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PSYCHIATRIC EVALUATION DR. MICHAEL LANGAN

DATES OF EVALUATION:

November 6, 2013 – with Dr. Langan
November 18, 2013 – with Dr. Langan
December 3, 2013 – meeting with Dr. Langan's wife

WARNINGS: Prior to the examination I informed Dr. Langan that I was evaluating him at the request of himself and the Board of Medical Licensure for Massachusetts. He understood that I was a psychiatrist; that I would be reporting my findings to the Board, and that whatever he communicated to me could be revealed to the requesting party, to counsel, in a deposition, in a hearing, at a judicial proceeding, at a trial, or to other authorized persons. I informed him that we were not entering into a physician/patient relationship and that I was not undertaking to treat him. He understood all of these statements and agreed to continue with the examination. Dr. Langan indicated that he understood the process. Dr. Langan's wife was also given the same warnings preceding one of the evaluations and also agreed to continue with the examination.

IDENTIFICATION: Dr. Langan is a 51-year-old, white, married man who presents for an evaluation of fitness to practice medicine pursuant to a request of the Board of Registration in Medicine for Massachusetts and his own request.

SUMMARY OF CONCLUSIONS:

The following is a summary of my conclusions to a reasonable degree of medical certainty. The conclusions are explored in greater detail in the body of the report, beginning on page 7.

(1) Dr. Langan is safe to return to the practice of medicine without further supervision.
(2) Dr. Langan has an excellent prognosis and a very low risk of relapse.
(3) Dr. Langan has not had an alcohol use, abuse, or dependence problem.

(4) The requirement that Dr. Langan attend AA and collect names and phone numbers of other attendees was inappropriate and in violation of AA norms and traditions.
(5) Even if AA attendance logs were not a violation of traditional treatment norms, the management of the logs was inappropriate.
(6) Even if the Board of Registration in Medicine decides that Dr. Langan requires additional treatment and supervision, PHS should not be involved in such supervision, because there has been an irremediable breakdown in the treatment alliance as a result of the actions of PHS.

HISTORY OF PRESENT ILLNESS:

Dr. Langan dates the onset of his current difficulties to approximately 2006, when he suffered shingles as a result of having been infected with chicken pox during medical school. At that time, he was prescribed Vicodin for pain. As he attempted to decrease the use of his Vicodin as his shingles symptoms subsided, he noted that he had withdrawal signs and symptoms. He described them as "like the flu." He would attempt to stop using Vicodin, but after 48 hours he "felt horrible." He consulted John Knight at Physicians Health Services, and at first rehabilitation was suggested, but they decided that he did not need it. However, he continued with intermittent use of Vicodin that was not at first detected during routine monitoring. After beginning work with the Physicians Health Service, he did not acknowledge that he was continuing to have difficulty withdrawing from the Vicodin and was continuing to use it no more than once a day at bedtime. He willingly went to rehabilitation upon disclosure of his using of the medication.

In January of 2007, he went to rehabilitation at Talbott in Georgia for approximately three and a half months. At that time he was given suboxone for approximately four days and withdrew over the next three days. He reports that after that withdrawal period, "it was over." By that he meant that he has never returned to opiate use. In April or May of 2007, he returned to work and began seeing Lauren Pollak at Mass General as well as a psychiatrist and a counselor.

Dr. Langan's discharge from Talbott is remarkable for two factors. One factor is a diagnosis of alcohol dependence, without any supporting history or evidence of withdrawal. The second is the multiple descriptions of his personality functioning based upon psychological testing. Subsequently, after a complaint to the Georgia Psychology Board, his MMPI results were amended. Dr. Langan reports that he worked with a neuropsychologist for testing after returning to Boston, and it was as a result of consultations with the neuropsychologist that the misinterpretation and misrepresentations were discovered.

He was informed that the board would like him to take naltrexone, so he complied. At that time, it was reported that his urine was positive for an opioid metabolite, and he was sent to McLean Hospital.

In January of 2008, it was reported that Dr. Langan had a positive toxicology screen for oxycodone (oxymorphone?) and a positive hair test for oxycodone. Dr. Langan contends that these were false positives, in part because his hair was over 15 cm long and could have reflected use prior to the beginning of his sobriety. While at Talbott, Dr. Langan had "an observed urine

drug screen … which was negative for all tested substances. Ethyl glucuronide was negative. A 12-panel hair screen for drugs obtained on 3/26/08 was also negative."

Dr. Langan participated in the McLean ambulatory treatment center at Naukeag beginning on 6/20/08, with a discharge on 7/16/08. A letter from Raymond S. Levesque, LICSW, to PHS addressed the positive urine screen issue, stating:

> "The third area at issue is the positive urine screen, which is far less sure than other issues with Dr. Langan. It is unclear what to make of this screen, and my thoughts run in the following direction. The ability of this test to be certain are confounded by issues on both sides of this, such that it is probably not possible for us to ever know for certain what this means. One thought is that this indicates one data point without any behavioral observation. In other words, what are the behavioral manifestations of use? Dr. Langan had a psychotherapy appointment on the day of the screen with no observation of uncharacteristic deportment. After this, he had two tests, nail and hair, that were negative. In general, we cannot say what this means, but it is one test in many, and if use was so out of control it would seem that Dr. Langan would have had some behavioral signs."

Dr. Langan was discharged on naltrexone, 50 mg daily.

In June of 2009, Dr. Langan had a random drug test that was positive for EtG at 550 ng/mL and for ethyl sulfate (EtS) at 115 ng/mL. Follow-up testing on July 27 was positive at 277 ng/mL and 120 ng/mL, respectively. At that time, the issue of alcohol being present in asthma inhalers was discussed, and Dr. Langan was instructed to continue his use of inhalers for his asthma. PHS concluded there was no evidence of relapse.

No records or reports for calendar year 2010 were provided by the referring source. Documents provided by Dr. Langan (summarized in this report) for 2010 indicate that he was compliant with his PHS monitoring contract during this year.

On June 20, 2011, it was reported that Dr. Langan had a positive test for EtG at 11,700 ng/mL and EtS positive at 2070 ng/mL. On June 30, 2011 Dr. Langan had a positive test for EtG of 13,700 ng/mL and for EtS of 2270 ng/mL. At that time, he was using inhalers for his asthma. The test was reported by him to have always been positive because of this mild exposure. On July 1, 2011, PEth was positive at 365.4 ng/mL. Dr. Langan notes that the usual finding for sustained drinking on a PEth test was 20. He reports that he believes that his level of 365.4 ng/mL is the second-highest level in history. As a result of the positive finding on the PEth test, Dr. Langan was sent for "evaluation." Although he objected, he chose Hazelden.

On September 18, 2011, Dr. Langan entered treatment at the Hazelden Center and was discharged on September 22, 2011. No withdrawal symptoms were noted, and he completed the residential evaluation program. Upon discharge, he was noted to have sustained remission of opiate dependence and no diagnosis of alcohol dependence.

On October 27, 2011, Dr. Sanchez wrote to Dr. Langan, stating, "Although you have indicated that you have been abstinent, we have been faced with a challenge thus far, in that we have not been able to provide monitoring that definitely excludes the possibility that you may have ingested ethanol in violation of your contract." Specific recommendations were forwarded to PHS.

In December of 2011, Hazelden's recommendations were that there was no history of current or past alcohol abuse, but they recommended that he needed a program and should go to AA.

The July 1st test, which reported a positive PEth on July 28, was given an amended report. The amended report indicated that the "external chain of custody protocol was not followed ..." Subsequently, the positive PEth test was declared invalid. On December 12, 2011, a litigation package on the PEth testing was provided to Dr. Langan. There was also a letter from PHS requesting a change in the donor ID number and a change in chain of custody.

In October of 2012, PHS reported that Dr. Langan was noncompliant with his PHS monitoring contract, in that he repeatedly represented to PHS that he participated in required peer-support group meetings that he did not, in fact, attend. Dr. Langan believes that PHS misplaced the third page of his report of attendance, thereby documenting only two months, rather than three months, of activities. He subsequently resent the additional page. At the request of PHS, Dr. Langan transcribed the hand-written list. Minor difficulties in transcription were focused on in disputes with PHS.

In November of 2012, PHS reported that Dr. Langan had a positive EtG of 1540 ng/mL and an EtS of 490 ng/mL on November 13, 2012. A subsequent test on November 19 was reported positive for EtG at 707 ng/mL and EtS at 172 ng/mL.

On December 17, 2012, PHS reported that a conflict of interest had arisen between PHS and Dr. Langan, "such that ongoing monitoring by PHS will be unable to proceed effectively..." They recommended Dr. Langan be moved to new supervision.

The litigation package request and the failure to follow protocol, in Dr. Langan's mind, formed the basis of the PHS recommendation that he attend yet another rehabilitation program. He remains convinced that the report of October 2012 to the Board was in retaliation for his request for the litigation package and the exposure of the false report.

At this time, he became active in blogging and tweeting about the "fraudulent test." He complained about these findings and what he believed to be a manipulation of the testing by PHS to the Attorney General and the FBI. He believes that he would have been discharged from the program in March of 2012 but for the false laboratory report, which was followed by increased conditions by PHS.

DEVELOPMENTAL HISTORY: Dr. Langan was born in Portland, Oregon. He reports that his grandmother died of asthma when his mother was age 7. He was the older of two brothers. He attended the University of Portland and Oregon Health Sciences University. He reports that

he suffered from allergies and asthma and, as a result of his allergies, developed a scar on his cornea from rubbing his eyes. During high school, he was hospitalized three times with asthma. He engaged in sports, primarily baseball, but that was variable depending upon the pollen season. He reports having had a best friend with whom he engaged in running and developed a small entrepreneurial business with him.

He began dating at age 17. He reports he never smoked. His alcohol history was typical for high school and college utilization. He reports having been "sick" from drinking twice during his late high-school and early college years. He reports trying marijuana once but was paranoid and fearful of exacerbation of his asthma. He also tried mushrooms once.

During medical school, his drinking was mostly on a social basis and at most was two to three beers a night on the weekend. He was a resident at St. Vincent's Hospital and during that time did not have any substance abuse issues. During fellowship time, he drank even less, because he had less social life because his friends had left town.

He remained mostly a weekend social drinker until his mother died. At that point, he noted that he increased his drinking, but not to the point where he experienced negative consequences, and he continued to have difficulty avoiding opiate medications.

He reports an episode of shingles in 2006, which he described as very painful, "feeling your hair." His entire left side of his head bothered him. It felt like he had scraped his head on the ground. He had difficulty withdrawing from the Vicodin, as noted in the History of Present Illness.

PAST PSYCHIATRIC HISTORY: As a result of neuropsychological testing and his substance use evaluations, Dr. Langan has been diagnosed with Obsessive Compulsive Disorder and Attention Deficit Hyperactivity Disorder.

RELEVANT MEDICAL HISTORY: Asthma, as noted above. Pneumothorax, 2001. Shingles.

WORK HISTORY: He has worked as a geriatrician in the Mass General system since completing his fellowship. He is currently not working, as he has been prohibited from practicing medicine by the Board.

JOB PERFORMANCE: Multiple evaluations from his employer support excellent job performance. He was issued a Letter of Advice in 2004 regarding prescription of controlled substances for family members and significant others in non-emergency situations.

MEDICATIONS: Current medications include Vyvanse, Adderall, albuterol inhaler, and beclomethasone inhaler.

MENTAL STATUS EXAMINATION:

ATTITUDE: He was cooperative, open, and engaged.

APPEARANCE: He was neatly groomed, maintained good eye contact, and showed no abnormal movements.

MOTOR ACTIVITY: He was slightly fidgety in his chair but was generally able to participate in the examination without disruptive motor activity.

SPEECH: Speech was of normal rate and rhythm. There was no evidence of pressured speech. His voice was modulated, and diction was clear.

THOUGHT PROCESS: Thoughts were well organized, clear, and directed.

THOUGHT CONTENT: Thought content showed no evidence of delusions, hallucinations, or other psychotic phenomena. He was focused on his perception of PHS as being punitive toward himself and deceptive in their administration. This pattern could be disrupted, but could become obsessional.

PERCEPTION: There was no evidence of auditory, visual, or other perceptual abnormalities.

MOOD: He denied any feelings of sadness, depression, or crying spells. He did not report any changes in appetite or self-esteem. He reported mild difficulty sleeping. He did not report excessive energy or racing thoughts. He denied impulsive and risky behaviors. He did not report any difficulties with food, eating, or body image. He reported no alcohol drinking nor urges to do so. He denied using any drugs at present. He did not endorse any symptoms of traumatic stress or paranoid beliefs. He denied any difficulties with anxiety except mild nervousness/anxiety and some difficulty relaxing, which is consistent with his current difficulties. He denied symptoms of panic attacks or obsessive behavior. He did not endorse any of the common symptoms of somatic conditions. He denied having any difficulties with anger or irritability.

SENSORIUM: There was no evidence of impairment in sensorium.

ORIENTATION: He was oriented to person, place, and time.

ATTENTION AND CONCENTRATION: No deficits in attention or concentration were noted.

DIAGNOSTIC FORMULATION:

Axis I:	Opioid dependence in remission Attention Deficit Disorder
Axis II:	Obsessive-compulsive personality disorder features
Axis III:	Asthma Seasonal allergies Hyperlipidemia History of shingles
Axis IV:	Occupational problems; currently unemployed due to actions restricting his medical license in Massachusetts
Axis V:	Current level of functioning: 80 Highest level of functioning in past year: 80

CONCLUSIONS AND RECOMMENDATIONS:

The following are my conclusions and recommendations, all to a reasonable degree of medical certainty.

(1) Dr. Langan is safe to return to the practice of medicine without further supervision.
Dr. Langan has never posed a danger to patients. There has been no introduction of any evidence that Dr. Langan's behavior or dependence upon oxycodone ever posed a danger to patient care. Rather, to the contrary, the opinions of his supervisors at Mass General Hospital have consistently been that he has provided exemplary care to his patients and behaved as a respected colleague.

During the course of his relationship with PHS, there have arisen several occasions where there have been disputes between Dr. Langan and the monitoring service. However, none of these occasions have illustrated a relapse to substance use after the initial periods of observation and detoxification at Talbott in Georgia.

Dr. Langan suffered an iatrogenic dependence on oxycodone as a result of his treatment of pain from his experience of shingles. Never was he demonstrated to have been impaired in his function as a physician, and no allegations of incompetence were raised.

During the course of his several years with PHS, he has not been shown to have used or misused alcohol while in the program. His utilization of asthma inhalers has produced several low positive EtG and EtS tests. Over the hundreds of testings, less than 10 would have been regarded as positive under MRO protocols in effect.

(2) **Dr. Langan has an excellent prognosis and a very low risk of relapse.**
It is important to note that Dr. Langan's initial contact with PHS was a result of his own perception that he was having difficulty stopping the use of an opioid, which had been prescribed for the treatment of pain associated with shingles. This iatrogenic dependence on an opioid occurred as a result of appropriate medical prescribing and use of the opioid pain medication.

The fact that Dr. Langan sought help when he was having difficulty tapering the medication without mandate or deterioration in his day-to-day activities indicates strongly that Dr. Langan has a commitment to sobriety. Dr. Langan's independent accessing of help for detoxification is a highly positive prognostic factor. Although Dr. Langan had initial difficulty in acknowledging his continued use and dependence upon the opioid medication, data suggests that this does not serve as warning factor for long-term inability to maintain sobriety. Dr. Langan has continued to avoid the use of opioids since his detoxification at Talbott and, in fact, reports having avoided dental procedures because of his inability to consider the use of any type of medication for the treatment of pain.

Dr. Langan demonstrates insight into his opioid problem and how it developed and the maladaptive response to his inability to taper the medication. This insight supports his continued commitment to sobriety.

(3) **Dr. Langan has not had an alcohol use, abuse, or dependence problem.**
As noted above, Dr. Langan sought treatment for an iatrogenic dependence upon opioids. He has not had difficulty with alcohol consumption during his adult years. His use of alcohol prior to enrolling in PHS was social and not maladaptive in any way.

There have been multiple conflicts between PHS and Dr. Langan over alleged alcohol consumption. Many of these conflicts revolved around positive findings of EtG on his laboratory testing. It is critical to understand the parameters and the inadequacy of EtG testing for forensic use and purposes such as the monitoring of a physician for purposes of relapse. I respectfully direct the Board to the 2012 SAMHSA document entitled, "The Role of Biomarkers in the Treatment of Alcohol Use Disorders, 2012 Revision." One portion of the document reads as follows:

> "EtG is used in monitoring abstinence in clinical and justice system settings. However, whereas EtG can be measured at very low concentrations in vivo, the source of EtG cannot always be determined. Many products used or consumed daily (e.g., hand sanitizers and mouthwash) contain alcohol. Extraneous exposures, such as these, can elevate EtG levels, creating false positive responses. False positive responses can be detrimental in medical and forensic settings where an individual's freedom or career is in jeopardy. Recent investigations have aimed at identifying the degree to which extraneous exposures and conditions affect EtG levels to determine how EtG can be used successfully to indicate intentional alcohol use. In addition, more research

> is needed on how the test results may be influenced by various diseases, ethnicity, gender, genetic variation in enzyme systems, or the use of drugs."

