of the participant's six (6) missed calls in five (5) months and recommended an increase in drug testing frequency, including a one-time PEth test. Participant was notified of these changes and acknowledged understanding. Furthermore, participant provided the following response:

"This is fine. I have gone and gotten a Urine Drug Screen every time which I am assuming as I have done nothing and have no desire."

10/31/2012: Missed check-in. Participant provided the following response:

"That is fine if I just call in am. I will do less tests than these I'm doing.

Set alarm for 6am somehow it turned off reminder when I got reminder at 930 my staff had a patient question I went back to call then they brought lunch I planned on calling 3 times and did not remember We r implementing a new EMR. Frustrating. This is the major thing the board wanted me to improve. I left clinic at 2 to get tested and was tested today r u getting results? I tried to go to the local test site in Rockwall but it would not pull up on my phone had to drive to mesquite frustrated a lot of patients told them I was going to hospital. Thanks for follow up. I called the testing center and you 10 times how can I communicate with them to get info."

11/5/2012: "Negative" PEth test result.

12/3/2012: Missed check-in.

12/31/2012: Missed check-in.

1/16/2013: Missed check-in, however provided test specimen.

Participant provided the following explanation:

"I guess when i got up this morning I went straight to the shower (it was cold), normally I then see my phone going off and connect to recovery trek immediately. It tells me to test or not test. Gabby asked me to help get her dressed and carry her to her mother's car. I got my timing mixed up. I went and got tested this afternoon at the clinic in Garland "CareNow". Thanks for trying to contact me. My cell number is 9725555555. I always check in the am so if you notice a missed check in (I know that's not your job) feel free to call me or text me or call my office at 9725555551 or my wife at 2145555555 her name is Krisie. I will send you a 40 dollar gift card for dinner or shopping for everytime I have not called in by 10am and you notify me. I alway do it first thing in the morning so if I have not signed in online by 10am I have mistakenly forgotten to call. Again thanks for the attempt to email today. I only check my email at night between 6 and 10 pm."

3/27/2013: Missed check-in, however provided test. Participant provided the following explanation:

Thank you for your call today. I normally try to call before i leave the house in the am. I have had the stomach flu for 2 days and barely made it to work. When i got to work today i visited with my office manager who usually checks also. She had been throwing up all night. We had a deadline for reporting CME to the state for the Pain clinic and she was frustrated trying to link together all the cme records from 2010 to now. We just forgot. She threw up again and i started thinking of organizing the CME while she was out sick. I forgot. Oh yeah we also are on day 5 of a new emr with lots of questions. I arrived at 215 for the uds here at primacare mesquite Hope clinic is ok with me gone."

4/26/2013: TXPHP Medical Director was notified of the participant's eleven (11) missed calls in the past ten (10) months and recommended quarterly PEth testing, including a phone interview.

5/10/2013: TXPHP Medical Director spoke with the participant, who expressed his frustrations with his work schedule and the need to submit to the number of urine drug screens. In addition,

it was recommended by the TXPHP Medical Director that the participant try using Soberlink. Nevertheless, the participant has not switched over because of his concerns of the device and its requirement for more frequent check-ins, which is the main issue regarding his non-compliance.

6/7/2013: Case was discussed at the TXPHP Governing Board meeting, and it was recommended that the participant be tightly monitored and undergo a neuropsychological evaluation, if pattern continues.

7/1/2013: Participant missed check-in, however provided test specimen.

7/2/2013: Participant submitted the following response:

“Michael, Thanks for the calls. When I woke up yesterday morning my blood sugar was 50. I have been running low blood sugars in the morning recently. I treated the blood sugar and got to work. Monday is a procedure day we had 30 injections scheduled. I forgot. Thank you for the message. I got it and went to the Primacare in Mesquite and got tested. I can tell you we were running 2 hours late at the time I got your text. Then I had to reschedule 4 patients due to the delay. Then my scheduler quit at the end of the day. Just running out of clinic and saying you have to see a patient at the hospital is difficult. My problem is Diabetes. I may need to quit this program. I had one disease now your testing is giving me another. It says I need to do a special test this morning. Where? When? Who do I call it did not say. You have been selected for a P1 test you must contact RT for the testing site. Who is RT. please contact me. I already kept my staff to 730 pm last night and cancelled 4 procedures. I have 30 patients in clinic today. Who is RT. how can you leave a message contact RT. let me know so I can make up some excuse for walking out of clinic again.”

7/2/2013: “Negative” PEth test result.

8/13/2013: Participant missed check-in, however provided test specimen.

8/15/2013: Participant submitted the following response:

“Michael

I tested on Tuesday. I called in today confirmation number 669450. Today is 8/15/13. On tuesday i had paperwork to get caught up on so i set my alarm for 5am. Yhe night before my 9yo had his first tackle football practice and my 6 yo boy and 4yo signed up and practiced for flag football. After the alarm went off i hit the snooze. My wife woke me up at 8am and i had 30 minutes to get to clinic in Greenville. I forgot to call in at that time. I always remember when i first get up at 6am but if i start doing other things i focus on the tasks of the day. “

8/19/2013: “Negative” PEth test result.

9/9/2013: “Negative” PEth test result.

9/27/2013: Participant missed check-in, however provided test specimen. TXPHP Medical Director ordered that participant undergo neuropsychological evaluation within thirty (30) days.

Participant submitted the following response after receiving notice of required neuropsychological evaluation:

“Ok. My admin asst had been calling also and she said she could not get in I forgot I had PHyaical Therapy scheduled 7 am today the alarms went off and i had forgotten i had breakfast at school with my son. I called PT and rescheduled and my wife told me we were late to the breakfast. I rushed to bkft and then had a 830 new patient apt I stayed with that pt until 11 and then had to rush to see patient at hospital which i had been consulted on the day before I got back to office and forgot. I am going to do the blood test also to ensure you realize there is no foul play. If i get blood test it should eliminate foul play issues?”

10/11/2013 & 10/18/2013: Underwent a neuropsychological evaluation and testing with Clinical Psychologist, Richard Fulbright, Ph.D.

11/14/2013: Participant missed check-in, however provided test

specimen.

12/20/2013: "Negative" PEth test result. Participant saw Eugene Degner, MD and was prescribed Adderall.

12/27/2013: Tested "positive" (expected) for Amphetamines (4060 ng/mL).

1/2/2014: Tested "positive" (expected) for Amphetamines (1308 ng/mL).

1/20/2014: Neuropsychologist, Richard Fulbright, Ph.D., submitted the following regarding their late reporting:

"Dear Mr. Torres:

I very much apologize for the delay on the participant's report. I got behind in some of my reports, with multiple legal cases hitting all at once, and I was temporarily overcommitted without fully foreseeing this coming. The report is done, and I only need to do the final proofing on it. The participant has had no role in the delay on this. It is purely my responsibility. I will issue this report to you hopefully sometime Monday or at the very latest, Tuesday.

Once again, please understand that the participant has not been the source of this delay. It is been entirely my fault, and I will get the report to you as stated above. Please contact me if you have any questions about this matter.

Richard L. Fulbright, Ph.D."

1/21/2014: Final Neuropsychological evaluation from Dr. Fulbright was received and reviewed by the TXPHP Medical Director. It was recommended that the participant's Monitoring and Assistance Agreement be tightened with modifications.

