



IN THE MATTER OF:
Paul Bowary, MD
License No.: MD 17092
Case No.: C20-1404

CONSENT ORDER

Paul Bowary, MD ("Respondent") is a physician licensed pursuant to R.I. Gen. Laws 5-37-1 *et seq.* and holds license number MD 17092. Respondent enters into this Consent Order pursuant to which a Voluntary Agreement Not To Practice Medicine ratified by the Board of Medical Licensure (the "Board") on October 15, 2020, will be vacated and he will be allowed to resume practicing medicine under the terms and conditions set forth below.

FINDINGS OF FACT

1. Respondent is a physician, licensed to practice in Rhode Island under the above-referenced medical license.
2. Respondent was initially licensed to practice as a physician in Rhode Island on or about April 28, 2020.
3. On October 15, 2020, the Board ratified a Voluntary Agreement Not To Practice Medicine signed by Respondent on October 14, 2020 (the "Agreement"), pursuant to which Respondent agreed to not practice medicine until certain issues concerning his United States Medical Licensing Examination (USMLE) Step 3 Examination had been resolved.

4. Section 1.5.4 of the rules and regulations for the Licensure and Discipline of Physicians (216-RICR-40-05-1) (the "Regulations") provides that applicants must successfully pass a written examination, of which the USMLE is one of several options acceptable to the Board.
5. On or about September 23, 2020, Respondent had been advised by USMLE that a USMLE Committee for Individualized Review (CIR) had concluded that the USMLE Step 3 Score Report submitted by Respondent was not authentic or accurate.
6. Respondent challenged the CIR's determination, but, on February 12, 2021, a USMLE Composite Committee denied Respondent's appeal of the CIR decision.
7. In March 2021, Respondent commenced a lawsuit (the "Lawsuit"), subsequently removed to United States District Court for the District of Rhode Island, against USMLE, the National Board of Medical Examiners (NBME), and the Federation of State Medical Boards of the United States, Inc. (collectively, the "Defendants") in which Respondent contended, among other things, that the Defendants had wrongfully concluded that Respondent had submitted a Score Report of the results of Respondent's USMLE Step 3 Examination that was inaccurate or inauthentic.
8. On August 30, 2021, a Judge of the United District Court for the District of Rhode Island issued an oral order partially granting Respondent's motion for a preliminary injunction. The Court's order, which will be reduced to a written order, vacates the decisions of both USMLE's Composite Committee and the CIR. The Court found that Plaintiff has demonstrated a likelihood of success on the merits of his claim that Defendants breached their contract with Plaintiff. The preliminary injunction also requires USMLE and its affiliates to conduct a new CIR proceeding and to provide the Respondent with the

procedures set forth in USMLE's Policies and Procedures and further orders that Respondent's matter shall be heard *de novo* by the CIR after he has been provided with various USMLE materials and after he has been afforded an opportunity to submit materials in advance of the CIR meeting.

9. On or about October 18, 2021, Respondent supplied the Board with evidence that he passed another Board approved exam in satisfaction of § 1.5.4 of the Regulations.
10. Respondent has been offered employment as a physician by a Rhode Island-based behavioral health care provider subject to a removal of the Voluntary Agreement Not to Practice Medicine.

Based on the foregoing, the parties agree as follows:

1. The Agreement, including but not limited to the Voluntary Agreement Not to Practice Medicine, is hereby vacated in all respects.
2. Respondent is hereby authorized to practice medicine in Rhode Island on an unrestricted basis under the following terms.
 - a. Respondent admits to and agrees to remain under the jurisdiction of the Board.
 - b. Respondent has agreed to this Consent Order and understands that it is subject to final approval of the Director.
 - c. Respondent shall provide the Board copies of any final determinations reached by the USMLE's CIR or a Composite Committee, and any orders or judgments issued by any court in which Respondent is challenging any determination by USMLE, NMBE or any other Defendant. Not less than every 90 days, or as may be requested by the Board, Respondent further agrees to provide written updates to the Board on the status of the USMLE proceedings or the Lawsuit.
 - d. Respondent shall cooperate fully with any and all inquiries or investigations the Board may, in its sole discretion, take to verify Respondent's results and notification relative to Respondent's passage of the Board-approved written examination satisfying § 1.5.4 of the Regulations.
 - e. Nothing set forth herein shall prejudice or limit the Board from taking disciplinary action against Respondent if Respondent is found to have made any

misrepresentations concerning the USMLE, or if the Board determines Respondent acted to avoid any findings in the USMLE proceedings or fails to pursue the Lawsuit or the USMLE proceedings.