The document goes on to discuss how cutoff values should be chosen:

> "Although further research is needed before firm cutoffs for EtG can be established, sufficient research has been completed to reach the following conclusions:
>
> - A 'high' positive (e.g., >1,000 ng/mL) may indicate:
>   - Heavy drinking on the same day or previously (e.g., previous day or two).
>   - Light drinking the same day.
> - A 'low' positive (e.g., 500–1,000 ng/mL) may indicate:
>   - Previous heavy drinking (previous 1–3 days).
>   - Recent light drinking (e.g., past 24 hours).
>   - Recent intense 'extraneous exposure' (within 24 hours or less).
> - A 'very low' positive (100–500 ng/mL) may indicate:
>   - Previous heavy drinking (1–3 days).
>   - Previous light drinking (12–36 hours).
>   - Recent 'extraneous' exposure."

Almost without exception, Dr. Langan's findings have been below 500 ng/mL. 500 ng/mL has been considered to be the minimum level for medical review officers to declare a test to be a positive. Dr. Langan's positive findings occurred in the context of two known documented causes for positive EtG findings. First, Dr. Langan has a lifelong history of asthma and has been prescribed inhalers for the treatment of said asthma. These inhalers have had alcohol in the propellant for many years. Because of the alcohol in the propellant, PHS has acknowledged that Dr. Langan's findings of positive EtGs are expected and not a sign of relapse. In addition, Dr. Langan worked in an active medical practice surrounded by the use of alcohol hand sanitizers. Although Dr. Langan agreed to try to minimize his own use of these hand sanitizers, being in such an environment where many people are using them all day long also exposes Dr. Langan to additional risks of inhaled alcohol and thereby minimal increases in his EtG. The PHS noted that Dr. Langan's use of his inhalers while in rehabilitation did not produce a positive EtG. The combination of the inhalers and the work environment may indeed have been enough to produce the minor elevations in EtG which were observed in his toxicology screens. It is therefore my conclusion, to a reasonable degree of medical certainty, looking at the totality of the tests and the evidence provided by Dr. Langan's supervisors and his wife, that Dr. Langan had not utilized alcohol other than in his medications and work environment and had not engaged in alcohol use and abuse during the course of his work with PHS.

(4) To a reasonable degree of medical certainty, it was inappropriate to require Dr. Langan to collect the names and phone numbers of other attendees at AA meetings.

During the course of his work with PHS, Dr. Langan was instructed to attend AA meetings and collect the names and phone numbers of other attendees who would vouch for his presence at the meetings. In particular, Dr. Langan was instructed to attend physician recovery meetings using the AA model. There are two significant problems with this request. The first is that Alcoholics Anonymous relies on anonymity for its program to be effective. To collect the names and telephone numbers of attendees would identify those attendees. There is a procedure within AA to obtain verification of attendance which does not require the identification of the person vouching for the attendance. Identifying people by use of their telephone numbers is a violation of the traditions and norms of Alcoholics Anonymous. Nonetheless, Dr. Langan continued to obtain some of these names and telephone numbers.

There was some concern as to whether or not Dr. Langan returned appropriate logs of his attendance with the identification of the fellow attendees. To a reasonable degree of medical certainty, that dispute seems to have been the misdirection, misfiling or other loss of the last page of the attendance record at PHS. When the last page was provided, it was clear that Dr. Langan had complied with the request of PHS.

Providing names and telephone numbers of other participants who are potentially physicians to the monitoring program of the Board also was an incursion into the privacy of the participants. Potentially identifying them by means of their name and telephone number to the PHS creates an inherent problem of confidentiality.

It was reported to Dr. Langan that phone calls to the people whose names and telephone numbers were included in these logs were long, abusive, and very unpleasant. One thereafter refused to participate in the monitoring program.

(5) Even if attendance logs were not a violation of the traditional treatment norms, the management of the logs was inappropriate.

Please see above with regard to the use of physician identifiers in the log reports and the telephone calls that followed. Also, PHS focused on minor transcription problems between the handwritten logs and the typewritten ones. Letters from coordinators support Dr. Langan's attendance.

(6) Even if the Board of Registration in Medicine decides that Dr. Langan requires additional treatment and supervision, PHS should not be involved in such supervision, because there has been an irremediable breakdown in the treatment alliance as a result of the actions of PHS.

PHS has identified that there is an extreme conflict of interest between themselves and Dr. Langan. They therefore asked to withdraw from his supervision. Nonetheless, they have continued to be his supervisor for almost a year. During the course of that year, they have

found multiple reasons to report Dr. Langan's behavior to the Board as noncompliant. The existence of the conflict of interest and its interaction with these reports has not been examined.

In 2007, PHS presented a standard form, Physician Substance Use Monitoring Contract, to Dr. Langan. This contract failed to demonstrate the requisite individualized treatment plan for a physician in Dr. Langan's condition. The failure to individualize the conditions and treatment recommendations likely violates the Americans with Disabilities Act. The inability to physiologically taper from prescribed opioid medications without the assistance of medically supervised detoxification is not conduct that calls into question Dr. Langan's capacity to practice medicine safely. The consequent automatic imposition of a standardized, non-individualized monitoring contract does not comply with the ADA, as amended. The standardized contract did not involve an individualized analysis of Dr. Langan's record to determine how long the term of conditional admission or licensure should be or the appropriate conditions. The conditions that were subsequently imposed were not justified by objective evidence and were based on generalizations and stereotypes.

Dr. Langan believes that the PHS has interfered and misrepresented his status to the Board. Specifically, with regard to the PEth test, Dr. Langan relies on a memo dated July 19th, 2011, to the United States Drug Testing Laboratories, asking that the report be amended to include *his* testing number, and to change the chain of custody. Dr. Langan further reports that when he requested the litigation packet regarding this testing, the PHS implied that negative consequences would follow if he persisted in that behavior.

The timing of the acknowledgement of the inaccuracy of the PEth test and the report of Dr. Langan as noncompliant with the PHS program suggests that the report to the Board was in retaliation for Dr. Langan's persistence in identifying the inaccuracy of the PEth test. After the negative PEth test was reported to PHS, PHS reported Dr. Langan and increased their supervision of him. Subsequently, they found him to be noncompliant.

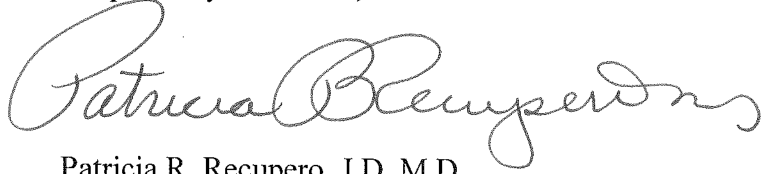
Furthermore, Dr. Langan has submitted a report from the Director of the Chemistry Laboratory at Mass General Hospital, Dr. James G. Flood. In his report, Dr. Flood itemized the multiple failures of collection within the system relied upon by PHS. This calls into question the validity of much of what has been represented to the Board as noncompliance by Dr. Langan by PHS.

As a consequence of these actions by PHS, I believe it was accurate for PHS to represent to the Board that they were unable to maintain a therapeutic and professional relationship with Dr. Langan.

Although I do not believe that Dr. Langan requires further supervision and is safe to return to the unrestricted practice of medicine, if Dr. Langan is required to have further treatment and supervision, I would recommend that he be referred to a physician counselor who is board-certified by the American Board of Psychiatry and Neurology with special qualifications in Addiction Psychiatry. However, given the extent of Dr. Langan's documented sobriety

under PHS, making such treatment voluntary would be my recommendation, to a reasonable degree of medical certainty.

Respectfully submitted,



Patricia R. Recupero, J.D. M.D.

SOURCES OF INFORMATION:

The **referring source** provided the following documents, which I reviewed:

2013

1. **Michael Langan Timeline; 2003-2013; 6 pages.**
   The timeline, provided by the Board of Registration in Medicine as noted in their cover letter of October 10, 2013 (above), lists approximately 10 years of events in the career of Michael Langan, M.D., from April 10, 2003 through October 9, 2013.

2. **Treatment Records for Michael Langan; 2013; 10 pages.**
   - Page 1 of this document is a cover sheet.
   - Pages 2—4, titled "Results and follow-up," are dated January 7, 2013, and include a letter to Dr. Langan from Michael F. Bierer, M.D., summarizing an appointment on December 21, 2012 and the results of laboratory work, and the detailed results of the lab work. In the letter, Dr. Bierer states, "the history, including some corroborating information from your chief, physical, and lab exams demonstrate no evidence of illicit drug or alcohol use." The letter states that Dr. Langan's next scheduled appointment with Dr. Bierer was for January 30, 2013 at 8:00 a.m.
   - Pages 5—7, titled "Progress Note," include details from a medical appointment, sent February 6, 2013, for a medical visit date of 1/18/13. The Progress Note includes a brief history of present illness, family and medical history, review of systems (neurological, cardiovascular), medications, allergies (NKA), pain treatment (no), constitutional exam, musculoskeletal exam, mental status exam, a multi-axial diagnosis, problem status, risk assessment, general assessment, treatment plan, and coding information for medical billing. The medications listed for this date (1/18/13) include: Adderall 20 mg tablet PO as directed, ½ to 1 PO qD for ADHD x 60 days; no change; Advair Diskus 250/50, 1 inhalation INH BID x 30 days, no change; Lipitor 10 mg tablet, take 1 PO QD, no change; Spiriva 18 MCG INH QD x 30 days, no change; Vyvanse 60 mg take 1 PO QAM, for ADHD x 30 days, no change; and Zafirlukast 20 mg tablet take 1 PO BID, no change. The Mental Status Exam results were all "WNL" (within normal limits); attention & concentration were "adequate," and behavior was "cooperative." The Multi-Axial Diagnoses/Assessment was as follows: Axis I: Opiate dependence in full sustained remission, and ADHD combined type; Axis II: no diagnosis; Axis III: seasonal allergies, asthma; Axis IV: economic problems; Axis V (GAF): current 65 mild sx, Axis V highest (12-month) 61-70 mild sx; Axis V lowest (12 months) 61-70 mild sx. The assessment summary states, "ADHD, Hx [history of] SUD [substance use disorder] – doing well with ADHD with stimulant treatment (adherent, positive in urine); continued need for treatment—good adherence to treatment. Maintains balanced lifestyle. Positive biomarkers from PHS [Physician Health Services] noted—vs MHG laboratories—somewhat inconsistent.

Pt [patient] denies any alcohol or other drug use. Monitoring program at MGH being established to assist BORM in monitoring physician. Appropriate use of medication and adherence to treatment." Then next office visit indicated "RTC 1 month."

- Pages 8—10, titled "Wellness," sent February 6, 2013, from visit date 1/30/13, with Internal Medicine Associates at Massachusetts General Hospital, include a list of diagnoses and a reason for visit: "cpe." Problem list (reviewed) includes: Attention deficit disorder, drug dependence, hyperlipidemia, obsessive compulsive disorder, seasonal allergic reaction, and nocturia. Under "other" are listed: Asthma, situational stress, elevated blood pressure, health maintenance, hepatitis, and disability issues. A list of notes follows for the following categories: Attention deficit disorder (dates from 7/09 to 1/2013), Drug dependence (dates from 7/09 to 12/21/2012), Hyperlipidemia (summary and dates from 2010 to 2013), Asthma (summary), Situational stress (summary), Changes to allergies, Rx Delivery Method, Medication List (confirmed), Family History, Social history, Habits/Risk Screening, and Physical Exam. In the Medication List (confirmed) are the following: renewed Advair Diskus 100-50 mcg/puff DPI (60 actuation) 1 inh q12h – Rx (Qty: 1 inhaler(s) Rf:3); confirmed: Accolate 20 mg po bid take on empty stomach, Adderall 20 mg po qam, cetirizine 5 mg po daily, children's aspirin 81 mg po daily, fish oil 1000 mg po tid, flaxseed oil, multivitamins 1 tab po daily, simvastatin 40 mg po qpm, and Vyvanse 60 mg po daily; and removed: Advair Diskus 100 mcg/50mcg inh q12h. The most recent note under Social History, for 2013, states: "some forensic consulting; working on defense of his license and practice; monitoring program unclear currently." Under Habits/Risk Screening are the following notes: "Drug use status: none; Alcohol use status: none/minimal; Smoking status: never smoked; Activity level: active not exercising 2/2 wheeze." Notes under "Drug dependence" are as follows:
    - "7/09 today feels his problem was simple physical dependence and is in the past. Has been taking care of 12 inpatients at Eastpointe x several months, working under 40 hours/week (probably 36) and is enjoying return. Frustrated by need to continue under agreement with PHS.
    - 90/9 [*sic*]: states urine obtained by contract. Functioning well in job; happy with family situation.
    - 9/2010: no relapse; weekly urines; working and happy, productive and focused.
    - 1/2012: remains abstinent from illicits and from etoh. dx is op dep in stable remission, resentful of board for what he perceives as willful mistakes and crude cover-ups. States he will not passively accept unjust situation. Reviewed the 10/2011 summary from Hazeldon (atty/treater Jalonen); no evidence relapse to ops or ever meeting criteria for etoh prob. Rec was better integration of recovery (aa tiw). requests CDT
    - 12/21/2012: states no etoh no drugs and is in assiduous monitoring program until now w PHS but will be transitioning to monitoring at MGH if it can be arranged. He permitted me to check with his supervisor at MGH and there is only praise and confirmation of his good work, punctuality etc. We sent a slew of tox and other tests 11 months ago and all were fine. Pt has given me several emails and letters pertaining to an error-ridden positive test that has been retraced after formal review, but I have not read much of the

correspondence yet. There is nothing on exam or by history that suggests drug or alcohol use and his performance at work (while also attending to the legal / monitoring stipulations he reckons ~ 10-15 hours/week on top of full time employment at MGH) suggests superior performance.

- 1/2013 no use; requests full screening for advocacy purposes today. no evidence on exam of use/problems."

3. **Commonwealth of Massachusetts, Board of Registration in Medicine; Letter to Dr. Recupero from Tracy J. Ottina, J.D., Board Counsel to the Physician Health & Compliance Unit; November 12, 2013; 1 Page.**
This document is a cover letter to documents from the Board of Registration in Medicine regarding Dr. Langan. The letter confirms my role as an evaluator in the case.

4. **Commonwealth of Massachusetts Board of Registration in Medicine; Authorization and Waiver; October 10, 2013; 1 page.**
This document, signed by Michael Langan, M.D., and dated 10/11/13, authorizes and directs the Board of Registration in Medicine "to discuss with and disclose to Patricia Recupero, M.D. any information relevant to [Langan's] fitness to practice medicine; any information about [Langan] in the Board's records, including, but not limited to, mental health and/or substance abuse treatment records, psychological and/or psychiatric evaluations; and any information about my current status with the Board." The document also contains standard clauses including a waiver of privileges, a release from liability, and revocation requirements.

5. **Commonwealth of Massachusetts, Board of Registration in Medicine; Order, dated October 9, 2013.**
This document is an order stating that "The Licensee's Petition to Approve Independent Psychiatric and Behavioral Evaluation is hereby ALLOWED." The order is dated October 9, 2013 and signed by Chair, Candace Lapidus Sloane, M.D., and marked "SENT CERTIFIED MAIL 10/10/13."

6. **Physician Health Services; Letter to William J. Burgess, Esq., Appignani Humanist Legal Center, from Debra Grossman, PHS General Counsel; June 24, 2013; 1 page.**
The letter is in response to a letter from Burgess of June 6, 2013, regarding secular alternatives to AA/NA groups. In the instant letter (of 6/24/13), Grossman notes that Physician Health Services does permit secular alternatives to faith-based peer support groups as part of the support and monitoring programs required by Physician Health Services. The letter also indicates that Physician Health Services has specified "in the substance use monitoring contract language that secular support group options are available." The letter was CCed to Robert Harvey, Esq., Board of Registration in Medicine; and John Polanowicz, Secretary of Health and Human Services.

7. **Physician Health Services; Letter to Robert Harvey, Esq. from Luis T. Sanchez, M.D.; March 14, 2013; 1 page.**
The letter documents nine (9) negative drug abuse screens for Langan on the following dates in 2012: 10/4, 10/10, 10/15, 10/26, 11/1, 11/6, 12/10, 12/20, and 12/28. The letter

documents three (3) positive tests on 11/13, 11/19, and 12/10 of 2012. The letter also indicates that Langan's contract is now closed.