1/28/2014: Tested "positive" (expected) for Amphetamines (6315 ng/mL).

1/31/2014: TXPHP Governing Board recommended that the case be referred back to TMB. Unfortunately, this case did not get on

the DPRC meeting agenda because TMB requested that the agenda items be submitted prior to the completion of the TXPHP Governing Board meeting.

2/3/2014: Tested "positive" (expected) for Amphetamines (24042 ng/mL).

2/6/2014: Tested "positive" (expected) for Amphetamines (29636 ng/mL).

3/21/2014: Tested "positive" (expected) for Amphetamines (5524 ng/mL).

3/26/2014: Missed check-in, however did provide test specimen and the following explanation:

"Michael

I am sorry I was on a role signing in to check my test status.

REPORT

I sett alarm for 630 am every morning. When it goes off I click on my web sign in on my phone. When I connected the Userid and password were blank. They are normally prefilled.

I filled in my Userid My email address then I put in what I thought was my password. It replied wrong password. I tried 3 more times all saying wrong password and none of the three other times did it prefill the information.

I went back to sleep but then got up at normal time and went to work. I went to work. Totally forgot to call. At lunch around 1257 I remembered went and signed in and it said was 102 pm too late called and Talked with Mary. I retried and my password and email worked.

I went and got a random urine test. Attached is the sheet.

Sorry I had a system working good.

Have now put it on my phone "screen" to pull up.

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| <p><i>You should have received the PCP MY Endocrinologist Dr Bressler's report."</i></p> <p>3/26/2014: Tested "positive" (expected) for Amphetamines (9156 ng/mL).</p> <p>3/28/2014: TXPHP Governing Board recommended that the case be referred back to TMB due to non-compliance.</p> <p>3/31/2014: Tested "positive" (expected) for Amphetamines (6094 ng/mL).</p> <p>4/9/2014: Tested "positive" (expected) for Amphetamines (8239 ng/mL).</p> <p>4/15/2014: Tested "positive" (expected) for Amphetamines (7872 ng/mL).</p> | | | |
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Cases Referred to TMB

| | REMAIN WITH PHP | TMB ACCEPTED | CONTINUE |
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| <p>3. 13-0283</p> <p>License Type: M.D.</p> <p>(Psychiatry)</p> <p><u>Background:</u></p> <ul style="list-style-type: none"> • Referral Type: Self • Referral Date: 6/3/2013 • Referral Reason: Substance / Psychiatric (Alcohol / Major Depressive Disorder / ADD) • Sobriety Date: 3/28/2013 • Drug(s) of Choice: Alcohol • Agreement Term: 6/26/2013 – 6/18/2018 | | <p>This case had an interim referral and was returned to the jurisdiction of the Texas Medical Board for action prior to this meeting.</p> | |

Issue(s):

Non-compliance due to “positive” EtG/EtS and PEth test results.

Findings:

Participant has previously been hospitalized at the Menninger Clinic on two (2) separate occasions.

3/28/2013 – 6/9/2013: Underwent treatment at the Menninger Clinic due to worsening depression, suicidal ideation, and two (2) suicidal attempts by ingestion over a two (2) week period prior to hospitalization.

8/12/2013: Tested “positive” (expected) for Amphetamine (1372 ng/mL).

8/14/2013: Missed check-in and did not provide test specimen.

8/15/2013: Missed check-in and did not provide test specimen.

8/30/2013: Tested “positive” (expected) for Amphetamine (3154 ng/mL), Meperidine (128 ng/mL), and Normeperidine (1961 ng/mL). Participant underwent a colonoscopy and EGD procedure.

9/3/2013: Tested “positive” (expected) for Amphetamine (7390 ng/mL) and 7-Aminoclonazepam (181 ng/mL).

9/4/2013: Missed check-in and did not provide test specimen.

9/6/2013: Missed check-in and did not provide test specimen.

9/11/2013: Participant submitted the following explanation for her missed check-ins:

“Dee, could you please pass this on to Michael as I don't have his email on my phone?”

Please excuse me from calling recovery trek today as my seventeen year old daughter was hospitalized at 330a.m at Hillcrest Baptist medical Center on Waco. Also I have not attended meetings since Sunday as she first went to the ER on Monday. Sent home, back to the ER Tuesday and then admitted during the night. The doctor states she will be here probably three days. Please let me know what documentation is needed. Thank you."

9/16/2013: Participant submitted the following update:

"Mr. Torres,

My daughter is still in the hospital. Dr. Dan Julian, my PCP was going to submit a letter to you about Erin being in the hospital. He doesn't know yet that she is still in the hospital as of this morning, Monday. I will send you a copy of her discharge paperwork to validate that she is still in. Is that okay?

Obviously I have not gone to a meeting since she is in the stepdown unit from ICU. I pretty much go home to shower and feed dogs about 1 hour a day and sleeping here.

Let me know if this is not okay.

Did anyone find my signed agreement for the blood draws, etc that was missing? I haven't been home to refax it."

9/19/2013: Missed check-in and did not provide test specimen.

9/20/2013: Missed check-in and did not provide test specimen. TXPHP Medical Director recommended that the participant undergo a PEth test. Participant submitted the following response:

"I am so overwhelmed right now and need support of a program. I feel like your only concern is to get a urine sample and not that my daughter almost died and the fallout from that. Ill give you fifty urines as nothing to hide its that there is so much going on every day there isn't enough time."

9/22/2013: Participant submitted the following response:

Dear Michael,

Some of this is redundant from what I have already told you or emailed. I guess I wanted it all in one place, and written now that I have had sleep.

This has been a very chaotic and difficult time. I am sorry that I have not been able to put PHP first but it had to be second to my daughter. As I reported, she was admitted to the hospital on a Monday, put on the step down unit from ICU all week, sent home on a Saturday to be taken back by ambulance on two hours later. It was very frightening as I thought she was dying. She was discharged again Monday night. She has had Coxsackie B infection which is much more serious than Coxsackie A. She has had secondary infections in her GI system, lungs, bladder and even her mouth. She finally went back to school on Thursday but couldn't even stay the whole day. She is a college bound athlete for track and lost 10 pounds in a week. Her college career is in jeopardy which has been a significant additional stress as a track scholarship would have helped pay for college. After this past year and all my medical expenses I do not have the savings to pay for her college.

I tried to call in a few times but my schedule in getting her to a follow up doctor's visit, picking up school work, talking to counselors, and somewhere in there try and see patients was INSANE. I am puzzled why PHP which is supposed to be supportive is only seeing me as a urine sample. Maybe I shouldn't have to try to call at all until she was 100%? I was beyond exhausted by the end of the week after sleeping at the hospital for 7 nights in a row.

Regarding the positive urine on 8/30, if you will check your records, I sent a copy of me having a colonoscopy and EGD on 8/29 where I was given Demerol. (In fact I woke up during the procedure and they had to give me more!)

Regarding the positive drug screen on 8/30 for amphetamine, it is also documented that I am on Vyvanse and have been this entire

time.

