

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, SS.

BOARD OF REGISTRATION
IN MEDICINE

ADJUDICATORY NO. 2007-032

In the Matter of)
Thomas Ho, M.D.)
_____)

CONSENT ORDER

Thomas Ho, 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 CMR 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 No. 06-367.

FINDINGS OF FACT

1. The Respondent was born on February 9, 1977. He graduated from the University of California, San Francisco, School of Medicine, in 2003. In July 2004, he was granted a Limited License to practice medicine in Massachusetts under certificate number 222214. He began a residency in anesthesiology at Brigham and Women's Hospital (BWH) in July 2004.
2. The Respondent's Limited License was renewed in July 2005.
3. On December 22, 2005, the Respondent was discovered asleep during a surgery when he was the only anesthesiologist present in the operating room. The Respondent was under a great deal of personal stress and had taken a prescribed medication that caused him to doze off.
4. On January 12, 2006, the Respondent inhaled Isoflurane while on his lunch break from the anesthesia department of Children's Hospital. The Respondent was in the midst of a panic attack

and felt that he was going to die. After the Respondent was questioned by his supervisors regarding drug use, he submitted to psychiatric and drug screening. The Respondent was then placed on a voluntary leave of absence.

- 5. On February 27, 2006, the Respondent entered a chemical dependency monitoring contract with Physician Health Services.
- 6. The Respondent's Limited License was not renewed in July 2006.

CONCLUSIONS OF LAW

- A. The Respondent has violated G.L. c. 112, §5(d) and 243 CMR 1.03(5)(a)(4) in that he practiced medicine while his ability to do so was impaired by drugs.
- B. 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 limited license to practice medicine is hereby revoked, retroactive to June 30, 2006. The Respondent may not apply for any new license, either limited or full, until he can demonstrate at least fifteen (15) months of documented, continuous sobriety, as well as full compliance with his chemical dependency monitoring contract with Physician Health Services. The granting of any subsequent license, either limited or full, will be in the Board's full discretion and shall be contingent upon documentation of the Respondent's fitness to practice medicine, including but not limited to documentation of the required period of continuous sobriety and PHS compliance noted above. In addition, the granting of any such license may be contingent upon the Respondent's entry into a Probation Agreement with the Board, for a period of time to be

determined by the Board and with provisions requiring compliance with his PHS contract, clinical monitoring by a Board-approved monitor and certain restrictions, including but not limited to prohibitions upon his prescribing, distributing, dispensing, and administering of controlled substances. The terms of any future Probation Agreement shall be incorporated by reference into this Consent Order. Any violation of the terms of any future Probation Agreement shall constitute a violation of this Consent Order. This sanction is imposed for Conclusions of Law A and B 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 Complaint Counsel, the Respondent and the Respondent's 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 entire document shall be null and void; thereafter, neither of the parties nor anyone else may rely on these stipulations in this proceeding.

As to any matter 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 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 state licensing boards and Departments of Public Health of all states in which he has any kind of license to practice medicine; Department of Public Health Drug Control Program; and the Drug Enforcement Administration Boston Diversion Group.

The Respondent shall also provide this notification to any such designated entities with which he becomes associated for the duration of this retroactive revocation. The Respondent is further directed to certify to the Board within ten (10) days that he has complied with this directive.

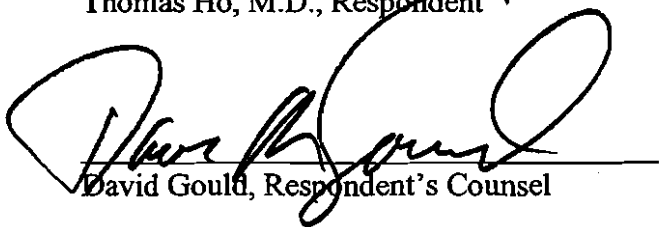
The Board expressly reserves the authority to independently notify, at any time, any of the entities designated above, or any other affected entity, of any action it has taken.



Thomas Ho, M.D., Respondent

6/28/07

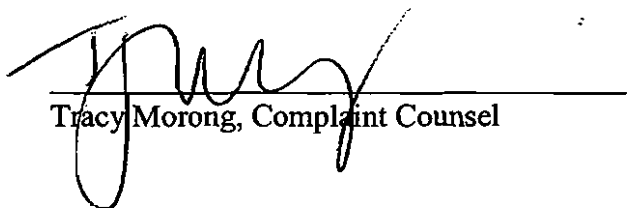
Date



David Gould, Respondent's Counsel

6/28/07

Date



Tracy Morong, Complaint Counsel

6/28/07

Date

Accepted by the Board of Registration in Medicine on this 25th day of July, 2007.



Martin Crane, M.D.
Chairman

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, SS.

BOARD OF REGISTRATION
IN MEDICINE

ADJUDICATORY NO. 2007-032

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_____)
 In the Matter of)
)
 Thomas Ho, M.D.)
 _____)

STATEMENT OF ALLEGATIONS

The Board of Registration in Medicine ("the Board") has reason to believe that Thomas Ho, M.D. ("the Respondent") has 1) violated G.L. c. 112, §5(d) and 243 CMR 1.03(5)(a)(4) in that he practiced medicine while his ability to do so was impaired by drugs; and 2) 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).

BACKGROUND

1. The Respondent was born on February 9, 1977. He graduated from the University of California, San Francisco, School of Medicine, in 2003. In July 2004, he was granted a Limited License to practice medicine in Massachusetts under certificate number 222214. His Limited License was renewed in July 2005.

FACTUAL ALLEGATIONS

2. The Respondent began a residency in anesthesiology at Brigham and Women's Hospital (BWH) in July 2004.

- 3. On December 22, 2005, the Respondent was discovered asleep during a surgery when he was the only anesthesiologist present in the operating room.
- 4. On January 12, 2006, the Respondent inhaled Isoflurane while on his lunch break from the anesthesia department of Children's Hospital.
- 5. On February 27, 2006, the Respondent entered a chemical dependency monitoring contract with Physician Health Services.

LEGAL BASIS FOR PROPOSED RELIEF

The Board may discipline a physician upon proof satisfactory to a majority of the Board that said physician has violated G.L. c. 112, §5(d) and 243 CMR 1.03(5)(a)(4) in that he practiced medicine while his ability to do so was impaired by drugs.

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, 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).

The Board has jurisdiction over this matter pursuant to G.L. c. 112, §§5, 61, and 62. This adjudicatory proceeding will be conducted in accordance with the provisions of G.L. c. 30A and 801 CMR 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 also order, in addition to or instead of revocation or suspension, one or more of the following: admonishment, censure, reprimand, fine, the performance of uncompensated public service, a course of education or training or other restrictions upon 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,



Martin Crane, M.D.
Chairman

Dated: July 25, 2007