8. **Physician Health Services; Letter to Robert Harvey, Esq. from Luis T. Sanchez, M.D.; February 12, 2013; 1 page.**
The letter provides written documentation of a verbal report of Feb. 11, 2013 that Langan tested positive for morphine on a random drug test on Feb. 5, 2013, at a level of 545 ng/mL.

9. **Commonwealth of Massachusetts, Board of Registration in Medicine; Order In the Matter of Michael L. Langan, M.D.; February 6, 2013; 5 pages.**
This order, dated February 6, 2013 and signed by the Chair, Candace Lapidus Sloane, M.D., states that the Licensee's December 19, 2012 Voluntary Agreement Not to Practice is terminated. The order summarizes the Board of Registration in Medicine's [the Board's] decision, at a February 6, 2013 meeting, to suspend Langan's medical license immediately, based on review of notices from the Board's Physician Health & Compliance Manager, dated 1/24/13, 12/21/12, 12/12/12, 11/27/12, and 10/26/12. The order also indicates that the Board's Feb. 6, 2013 decision affirmed the Complaint Committee's November 7, 2012 finding that Langan was not in compliance with Paragraphs J and Y of his Letter of Agreement. The order references a Letter of Agreement accepted by the Board's Complaint Committee on October 8, 2008 as amended February 1, 2012.

The order details 13 grounds for the Board's decision: (1) a violation found by the Complaint Committee at its Sept. 7, 2011 meeting, based on the Licensee's not having entered an evaluation program; (2) the Board's agreement (on December 21, 2011) with the Complaint Committee and voting to find the Licensee in violation of his Letter of Agreement but opting to extend the Letter of Agreement and "fortifying certain provisions" in the Letter of Agreement; (3) a new requirement for the Letter of Agreement that the Licensee would attend a minimum of three 12-step meetings per week for the duration of the Letter of Agreement and provide proof of attendance to Physician Health Services; (4) a statement that the Licensee was represented by counsel and agreed to the amended Letter of Agreement; (5) the Board's approval (on Feb. 1, 2012) of the revised Letter of Agreement; (6) Physician Health Services having informed the Board on October 23, 2012 that the Licensee was not complying with the Letter of Agreement and that he reported attending meetings that he did not actually attend; (7) the Board's finding a second violation of the Licensee's Letter of Agreement, based on the Physician Health Services report from October 2012; (8) a letter from Physician Health Services, dated January 15, 2013, indicating that the Licensee had reported attending a group meeting in February 2012 but that he (the Licensee) subsequently admitted only beginning to attend the meetings in September of 2012; (9) self-reports filed by the Licensee indicating that he had attended group meetings for 13 dates (between Feb. 29, 2012 and June 27, 2012); (10) a communication that confirmed the Licensee's attendance only for the dates 9/5, 9/12, 9/19, 9/26, and 10/17 of 2012; (11) a list of dates submitted by the Licensee for meetings he claimed to have attended in 2012: 4/4, 4/11, 4/18, 4/25, 5/2, 5/9, 5/16, 5/23, 5/30, 6/13, 6/20, 6/27, and 10/3; (12) an e-mail from the Licensee stating that he did not attend the group until September 5, 2012 and that he did not inform

Physician Health Services of having attended meetings until September 5, 2012, which conflicts with items (9) and (11) [above]; and (13) the Licensee's failure to submit documentation showing that he attended the required meetings.

The order goes on to note that "Any Petition to Stay Suspension in this matter will be contingent upon the Licensee's completion of an independent psychiatric evaluation..." and "contingent upon the Board's approval of a worksite monitoring plan and substance use monitoring plan." The order also notes that the Licensee may request a hearing to determine compliance with the Letter of Agreement but must make such request in writing by 5 p.m. on February 22, 2013. The order also indicates that the Licensee must provide a copy of the order within ten days to the Drug Enforcement Administration, the Boston Diversion Group, the Massachusetts Department of Public Health's Drug Control Program, any clinic at which he practices, and the boards for any states in which he has a license to practice medicine.

10. **Commonwealth of Massachusetts, Board of Registration in Medicine; Order In the Matter of Michael L. Langan, M.D.; January 23, 2013; 1 page.**
The order, dated January 23, 2013 and signed by the Chair, Candace Lapidus Sloane, M.D., states that the Emergency Petition to allow Dr. Langan to return to practice was denied.

11. **Physician Health Services; Letter to Robert Harvey, Esq. from Luis T. Sanchez, M.D. with Quarterly Report Attachments; January 15, 2013; letter: 3 pages, supplements: 9 pages; total: 12 pages.**
This letter is in response to Harvey's request for the basis of a report made by Physician Health Services in October 2012 that Langan was noncompliant with his Physician Health Services monitoring contract. The letter recounts the history of the events in the Langan case, including Langan's signing an addendum to his Letter of Agreement on February 1, 2012, agreeing to attend at least three peer support meetings a week for the duration of the agreement and to provide proof of his participation to Physician Health Services. The letter then indicates that Langan "provided a quarterly report for the fourth quarter of 2011 that contained a listing of peer support group meetings which did not, on its face, meet the requirements of the agreement." A footnote to this statement explains: "The support group list did not include three meetings per week for each of the relevant weeks, nor was there a physicians group listed for each week. There was at least one listing for a meeting at the Massachusetts Medical Society on a date when there was no meeting conducted at that location. There were no names or phone numbers for consenting attendees willing to confirm attendance." The letter notes a meeting between Physician Health Services and Langan and his attorney on March 6, 2012 and Langan's subsequently providing a new list of support group meetings that included dates not previously submitted. The letter notes that in May and July of 2012, Langan submitted quarterly logs that *did* include names and telephone numbers but that Physician Health Services was unable to reach any of those individuals to confirm participation. The letter then notes that beginning on February 29, 2012 Langan reported attending a physician support group meeting at Bournewood Hospital and "documented a total of 13 dates of attendance at that group between February 2012 and June 2012." The letter notes that Physician Health Services received a phone call from "Melissa" confirming that Langan

had been attending the weekly meetings at Bournewood "since at least as far back as March 2012." However, the letter goes on to indicate that when Physician Health Services contacted the group, the physician (Dr. Moynihan) who facilitated the group stated that there had been no physicians in the group for several months. With Langan's written consent, Physician Health Services contacted Dr. Moynihan on September 14, 2012, to confirm Langan's attendance in the group, but Moynihan reported that Langan had not begun to attend the group until September 5, 2012 and had only attended twice. The letter then details a subsequent exchange between Langan and Physician Health Services to address the discrepancy and Moynihan's reiterating what he had previously stated, i.e., that Langan had not begun to attend the group until September 5, 2012. The letter describes a meeting between Physician Health Services and Langan and his attorney on October 16, 2012, during which Langan claimed that Physician Health Services was attempting to violate the tenets of Alcoholics Anonymous by attempting to confirm Langan's participation in the meetings and Langan's stating that confidentiality requirements prevented others from confirming his attendance at the groups. The letter notes that on October 19, 2012, during a meeting with Physician Health Services, Langan stated that he had, in fact, not attended meetings at Bournewood prior to September 5, 2012. On the same date (10/19/12), Physician Health Services filed a report of noncompliance to the Board of Registration in Medicine. The letter closes, noting, "Attached please find the quarterly reports from Dr. Langan as referenced above, as well as a current faxed letter from Dr. Andrew Moynihan stating the dates that Dr. Langan attended the peer support group meeting at Bournewood Hospital. The letter was CC'ed to Langan and Gary Chinman, M.D.
The attachments to the letter are as follows:

- Fourth Quarter 2011 report, for dates 10/1/11-12/31/11, filed by Langan, indicating "3x week" frequency of support group meetings. The report notes "see attached," and the second page itemizes support groups by date. Much of this second page is illegible, but the dates appear to be from the months of October through December of 2012.
- A list of contact names and numbers that was stamped received on March 12, 2012.
- A list of dates of attendance at support group meetings for October-November of 2012, hand-written on a medical billing sheet, with contact names for each.
- A list of dates of attendance at support group meetings for November-December of 2012, hand-written on a medical billing sheet, with contact names for each.
- First Quarter 2012 report, for dates 1/1/12—3/31/12, filed by Langan. The report notes "see attached," and the second page itemizes support groups by date. The second page is typed, includes dates from 1/9/12 to 3/30/12, locations and topics for the meetings, and contact names for most. Phone numbers for the contacts are listed at the bottom of the page.
- Second Quarter 2012 report, for dates 4/1/12—6/30/12, filed by Langan. The report notes "attached," and the second page itemizes support groups by date. The second page is typed, includes dates from 4/2/12 to 6/29/12, locations and topics for the meetings, and contact names for most. Phone numbers for the contacts are listed at the bottom of the page.

2012

12. **Physician Health Services; Letter to Robert Harvey, Esq. from Luis T. Sanchez, M.D.; December 21, 2012; 1 page.**
    This cover letter was to introduce a copy of Langan's Self Report for the Third Quarter of 2012. The letter also documents that PHS received the quarterly monitor and therapist reports. The letter documents negative results for drug screens conducted on the following dates in 2012: 7/18, 7/23, 7/31, 8/9, 8/13, 8/24, 8/28, 9/6, 9/10, 9/17, and 9/28. The letter also reiterates a statement from 10/19/12 that Langan "did not accurately report his support group attendance during this quarter." The "enclosure" (Third Quarter 2012 Self-Report) referenced in the letter was not provided to me with the letter.

13. **Commonwealth of Massachusetts, Board of Registration in Medicine; Voluntary Agreement Not to Practice Medicine (Non-Disciplinary); December 19, 2012; 2 pages.**
    This agreement, signed by Langan and by the BRM Chair, Candace Lapidus Sloane, M.D., and dated December 19, 2012, contains 9 numbered clauses:
    (1) agreement to cease the practice of medicine in Massachusetts effective immediately [12/19/12)
    (2) agreement remains in effect until further notice from the Board of Registration in Medicine
    (3) agreement is voluntary
    (4) understanding that agreement is a public document and may be subject to a press release
    (5) understanding that the action will be reported to Health Care Integrity & Protection Data Bank & the Federation of State Medical Boards
    (6) violation of the agreement constitutes prima facie evidence for immediate suspension of license to practice medicine
    (7) no waiver to right to contest any allegations brought by the Board; signature on agreement does not constitute admission of wrongdoing
    (8) agreement to provide copy of the Agreement within 24 hours to a list of designated entities; agreement to certify to the Board compliance with this clause within 7 days of compliance
    (9) document represents entire agreement at present (12/19/12)

14. **Physician Health Services; Letter to Robert Harvey, Esq. from Luis T. Sanchez, M.D. with PHS Contract Attachment; December 18, 2012; 3 pages.**
    A cover letter introduces a 2-page copy of Langan's PHS Substance Use Monitoring Contract with Behavioral Health Addendum that was the most recent contract as of the cover letter date (12/18/12).
    The 2-page contract indicates a status date of 3/18/2008 and an eligible BRM close date of 3/18/2015. The contract includes demographic and contact information for Dr. Langan and identifies the Collection Center/Test Monitor as Quest Diagnostics – Brookline #1. The contract also lists five monitors' contact information and the duration: Gary Chinman, M.D. [Associate Director], Kenneth Minaker, M.D. [Chief of Service 1],

Quest Diagnostics – Brookline #1 [Lab collection site], Spencer Wilking, M.D. [Monitor], and Timothy Wilens, M.D. [Therapist].

15. **Physician Health Services; Letter to Robert Harvey, Esq. from Luis T. Sanchez, M.D.; December 18, 2012; 1 page.**
This letter provides written documentation of a prior verbal report indicating that Langan tested positive for Phospatidyl Ethanol (PEth) at a level of 124.0 ng/mL from a random drug screen on December 10, 2012. The letter also mentions an e-mail (12/14/12) from Langan indicating his [Langan's] intention to contest the lab result. This letter [from PHS] also states, "Please note that Dr. Langan's e-mail, in which he refers to this positive PEth test result, was sent prior to PHS having received a result from the lab for the December 10, 2012 sample." The letter also "requests that any determinations and/or assessments associated with this positive test result be conducted separate from PHS."

16. **Physician Health Services; Letter to Robert Harvey, Esq. from Luis T. Sanchez, M.D.; December 17, 2012; 1 page.**
This letter notifies Attorney Harvey that "a conflict of interest has arisen such that ongoing monitoring by PHS [Physician Health Services] will be unable to proceed effectively going forward." The letter requests that the Board approve transition of the responsibility for monitoring. The letter does not elaborate upon the "conflict of interest."

17. **Physician Health Services; Letter to Robert Harvey, Esq. from Luis T. Sanchez, M.D.; December 11, 2012; 1 page.**
The text of this letter is worth quoting in its entirety: "Dear Attorney Harvey: Yesterday, December 10, 2012, Physician Health Services (PHS) received a revision to a laboratory test result for Dr. Michael Langan from a blood sample which he provided on July 1, 2011, which result was reported to you by letter of July 28, 2011 as positive for Phosphatidyl Ethanol (PEth). The amended report indicates that the 'external chain of custody protocol [for that sample] was not followed per standard protocol.'
"PHS did not make a determination of relapse following that positive test, nor is PHS aware of any action taken by the Massachusetts Board of Registration in Medicine (MA BRM) as a result of the July 28, 2011 report. However, based on the amended report, PHS will continue to disregard the July 2011 PEth test result.
"If you have any questions, please do not hesitate to contact me."

18. **Physician Health Services; Letter to Robert Harvey, Esq. from Luis T. Sanchez, M.D.; December 6, 2012; 1 page.**
This letter provided written documentation of a prior verbal report made on 12/3/12 that Langan had a positive test for ethyl glucoronide at a level of 707 ng/mL and for ethyl sulfate at a level of 172 ng/mL from a random drug screen conducted on 11/19/12.

19. **Physician Health Services; Letter to Robert Harvey, Esq. from Luis T. Sanchez, M.D.; November 29, 2012; 1 page.**

This letter provided written documentation of a prior verbal report made on 11/26/12 that Langan had a positive test for ethyl glucoronide at a level of 1540 ng/mL and for ethyl sulfate at a level of 490 ng/mL from a random drug screen conducted on 11/13/12.

20. **Physician Health Services; Letter to Robert Harvey, Esq. from Luis T. Sanchez, M.D.; October 23, 2012; 1 page.**
This letter provided written documentation of a prior verbal report made on 10/19/12 that Langan was noncompliant with his Physician Health Services monitoring contract, on the basis that Langan reported attending peer support meetings that he did not in fact attend.

21. **Commonwealth of Massachusetts, Board of Registration in Medicine; Letter of Agreement Addendum; February 1, 2012; 4 pages.**
This Addendum indicates that the Complaint Committee and the Licensee agree to modifications to the October 8, 2008 Letter of Agreement; these modifications are then specified in the Addendum document:
    - Replacement of original Paragraph C with a new Paragraph C
    - Replacement of original Paragraph D with a new Paragraph D
    - Replacement of original Paragraph G with a new Paragraph G
    - Replacement of original Paragraph J with a new Paragraph J
    - Replacement of original Paragraph K with a new Paragraph K
    - Addition of two (2) terms to the Letter of Agreement:
        - Y. "Licensee shall participate in a minimum of three (3) 12-step meetings per week for the duration of his Letter of Agreement and shall submit proof of said participation to PHS in a form agreeable to PHS. Licensee shall develop an active 12-step sponsor relationship with someone who is not a healthcare professional. The Licensee shall have weekly communications with the sponsor, which shall be verified by PHS in a manner agreeable to PHS."
        - Z. "Licensee shall participate in Mindfulness-based stress reduction activities, such as the eight (8) week program developed by Jon Kabat-Zinn at the University of Massachusetts Medical Center. Any such program must be pre-approved by the Complaint Committee Designee."

2011

22. **Commonwealth of Massachusetts, Board of Registration in Medicine; Order; December 21, 2011; 2 pages.**
This order, signed by the Chair, Peter Paige, M.D., states that the Board, at its 12/21/11 meeting, affirmed the Complaint Committee's finding that the Licensee violated Paragraph J of his October 8, 2008 Letter of Agreement. The order describes the process by which the Licensee may request a hearing on the matter. The order also requires the Licensee to provide a copy of this order to a list of designated entities.

23. **Commonwealth of Massachusetts, Board of Registration in Medicine; Order to Impound; December 21, 2011; 1 page.**
This order, signed by the Chair, Peter Paige, M.D., allows the Licensee's motion to impound and orders that Attachments 3 through 4 of the Request to Consider Lack of Evidence to Warrant Sanctions be impounded.