I will attempt to go to Concentra Medical on Monday morning. I have a 900 a.m patient I can't be late for. I have had to cancel 8 days of patients with my daughter in the hospital. If I don't work I don't get paid. I am trying to build my reputation back, and I cannot miss or cancel on another patient. If I can't get to the office by 900 what do you recommend I do?

To finish up the craziness, as I have said, I have filed for bankruptcy. The only money I have is when I work that day or week. I do not even have a credit card for emergencies. Everytime I have to give a sample it is \$100. Who knows what tomorrow will cost and I have \$75.67 in my account. I can sent you documentation of that if you would like.

Again, I am trying to get my life back and need PHP's support. So far all I feel is that I have to keep going back and repeating myself, (like three times I said I had sent my drug protocol agreement which you found), already having sent documentation of receiving Demerol, and special draws that are costly (tomorrow). My sobriety date is 3/13/13. I even missed my 6 month birthday as she was hospitalized. I have had NOTHING this entire nightmare.

I will try and get the lab tomorrow but I can't look flaky and be late or miss an appointment. I hope it works out. I am not sure how they handle the money and hope they will bill me.

Please forward this to Dr. Nemeth as I just don't know what to do from here.

Sincerely."

9/23/2013: "Negative" PEth test result. Participant submitted the following:

"Dear Michael,

I am not needing to tie you up with emails but it is probably fastest...I want to make sure you know I self reported. I only say

that as you had mentioned the Board and it was my understanding they weren't involved and everything was confidential. Am I mistaken?! Please let me know as soon as possible as you have mentioned the Board a couple of times and I am not under a Board order.

What I keep trying to convey is that what I have struggled with more than drinking (which has been the past two years) is not handling stress and getting extremely depressed. Although I missed calling in, I have gone to therapy twice a week, talked to my psychiatrist or seen him in person, taken all my prescribed medications on a daily basis, and called my sponsor. So for you to imply that "I am not putting in an effort" is alarming. Other than when she was ill for 8 days, I went to five meetings weekly, a Caduceus meeting every other week and all the aforementioned responsibilities. I have missed therapy one time.

I know you just started as my clinical coordinator, so I wasn't sure if you were aware of all I am doing to not get depressed (or drink). Supporting me in BOTH illnesses was what I was implying. I am really trying to do everything I am supposed to, so please don't imply I am not putting forth an effort. That is not a fair implication at all.

Finally, did you find the fax regarding my colonoscopy and EGD with the attached sheets showing I received Demerol and Halcion? My records show it was faxed to Dee on September 3.

Just let me know if you need me to fax things again."

9/27/2013: Tested "positive" (expected) for Amphetamine (1788 ng/mL).

10/10/2013: Tested "positive" (expected) for Amphetamine (425 ng/mL) and 7-Aminoclonazepam (266 ng/mL).

10/22/2013: Tested "positive" (expected) for Amphetamine (1191 ng/mL).

10/23/2013: Participant missed check-in, and tested "positive" (expected) for Amphetamine (2631 ng/mL).

11/6/2013: Tested "positive" (expected) for Amphetamine (6478 ng/mL).

11/19/2013: Tested "positive" (expected) for Amphetamine (4169 ng/mL), Codeine (1098 ng/mL) and Morphine (362 ng/mL), however tested "negative" for 6-Acetylmorphine. Participant underwent surgery under anesthesia for a biopsy of a basil cell carcinoma on her left ear.

12/27/2013: Tested "positive" (expected) for Amphetamine (1880 ng/mL), Desmethyldiazepam (260 ng/mL), Oxazepam (417 ng/mL), and Temazepam (444 ng/mL).

1/2/2014: Tested "positive" (expected) for Amphetamine (4367 ng/mL), Desmethyldiazepam (260 ng/mL), Oxazepam (417 ng/mL), and Temazepam (444 ng/mL).

1/15/2014: Missed check-in and did not provide test specimen.

1/21/2014: Tested "positive" (expected) for Amphetamine (>10000 ng/mL), Desmethyldiazepam (176 ng/mL), Oxazepam (417 ng/mL), Temazepam (444 ng/mL), Alprazolam (352 ng/mL), and Alpha-Hydroxyalprazolam (1223 ng/mL).

2/10/2014: Participant missed check-in, and tested "positive" (expected) for Amphetamine (1175 ng/mL), Desmethyldiazepam (235 ng/mL), Oxazepam (509 ng/mL), Temazepam (374 ng/mL), Alprazolam (149 ng/mL), and Alpha-Hydroxyalprazolam (389 ng/mL). In addition, participant tested "positive" for EtG (25749 ng/mL) and EtS (4092 ng/mL).

Participant submitted the following explanation for the missed check-in:

"I cancelled two patients and went so there was no question. The only reason I didn't check in was I was at work by 7:30 and simply forgot. Sorry!"

2/14/2014: Missed check-in and did not provide test specimen.

2/20/2014: Participant submitted the following responses regarding the "positive" EtG/EtS test result:

"7:36 a.m.

Just read this. I have no idea. I wondered what was up when I called in today. What is a "positive?" I mean is it yes or no or a quantity value. I have been working LONG hours, cleaning out house as under contract to sell on march 31. I couldn't even tell you what I did on February 9th? Please let me know as soon as I can as this is obviously anxiety making. Thanks."

"10:33 p.m.

Dear Michael,

I know you tried to call later. I had a family meeting about a patient and didn't finish until 600. I then had therapy at 630.

I talked to Dr. Vache today and let her know about the positive test on 2/11 and that likely today's test would be positive as I consumed alcohol on Tuesday night.

I will let you know what I told her: I have had alcohol a total of four times since the beginning of February. I have drank at home and never at work. I have not been intoxicated at any point even close to when I went to work. (Just clarifying...not making excuses). I had met with my monitoring committee on 2/12. I told her I was not honest with them at that time as there was an extremely large number of committee members present which I had not experienced that number or met with. It was intimidating.

This is my current situation for whatever its worth. I am not sure it even matters to anyone but here we go:

As you know, Erin was in the hospital in September. This was for 8 days. During the next month I had to file bankruptcy. Over the year, because of my hospitalizations, I was drowning in debt. Restarting my practice required expenses as well. Because I was not able to work for 8 days, my cash flow was almost zero. If I don't work, I don't get a check, as I am self employed. As pathetic as it sounds my AA sponsor gave me \$100 for stamps to

mail letters notifying physicians I was back in practice. Money was that tight. I had perfect credit until October. I had to file bankruptcy. It was devastating. After that, I no longer had a credit card, a savings account or any "back up in case of emergency.

There were ice days no patients, Christmas and Thanksgiving with no patients. I had to take her to look at colleges over three days, so no patients. However, I was working and seeing any patient that came in. My practice was growing slowly. I had an accident in December requiring me to pay a deductible to repair my car. I was at fault.

I injured my back trying to take down my xmas tree. I went to the Urgent care to get treatment (and I faxed you the prescriptions for the muscle relaxant and pain medication at that time.) This increased my financial stress as well as me not being able to work a day.

Next, Erin had always wanted to run track in college but after her hospitalization her times were slow and it became stressful as she was not being recruited as much. We were counting on a scholarship and then it appeared it might not happen.

I made the painful decision to put my house up for sale not only to ease my financial stress but to pay for Erin's college as I would not be able to get a college loan due to my bankruptcy. Erin's whole life had been in the house and I thought I would die old there. It was very very difficult. I had to start going through everything from my 25 years of marriage.