- f. If this Consent Order is ratified by the Board, Respondent hereby acknowledges and waives with respect to this Consent Order:
 - i The right to appear personally or by counsel or both before the Board;
 - ii The right to produce witnesses and evidence on his behalf at a hearing;
 - iii The right to cross examine witnesses;
 - iv The right to have subpoenas issued by the Board;
 - v The right to further procedural steps except for those specifically contained herein;
 - vi Any and all rights of appeal of this Consent Order;
 - vii Any objection to the fact that this Consent Order will be presented to the Board for consideration and review; and
 - viii Any objection to the fact that this Consent Order will be reported to the National Practitioner Data Bank and Federation of State Medical Boards and posted to the Rhode Island Department of Health ("RIDOH") public website.
- 3. If Respondent violates any term of this Consent Order after it is signed and ratified by all parties, the Director of RIDOH ("Director") shall have the discretion to impose disciplinary action pursuant to R.I. Gen. Laws 5-37-5.1 through 5-37-6.3, including immediate suspension of his medical license pursuant to and as permitted by R.I. Gen. Laws 5-37-8 and 42-35-14(c).
- 4. If the Director imposes further disciplinary action, Respondent shall be given notice. In the absence of any statutory or regulatory provision to the contrary, Respondent shall have 20 days from the date of further disciplinary action to request a hearing. In the event Respondent's license is summarily suspended, a hearing on such suspension shall be held within 10 days of the suspension, in accordance with applicable law. The Director shall also have the discretion to request an administrative hearing after notice to Respondent of a violation of any term of this Consent Order. The Board may suspend Respondent's license or impose further discipline as described above if any alleged violation is proven by a preponderance of evidence. Any administrative

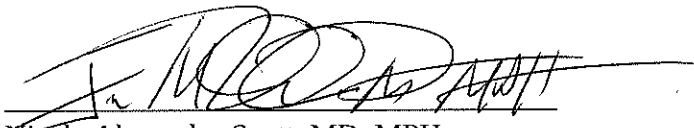
hearings, whether initiated by the Director or the Respondent, shall be conducted in accordance with R.I. Gen. Laws 5-37-5.1 through 5-37-6.3 and/or R.I. Gen. Laws 5-37-8 and 42-35-14(a), the Rules and Regulations for the Licensure and Discipline of Physicians (216-RICR-40-05-1), the Rules and Regulations for Practices and Procedures Before the Rhode Island Department of Health (216-RICR-10-05-4), and applicable provisions of R.I. Gen. Laws Chapter 42-35, including 4235-9 through 42-35-13. Any discipline ultimately imposed pursuant to this paragraph is appealable pursuant to Rhode Island Gen. Laws 5-37-37 et seq. and 42-35-15 et seq.

Signed this 18th day of October, 2021.



Paul Bowary, M.D.

Ratified by the Board of Medical Licensure and Discipline on the 19th day of October, 2021.



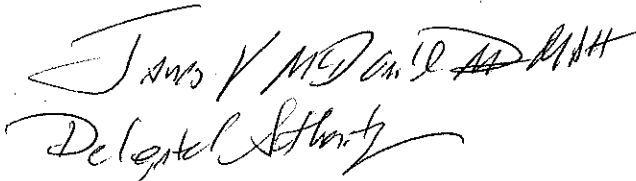
Nicole Alexander-Scott, MD, MPH

Director

Rhode Island Department of Health

3 Capitol Hill, Room 401

Providence, RI 02908



Delegated Authority

HB: 4814-8843-0335.1