24. **Physician Health Services; Litigation Packet from United States Drug Testing Laboratories; December 12, 2011; 45 pages with additional 1-page cover letter (dated December 12, 2011).**
The litigation package contains:
    - Cover Sheet (1 page)
    - Table of Contents (1 page)
    - Summary of Results (pp.1-5)
        - cover sheet (p.1)
        - Phosphatidylethanol—Blood test summary, dated and signed Dec. 3, 2011, with initial test method and confirmation test method (p.2)
        - list-format information from test sample above (p.3)
        - p.4: letter from PHS, dated and signed 7/19/2011, to U.S. Drug Testing Laboratories requesting that the lab report be updated to reflect a donor ID number of 1310; apparently the donor ID as listed was 461430.
        - p.5: order confirming report revision per client's request (per PHS letter above)
    - Chain of Custody Documents (pp.6-9): These documents contain dates and signatures for the chain of custody of specimen receipts, collection dates, laboratory samples and tests, with bar codes. They concern the dates 7/1/2011, 7/8/2011, and 8/1/11 (long-term storage).
    - Collection Instructions (pp.10-11): These are the instructions for specimen collection.
    - Initial Test Documents (pp.12-26): These appear to be the documents on which results of initial PEth testing were recorded by laboratory personnel, for the dates 7/8/11 and 7/9/11. The laboratory analyst is identified by name, and the documents also contain a recording form for the chain of custody for the sample. There are also graphical representations of the chemical analyses and computerized results printouts with dates.
    - Confirmation Test Documents (pp.27-41): These appear to be the documents on which results of confirmation PEth testing were recorded by laboratory personnel, for the dates 7/13/11 and 7/14/11. The laboratory analyst is identified by name, and the documents also contain a recording form for the chain of custody for the sample. There are also graphical representations of the chemical analyses and computerized results printouts with dates.
    - Licensures and Registrations (pp.42-43): This portion lists the licenses and registrations held by the United States Drug Testing Laboratories.

25. **Physician Health Services; Letter to Robert Harvey, Esq. from Luis T. Sanchez, M.D.; December 7, 2011; 1 page.**

This cover letter introduces Langan's Self-Report for the Third Quarter of 2011. The letter also lists negative drug screens for the following dates in 2011: 7/15, 7/19, 7/20, 7/22, 7/25, 7/29 (listed twice), 8/1, 8/2, 8/4, 8/8, 8/10, 8/17, 8/19, 8/23, 8/25, 8/29, 8/31, 9/6, 9/8, 9/12, 9/15, 9/26, and 9/30. The letter states that "Dr. Langan had a positive test for phosphatidyl ethanol at a level of 365.4 ng/mL on July 1, 2011." The letter also notes that "Dr. Langan participated in a recommended evaluation following positive test results. At this time, PHS remains unable to confirm whether the alcohol metabolites detected on positive tests from June 20, 2011, June 30, 2011, and July 1, 2011 were as a result of intentional or incidental ingestion."

26. **Physician Health Services; Letter to Michael Langan from Luis T. Sanchez, M.D.; December 6, 2011; 2 pages.**
This letter informs Langan that PHS requests that he "participate in an independent evaluation at a facility skilled in working with health care professionals" due to positive EtG and Ets test results from June 20 and June 30, 2011. The letter states that Langan participated in the requested evaluation on September 18, 2011, at which time Langan was again tested for EtG and PEth, with negative results. The letter then states: "You were administered your asthma inhaler regularly throughout the five days of the evaluation, and were again tested for EtG, Ets and PEth at the conclusion of the evaluation, the results of which remained negative. Therefore, following this assessment, PHS remained unable to further address whether the alcohol metabolites detected on June 20, 2011, June 30, 2011, and July 1, 2011 were as a result of intentional or incidental ingestion." The letter notes that "PHS has received assurances from your workplace monitors and treatment providers that they have seen no evidence of impairment." The letter then lists four bullet points of an agreement designed "to allow PHS more clearly [to] address abstinence from substances of abuse, including alcohol":
    - Langan's agreement "to avoid exposure to agents that could interfere with testing, including alcohol based hand wash, HFA inhalers and other agents that might produce positive EtG, Ets and/or PEth results" and to notify PHS in advance if required to use an HFA inhaler for health reasons
    - Langan's agreement to increase support-group attendance to 3 times per week for the next 3 months, at least one of which to be a physicians' group, and to provide contact information for a participant to PHS
    - acknowledgement that PHS will continue testing for alcohol biomarkers
    - acknowledgement of a payment arrangement to cover laboratory fees and that if unable to pay the fees PHS will be unable to perform testing until fees are paid

    The letter then notes that PHS had received (on 12/5/11) Langan's request and payment for a "litigation packet" from the testing laboratory in connection with Langan's intention to contest the PEth test result, and that PHS will submit a request for the litigation packet.

27. **Physician Health Services; Letter to Michael Langan from Luis T. Sanchez, M.D.; October 27, 2011; 2 pages.**
This letter summarizes the recommendations of Physician Health Services after an "independent evaluation." In introducing its recommendations, the letter states, "Although you have indicated that you have been abstinent [from alcohol abuse], we have been faced with a challenge thus far in that we have not been able to provide

monitoring that definitely excludes the possibility that you may have ingested ethanol in violation of your contract." The recommendations to be implemented include:

- "Take all the necessary steps recommended by the evaluator to produce negative test results by abstaining from non-prescribed intoxicants including ethanol.
- "Avoid exposure to agents that interfere with testing including alcohol based hand rubs and HFA inhalers or other agents that might produce positive EtG or PEth results.
- "Participate in a minimum of (3) PHS approved 12 step meetings per week for the next 3 months including at least 1 physician meeting a week and document your participation with the signature of a consenting attendee and a phone number for this consenting attendee. After 3 months, you must attend at least 1 PHS approved support meeting a week and 1 physician meeting a month.
- "Develop an active sponsor relationship and provide consent for this sponsor to confirm twice a year with PHS that he/she is your sponsor. No other information will be asked of your sponsor other than confirmation that he/she is an active sponsor.
- "Consideration that you participate in recovery programs designed for physicians such as International Doctors in Alcoholics Anonymous conferences and recovery retreats for physicians such as the one offered by Hazelden.
- "Consideration of a therapist to address recovery goals and to develop better stress management techniques."

The letter then indicates increased biomarker testing and details Langan's outstanding balances related to PHS services and financial requirements going forward.

28. **Commonwealth of Massachusetts, Board of Registration in Medicine; Order; September 21, 2011; 1 page.**
This order, signed by the Chair, Peter Paige, M.D., approves the Licensee's Motion to Continue and states that the Board will consider the matter at its October 5, 2011 meeting.

29. **Hazelden; Treatment Records for Michael L. Langan from September 2011; Fax Cover Letter from Emil Jalonen, MA, JD, LADC, to Tracy Ottina, Esq., Board of Registration in Medicine; September 20, 2011; 16 pages, including fax cover letter.**
The fax cover letter informs Attorney Ottina (and the Board of Registration in Medicine) that Langan was admitted to the Hazelden Foundation Residential Evaluation Program in Minnesota on September 18, 2011, with an expected discharge date of September 23, 2011. Following the fax cover letter are the following documents from Langan's medical records at Hazelden:
    - Client Notes (7 pages): Discharge summary (admit date 9/18/11, discharge date 9/22/11; summary date 10/18/2011): The discharge summary provides a summary of Langan's participation in the residential evaluation program from September 18—September 22, 2011. The summary lists five professionals who evaluated Langan. The document also names several collateral sources who were contacted by the center. The discharge summary lists 6 additional written sources of information reviewed by the center (e.g., past treatment records from different facilities, PHS correspondence, etc.). Following the document list is an 11-paragraph summary of

Langan's treatment course and results from laboratory testing from 2005 through 2011, including a list of laboratory tests with dates and results. After this is an item-by-item description of the Course During Evaluation. Toward the end of this section is a list of Continuing Care Recommendations and Plan, as follows: "The residential evaluation team recommends that the Evaluee:

(1) "Abstain from all non-prescribed intoxicants including ethanol.
(2) "Can, based on evidence we have reviewed, practice medicine with reasonable skill and safety, without restrictions other than identified herein or by Massachusetts Medical Board or PHS.
(3) "Continue ongoing treatment of his ADHD from Dr. Wilens (based on collateral data obtained after the evaluee discharged).
(4) "Participate in a minimum of three (3) 12-step meetings per week.
(5) "Develop an active sponsor relationship with someone who is not a healthcare professional to include at least weekly communication.
(6) "Comply with any additional recommendations or requirements from either the Massachusetts Medical Board or PHS. Risk of false-positive notwithstanding, we recommend that PHS continue the use of EtG and PEth to screen for alcohol use in the evaluee for the duration of his monitoring contract. These biomarkers, while imperfect, are appropriate as supportive data in screening for relapse in the physician cohort, for whom behavioral screening alone frequently proves insufficient owing to a number of factors, including well-developed social façade and a sophisticated capacity to evade relapse detection. Any positives should be carefully evaluated and may require leave of absence and re-evaluation by a program skilled in such evaluations.
(7) "Avoid exposure to agents that would interfere with the capacity of PHS to monitor him for abstinence. This includes abstaining from the use of alcohol based handrubs and HFA inhalers, or other agents that might produce positive EtG or PEth results. The evaluee has demonstrated a solid command of the testing process, and should easily be able to avoid future positive tests. We have clearly communicated to him that it is his responsibility to educate himself on these agents and to avoid exposure to them. He has agreed that he is both capable and willing to do so.

"The residential evaluation also believes the Evaluee would benefit from:

(1) "Participating in recovery related activities with other healthcare professionals such as attending a caduceus group in his home area and attending the International Doctors in Alcoholics Anonymous conference next August and
(2) "Developing better stress management techniques by participating in activities such as Mindfulness Based Stress Reduction as developed at University of Massachusetts General Hospital by Jon Kabat-Zinn.

Following these recommendations is the list of diagnoses at discharge, which are as follows:

"Chemical Dependency:

(1) "Opiate dependence with physiological dependence in full sustained remission

(2) "Nicotine Dependence with physiological dependence
(3) "We were not able to confirm a diagnosis of Alcohol Dependence.
"Mental Health: ADHD.
"Medical:
(1) "Hyperlipidemia
(2) "Reactive Airway Disease
"Prognosis: Very Good."

- Client Notes (5 pages): This section is dated 9/19/2011 and has the header, "Assessments/Evals CD PsychoSocial Asmt," with a subheader, "Initial Health Professional Evaluation – Center City." This portion was dictated by Omar Manejwala, M.D., F.A.P.A., Medical Director. This section details Langan's substance abuse history and current treatment, medical status and history, psychiatric history, family and social history, information about Langan's career and practice history, results of a Mental Status Examination, and summarizing diagnostic impressions consistent with the summary above.
- Client Notes (3 pages): This section has a header, "Assessments/Evals MH Assessments" and is dated 9/21/11. This section discusses the results of Langan's psychological testing, including the following instruments:
  - Shipley Institute of Living Scale-II
  - Beck Depression Inventory-II
  - Minnesota Multiphasic Personality Inventory-2 (MMPI-2)

  The report describes Langan's life situation and reason for evaluation, the results of a Mental Status Examination, risk assessment, mental health history, and summary, with a diagnostic impression that is consistent with the previous summary, except for the addition, on Axis I, of "R/O [Rule Out] Attention-Deficit Hyperactivity Disorder, Inattentive Type." The evaluation was completed by Sarah Nowak, Ph.D., L.P., Sr. Clinician.

30. **Commonwealth of Massachusetts, Board of Registration in Medicine, Division of Law and Policy, Data Repository Unit; Letter to W. Scott Liebert, Esq. from Tracy J. Ottina, Physician Health & Compliance Counsel; September 8, 2011; 4 pages.** This letter informs Attorney Liebert that his client, Dr. Langan, was found by the Complaint Committee (at its 9/7/11 meeting) to be noncompliant with his Letter of Agreement, "specifically, Paragraph J, which requires [Langan] to comply with his Physician Health Services ('PHS') monitoring contract." The letter also informs Attorney Liebert that the Complaint Committee has referred the matter to the Board of Registration in Medicine "for determination of sanction." The letter specifies that the Board's consideration of the matter will occur on September 21, 2011. The letter also states, "Paragraph C of Dr. Langan's LOA [Letter of Agreement] specifically states that failure to comply with the LOA can result in the immediate suspension of his license or any such lesser sanction as the Board may deem fit to impose." The letter then details a list of 37 documents that the Board will consider in its decision.

31. **Physician Health Services; Letter to Robert Harvey, Esq. from Luis T. Sanchez, M.D.; September 7, 2011; 1 page.**

This letter is a cover letter introducing Langan's Self-Report for the Second Quarter of 2011. The letter also lists negative drug screens for the following dates in 2011: 4/5, 4/6, 4/14, 4/20, 4/27, 5/3, 5/9, 5/17, 5/27, 6/2, 6/8,6/17. The letter also notes, "As previously reported to you Dr. Langan had positive tests for ethyl glucuronide and ethyl sulfate on June 20, 2011 and June 30, 2011, and a positive test for phosphatidyl ethanol on July 1, 2011. These positive test results are awaiting further assessment."

32. **Letter to W. Scott Liebert, Esq. from Dan Kiel, Ph.D.,R.Ph. and Harvey M. Cohen, Ph.D., C.I.H.; September 6, 2011; 15 pages.**
This document is a two-page letter, supplemented by an abbreviated curriculum vitae (1 page) and list of publications for Harvey M. Cohen, Ph.D., C.I.H. (12 pages, 155 references for publications). The letter indicates that Drs. Kiel and Cohen were asked to review the laboratory results reported to the Board of Registration in Medicine for Dr. Langan, and that they were specifically "asked to comment on the use of a serum phosphatidylethanol (PEth) that was obtained as a confirmatory blood test following two random urine drug screens that were reported positive for ethyl glucuronide (EtG) and ethyl sulfate (EtS)." The letter details the qualifications of Drs. Kiel and Cohen and proceeds to review the history of Langan's positive PEth test result and Langan's use of a ProAir HFA metered dose inhaler (MDI). The letter describes the introduction of ethanol into the bloodstream via inhalation as opposed to via ingestion and discusses the expected values on lab work associated with the use of an MDI. The letter concludes: "In summary, it is our opinion based on the facts presented to us as well as knowledge of alcohol, pulmonary absorption and PEth formation that the 365.4 ng/mL of PEth is due primarily to Dr. Langan's use of ProAir, an ethanol-containing MDI. This test result should not be used as confirmation of alcohol ingestion under these circumstances."

33. **Massachusetts General Hospital; Letter to Michael Langan, M.D., from Michael F. Bierer, M.D.; August 25, 2011; 1 page, followed by 4 pages of supplemental laboratory reports.**
The full text of this brief letter is as follows:
"Dear. Dr. Langan:
"I am writing at your request to document my evaluation on Aug 8, 2011 specifically addressing whether you are using alcohol. I have known you for just over three years as your primary care provider and am writing in that capacity. I am boarded in Internal Medicine and have been on staff in the Department of Medicine at Mass General Hospital for over 20 years. You have asked me to note that I am a diplomate of the American Board of Addiction Medicine. There was no evidence obtained on my thorough examination including interview, physical exam, and laboratory testing that demonstrated any use of alcohol. I would note that your chronically elevated SGPT (that I have attributed to fatty infiltration of the liver) was improved last visit. I also note that the MCV was normal, as was a Carbohydrate Deficient Transferrin sent on Aug 9, 2011 (ratio of 0.03). I do not have access to testing performed outside MGH, but you report the assays raising concern about drinking suggest heavy ingestion, and that is inconsistent with the clinical information I have gathered at MGH.
"In short, there is no clinical basis to doubt your report of having not drunk any alcohol in several years."

The laboratory reports that follow the letter report data from August 9, 2011: Carb Def Transferrin—normal (1 page), MCV—81 (1 page), GGT—54 (1 page), and Transaminase SGOT—35 (1 page, collected 8/3/11).

34. **Massachusetts Board of Registration in Medicine; Letter to Tracy Ottina, PHC Council from Michael Langan; August 18, 2011; 14 pages.**
This letter from Langan to Attorney Ottina provides Langan's explanation for positive biomarker tests reported by PHS. In the letter, Langan expresses his belief that the positive screens were caused by his use of a prescription inhaler for his asthma. He explains his reasons for this belief and also provides a detailed explanation of the reasons why use of an asthma inhaler would (or could) affect test results in this way. Langan discusses the unusually high result on the PEth test and why that value was inconsistent with his clinical presentation and workplace performance at that time, as well as inconsistent with expected values associated with alcohol abuse. Langan also notes that he saw his physician, who is board certified in addiction medicine, to examine him thoroughly for signs of alcohol use, including the associated laboratory work, and that the results of those tests were inconsistent with alcohol ingestion. Langan goes on to describe his medical research work regarding an epinephrine auto-injector and the importance it could play in saving lives. Langan notes that he has switched to a different form of inhaler that should not cause high PEth test results. Pages 4 through 10 of the letter explain the results of a detailed literature review that Langan performed regarding PEth tests, inhalers, causes for elevated levels on these tests, and related topics. He also provides references for this review in pp.11-14 of the letter (62 total references). Langan's concluding paragraph reads as follows: "I have been compliant with PHS since leaving Talbott. I know that my involvement with PHS prior to being treated at Talbott makes them see me in a different light than what is the truth. But that was before I went to Talbott and I needed help. Since Talbott I have been doing well in all areas and I think this is evident. I would like to move on and continue on my current trajectory and alleviate any concerns that the Board or PHS may have."