A positive thing is during this time, I took two days off to go with my sponsor to a condo in East Texas to do intense step work and attend an AA conference. It was very helpful. I was still completing my requirements of therapy, psychiatrist, meetings and medications.

As if things weren't difficult enough, 1/6/14 Erin had an accident where her vehicle was hit which caused her to run over a stop sign and into a ditch. She walked away thankfully. However, her car was totaled. I had no credit to buy a new one. My ex

husband who is financially well off would not help. 6 days later at 4pm on a Sunday, Erin was involved in a second accident where she was standing on the running board of a friend's new jeep. The girl started driving her car and accelerated up to 25mph. There was no top rack or handles on the jeep. Erin was thrown off the jeep at 25mph and landed on her head. The kids called me and had her to my house in 1 min. I rushed her to the hospital as they didn't call 911. She was confused and bleeding. She developed hallucinations and was hospitalized for four days, discharged on 1/16/14...so this was ANOTHER hospitalization and a second accident!

I stayed at the hospital day and night as she was so confused.

Around that time the Waco paper ran a big article on her father about being chosen as the next president of a college in Nebraska. Since we have an unusual last name, patients and people would ask me about him (not knowing he is now married to my friend). Humiliating.... Thus , he is finally leaving after living five doors from me with my friend since he left. Emotionally I was wearing down more and more as I had no one to trade off with while she was in the hospital, I was having to keep the house spotless for realtors....it went on and on. Erin was upset her father would now be in another state from myself, complicating holidays, etc. in the future. Due to her head injury her emotions were like a roller coaster and it was tough to see and stressful to try and help. I immediately had returned to work after her discharge. I did not drink during this time.

The jeep accident had become a touchy situation as there was going to be a liability issue with her head injury and medical bills. I was still working, helping her look at scholarship offers, colleges, and getting makeup work done. Tons of emails, documents, etc. regarding two accidents, school, and trying to sell my house while working full time and being compliant with PHP.

During this time I was still doing the 5 meetings a week, Caduceus every other week, therapy twice a week and seeing my psychiatrist in person or by phone every other week. I was going to work, some days leaving the house at 615 am to make a

630 meeting patients at 800, work thru lunch, patients, other nights tacking on the meeting at night. I went to therapy two nights a week after work. I made dinner sometimes as late as 8pm for Erin and clean house by staying up all night like an intern as there was no other time to prepare it for realtor showings. I then worked all through the next day without sleep.

That is why I called the physician's committee on 2/7 to apply to get my meetings reduced. I knew I was doomed to fail...I couldn't keep it up. Maybe I shouldn't have...I don't know, but I knew I would be out of compliance soon as I couldn't keep up my schedule. That weekend I drank leading to the positive test.

2/12/14 was National Signing Day for college sports. Erin signed with a school in North Carolina. Her father and his wife also were on stage with her, as was I. Really took away from such a neat day for Erin. I was sharing the stage with my previous husband and his wife and my daughter. It was surreal. The news, the school, the tv station all were there as it was a big deal. There was also the realization she was going far away for the next four years. As a college athlete, she would now only come home at Christmas. We are very close.

The next day I received an offer on my house. I then realized I was moving by March 31, I had to find a smaller house in the next six weeks (hard with bad credit), move, still somehow buy Erin a used car, continue to deal with her two accidents, one possibly a legal situation. I ended up having to take out of my retirement with penalties to purchase a car. More craziness is we were notified the jeep drivers insurance said that ERIN was at fault as she was 18 and the girl was 17 and Erin should have never stood on the car. I will have to get a lawyer as our medical insurance is saying the driver should pay.

Thus, all of this led to my drinking Tuesday night. Of note, I did meet with my sponsor over the weekend for three hours to do Step work.

I really am trying to do anything I can.

My practice is very busy now. I have found a house and my long

term bank is willing to lend me the money. Erin has a partial scholarship for cross country so a lot of that stress is over.

I will move March 31 into a new house and am taking off that whole week so I can handle it. Several members of AA are helping me pack and move which is a relief.

What do you recommend I do next? Do I need to meet with Dr. Nemeth? Do I meet with my monitoring committee? I am scheduled to meet with them but not until May as I just saw them. Please call me if you can. I have patients of course but I will watch my cellphone and try and slip out. I really will do what is necessary to prove I am serious. Even before this I had joined at Step group for intensive study of the AA literature on Tuesdays at 8pm to try and help me get a better handle on the teachings. I have talked with my sponsor and therapist today and my sponsor and I are going to touch base daily.

Please let me know what I need to do next and also what can I expect in the process?

Thanks.”

2/20/2014: “Positive” PEth test result (66 ng/mL).

2/21/2014: Participant submitted the following update regarding her new medications:

“Michael,

Important info I left out of my last email is that I was put on a new medication on 2/12 by Dr. Hauser for all the anxiety and depressive symptoms I have had through this. LATUDA 20 mg one at bedtime and he raised my Vyvanse to 40 mg twice a day.

I called him on 2/17 as I still was having symptoms. He added FLUOXETINE 20 mg daily.

*I am now on Pristiq 200mg at bedtime
Latduda 20 mg at bedtime
Neurontin 900 mg at bedtime*

*Lithium 900 mg at bedtime
Prozac 20mg in the am
Vyvanse 40 mg twice a day for HTN
Losartan 40mg daily
Immetrex 100 mg prn migraine
Celebrex 200mg daily for disc disease*

I also was diagnosed with hypertension in the middle of all this and was started on LOSARTEN 40 mg every morning by Dr. Julian as well as CELEBREX 200mg due to the recurrent back pain.

I am due to see him next month for my quarterly review.

I am alert and functioning. I am having no side effects and am working seeing 12-16 patients a day. I have never had a malpractice claim, complaint, etc. about me ever in my career.

I have not missed a day of work due to depression or alcohol. I am now caught up on my bills except embarrassingly I did not pay PHP recently as I did not have the money. I do now and will be mailing it today (300.00).

In the past week I have taken one dose of Phenergan as a recent migraine made me extremely nauseous.

Please let me know if you need anything else.”

2/27/2014: Tested “positive” (expected) for Amphetamine (2184 ng/mL).

3/5/2014: TXPHP Medical Director met with the participant in person and recommended that she undergo a 96-hour evaluation.

3/6/2014: Tested “positive” (expected) for Amphetamine (11021 ng/mL).

3/12/2014: Participant submitted the following update regarding her medications:

“Michael,

I am now on some different medications. The details would not fit on the cover sheet for the month of February. I saw Dr. Hause, my psychiatrist, r on 3/5 and he changed them at that time. I will see him again today and will let you know if there are other changes. He will complete my quarterly report after today's visit.

Currently I am on:

*Rozerem 8 mg qhs
Pristiq 200 mg qhs
Prozac 20 mg daily
Vyvanse 50 mg 1 bid
Neurontin 1800 mg qhs
Lithobid 900 mg qhs
Losarten 50 mg daily for blood pressure
Mobic 15 mg daily for back pain*

I saw Dr. Julian last week (my PCP) and he completed the quarterly report. Please let me know if you did not receive it.