35. **Physician Health Services; Letter to Robert Harvey, Esq. from Luis T. Sanchez, M.D.; August 17, 2011; 1 page.**
This letter provides a list of EtG (ethyl glucuronide) test results by date since July 2010 as well as observed tests and PEth (phosphatidyl ethanol) test results for Dr. Langan. The results are as follows:
    - 7/21/2010: observed test—negative
    - 8/18/2010: observed test—negative
    - 9/20/2010: observed test and EtG—negative
    - 10/27/2010: observed test—negative
    - 12/14/2010: observed test—negative
    - 1/10/2011: observed test—EtG positive at 574 ng/mL, EtS positive at 173 ng/mL
    - 3/1/2011: observed test—negative
    - 3/21/2011: observed test—negative
    - 4/20/2011: observed test—negative
    - 5/17/2011: observed test—negative
    - 6/8/2011: observed test—negative

- 6/20/2011: EtG positive at 11,700 ng/mL, EtS positive at 2,070 ng/mL
- 6/30/2011: EtG positive at 13,700 ng/mL, EtS positive at 2,270 ng/mL
- 7/1/2011: PEth positive at 365.4 ng/mL
- 7/19/2011: observed test—negative
- 8/2/2011: observed test—negative

36. Physician Health Services; Letter to Robert Harvey, Esq. from Luis T. Sanchez, M.D.; July 28, 2011; 1 page.
This letter provides written documentation of a prior verbal report of 7/19/11 that Langan tested positive for phosphatidyl ethanol (at a level of 365.4 ng/mL) on a random drug test performed on 7/1/11. The letter also indicates that PHS has requested that Dr. Langan participate in reevaluation.

37. Massachusetts General Hospital and Harvard Medical School, Pediatric and Adult Psychopharmacology Units, Yawkey Center for Outpatient Care; Letter to the Board of Registration in Medicine from Timothy E. Wilens, M.D., Clinical Director, Center for Addiction Medicine at MGH; July 22, 2011; 2 pages.
In this letter, Dr. Wilens notes that Dr. Langan has been in his care since 2007 and has been treated for ADHD and has been monitored by Wilens and and Langan's previous social worker for opioid dependence, "which is in stable remission." The next paragraphs are worth citing in full:

"It has come to my attention through [PHS] that Dr. Langan had positive EtG and PEth tests indicating alcohol consumption. In fact, based on the blood levels, the data indicates that Dr. Langan would have been consuming very high levels of alcohol. Please note that I am writing to indicate that my clinical evaluation of Dr. Langan negates the biomarker findings and contention of PHS that Dr. Langan is using alcohol. In my sessions with Dr. Langan, I have not evidenced any signs or symptoms of alcoholism. He has been adherent with treatment and followups. Moreover, given that we practice in the same health system, I periodically see Dr. Langan in the hospital and have not had any suspicion of his using alcohol. His therapist, who has recently retired from our division, also did not feel that Dr. Langan relapsed during his entire treatment with her.

"While I have not directly evaluated Dr. Langan's ability to practice medicine, our discussions have not led me to doubt whatsoever his professionalism, competence, reliability, or sobriety during his delivery of medical care. Per my request, he has maintained a balanced lifestyle commensurate with appropriate relapse prevention methodology.

"It is notable that as the Director of the Center for Addiction Medicine at MGH, I oversee our outpatient substance abuse clinic. In discussions with the Clinical Director of the MGH outpatient clinic, we have mutually agreed not to use biomarker measurements to assess alcohol use in our patients given the difficulties with specificity and sensitivity—particularly given the degree to which confounds such as exogenous alcohol derivatives can markedly affect the **[p.2]** biomarkers. Such an approach appears appropriate given US government derived guidelines such as those espoused on the SAMHSA website.

"In conclusion, my clinical impression does not support that Dr. Langan suffers from an alcohol use disorder and I disagree with PHS on the supposition that Dr. Langan

has an alcohol problem. I will continue to follow Dr. Langan for his past opioid use disorder that is now in remission, as well as his ADHD that is responding nicely to his treatment."

38. **Physician Health Services; Letter to Robert Harvey, Esq. from Luis T. Sanchez, M.D.; July 13, 2011; 1 page.**
    This letter provides written documentation of a prior verbal report of 7/11/11 that Langan tested positive for ethyl glucuronide (at a level of 13,700 ng/mL) and ethyl sufate [*sic*] [sulfate] (at a level of 2,270 ng/mL) on a random drug test performed on 6/30/11. This letter reiterates the 7/6/11 letter's indication that Langan's testing schedule will be increased to three times per week for three weeks.

39. **Physician Health Services; Letter to Robert Harvey, Esq. from Luis T. Sanchez, M.D.; July 6, 2011; 1 page.**
    This letter provides written documentation of a prior verbal report of 7/1/11 that Langan tested positive for ethyl glucuronide (at a level of 11700 ng/mL) and ethyl sufate [*sic*] [sulfate] (at a level of 2070 ng/mL) on a random drug test performed on 6/20/11. The letter also notes that Langan's testing schedule will be increased to three times per week for three weeks.

<u>2009</u>

40. **Physician Health Services; Letter to Robert Harvey, Esq. from Luis T. Sanchez, M.D.; August 24, 2009; 1 page.**
    This letter follows up on the July 10th, 2009 letter (summarized below). This letter states, "Since that time Dr. Langan has had a second test that was positive for EtG and EtS on July 27, 2009, at levels of 277 ng/mL and 120 ng/mL respectively." The letter notes that Langan informed PHS that he uses an ethanol-propelled inhaler for his asthma. The letter also states: "PHS has concluded that there is no evidence of relapse at this time."

41. **Physician Health Services; Letter to Robert Harvey, Esq. from Luis T. Sanchez, M.D.; July 10, 2009; 1 page.**
    This letter provides written documentation of a prior verbal report indicating that Langan tested positive for ethyl glucuronide (EtG) at 555 ng/mL and for ethyl sulfate (EtS) at 115 ng/mL on June 25, 2009. The letter indicates that "[t]his sample was also dilute with a creatinine level of 14.4 mg/dL and specific gravity of 1.002." The letter also indicates that PHS will be increasing its testing to three times per week.

42. **Commonwealth of Massachusetts, Board of Registration in Medicine; Letter of Agreement Amendment; March 23, 2009; 2 pages.**
    This document records that Langan and the Complaint Committee agreed to amend Paragraphs Q and R of the Letter of Agreement from October 8, 2008. The new Paragraphs Q and R are reproduced in their entirety in this document. The document is signed by Langan (3/17/09) and Peter Paige, M.D., Complaint Committee Chair (3/4/09 [?]).

43. Physician Health Services; Letter to Pamela Meister, Esq. from Luis T. Sanchez, M.D.; February 18, 2009; 1 page.

This letter documents that Langan entered into his most recent PHS contract with an effective date of March 18, 2008 with a Behavioral Health Addendum effective September 9, 2008. The letter describes the purpose of the contract and lists 7 requirements of the contract, as follows:

- "Monthly meetings with a PHS associate director
- "Meetings with therapist—weekly for the first six months of the contract and then on a schedule determined by therapist.
- "Prohibition on alcohol and drug use.
- "Random urine screens—twice a week for the first three months of the contract and then on a weekly basis.
- "Notification to primary care physician, chief of service or other supervisor of nature of contract.
- "Monitors—submit quarterly reports to PHS.
- "Peer support group meetings—three times a week for the first three months and then on a weekly basis."

<u>2008</u>

44. Commonwealth of Massachusetts, Board of Registration in Medicine; Letter of Agreement; October 8, 2008; 6 pages.

This Letter of Agreement (LOA), which is referenced frequently throughout subsequent documents in the case, was signed by Michael L. Langan, M.D., on September 21, 2008, and by a representative of the Complaint Committee on October 8, 2008. The LOA, as initially executed on October 8, 2008, contains 24 clauses; a brief summary of each follows:

(A) identification of the Licensee (Langan)

(B) LOA is confidential and non-disciplinary

(C) LOA remains in effect for five (5) years from March 18, 2008, unless extended at Committee's discretion; failure to comply with LOA sufficient grounds for suspension of license; due process rights (e.g., to request a hearing) in the event of license suspension; waiver of defense to suspension of license; acknowledgement of relinquishing procedural and substantive rights by entering into LOA

(D) agreement to comply with treatment plans prescribed by therapist and psychiatrist and to comply with monitoring and reporting obligations in the LOA; no change of psychiatrist or therapist without prior notification to, and approval from, the Committee

(E) authorization for Langan's treatment providers to notify the Board if his ability to practice is impaired

(F) confirmation in writing within 15 days from Langan's therapist and psychiatrist of their willingness to undertake reporting obligations described in the LOA

(G) agreement to refrain from alcohol and controlled substances unless such medication is prescribed appropriately
(H) immediate notification to the Board at any time that Langan receives a prescription for a Schedule II-IV controlled substance
(I) prohibition of self-prescribing (or self-administering/self-dispensing) Schedule II-IV controlled substances
(J) agreement to abide by the terms of the Substance Use Monitoring Contract with Physician Health Services (PHS), effective March 18, 2008
(K) agreement to submit random urine and/or blood tests; provisions for authorizing communication between PHS and the Board of Registration in Medicine
(L) agreement to file (within 30 days of the LOA) written releases and authorizations necessary for the LOA and Monitoring Contract
(M) requirements for releases to third parties for providing written records, reports, etc., to the Committee; waiver of privilege for such information
(N) requirement to notify the Committee if/when Langan seeks licensure to practice medicine in another state
(O) notification to the Committee if/when Lagnan relocates out of state
(P) agreement to appear before the Committee upon Committee's request, given reasonable advance notice
(Q) agreement not to practice medicine except under conditions imposed by the Committee; may not practice medicine until practice plan submitted to (and approved by) the Committee
(R) requirement to submit a proposed worksite monitor along with any proposed practice plan as described under Paragraph Q; monitor required to submit quarterly reports to the Committee with copies to Langan's treatment providers
(S) worksite monitor to provide written confirm within 15 days of agreement to participate as monitor
(T) Langan to be solely responsible for any fees or charges associated with compliance with the LOA
(U) terms of the LOA do not preclude the Board from taking disciplinary action
(V) LOA to be disclosed to any state in which Langan is or becomes licensed to practice medicine during the course of the Agreement
(W) Langan to provide a copy of the LOA to any supervisor he has during the term of the Agreement; lists entities to which Langan must provide a copy of the LOA and requirements for providing such copies (e.g., within 10 days); must notify Board within 10 days of compliance with this directive
(X) Agreement to be maintained as an open complaint in the Board's files throughout duration of the Agreement; upon full compliance with the Agreement, it becomes a statutory report in the Board's files; Board to exercise good faith in maintaining the confidentiality of the document

45. **Commonwealth of Massachusetts, Board of Registration in Medicine; Order to Terminate Voluntary Agreement Not to Practice Medicine; October 8, 2008; 1 page.** This order terminates Langan's Voluntary Agreement Not to Practice Medicine (VANP).

46. **Massachusetts Board of Registration in Medicine; Letter to the MA BRM from Michael Langan; 2008; 3 pages.**
This letter was included in the packet of materials from 2008 provided by the Board of Registration in Medicine, but the letter does not appear to be dated. In the letter, Dr. Langan requests to lift his Voluntary Agreement Not to Practice (VANP) that had taken effect on 1/18/07. Because the VANP was terminated on October 8, 2008, this letter was likely written in late September or early October of 2008. The letter also gives a summary of Langan's treatment and recovery process and some biographical history, including the context for the development of his substance use disorder. In the letter, Langan details four reasons for his belief that the Board should release him from the VANP:
    (1) "I self reported myself to PHS prior to any patient care issues or legal issues. I have no accusations of patient care problems or illegal activity. I never self-prescribed.
    (2) "I chose the hardest, longest, and most successful treatment program and have waited over a year [since sobriety] before asking to lift my VANP (i.e., my actions over the past year show how seriously I am taking this).
    (3) "I had an undiagnosed medical condition (ADHD) that is now under proper treatment and that this condition has a high rate of substance abuse when untreated due to impulsivity, among other things.
    (4) "I am being closely followed by several physicians. I am compliant with all treatment recommendations, with PHS and with TRC [Talbott Recovery Center] aftercare."

47. **Physician Health Services; Physician Substance Use Monitoring Contract; September 9, 2008; 14 pages.**
This contract is a 14-page document. Page 1 is a cover sheet. Pages 2 through 5 list demographic, specialty, and contact information for Langan, Langan's work contacts, his therapist and psychiatrist, a monitor, laboratory for testing, primary care physician, and attorney. Pages 6 through 12 contain the contract itself, which contains 23 separate clauses (listed briefly, summaries omitted):
    (1) PHS Associate Director
    (2) Prohibition on Drug Use
    (3) Prohibition on Alcohol Use
    (4) Random Drug Tests—Procedure
    (5) Positive Test Results—Reports
    (6) Verification of Prescriptions
    (7) Availability for Testing
    (8) Therapy
    (9) Support Groups
    (10) Primary Care Physician and Physical Examination
    (11) Consultation
    (12) Monitor and Chief of Service
    (13) Monitors/Quarterly Reports
    (14) Duty to Notify
    (15) Inpatient and Other Treatment

(16) Discharge from Treatment/Return to Practice
(17) Documents
(18) Letters of Compliance
(19) Breach of Contract—Reports
(20) Effective Date
(21) Payment of Lab Fees
(22) Communication Among PHS, Monitors, and Physicians
(23) Interstate Agreement

The contract is signed by Michael Langan (dated 7/[illegible]/08).
Pages 13-14 of the document include an Addendum to Contract, which states the following: "I understand that PHS will provide documentation of my behavioral health, which upon my written authorization or request, will be made available to third parties." The Addendum then lists six (6) requirements for the Behavioral Health portion of the contract, including:

(1) weekly therapy for the first six months of the contract, then schedule determined by therapist but no less than quarterly
(2) authorization for therapist to provide quarterly written reports to PHS to document compliance
(3) monitoring for specified diagnosis (Attention Deficit Disorder)
(4) agreement to suspend medical practice if ability to practice medicine becomes impaired
(5) term of this Addendum to parallel term of the Contract
(6) consequences for failing to comply with the Addendum

The Addendum is signed by Langan (8/21/08) and Luis T. Sanchez, M.D., Director of PHS (9/9/08).

48. Letter to PHS from Joji Suzuki, M.D., McLean Ambulatory Treatment Center at Naukeag; August 1, 2008; 1 page.

This letter is an addendum to the letter written by Raymond Levesque (July 15, 2008) concerning Dr. Langan's treatment at the McLean Ambulatory Treatment Center at Naukeag from 6/20/08 to 7/16/08. Dr. Suzuki describes the impression of Dr. Langan's case as follows:

> "Reason for admission: Positive urine test for oxymorphone January 2008; admitted for relapse prevention treatment of his opiate dependence.
> Admitting diagnosis: Opiate Dependence in Full Sustained Remission
> Discharge diagnosis: Opiate Dependence in Full Sustained Remission
> Hospital course: Please refer to letter by Raymond Levesque LICSW
> Recommendations: Return to work without restrictions. Follow-up with Dr. Timothy Wilens and Donna Miller for ongoing treatment. Continue urine monitoring with PHS.
> Discharge medications: Naltrexone 50 mg PO Daily"

49. Letter to PHS from Raymond S. Levesque, LICSW, McLean Ambulatory Treatment Center at Naukeag; July 15, 2008; 2 pages.

This letter appears to be a progress report addressing three areas:

(1) "the status of Dr. Langan's ability to practice medicine in a safe way": The discussion addressing this concern is positive in tone and notes, "[Dr. Langan's] motivation for recovery has been excellent and progress here steady throughout his stay.
"Our opinion here is that Dr. Langan is safe to practice medicine and is able to return to work as soon as the board sees fit to allow him."

(2) "what suggestions for continued follow up may be useful": The letter notes the following recommendations in connection with Dr. Langan's return to practice: "continued urine screens, psychotherapy with his therapist at MGH on a weekly basis, oversight by an appropriate authority after returning to work for behavioral/practice supervision, and attendance at self-help meetings."

(3) "what we have to understand about a negative [*sic*] urine screen": The letter expresses uncertainty regarding the meaning of the positive urine test but states that at the time of the positive test there were no behavioral signs of drug use.

50. Letter to BRM from Lauren E. Pollak, Ph.D., Massachusetts General Hospital, regarding Dr. Langan's return to work; June 25, 2008; 1 page.

This letter from Dr. Pollak, a clinical neuropsychologist, explains Pollak's conclusion that she has "no reservations about [Dr. Langan's] competence to return to work." Dr. Pollak evaluated Dr. Langan on June 18, 2008 "for a more focused assessment" than the one which Dr. Pollak performed the previous year (on 6/7/07). Dr. Pollak writes that "[t]he goal of this second evaluation was to re-evaluate aspects of executive functioning, as well as to attain information regarding his current emotional state." The 6/18/08 evaluation "failed to yield evidence of executive dysfunction," and the personality assessment revealed no abnormalities except Langan's forthright admission of past opiate abuse. Dr. Pollak concludes, "the results of both Dr. Langan's 6/07 and 6/08 neuropsychological evaluations *failed* to support a diagnosis of cognitive disorder, beyond the difficulties that are associated with ADHD."

51. Talbott Recovery Campus Assessment Report for Michael Langan; April 16, 2008; 11 pages.

These treatment records for Dr. Langan are from his recommended brief evaluation at the Talbott Recovery Campus in 2008 and contain the following sections:

- Waiver of Confidentiality (standard clause)
- Disclaimer (3 paragraphs)
- Assessment Committee (identifies the individuals involved in providing treatment to Langan while he was at the Talbott Recovery Campus)
- Identifying Information (description of Dr. Langan)
- Chief Complaint: "'I had a positive urine and hair for opioids, but didn't use.'"
- Psychiatric & Addiction Medicine Assessment by Dr. Doyle:
    - History of Present Illness (1 lengthy paragraph)
    - Alcohol History: "Dr. Langan states that his sobriety date is 01/30/2007 and denies use of drugs or alcohol since that date."
    - Drug History: "He states that he has up to 100 negative urine drug screens while monitored."
    - Nicotine History: "Nicotine use is one-half can of smokeless tobacco per week."

  - Past Psychiatric History (1 paragraph)
  - Family History: lists relatives with alcoholism and relative with dysthymia
  - Legal Problems: notes lawyer and MA Board of Medicine
  - Financial Problems: no IRS debts but "says he has little resources"
  - Medical Problems: same as described in discharge diagnoses
  - Allergies: none known
  - Herbal medicines: "Vitamins, Ginkgo and GNC workout products."
  - Observation/Mental Status Examination: "There is no evidence of tremor. He is well dressed and groomed. Mood is anxious, and afraid with a full range of affect. Thought processes are goal directed. There is no evidence of hallucinations, delusions, illusions, and suicidal or homicidal ideation. Cognitively, he is alert and oriented in 4 spheres. Concentration is 7 digits forward and 5 in reverse. Recall memory is 4/4 objects at 1 minute. Recent and remote memory are grossly intact. Abstractions are abstract."
- Internal Medicine & Addiction Medicine Assessment by Dr. MacNabb:
  - History of Present Illness (3 paragraphs): Notes history of OxyContin use prior to entering treatment; notes current exercise and some limited contact with his recovery sponsor; notes that Langan is not "formally working the [12] steps." The note also describes the recent positive urine and hair screen, and notes that: "Dr. Langan states that he has not used any drugs or alcohol since leaving Talbott [in 2007]."
  - Current Social Situation: brief description of Talbott's family situation
  - Past History
    - Chemical Use/Medications Including Vitamin Supplements and Herbal Remedies: notes smokeless tobacco, "a lot of vitamins," amino acids, protein drinks "but not energy drinks," and current medications
    - Family History (1 paragraph): notes health status of relatives and alcoholism in family members
    - Past Illnesses: no known history of hepatitis, no medical hospital admissions
    - Operations/Injuries: describes several past injuries, including pneuomothorax (age 25), tonsillectomy (age 6), compound fracture from skateboarding (age at injury not listed)
    - Drug Sensitivities: none known
  - Review of Systems (Positive Findings Only)
    - General: stable weight loss, no chronic pain
    - Eyes: glasses
    - Nose: seasonal allergic sinorhinitis
    - Cardiovascular: no history of heart problems/murmur; no history of hypertension; history of hyperlipidemia
    - Skin: some vitiligo
    - Nonchemical Addictions: denied, except "When he was abusing opiates, Dr. Langan bought a lot of 'stuff' off of eBay. He does not do that now."
    - Pain: negative

- Physical Examination: "No new or unexpected findings." Summary of vital signs.
- Labs: "Comprehensive laboratory studies including Chem20, CBC, Urinalysis, Lipid study, Thyroid function test, RPR, and urine drug screen were done. Lab tests revealed elevated AST at 75 IU/L (0-40), elevated ALT at 129 IU/L (0-55), elevated GGT at 70 IU/L (0-65), elevated serum iron at 222 ug/dL (40-155), elevated total cholesterol at 277 mg/dL (100-199), elevated RBC at 6.4 x 10E6/uL (4.1 – 5.6), elevated hemoglobin at 17.5 g/dL (12.5-17.0), elevated hematocrit at 52.4% (36-50), Eos at 10% (0-7), elevated LDL cholesterol at 193 mg/dL (0-99) and his estimated glomerular filtration rate was low at 59.7 mL/min (60-137)."
- Screens for Alcohol and Drugs: "Dr. Langan had an observed urine drug screen at the Talbott Recovery Campus which was negative for all tested substances. Ethyl glucuronide was negative. A 12 panel hair screen for drugs obtained on 3/26/08 was also negative."

- Psychological Assessment by Dr. Snook
    - Cognitive Assessment (1 chart & 4 paragraphs): "superior range of intellectual abilities," "substantial improvement over his previous assessment [in January of 2007]"
    - Personality Assessment (3 paragraphs): MMPI-2 "not suggestive of the presence of psychopathology"; MCMI-3 "also noted to be entirely within acceptable clinical limits and not suggestive of the presence of psychopathology or specific dysfunction in terms of his personality"
    - Psychological Summary (1 lengthy paragraph): notes positive urine & hair drug screens; notes Langan's adamant denial of having used any drugs or alcohol since inpatient treatment at Talbott in 2007; notes superior intellectual functioning & improvement from 2007 scores in this area; "continued difficulties in areas of his undivided attention and on measures of his executive functions"; "It is apparent … that Dr. Langan is not working a vigorous program of recovery. Additionally, he has these two positive drug screens which he cannot explain. Based upon his inadequate program of recovery it would certainly seem advisable for him to voluntarily participate in a relapse track of treatment in order to strengthen and reestablish an effective program of recovery. Obviously he will need to continue to have very close monitoring."
- Collateral Information by Ms. Cottrell (5 paragraphs)
- Discussion: "This individual is most likely in denial. He had a positive urine drug screen that was confirmed on hair screen in an opiate addicted physician who was running a suboptimal recovery program.
  "The assessment team met with Dr. Langan on March 28, 2008, and reviewed the specific findings of the evaluation. Based on the results, Dr. Langan was given the following diagnoses:

  AXIS I. Opiate dependence, in relapse.
  Alcohol dependence, in sustained full remission.
  Nicotine dependence.
  Depressive disorder, not otherwise specified.

Obsessive Compulsive Disorder, mild, in remission.
Cognitive Disorder, (2/27), resolved.
Possible Attention Deficit Disorder.
Partner Relational Problem.

AXIS II. None—Avoidant Personality Traits.

AXIS III. History of bronchial asthma.
Hyperlipidemia.
Abnormal liver function studies.
History of seasonal allergic sinorhinitis.
Elevated blood pressure.
Mild polycythemia.
Mild eosinophilia.

AXIS IV. Severity of Psychosocial Stressors: Severe.

AXIS V. GAF: 50/75.

- Recommendations: "Based on the above findings, we made the following recommendations to Dr. Langan:
  (1) "We recommended treatment for chemical dependence in relapse at the residential level in an environment geared to the care of healthcare providers. Talbott Recovery Campus or any other center approved by the Massachusetts Physicians Health Program."
  (2) "We recommended repeat liver function test with viral studies for Hepatitis. When this is clarified, Zocor should be re-evaluated."
  (3) "We recommended ongoing monitoring of blood pressure."
  (4) "Dr. Langan should continue Cymbalta and Strattera."
  (5) "Ongoing treatment with Naltrexone, preferably as intramuscular Vivitrol monthly, is recommended to enhance his recovery believability."

  "We do not advocate that Dr. Langan can presently practice medicine with reasonable safety. Our analysis of his safety is limited to his medical conditions only. This evaluation did not assess his medical skill. The urine drug screen and hair screen obtained during Dr. Langan's assessment were negative. Dr. Langan agreed with this assessment and recommendations."

The report is signed by John E. Doyle, III, M.D., and Lisa Cottrell, M.A., L.P.C.

52. **Physician Health Services; Letter to Robert Harvey, Esq. from Luis T. Sanchez, M.D.; March 26, 2008; 1 page.**
This letter provides updated information regarding Langan's positive test for oxymorphone on 1/7/08. The letter notes that Langan submitted a hair sample on March 14, 2008, which tested positive for oxycodone at a level of 230 pg/mg. The letter notes that Langan has been asked to participate in an independent evaluation and that his testing has been increased to three times weekly.

53. **Physician Health Services; Letter to Robert Harvey, Esq. from Luis T. Sanchez, M.D.; March 14, 2008; 1 page.**
This letter provides updated information following a 1/7/08 report that Langan tested positive for oxymorphone at a level of 129 ng/mL. The letter indicates that Langan's testing increased to three times weekly for three weeks following the positive result, then

to twice per week, and that the results of these tests have been negative. The letter also states that PHS requested Langan to participate in an independent evaluation on or before 3/14/08 and that Langan intends to complete the assessment at the Talbott Recovery Campus.

54. **Nancy C. Nitenson, M.D.; Letter to Board of Registration in Medicine; March 11, 2008; 1 page.**
In this letter, Dr. Nitenson indicates that "[i]f the hair sample [for drug testing] is negative and if the evaluation at Talbott goes well, then it would appear that Dr. Langan is ready to return to work." Dr. Nitenson briefly summarizes the course of Langan's treatment since July 2005, when he began seeing her as an outpatient. The letter indicates his admission as an inpatient at the Talbott center from 2/5/07 to 5/19/07 for the treatment of opioid dependence. Dr. Nitenson notes that Dr. Langan has been treated in the past for possible OCD [Obsessive Compulsive Disorder] "is currently taking Cymbalta 40 mg/day for Dysthymia. He is also currently being treated for ADHD with Strattera 80 mg…" Dr. Nitenson indicates that Langan "appeared to be doing very well after his return from Talbott." She notes a urine sample in January 2008 that tested positive for oxymorphone but states that Langan "has repeatedly denied any use of substances since his admission to Talbott." She notes that "[h]e has been compliant with appointments and continues to attend AA meetings once per week." She notes that he continues to be under PHS monitoring with random drug screens. The letter indicates that Langan has agreed to a short-term evaluation at Talbott due to the positive urine screen.

55. **Physician Health Services; Letter to Susan Berg, Esq. from Luis T. Sanchez, M.D.; February 27, 2008; 1 page.**
This letter documents that Langan entered into his most recent PHS Substance Use Monitoring Contract with a Behavioral Health Addendum with an effective date of February 12, 2007. The letter details requirements of the monitoring contract, including:
    - "Monthly meetings with a PHS associate director
    - "Meetings with therapist—weekly for the first six months of the contract and then on a schedule determined by therapist.
    - "Prohibition on alcohol and drug use.
    - "Random urine screens—twice a week for the first three months of the contract and then on a weekly basis.
    - "Notification to primary care physician, chief of service or other supervisor of nature of contract.
    - "Monitors—submit quarterly reports to PHS.
    - "Peer support group meetings—three times a week for the first three months and then on a weekly basis."

The letter also states: "Dr. Langan was compliant with his contract until January 7, 2008 when he tested positive for oxymorphone at a level of 129 ng/mL. His testing has been increased while PHS evaluates the significance of this positive test result. Dr. Langan has been compliant with his PHS contract since that time."

56. **Physician Health Services; Letter to Rebecca Lockwood, Esq. from Luis T. Sanchez, M.D.; January 22, 2008; 1 page.**
This letter provides written documentation of a prior verbal report of 1/15/08 that Langan tested positive for oxymorphone at a level of 129 ng/mL on January 7, 2008. The letter also notes that Langan's testing has been increased to three times per week.

2007

57. **Talbott Recovery Campus; Treatment Records for Michael Langan; 2007; 7 pages.**
The documents from Dr. Langan's treatment at the Talbott Recovery Campus in 2007 include the following:
    - **Confidentiality/Privacy Notice; August 6, 2007; 1 page.** This document is a standard confidentiality/privacy notice for release of medical records.
    - **Discharge Summary; August 1, 2007; 5 pages.** The discharge summary contains the following sections:
        - Demographic/identifying information about Dr. Langan
        - History of present illness: Some identifying information about Dr. Langan and his career; past history of opioid and amphetamine use noted. At admission, Langan noted to be taking only Seroquel.
        - Summary of treatment progress: This is a clause introducing the following summary of "problems treated."
        - Problems treated :
            - Dimension I: Withdrawal: "Dr. Langan had an ambulatory detoxification with Subutex and Tranxene at Talbott Recovery Center and all withdrawal symptoms cleared."
            - Dimension II: Medical:
                - "Problem #1: Asthma. This is treated with albuterol Medihaler successfully.
                - "Problem #2: Hyperlipidemia: Dr. Langan is on Lipitor 20 mg once a day and fish oil.
                - "Problem #3: Transaminasemia: Repeat liver function tests were within normal limits off drugs and alcohol.
                - "Problem #4: Elevated glucose: Repeat glucose was 128, and hemoglobin A1c was 5.8. Dr. Langan is in a glucose intolerance, almost prediabetic condition and has been told about this and engaged him in diet and exercise changes."
            - Dimension III: Emotional Behavior and Cognitive: "Dr. Langan is on Cymbalta 20 mg daily and Seroquel 50 mg at night, which has recently been not necessary and discontinued with successful treatment of depressive disorder and accompanying compulsion. Dr. Langan did have a cognitive disorder as diagnosed by neuropsychological testing during withdrawal and has been engaged in cognitive rehabilitation throughout his hospital stay with dramatic return of cognitive status.

Dr. Langan was referred to Grief Track to work significant losses in his life and was successful in processing those."

    - Dimension IV: Readiness for Change: "Problem #1: Dr. Langan was ambivalent about making necessary life changes to remain sober, which placed him at risk to continue losing things important to him." This item has a paragraph summarizing the treatment approach to helping Langan take steps toward change, including 12-step principles and identifying obstacles to recovery.
    - Dimension V: Relapse Triggers: "Problem #1: Dr. Langan tended to intellectualize his form of denial, which contributed to his difficulty remaining committed to sobriety." This item is followed by a paragraph summarizing the treatment approach designed to overcome Langan's tendency toward rationalization and intellectualizing and noting that Langan "began to work on these issues in treatment and made some moderate progress in doing so."
    - Dimension VI: Living Environment: This item discusses Langan's marital situation and problems related to his substance abuse. The discussion notes Langan's (and his wife's) participation in marital therapy and Langan's involvement in aftercare planning.

- Final Assessment: "Dr. Langan successfully completed 15 weeks of treatment. He met the goals of his treatment experience. Dr. Langan still had heavy overlay of intellectualization and was made aware that he would continue to have to look at this trait as an adjunctive of his disease. Dr. Langan was told that he must bond closely with the 12-step program and with the home group and that if he did so, his chances of recovery would be significantly improved. Dr. Langan acknowledged that he understood this fact and it was hoped that he would follow through on this after he left treatment."
- Discharge Mental Status: "At the time of discharge, Dr. Langan was normal active. He was well dressed and groomed. Mood was euthymic. Thought processes were logical, goal-directed and coherent. There is no evidence of hallucinations, delusions, illusions, suicidal or homicidal ideation. He was alert and oriented in four spheres."
- Clinical Laboratory Data: "Admission chemistries revealed glucose of 100. GGT of 86. Cholesterol of 222. Triglycerides of 217, else were within normal limits. CBC was within normal limits. RPR was nonreactive. Thyroid function test was within normal limits. Repeat hepatic panel was within normal limits. Lipid panel on repeat showed cholesterol of 295 with an HDL of 51 and an LDL of 216. Repeat glucose was 128 and hemoglobin A1c was 5.8. A final lipid panel prior to discharge showed cholesterol of 153 with an HDL of 33 and LDL of 103."
- Serial Urine Drug Screen: "Dr. Langan had 28 urine drug screens at Talbott Recovery Center. Admission urine drug screen was positive for opioids and amphetamines. Subsequent urine drug screens were positive for detoxification medicines only and after those cleared all urine drug screens were negative for all tested substances."