I see Dr. Warren, my therapist, on Monday and will have him send his report. He is out of town on spring break so I am not seeing him this week.

I called Belinda Claire with the Travis County Medical Society monitoring committee. She stated it made no sense to meet with my committee until I had my evaluation with the Gabbard Center. I saw my monitoring committee in January and February but I don't think a quarterly report was generated. Thus, that one will be missing for the first quarter. I did talk to Dr. Vache by phone.

I mailed half of the fee this morning for the Gabbard Center as the dates aren't officially set until they receive my deposit. This cost is such a financial struggle for me. I hope it will be enough for the PHP to see that I am a competent, functional, excellent physician, and not in any way shape or form, unsafe to practice medicine. My patients mean the world to me and never have I endangered them or put them at risk. I am seeing patients 10 hours a day. There is a shortage of psychiatrists in Waco. I work

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| <p><i>hard to see new patients and manage my practice. NOT having me practice abandons these patients and worsens the shortage of psychiatrists. I hope the correct decision is made.”</i></p> <p>3/28/2014: TXPHP Governing Board recommended that the case be emergently referred to TMB due to non-compliance.</p> <p>TMB Executive Director accepted the emergent referral.</p> <p>4/3/2014: Tested “positive” (expected) for Amphetamines (577 ng/mL).</p> <p>4/8/2014 – 4/10/2014: The participant underwent an evaluation at The Gabbard Center in Houston, TX.</p> | | | |
| | REMAIN WITH PHP | TMB ACCEPTED | CONTINUE |
| <p>4. 13-0244</p> <p>License Type: M.D.</p> <p>(Pulmonary Diseases / Critical Care Medicine)</p> <p><u>Background:</u></p> <ul style="list-style-type: none"> • Referral Type: Self • Referral Date: 4/17/2013 • Referral Reason: Substance / Psychiatric (Alcohol / Bi-polar Disorder) • Sobriety Date: Unknown • Drug(s) of Choice: Alcohol • Agreement Term: 4/26/2013 – 4/25/2018 <p><u>Issue(s):</u></p> <p>Non-compliance due to “positive” EtG/EtS, PEth and Soberlink test results.</p> <p><u>Findings:</u></p> <p>5/28/2013: Tested “positive” (expected) for Desmethyldiazepam</p> | | <p>This case had an interim referral and was returned to the jurisdiction of the Texas Medical Board for action prior to this meeting.</p> | |

(284 ng/mL), Oxazepam (1087 ng/mL), Temazepam (788 ng/mL) and 7-Aminoclonazepam (114 ng/mL).

6/17/2013: "Negative" PEth test result (post-waiver).

6/19/2013: Tested "positive" (expected) for Desmethyldiazepam (212 ng/mL), Oxazepam (695 ng/mL), Temazepam (619 ng/mL), and 7-Aminoclonazepam (127 ng/mL).

7/8/2013: Tested "positive" (expected) for Desmethyldiazepam (332 ng/mL), Oxazepam (732 ng/mL) and Temazepam (740 ng/mL).

7/29/2013: Tested "positive" (expected) for Desmethyldiazepam (186 ng/mL), Oxazepam (288 ng/mL) and Temazepam (378 ng/mL).

8/19/2013: Tested "positive" (expected) for Desmethyldiazepam (336 ng/mL), Oxazepam (726 ng/mL) and Temazepam (737 ng/mL).

8/21/2013: Tested "positive" (expected) for Desmethyldiazepam (565 ng/mL), Oxazepam (2500 ng/mL) and Temazepam (1872 ng/mL).

9/26/2013: Missed test.

10/8/2013: Tested "positive" for EtG (3877 ng/mL) and EtS (1092 ng/ml) and "positive" (expected) for Oxazepam (166 ng/mL) and Temazepam (165 ng/mL).

10/15/2013: Participant provided the following explanation regarding the 10/8/2013 "positive" test result:

"Dear Dr. Nemeth and Dee,

I thought a letter to explain multiple things might shorten whatever crying episode I get into during upcoming conversation with Dr. Nemeth, as well as clear the air about several things I've done. I'm unhappy about them, and not proud, but there are at least unfortunate extenuating circumstances, most of which Dee

has known about or guessed, and has tried to help me work through. In truth she has been one of the only people I can talk freely to and I absolutely love her for it.

As you know I have been bipolar apparently all my life. At least first major depression very early--unrecognized in a third grader in the 1960's. To be brief, I got worse over time but accomodated until I got obviously sick enough at age 38 to be persuaded to see a psychiatrist, be diagnosed, and put on meds which helped substantially. However, over the 20 years between college and age 38, I, like so many bipolars, learned to self medicate, specifically with alcohol. Even on meds my habit was now ingrained and I continued to drink too much. My new psychiatrist and I were addressing this when the events of March happened. Looking back I think a constellation of things happened which would have simply been stupid if I had not happened to go to work late that Saturday.

I had taken hydrocodone in the past for one bad back strain years ago, and a couple of short flare-ups in the years since. I also took it after a bad car crash last Fall which left me one head to feet bruise. I had never had any trouble with it. But, I learned when I was on it my bipolar was "calmer" and so self-medicated with it for that sometimes. Once I got a new, much better, much more observant psychiatrist who noticed my overlying anxiety and put me on Klonopin, weeks later I literally thought, "When was the last hydrocodone I took?" and couldn't remember even though I had some.

The next one I took was the day I was found by the nurses so sleepy and initially incoherent: I had a very bad sinus headache which didn't ease with multiple sinus meds and so took my first hydrocodone in months. I wondered why it hit me so hard and initially thought my tolerance was just way down, but later realized that in the interim I had been put on Klonopin (anxiety) and Valium (night time leg cramps--dose since decreased substantially). I had never taken Hydrocodone with benzos hence probably the excessive sleepiness. If you will remember I told you--and this can be confirmed with my colleague, the ICU director, Dr. Mueller, whom I called that night--once I stood up and walked around a minute or so I was awake and in fact went

right out and drove myself home. I emphasize: I would not have and did not round on patients that night because I realized I was far too sleepy. That was puzzling to me but that was exactly why I went into a little private room to sleep it off. Anyway, Dr. Mueller and I decided it was appropriate for him to come in and round for me, I slept the night, and was fine and up rounding at 9:00 the next morning with a full day. Dr. Mueller checked on me that morning when I got to work and was satisfied I was fine.

You know the rest up till recent weeks basically. I got into your program in April and have done fine with it until now. I have been finally stabilized on good medicines, I'm at work and doing well every day, energetic, back to my hobbies, feeling good.