- Discharge Medications: "Lipitor 20 mg daily, Claritin 10 mg p.o. daily p.r.n., Nasacort aqua 2 puffs each nostril twice a day p.r.n., Protonix 40 mg p.o. daily, albuterol Medihaler two puffs q. four hours p.r.n. asthma, Cymbalta 20 mg p.o. daily, flaxseed oil as directed, fish oil capsules as directed, and aspirin 81 mg p.o. daily."
- Discharge Type: Complete
- Continuing Care Recommendations (22 Recommendations): The continuing care recommendations are detailed and note medications approved by Langan's physician at Talbott, medical conditions for which Langan was expected to seek treatment following his discharge, relapse prevention plan, plans for communications with Talbott, Langan's then-current VANP, schedule and plan for activities prior to his return-to-work, identification of Langan's care providers and monitors, plan for random drug screens, plan for support group attendance, and recommendations for return visits.
- Final Diagnoses

  Axis I: (1) Opioid dependence
  (2) Alcohol dependence
  (3) Nicotine dependence
  (4) Opioid withdrawal resolved
  (5) Obsessive-compulsive disorder, mild and in remission
  (6) Depressive disorder, not otherwise specified, in remission
  (7) Partner-relational problem

  Axis II: None

  Axis III: (1) Asthma
  (2) Hyperlipidemia
  (3) Transaminasemia, resolved
  (4) Glucose intolerance

  Axis IV: Moderate.

  Axis V: GAF: 70/70

- **Continuing Care Authorization and Consent to Release Information; May 17, 2007; 1 page.** This document records Langan's consent to release information to treatment providers in the context of providing continuity of care, for a period of five years following discharge from Talbott. The consent is signed by Langan and dated 5/17/07 (signature date).

58. Massachusetts General Hospital and Harvard Medical School; Letter from Lauren E. Pollak, Ph.D., to the Board of Registration in Medicine, re: Langan's Return to Work; December 12, 2007; 1 page.

This letter from Dr. Pollak, a clinical neuropsychologist, explains Pollak's conclusion that she has "no reservations about [Dr. Langan's] competence to return to work." Dr. Pollak evaluated Dr. Langan on June 7, 2007, and completed neuropsychological testing at that time for: "(1) to clarify some abnormalities that were seen on a neuropsychological examination conducted at Talbott Recovery Center in Atlanta, GA a few months prior, and (2) to determine whether or not Dr. Langan meets diagnostic criteria for ADHD." Dr. Pollak's letter continues: "The results of my evaluation revealed that Dr. Langan is a bright individual who performed above the average range across most cognitive measures

administered. Based upon both his history and his display of difficulties with both inattention and motor restlessness, I also concluded that a diagnosis of ADHD, predominantly inattentive type, was warranted…." Dr. Pollak also notes: "In sum, the results of Dr. Langan's June of 2007 neuropsychological evaluation *failed* to support a diagnosis of cognitive disorder, beyond the difficulties that are associated with ADHD."

59. **Letter from Nancy C. Nitenson, M.D., to the Board of Registration in Medicine, re: Langan's Return to Work; December 11, 2007; 1 page.**
In this letter, Dr. Nitenson indicates that "[a]t this time, it appears that [Dr. Langan] is ready to return to work." Dr. Nitenson briefly summarizes the course of Langan's treatment since July 2005, when he began seeing her as an outpatient. The letter indicates his admission as an inpatient at the Talbott center from 2/5/07 to 5/19/07 for the treatment of opioid dependence. Dr. Nitenson notes that Dr. Langan has been treated in the past for possible OCD [Obsessive Compulsive Disorder] and Dysthymia but that he has not required treatment with antidepressants since returning from treatment at Talbott. She lists Strattera 80 mg for ADHD as Langan's only current psychiatric medication. Dr. Nitenson indicates that Langan appears to be doing well, attends AA once a week, and continues under PHS monitoring with random drug screens. The letter indicates that Langan has agreed, upon Dr. Nitenson's recommendation, to take injectable naltrexone if asked to do so, although at the time of the letter Dr. Langan was not taking that medication. Langan had indicated to Dr. Nitenson that he has been abstinent [from substance abuse] for over 10 months.

60. **Physician Health Services; Physician Substance Use Monitoring Contract; February, 12 2007; 14 pages.**
This contract is a 14-page document. Page 1 is a cover sheet. Pages 2 through 5 list demographic, specialty, and contact information for Langan, Langan's work contacts, his therapist and psychiatrist, a monitor, laboratory for testing, primary care physician, and attorney. Pages 6 through 12 contain the contract itself, which contains 23 separate clauses (listed briefly, summaries omitted):
    (1) PHS Associate Director
    (2) Prohibition on Drug Use
    (3) Prohibition on Alcohol Use
    (4) Random Drug Tests—Procedure
    (5) Positive Test Results—Reports
    (6) Verification of Prescriptions
    (7) Availability for Testing
    (8) Therapy
    (9) Support Groups
    (10) Primary Care Physician and Physical Examination
    (11) Consultation
    (12) Monitor and Chief of Service
    (13) Monitors/Quarterly Reports
    (14) Duty to Notify
    (15) Inpatient and Other Treatment
    (16) Discharge from Treatment/Return to Practice

(17) Documents
(18) Letters of Compliance
(19) Breach of Contract—Reports
(20) Effective Date (2/12/07, terminate in 3 years)
(21) Payment of Lab Fees
(22) Communication Among PHS, Monitors, and Physicians
(23) Interstate Agreement

The contract is signed by Michael Langan (dated 6/1/07). The contract is signed as accepted by Luis T. Sanchez, M.D., Director, PHS, dated 6/20/07.

Pages 13-14 of the document include an Addendum to Contract, which states the following: "I understand that PHS will provide documentation of my behavioral health, which upon my written authorization or request, will be made available to third parties." The Addendum then lists six (6) requirements for the Behavioral Health portion of the contract, including:

(1) weekly therapy for the first six months of the contract, then schedule determined by therapist but no less than quarterly
(2) authorization for therapist to provide quarterly written reports to PHS to document compliance
(3) monitoring for specified diagnosis ("OCD" [presumably Obsessive Compulsive Disorder, but it is not spelled out on the document])
(4) agreement to suspend medical practice if ability to practice medicine becomes impaired
(5) term of this Addendum to parallel term of the Contract
(6) consequences for failing to comply with the Addendum

The Addendum is signed by Langan (6/1/07) and Luis T. Sanchez, M.D., Director of PHS (6/20/07). It lists an effective date of 2/12/07.

61. Physician Health Services; Letter to Rebecca Lockwood, Esq. from Luis T. Sanchez, M.D.; January 31, 2007; 1 page.

This letter, following up on a positive test for oxycodone (1/25/07), notifies Attorney Lockwood that Langan submitted an invalid urine sample on January 19, 2007; the sample was outside the acceptable temperature range. The letter states: "In conclusion, PHS has determined that Dr. Langan has experienced a relapse and has been referred to treatment."

62. Commonwealth of Massachusetts, Board of Registration in Medicine; Voluntary Agreement Not to Practice Medicine [VANP] (Non-Disciplinary); January 19, 2007; 2 pages.

This document contains 9 numbered agreements that, together, constitute Langan's VANP of January 18, 2007. A brief summary of the agreements follows:

(1) Langan's voluntary cessation of the practice of medicine in Massachusetts, effective immediately
(2) VANP to remain in effect until BRM determines otherwise
(3) Agreement is voluntary
(4) understanding that the VANP is a public document and may be subject to a press release

(5) understanding that the action will be reported to the Health Care Integrity and Protection Data Bank and the Federation of State Medical Boards
(6) violation of the VANP to be prima facie evidence for immediate suspension of medical license
(7) no waiver of right to contest allegations brought by the Board; signature on VANP does not constitute admission of wrongdoing
(8) agreement to provide copy of VANP within 24 hours to specified entities (listed in the clause)
(9) "This Agreement represents the entire agreement between the parties at this time."

The document was signed by Langan and his attorney on January 18, 2007, and approved by the BRM Chair, Martin Crane, M.D., on January 19, 2007.

63. **Physician Health Services; Letter to Rebecca Lockwood, Esq. from Luis T. Sanchez, M.D.; January 17, 2007; 1 page.**
This letter provides written documentation of a prior verbal report of 1/17/07 that Langan tested positive for oxycodone on January 12, 2007, and states that Langan's testing has been increased to three times per week.

2006

64. **Physician Health Services; Letter to Rebecca Lockwood, Esq. from Luis T. Sanchez, M.D.; December 5, 2006; 1 page.**
This letter provides written documentation of a prior verbal report on 11/15/06 that Langan was noncompliant with his PHS monitoring contract in that PHS had not received the report from Langan's Chief of Service 2 for the Third Quarter of 2006. The letter also indicates that "The Chief of Service 2 has since confirmed that Dr. Langan is compliant with his contract."

2005

65. **Physician Health Services; Letter to Susan Stanewick from Luis T. Sanchez, M.D.; December 28, 2005; 1 page.**
This letter provides written documentation of a prior verbal report on 12/27/05 that Langan had a second positive test for oxycodone on a random urine screen on 12/22/05. It notes a prior positive test on 12/20/05.

66. **Physician Health Services; Letter to Susan Stanewick from Luis T. Sanchez, M.D.; December 23, 2005; 1 page.**
This letter provides written documentation of a prior verbal report on 12/23/05 that Langan was noncompliant with his PHS monitoring contract in that he tested positive for oxycodone on 12/20/05.

2004

67. Commonwealth of Massachusetts, Board of Registration in Medicine; Letter of Advice to Michael Langan from Martin Crane, M.D.; June 16, 2004; 1 page.
This letter states that: "At its June 2, 2004 meeting, the Data Repository Committee reviewed HCFD reports from MGH [Massachusetts General Hospital] and Spaulding Rehabilitation Hospital concerning your voluntary leave of absence pending investigation into your prescribing practices.... The Committee determined that referral to the Enforcement Division is not necessary at this time and is closing the case. The Committee advises you to thoroughly read the Board's Guidelines, entitled 'Prescribing Practices Policy and Guidelines, Adopted 8/1/89, Amended 12/12/01.' The Board shares the hospitals' concerns over your prescribing for a friend and/or business associate...." The letter notes that "The report and your response will be retained in the Data Repository pursuant to [law]...."

2003

68. Massachusetts Board of Registration in Medicine; Health Care Facility Disciplinary Action Initial Report and Attachments; April 10, 2003; 4 pages.
The initial report (2 pages) gives a date of March 13, 2003 for the date of disciplinary action, and April 10, 2003 for date report completed. The expected duration of the disciplinary action is Less Than 30 Days. The Nature of Action indicated is a Leave of Absence. Several items (such as Patient Name, Date of Birth, etc.) on the form for the initial report are left blank. The form notes, "See Attached." Following the 2-page initial form is the following attachments:

- 1-paragraph summary: "Dr. Langan agreed to take a leave of absence from the Hospital's Professional Staff, effective March 13, 2003, pending an investigation into an allegation concerning his prescribing practices. The investigation revealed no evidence to support the allegation and no basis for further concern with Dr. Langan's prescribing practices. Dr. Langan returned from leave on March 27, 2003, and has resumed his clinical duties."
- NOTE: this 1-paragraph summary appears twice in the documents; the final page (p.4) is a duplicate of p.3.

McLean Hospital provided the following document, which I reviewed:

1. **Summary of Treatment for July 2008; 6 pages.**
   This summary identified the following treatment goals:
   (1) Stabilize mood
   (2) Maintain abstinence in program
   (3) Define specific triggers
   (4) Develop aftercare plan.
   The treatment interventions and progress note indicate that Langan attended individual, group, and self-help treatments. The report notes mood stabilization with medication. During the treatment, Langan developed a plan for dealing with potential triggers for relapse and gained some insight into his current difficulties and their relationship to events in the past. The tone of the progress note is positive and optimistic.

Michael Langan provided the following documents, which I reviewed:

2014

1. **Numerous E-mails Between Michael Langan and several others (Amy Daniels, W. Scott Liebert, Jacob Hafter, Sue Berg, J.W. Boyd, J.G. Flood, Spencer Wilking; John Knight, Kenneth Minaker, & Eric Riensche); dates ranging from fall 2012 to summer of 2013; 91 pages.**
   I read all of these e-mails and have written individual summaries of some of these e-mails below. The ones not summarized independently have information consistent with information already discussed and presented throughout this evaluation report.

2. **Chain of e-mails between Michael Langan and J. Wesley Boyd; February 25, 2014 to March 20, 2014.**
   These e-mails between Dr. Langan and Dr. Boyd concerned Langan's having heard about a "restraining order" on releasing an audit. Langan then shares with Boyd two screen shots from the "Like Minded Docs" website, listing the members and the organization's mission statement. The group's mission statement indicates that it espouses and advocates the adoption of Twelve-Step recovery modalities and the ASAM Twelve Step Action Group.

3. **E-mail sent to me by Michael Langan; March 25, 2014, 4:11 p.m.; ~1 page.**
   This e-mail clarifies the dates and course of events in Dr. Langan's case from a positive oxymorphone screen in January 2007 to the present. Dr. Langan describes Talbott's recommendation of a 1-3-month "relapse prevention" inpatient stay and McLean Hospital's opinion that there was no justification for inpatient admission. Dr. Langan also discusses the initial errors in his MMPI interpretation from his Talbott stay. He notes that in order for the errors to be acknowledged, he had to file a complaint with an outside agency. He notes that it took the same process (filing a complaint with an outside agency) for the errors in the PEth test to be acknowledged. Dr. Langan describes the timing of PHS's declaration that he was noncompliant (to the Board of Registration in Medicine) and its proximity to the USDTL's having amended the PEth test result. Langan also discusses an audit of a Physicians Health Program in North Carolina. Langan had attached to this e-mail an article about the North Carolina audit (summarized below).

4. **E-mail sent to me by Michael Langan; March 25, 2014, 12:49 p.m.; 1 page.**
   In this e-mail, Dr. Langan notes financial difficulties related to his situation with PHS and describes some problematic diagnoses in the medical records connected to his stay at Talbott. He indicates that he believes the "obsessive-compulsive disorder" diagnosis is erroneous and based on one anecdotal bit of information from a childhood incident that he reported to the doctor at Talbott. He also notes having always had a history of a slightly elevated ALT due to taking Lipitor; he believes that is the only basis for the diagnosis of "hepatitis" made by Talbott staff. Apparently the Talbott diagnoses were

automatically transferred into Dr. Langan's medical record when Dr. Bierer became his primary care physician. He reports his current medications as: Lipitor 20 mg per day, Vyvanse 60 mg per day, Adderall 20 mg per day, and albuterol and beclamethasone MDIs.

5. **Article entitled "Drug testing 'partnership' lures treatment centers despite ethics issues." Alcoholism & Drug Abuse Weekly, March 17, 2014; 26(11): 1-3; ~3 pages.**
   Dr. Langan forwarded a PDF of this article, which concerns a questionable ethical practice between a toxicology group and medical practices, including addictions treatment facilities. The toxicology group seems to be promoting a profit-sharing and referral-based source of revenue generation that many would consider a conflict of interest. Treatment providers are encouraged to invest in the toxicology company and, in turn, send them business, with the expectation that their investments will appreciate. The journalist who researched the story suggests that the practice might amount to fraudulent billing or a kickback scheme. The article also describes scams involving sober houses' uses of confirmatory testing for substance abuse screens and overbilling insurance.
   [Pat, do you want to say anything about this? You know more about the laws and ethical rules about this kind of venture & why it's inappropriate.]

6. **Article entitled "Physician group urges focus on spiritual and psychosocial." Alcoholism & Drug Abuse Weekly, March 17, 2014; 26(11):3-5; ~3 pages.**
   This article, which Dr. Langan forwarded to me, concerns the group, Like-Minded Docs, that Dr. Langan has referred to in several of his e-mails. The article explains that the group was founded when physicians in the American Society for Addiction Medicine (ASAM) grew concerned that medication alone was being recommended for the treatment of addictions and that abstinence was no longer being advocated. The group has about 150 members, all of whom advocate for a spiritual/psychosocial treatment approach to addictions. The article notes that the Like-Minded Docs website uses language from Alcoholics Anonymous and that a significant number of the members are active participants in 12-step recovery programs.