Then, Dr. Nemeth, as Dee has told you and documented, my practice started losing money to the tune of not being able to pay bills, just barely paying rent and payroll, paying but always behind on bills otherwise. I have been paid through June of this year. I have been basically a volunteer doctor from June until now, October, with no clear end in sight. I am currently working for free, or was: I finally couldn't work for free any longer and had to borrow against my mother's and my husband's retirements to the tune of several tens of thousands of dollars. I kept trying to get details on what the problem was, but unfortunately all of this happened during the hot summer months, traditionally our slow time, so my billing person just kept telling me we weren't seeing enough patients. Being bipolar and having felt sick and stupid and unnatural and paranoid most of my life I assumed the problem was me and just kept trying to work harder. I finally walked in the Tuesday after Labor Day, was handed a list of \$16,000 bills we were over a month behind on, had \$5000 in rent due that week, had \$7000 in payroll due in three days, no money for me still, and \$1500 in the bank. I decided we simply could not keep spiraling down and announced I was closing, out of business. We would pay the rent one month and close out the charts and use whatever money dragged in to gradually pay off bills. I left the office hysterical although feeling finally like an inexplicable weight was off my shoulders. I was going to have to get my urine tested that day but called Dee crying but laughing saying, "Look, I can't even pay for this test and I am going to give up my medical license and get out of the field if I can't make it as

the kind of doctor I want to be". She kindly put me on hold in the program to let me get things tied down. I called the attorney to file for bankruptcy and drafted a letter to the board giving up my license. Three days later my husband said you are a doctor, what are you going to do? He said if you've not gone broke in 14 years you won't now. I knew this was truly advice with no "meat" behind it but got out of bed and went back and re-opened my practice. A little damage control and we were back in business because word had really not gotten around much yet. As I said above I borrowed lots of personal money (the bank with whom I've had a 2 decade relationship refused to loan me money because I didn't have enough money to be credit worthy. Huh?) Finally after I got my business brother in California to help look into what seemed inexplicable to me we found out MC had changed my NPI number from a solo practice to a group practice so we were billing incorrectly and they weren't paying, which of course means the secondaries weren't paying either. I did not know any of this despite multiple, mutiple increasingly frantic inquiries because my endlessly cheerful and optimistic billing person considered that "billed and on the way sometime" was fine and so wasn't concerned with it. She was just trying to tell me why day to day it looked bad--"we weren't seeing enough patients". That is the best I can do to explain her behaviour because I do not understand it and am trying to put it behind me. The money is dribbling in, we are seeing enough patients, but so far we're still working on borrowed money and I am not getting paid. My husband and I bounced our VISA card bill narrowly this month, and, as I told Dee, unexpectedly we are now considered distressed homeowners' because of the strong possibility we will get behind on mortgage payments in Nov or Dec! Wow, I'm finally part of the welfare state!

Now to summarize the effect on me: I called Dee and cancelled one urine test--which would have been fine--because I was hysterical, broke, and quitting medicine. I reopened against all evident odds and one weekend at home alone for a weekend I slit my wrist. After watching about two pints spurt from my left radial artery into the sink and all over the floors and walls, I decided, OK, I could in fact kill myself but really didn't want to and so put a pressure bandage on it, cleaned up the blood, and went to bed because I was having trouble standing up.

The next weekend I decided to drink some instead, the one you caught October 8. I understand you are going to order a Peth but I freely admit I was drinking. I am not now, taking all of this just a day at a time.

To cover, so to speak, what I consider a less important (to me) item but important to you: I missed a test in late September. Didn't have time for my usual early run to the lab and so thought I'd make a quick run at "lunch", and then it "suddenly" was ten to five and I was too late and still seeing patients. Dee tells me I should have called and we'd have gotten a late test done somewhere. I failed to know that. I thought if I missed it by 3:00 pm it was over and considered a ding against me.

Long letter, but will save long distance bills when you call. Sincerely."

10/16/2013: "Positive" PEth test result (326 ng/mL).

10/17/2013: Missed check-in and did not provide test specimen.

10/18/2013: Tested "positive" for Oxazepam (420 ng/mL) and Temazepam (400 ng/mL).

10/22/2013: Desmethyldiazepam (235 ng/mL), Oxazepam (586 ng/mL), and Temazepam (558 ng/mL).

10/24/2013: TXPHP Medical Director requested that the participant undergo a 96-hour evaluation within the next two (2) weeks.

11/5/2013: Desmethyldiazepam (165 ng/mL), Oxazepam (464 ng/mL), and Temazepam (536 ng/mL).

11/12/2013 – 11/15/2013: Participant underwent a 96-hour evaluation at EnterHealth located in Van Alstyne, TX.

TXPHP Medical Director reviewed the 96-hour evaluation report, and no further action was taken.

11/25/2013: Desmethyldiazepam (377 ng/mL), Oxazepam (1334 ng/mL), and Temazepam (985 ng/mL). 7-Aminoclonazepam was reported as “negative.” In addition, test results were considered “invalid” due to LC/MS/MS Interference.

12/2/2013: Desmethyldiazepam (322 ng/mL), Oxazepam (287 ng/mL), and Temazepam (455 ng/mL).

12/27/2013: Missed test.

1/2/2014: Desmethyldiazepam (255 ng/mL), Oxazepam (763 ng/mL), Temazepam (670 ng/mL), and 7-Aminoclonazepam (178 ng/mL).

1/22/2014: Test resulted in “low creatinine” (12.8 mg/dL; SG: 1.004).

1/27/2014: TXPHP Medical Director requested that the participant undergo a PEth test.

1/28/2014: “Positive” PEth test result (271 ng/mL).

2/13/2014: Desmethyldiazepam (443 ng/mL), Oxazepam (1027 ng/mL), Temazepam (1241 ng/mL), and 7-Aminoclonazepam (300 ng/mL).

2/19/2014: Desmethyldiazepam (141 ng/mL), Oxazepam (424 ng/mL), and Temazepam (343 ng/mL). However, test notes from the certifying scientist indicated that they were “unable to complete testing due to unknown interference.”

2/11/2014: Participant submitted the following response regarding the “positive” PEth test result:

“Dee: while our conversation was fresh on my mind I thought I'd write out what I told you. Excuse me if it turns out a little disjointed because I'm writing it to get it to you, but in bits between patients.

First, actually with regard to the last thing you mentioned--the dilute urine that precipitated the PEth. That day I had to go and

be back from the lab in a huge hurry because of a very full office schedule. I usually allow enough time (if you can tell I check in basically as soon as possible each morning to plan) in the mornings to get to the lab before work rather than miss work. I tend to some days drink a lot of water and "go" all day, other days I drink practically nothing and don't realize I'm not "going". One time I went to the lab and could only go a few cc's and so had to sit in their lobby forcing water for over an hour before I could produce just barely enough urine. The day the dilute urine was done in January was a day I absolutely could not afford to not be in and out ASAP, so I forced water for some hours before the lab. I remember because I'd forced so much I got to the lab and needed to go immediately and was afraid I couldn't hold it if there was much of a delay. I commented as much to the tech.

The PEth I have no idea. I agree the little candies with liqueur are likely not enough explanation although I don't know much about the test. Reading studies on the Internet last night the amounts of alcohol picked up were described as all over the map. Definitely wouldn't want to try to predict that one. All I could think of--and I worried at the times I did it but was a little desperate--were the times I used the spray glue I told you about. I haven't looked but don't think the glue had alcohol in it, but I did a lot of (hours) work with it over my kitchen sink on several occasions a few days before Christmas and then well into January and right up to this last weekend. The glue was new to my crafting and I panicked when I couldn't get it off anything with my usual measures. I'd scrubbed my hands several times with an abrasive cleaner kind of like Soft Scrub, no alcohol in it, and then had resorted to the 91% propyl alcohol which I tried to use sparingly and rinse off quickly. It did not work well and I spent considerable time over the sink inhaling the fumes several times. I then had to clean the sink similarly as I had let the glue build up thinking I would just clean it all at once one time. That's all I could think of. Since I talked to you and you said the test suggested more ingestion than inhalation, I did think of eggnog we had with friends after Christmas as we'd missed their holiday open house. I did not think at the time there would be alcohol in it because, while we've known them for years as drinkers, one time last year they had a party with no alcohol and I'd wondered idly if they'd given it up or if it was just a big get together and maybe financially or otherwise

they'd decided not to offer alcohol at that one. We've been around them since and there's been alcohol so the eggnog might have had some in it. I've/we've been so hyper vigilant about products (mouthwash, sunscreen, vanilla) that letting an actual encounter with some alcohol in a drink might have slipped by through habit or obvious negligence. That alcohol in a flavored drink would not be as obvious as picking up blatant alcohol in a bottle and pouring it. Otherwise, we were at people's houses and a couple of appetizer-type open houses, along with the multiple gifts from everyone doctors get at Christmas, most of which we try and eat (or discard!) after Christmas over time. I do not remember anything specific with alcohol except the candies, but there were definitely homemade cakes, ? alcohol on or in them from and with friends.

As I told you, I struggled but did fine and it got easier not to drink over the first six months of the program. I fell off under strong stress and in a tempting environment and suffered highly, especially financially which, as you know, hurt me badly at work (still is). I got back up on the wagon as they say, and quite honestly it continues to get easier. I appreciate that development even if I wish I could have done it by myself. I know I feel better, have more energy, have more drive, off alcohol, and am to the point I do not think about it like I used to. I used to stop for some wine practically every day, even after I gave up hard liquor knowing I drank too much of it when it was available. Now I get home and occasionally realize I didn't even think about stopping for wine despite driving by the same two or three stores I always could stop at. I admit I avoid situations where I can when others are drinking because it's annoying to have it in front of me. Like I told you: I don't agree randomly to dinner out often because we used to drink. I'll go occasionally and my family has maybe one drink around me or drinks water. My husband really doesn't drink much anyway, so he tries to just go out with friends occasionally after work if he wants a drink or two. These days I'm more annoyed by cigars on his breath than alcohol.

I have practically quit going to the "farm" which was where I drank last October. This has been traumatic for the family because coincidentally with this enforced sobriety in my life, the in-laws came into some money and my husband and his brother

have been out there fixing things weekend after weekend. My husband wants me to come because we used to go there and have fun, getting away together on weekends. But everyone in his large extended family--plus many hometown friends coming by--drink. Some a lot, some a little, but I think I am the only one drinking water or ginger ale. As I told you, that kind of exposure got very old and after the obligatory trip at Christmas I've made my husband go alone. I've told him it's just too much temptation and takes the fun out of it for me. I am able not to drink but to do so I basically hide in the bedroom reading and watching movies. I enjoy this but everyone bothers me wanting to know where I am, why I am being anti-social, etc. This has had a somewhat detrimental effect on my (very strong) marriage because it is pulling my husband two directions. Nevertheless, until I get even more oblivious to alcohol this is just how it's got to be. We've talked about strategies and agreed he'll go out there a little less, and if I do go I'll take my own car so I can be there but for a limited time. Like leave before the inevitably big Saturday night BBQ. I tell you all of this to emphasize how hard I and we are working at this. Plus the part about how I've realized I feel much better after months of not drinking. I do not know any other way to emphasize my inability to explain the PEth. My understanding from my reading is that it is not metabolized, it has to go away slowly as red cells are replaced. Based on my having given up on the whole glue project for now--I had actually packed it up Sunday, just before you called and after I'd last worked on it Saturday--and based on my not knowingly having had any actual alcohol consumption, can we do another PEth in what the Internet says is sort of an expected recovery time of 3-4 weeks? I expect Dr. Nemeth knows that fully as well as I, but just thought I'd say it. Thanks."

2/12/2014: TXPHP Medical Director recommended that the participant undergo inpatient treatment.

Participant stated that she would have to close her practice if she was required to go to inpatient treatment. She asked that we consider allowing her to go to an Intensive Outpatient Program (IOP) instead, and advise that she would even be willing to do daily urine drug screens and attend more 12-Step/Caduceus meetings if the TXPHP Medical Director would allow this.

3/8/2014: Participant provided a “positive” (.007 BrAC) breath specimen via Soberlink.

3/10/2014: Participant submitted the following response regarding the “positive” breath specimen:

“I sent emails to Mary immediately but she suggested I send to you as well:

We (husband and I) had dinner out with my brother, mother, and daughter in Fort Worth Saturday night. Very hurried and harried because it was my mother's birthday, we were helping her move, plus we needed to go back and finish stuff before my brother had to leave town. I am dieting so ordered soup and salad only. Water. No one at table drank. We left restaurant right after dinner, about 8:25, and I blew immediately when text went off at 8:47 so I could get it done, not forget, and get back to work. Just about had a heart attack when it said "alcohol detected". While waiting to re-blow I looked up menu on Internet. New restaurant for me. Apparently I'd ordered salad with vinaigrette but didn't know or didn't see vinaigrette had champagne in it. Second blow at 30 min negative. Am forwarding screen shot of menu item. Hope this clarifies. I think my blowing the very first minute I could (text came through at 8:47) supports I had no idea I'd consumed alcohol.”

3/11/2014: TXPHP advised the participant that it was her responsibility to carefully screen all food and beverages to avoid incidental exposure. Also, participant was advised that there is “zero tolerance” for any further non-compliance.

3/17/2014: Missed check-in and did not provide test specimen.

3/21/2014: Participant provided a “positive” (.007 BrAC) breath specimen via Soberlink and provided no explanation. Subsequently, participant submitted another “positive” (.006 BrAC) breath specimen via Soberlink.

TXPHP Medical Director recommended that the participant enroll in an Intensive Outpatient Program (IOP), increase 12-

Step/Caduceus, increase Sobelrink testing to three (3) times per day, and undergo quarterly nail tests in lieu of UDTs.

3/22/2014 – 3/23/2014: Missed all three (3) scheduled tests via Soberlink.

3/24/2014: Missed check-in and did not provide test specimen. Participant contacted TXPHP via telephone and stated that she believed the “positive” Soberlink test results was due to the consumption of two (2) ice cream bars which contained caramel. Also, the participant advised that after the “positive” Soberlink test results, she checked that ice cream wrappers and noted that the caramel topping contained vanilla extract. The participant stated that she can no longer endure the requirements of the program and would be closing her practice. Additionally, she stated that in frustration about the “positive” Soberlink test results, she drank the previous night (3/23/2014).

Ultimately, the participant called TXPHP at the end of the day and stated that she’d talked it over with her husband and decided to remain in the program. TXPHP Medical Director recommended that the participant undergo an immediate PEth test.

3/25/2014: Missed check-in and missed PEth test. In addition, participant provided a “positive” (.103 BrAC) breath specimen via Soberlink. No follow up re-test was submitted via Soberlink. TXPHP contacted the participant and was advised that she come into compliance by continuing to test via Soberlink and Recovery Trek.

3/26/2014: Participant contacted TXPHP and advised that she did not consume anything the entire previous day (3/25/2014), therefore, she has no idea why the 7:00am Soberlink test was reported as “positive.” Furthermore, she stated that she is afraid to test with the Soberlink any longer, as she does not trust it. The participant requested that she be allowed to return to provide urine drug screens.

3/26/2014: Missed check-in and did not provide test specimen.

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| <p>3/27/2014: Missed check-in and did not provide test specimen. Participant responded to TXPHP’s request to provide a urine specimen at the nearest collection site. TXPHP advised the participant that she would be taken off Soberlink and will resume urine drug testing at 48 tests per year. In addition, the participant was advised to undergo a PEth test.</p> <p>Participant contacted TXPHP and stated that she would not be able to provide a urine drug screen until Monday, 3/31/2014. Further, the participant stated that she would not be able to undergo a PEth test for a while because it would be “positive” due to the consumption of caramel in the ice cream bar she consumed on 3/21/2014.</p> <p>3/28/2014: Missed check-in and missed PEth test.</p> <p>TXPHP Governing Board recommended that the case be emergently referred to TMB due to non-compliance.</p> <p>TMB Executive Director accepted the emergent referral due to non-compliance.</p> | | | |
| | REMAIN WITH PHP | TMB ACCEPTED | CONTINUE |
| <p>5. 13-0345</p> <p>License Type: M.D.</p> <p>(Internal Medicine)</p> <p><u>Background:</u></p> <ul style="list-style-type: none"> • Referral Type: TMB • Referral Date: 8/9/2013 • Referral Reason: Physical (Right Hemiparesis; Cerebral Aneurysm; 2nd Stroke) • Sobriety Date: N/A • Drug(s) of Choice: N/A • 1st Agreement Term: 8/26/2013 – 3/16/2014 • 2nd Agreement Term: 3/17/2014 – no expiration | | <p>This case had an interim referral and was returned to the jurisdiction of the Texas Medical Board for action prior to this meeting.</p> | |

(retirement agreement)

Issue(s):

Neuropsychological evaluation revealed cognitive deficits that limit the participant's ability to fully practice medicine.

Findings:

10/23/2013: Psychiatrist, Christopher B. Ticknor, MD, reported the following after evaluating the participant:

"Impression:

Based upon a Folstein Mental Status Examination and an in-depth clinical evaluation, I find no mental or neurological limitations that would restrict the participant from practicing medicine. Obviously, he is not capable of performing procedures but in his practice, none are required. He was alert and fully oriented during a two hour psychiatric examination. At all times he was able to explain himself, his reasoning for making decision, and exercised good judgment. There are no signs or symptoms of alcohol or drug dependence and the participant has never had legal difficulties or substance abuse problems.

Conclusion:

I find no reason why the participant cannot continue to practice medicine under the circumstances that he is providing primary care for patients seeking recovery from alcohol and drug dependence and their associated primary care symptoms. The participant has no interest in attempting procedures nor would he be capable of performing them given the residuals of his stroke in 2010. I find no basis to recommend monitoring of the participant nor do I believe he warrants ongoing psychiatric treatment."

1/13/2014: Neurologist, Joshua Goldman, MD, opined that the participant's prognosis was "stable" and able to return to "limited practice."

1/24/2014: Participant underwent a Neuropsychological

evaluation with Russel Thompson, Ph.D, in San Antonio, TX. Report is currently pending.

The following email was sent to TMB from the participant's former employer:

"Ms. West,

Thank you for your attention to this delicate and sensitive matter. We are all concerned about the participant and his mental state/behaviors.

On December 2, 2013 at 7:15AM the participant called LVN, Denise Carnavale, at our New Braunfels clinic and asked if anyone there had been arrested. He was wanting to know who was handling the Methadone at that clinic and the one in San Antonio, claiming that a nurse was going to be arrested. I was present at that time and listened to the conversation that Denise had with the participant. He again called Denise at approximately 6:50AM on December 11, 2013 and asked if anyone had been arrested. He then proceeded to tell her that she or LVN, Bernadette Bouldin in San Antonio would be the ones to be arrested and incarcerated. He has on several occasions told staff at Bexar County Antabuse Program that he was going to be arrested soon and that the Clinic would need physician coverage, due to his absence. We are all concerned about the participant's statements, as they continue to be a testament to his impairment. Staff members are confused and feeling intimidated/threatened by his statements, for which I have had to give many reassurances.

We all wish the participant a speedy and welcomed recovery. Hopefully the Board will help guide him towards that.

*Respectfully,
Cesar A Garcia M.D."*

1/21/2014: Participant underwent another independent Neuropsychological Evaluation with Russel Thompson, Ph.D.

1/31/2014: TXPHP Governing Board recommended that the case

be followed-up at the next scheduled Governing Board meeting to discuss the findings of the subsequent independent Neuropsychological Evaluation.

2/5/2014: Received Dr. Thompson's final report:

Summary:

Participant is a 63 year old, right handed, married bilingual male who was referred for a neuropsychological assessment by the Texas Medical Board for a neuropsychological assessment as a part of an investigation into his ability to continue to practice medicine. An interview and brief cognitive and brief cognitive assessment by Christopher Tichnor in October 2013 found normal functioning.

An estimate of his premorbid intellectual ability indicated above average intellectual ability, consistent with his education and occupational attainment. His performance was below average in several important cognitive domains. In particular, I find that his expressive language, learning and recall, and deductive reasoning abilities are below average to mildly impaired. These deficits represent a decline from premorbid ability due to the stroke. It is most likely that he has achieved maximum recovery from the stroke and this time, and these abilities will not improve over time. His behaviors during testing provide a good illustration of the consequences of these deficits. He had to be given directions multiple times. He failed to follow cues given by the testing technician. He missed important details presented, and had difficulty interpreting visual scenes. He was unable to recite medication directions presented in a daily memory test.

Below average memory, language, and deductive reasoning are likely to interfere with the participant's ability to competently practice medicine. While the deficits are not so severe as to be called impairment, they do represent a significant decline from the previous level to a level below that of a prognosis for improvement is poor.

I spoke with the participant about these findings on 2/5/2014. He acknowledged that he gets more fatigued mentally and

physically. He does not feel that his cognitive abilities are otherwise limited. He has made the decision to restrict his work hours and to limits his practice to low-risk activities. At this point, he is only doing simple physical exams and managing patients on Antabuse therapy. He is not seeing any new private patients. He feels that this limited practice is safe, within his current ability to function.

Report Author:

Russel L. Thompson, Ph.D.”

3/27/2014: Psychiatrist, Christopher B. Ticknor, MD, provided a subsequent letter to serve as a second communication clarifying his original letter dated 10/23/2013. Dr. Ticknor states that he has reviewed the neuropsychological evaluation report from Clinical Psychologist, Russel Thompson, Ph.D., and indicated that they both recommend that the participant can continue to safely practice medicine based upon his knowledge, long-term experience and prior training.

Moreover, Dr. Ticknor stated that is was his “*opinion that given these parameters and the limitations that the participant readily accepts, that he can continue to safely practice medicine in his present circumstances.*”

3/28/2014: TXPHP Governing Board recommended that the case be emergently referred back to TMB.

TMB Executive Director accepted the emergent referral.

Total = 5