7. **Michael Langan; E-mail to Ms. D. Becker (dbecker@wbur.org); subject: "Re: Forensic fraud, FSPHP, ASAM, Physicians Health Services, Inc."; March 13, 2014, 3:43 p.m.**
   In this e-mail, Dr. Langan describes the circumstances of his case and provides some resources for Ms. Becker to conduct additional research. He refers her to J. Wesley Boyd's blog but cautions that another colleague has been threatened with legal action and might not be willing to speak with her. Langan expresses his belief that the FSPHP is responsible for a recent increase in physician suicides and notes that cases similar to his have been occurring in states throughout the country where the FSPHP has taken over the state PHP. Langan describes the alleged collusion between PHPs and forensic laboratories that perform EtG, EtS, and PEth testing. Dr. Langan also describes the circumstances following the reported positive alcohol test in 2011 and his having been required to use one of the PHP-recommended treatment facilities and their refusing to authorize his having an assessment done by another qualified facility that he proposed. Langan describes his reluctantly having gone to Hazelden and his belief that the only

reason he wasn't required to stay four months (apparently the common experience of other doctors referred there) was because their Medical Director was interested in a medical device that Dr. Langan was developing which could help his [the Medical Director's] daughter. Apparently the Medical Director assured Dr. Langan that the discharge diagnoses would be revised if the Litigation Packet revealed the alcohol test to have been fraudulent. Langan then goes on to describe PHS's requirement that he attend three AA meetings a week and submit names and phone numbers for AA members who would verify his attendance. When Langan did receive the litigation packet showing that the initial test was invalid, apparently Hazelden staff refused to change the discharge diagnosis accordingly. Langan provides several documents and screen shots in the e-mail to illustrate the problems, including the chain of custody issues.

8. **E-mail sent to me by Michael Langan; subject: "FSPHP"; February 28, 2014, 1:22 p.m.; ~ 2 pages, with 11 slides and a link to a 17-page talk by Robert DuPont.**
In this e-mail, Dr. Langan describes a website he found, called "Like-Minded Docs," which names physicians involved in the treatment of medical professionals for addictions. Dr. Langan also provided in this e-mail a link to a 17-page presentation by Robert L. DuPont, M.D., entitled "Drug Testing and the Future of American Drug Policy," dated April 19, 2012, which I reviewed. In his e-mail, Dr. Langan states that he has spoken with other doctors across the country and that he has seen a common pattern of apparently fraudulent behavior by physician health programs in which results on testing are falsified by those performing the tests in order to exploit physicians who have a history of addictions. In this e-mail, Dr. Langan expresses his belief that the physicians involved in this practice create "moral panics" in order to generate concern over physician impairment without sufficient empirical evidence. Dr. Langan also embedded 11 multimedia slides in this e-mail; I reviewed the slides, which state his opinions as described above, and critique slides published by PHP-employed (or PHP-contracted) physicians, such as Dr. Sanchez from PHS. The slides are highly critical of the FSPHP (Federation of State Physician Health Programs) as well as its physicians and proponents, and of the American Society for Addiction Medicine (ASAM).

9. **E-mail sent to me by Michael Langan; subject: "Wilens Letter from today"; February 14, 2014, 11:15 a.m.; 1 page.**
This e-mail introduces a letter from Dr. Wilens (summarized below), which Dr. Langan had attached to this e-mail. The e-mail identifies Dr. Wilens as the Director of Addiction Medicine at MGH and notes that he has been following Dr. Langan since 2007. Dr. Langan also writes: "I applied for funds from the Mass Medical Benevolent Society last month and everything was looking [good]. However, I found out Tuesday that PHS (who is not even associated with them) contacted them and put in their 2 cents. Apparently they told them I had both ongoing substance abuse and behavioral problems and any funding should be contingent upon my being in a board approved substance abuse monitoring program (and that alcohol biomarkers EtG and PEth needed to be part of that program)!" Dr. Langan also encouraged me to contact Dr. Wilens if I had any questions for him.

10. **Massachusetts General Hospital and Harvard Medical School; Letter from Timothy E. Wilens, M.D. [To Whom It May Concern]; February 14, 2014; 1 page.**
In this letter, Dr. Wilens notes that Dr. Langan is currently in Wilens's care at the outpatient clinics at MGH. Dr. Wilens gives a brief summary of his treatment of Dr. Langan and writes:

> "I have monitored [Langan] clinically and over the past year have been ordering and monitoring his urine toxicologies. Throughout the period of my work with Dr. Langan, I do not see, or have not observed, any clinical or laboratory evidence of a relapse. It is also noteworthy that Dr. Langan received therapy in our clinic, and our therapist also concurred with my observations and actually did not believe Dr. Langan required any further treatment.
>
> "I will continue to follow Dr. Langan and urge him to continue to seek means to re-establish his status with the board of registration of medicine and to return to work as a physician."

11. **Screen shot of database listing AA meeting attendance dates for 2012 from 7/18/2012 through 10/15/2012; Generated February 13, 2014; 1 page.**
Dr. Langan provided a screen shot of a database recording AA meetings he attended in 2012 from July 18th to October 15th, 2012, with contact names and telephone numbers for attendees willing to verify his attendance at the meetings.

12. **Several e-mails sent to me by Michael Langan; February 13, 2014; ~3 pages.**
In these e-mails, Dr. Langan apologizes for the volume of documentation I have had to review and notes: "I've told the Board that if they can point out anything that I could have done or shouldn't have done since 2008 that would have prevented this, then I will hand over my license with a bow on it. I can't think of one solitary act." One of these e-mails summarizes the documents that Dr. Langan had provided documenting his attendance at AA meetings in 2012 and reviews the dates of his attendance at two separate groups for two separate spans of time that year. Dr. Langan also provided the documentation as attachments to this e-mail; those documents are summarized elsewhere in this report (see 2013 and 2012 documentation, below).

13. **E-mail sent to me by Michael Langan; February 12, 2014, 2:17 p.m.; ~1 page.**
In this e-mail, Langan provided some context and attached documents (summarized below) regarding his evaluation at the Talbott campus. He provided a copy of an article by Drs. Knight and Boyd (summarized below). Dr. Langan also described the discrepancy between the initial evaluation report from Talbott (specifically, the "Personality Assessment") and what the data showed upon review by a third party. As Langan notes, "Dr. Lauren Pollak obtained the original scoring sheet and found that this was all made up out of whole cloth. These are textbook sound bites from an elevated L-scale (T-score > 65) and mine was 49. Both the original scoring sheet and [Dr. Snook's] raw data show a T score of 49 on the L-scale which is normal any way you slice it. 49 is the pinnacle of the bell shaped curve when looking at standard deviations.... It is not an error in scoring but a deliberate attempt to misrepresent a quantitatively normal score as abnormal (again just like the PEth test)." Dr. Langan also provided the MMPI raw scores

and scoring sheet (summarized below). As Dr. Langan notes in his e-mail, the error was corrected, and Dr. Snook issued a formal letter acknowledging it, but "It took a formal complaint with an oversight agency" and a formal reprimand of the doctor who performed the test. Dr. Langan also notes the discrepancy between his actual results on the Wechsler Adult Intelligence Scale (showing a Full Scale IQ in the Superior Range) and the Talbott evaluation's diagnosis of "cognitive impairment."

14. Several documents and screen clips forwarded to me via e-mail from Michael Langan; February 12, 2014, 1:21 p.m.; ~1 page.

Dr. Langan provided several materials for background/context regarding a hair test conducted in March 2008. These materials included:

- screen clip from Wikipedia and Drugs.com on Naltrexone (1 paragraph)
- Naltrexone Description (source not listed) (1 paragraph)
- Hair Drug Panels & Cutoff Levels – Limit of Detection (LOD) Testing (table)

The materials support Dr. Langan's contention that the March 14, 2008 hair test he submitted should not have been interpreted as an indication of current illicit substance abuse (or noncompliance with his plan) but, rather, were at levels consistent with his taking prescribed naltrexone as required by his psychiatrist and as recommended by PHS, and indicative of *past* but not current opiate abuse. Dr. Langan provided additional documentation that supports these contentions, and I summarize these documents, as well, below.

2013

15. E-mail to a "Mr. Loftus" from Michael Langan; 2013 [no date, but was with 2013 documents]; 4 pages.

In this lengthy e-mail, Langan writes regarding the BRM and PHS. He notes the letter from the Appignami Humanist Legal Center and provides a link to what looks to be a press release from the Appignami Center regarding humanist objections to religious 12-step programs. Langan states that he wants to make sure that John Polanowicz (Secretary of Health and Human Services) is aware of some issues between PHS and the BRM, i.e., alleged violation of the Establishment clause (separation of church and state). Langan states that, with respect to PHS, "[t]here is no due process, evidentiary standard, or right to appeal." Langan mentions an article by Drs. John Knight and Wesley Boyd relating to this topic. Langan then states, "Although I have documents showing fabricated neuropsychological tests, collusion with labs and treatment facilities, fraud, and other types of misconduct I would like to show you what led to the [*sic*] my suspension by the board in December. The documents are fairly self-evident." Langan then describes the history of his medical career and lack of patient complaints. Langan mentions the July 2011 PEth test and his [Langan's] having subsequently obtained letters and documentation from other medical professionals and colleagues documenting excellent work and no concern. Langan reports having requested to use a different monitoring service (other than PHS) due to his concerns about PHS, and notes that his request was refused and his contract extended for two years as a punitive response to his request.

Langan explains some of the demands placed on him by PHS for his monitoring contract (e.g., supplying names and phone numbers of contacts at AA meetings) and the BRM's approval of these requirements. Dr. Langan discusses the results of the CAP (College of American Pathologists) investigation into the July 2011 PEth test and its finding that the test result was invalid. Langan provides names and contact information for Amy Daniels, Manager of Investigations for CAP Accreditation Programs at the College of American Pathologists; J. Wesley Boyd, M.D., Ph.D.; and John Knight, M.D.. Langan states also that "[t]he following individuals at MGH are aware of PHS corruption and you should also talk to them" – he then lists names and phone numbers for Drs. Kenneth Minaker, Timothy Wilens, Spencer Van B. Wilking, and Michael Bierer.

16. **Partners HealthCare System, Inc., of Massachusetts General Hospital; Health Information Services Patient Extract for Michael Langan; April 24, 1997 through October 16, 2013; 300 pages.**
    This lengthy medical record extract includes the following sections, which I reviewed:
    - Table of Contents (p.1)
    - Cardiology (pp.2-5)
    - Discharge Reports (pp.6-7)
    - Laboratory (and Laboratory Glossary) (pp.8-21)
    - Microbiology (p.24)
    - Notes (pp.25-292)
        - 10/16/13: Progress Note by Timothy Wilens, M.D. (pp.25-27)
        - 9/18/13: Progress Note by Timothy Wilens, M.D. (pp.28-30)
        - 8/23/13: Progress Note by Timothy Wilens, M.D. (pp.31-33)
        - 8/7/13: Medication Management Note by Holly Lynn Blodgett, R.N. (p.34)
        - 6/28/13: Patient Note by Timothy Wilens, M.D. (p.35)
        - 6/28/13: Progress Note by Timothy Wilens, M.D. (pp.36-38)
        - 6/20/13: Medication Management note by Megan Williams (Med. Asst. & Michael F. Bierer, M.D.) (p.39)
        - 5/31/13: Progress Note by Timothy Wilens, M.D. (pp.40-42)
        - 5/3/13: Progress Note by Timothy Wilens, M.D. (pp.43-45)
        - 4/5/13: Progress Note by Timothy Wilens, M.D. (pp.46-48)
        - 3/28/13: Other Note by Emerita Chavez-Rodriguez (p.49)
        - 3/28/13: Normal Guiac Letter by Dr. Michael Bierer, M.D. (p.50)
        - 3/22/13: Progress Note by Timothy Wilens, M.D. (pp.51-53)
        - 2/15/13: Progress Note by Timothy Wilens, M.D. (pp.54-56)
        - 2/12/13: Chart Update by Michael Bierer, M.D. (p.57)
        - 1/30/13: Wellness note by Michael Bierer, M.D. (pp.58-61)
        - 1/30/13: Patient education by Michael Bierer, M.D. (p.62)
        - 1/25/13: Chart Update by Michael Bierer, M.D. (p.63)
        - 1/18/13: Progress Note by Timothy Wilens, M.D. (pp.64-66)
        - 1/7/13: Results and Follow-up by Michael Bierer, M.D. (pp.67-69)
        - 12/21/12: Return note by Michael Bierer, M.D. (pp.70-73)
        - 12/14/12: Progress Note by Timothy Wilens, M.D. (pp.74-75)
        - 11/2/12: Progress Note by Timothy Wilens, M.D. (pp.76-77)
        - 9/28/12: Progress Note by Timothy Wilens, M.D. (pp.78-79)

- 8/24/12: Progress Note by Timothy Wilens, M.D. (pp.80-81)
- 8/17/12: No-Show note by Timothy Wilens, M.D. (p.82)
- 8/1/12: Medication management note by Brenda Lee Morisette, R.N. (p.83)
- 7/20/12: Progress Note by Timothy Wilens, M.D. (pp.84-85)
- 6/13/12: Now-Show note by Sydney B. Montesi, M.D. (p.86)
- 5/23/12: Progress Note by Timothy Wilens, M.D. (pp.87-88)
- 4/27/12: Progress Note by Timothy Wilens, M.D. (pp.89-90)
- 4/18/12: Addendum: Program Intake Note, by Darshan Mehta, M.D., M.P.H. (p.91)
- 4/18/12: Program Intake Note by Margaret A. Bain, N.P. (pp.92-93)
- 4/5/12: BHI Consultation by Darshan Mehta, M.D., M.P.H. (pp.94-97)
- 3/9/12: Progress Note by Timothy Wilens, M.D. (pp.98-99)
- 3/7/12: Pulmonary Consultation by Charles Matthew Kinsey, M.D. (pp.100-102)
- 2/10/12: Progress Note by Timothy Wilens, M.D. (pp.103-104)
- 1/26/12: Patient Letter by Michael Bierer, M.D. (pp.105-107)
- 1/25/12: Return note by Michael Bierer, M.D. (pp.108-111)
- 12/16/11: Progress Note by Timothy Wilens, M.D. (pp.112-113)
- 11/18/11: Progress Note by Timothy Wilens, M.D. (pp.116-117)
- 10/28/11: Progress Note by Timothy Wilens, M.D. (pp.118-119)
- 9/16/11: Progress Note by Timothy Wilens, M.D. (pp.120-121)
- 9/13/11: No-Show note by Michael Bierer, M.D. (p.122)
- 9/8/11: Patient Letter by Michael Bierer, M.D. (p.123)
- 8/25/11: Patient Letter by Michael Bierer, M.D. (p.124)
- 8/12/11: Progress Note by Timothy Wilens, M.D. (pp.125-126)
- 8/3/11: Return note by Michael Bierer, M.D. (pp.127-129)
- 7/11/11: Medication management note by Leah D. Duquette, R.N. (p.130)
- 7/1/11: Medication management note by Kristen M. Kenniston, R.N. (p.131)
- 6/17/11: Progress Note by Timothy Wilens, M.D. (pp.132-133)
- 5/18/11: Progress Note by Donna A. Miller, L.I.C.S.W., M.S.W. (pp.134-135)
- 3/23/11: Progress Note by Donna A. Miller, L.I.C.S.W., M.S.W. (pp.136-138)
- 2/23/11: Treatment Plan Update by Donna A. Miller, L.I.C.S.W., M.S.W. (p.139)
- 2/16/11: Progress Note by Donna A. Miller, L.I.C.S.W., M.S.W. (pp.140-141)
- 1/7/11: Progress Note by Timothy Wilens, M.D. (pp.142-143)
- 11/17/10: Return note by Nancy Hilmy (p.144)
- 11/17/10: Progress Note by Donna A. Miller, L.I.C.S.W., M.S.W. (pp.145-146)
- 10/27/10: Treatment Plan Update by Donna A. Miller, L.I.C.S.W., M.S.W. (pp.147-148)
- 9/9/10: Medication management note by Michael Bierer, M.D. (p.149)
- 9/9/10: Patient Letter by Michael Bierer, M.D. (p.150)
- 9/8/10: Return note by Michael Bierer, M.D. (pp.151-153)
- 8/18/10: Progress Note by Timothy Wilens, M.D. (pp.154-155)
- 8/18/10: Progress Note by Donna A. Miller, L.I.C.S.W., M.S.W. (p.156)
- 7/14/10: Patient Note by Timothy Wilens, M.D. (p.157)

- 6/25/10: Progress Note by Timothy Wilens, M.D. (p.158)
- 5/14/10: Progress Note by Timothy Wilens, M.D. (pp.159-160)
- 5/5/10: Progress Note by Donna A. Miller, L.I.C.S.W., M.S.W. (p.161)
- 3/30/10: Progress Note by Donna A. Miller, L.I.C.S.W., M.S.W. (p.162)
- 1/27/10: Progress Note by Donna A. Miller, L.I.C.S.W., M.S.W. (p.163)
- 1/15/10: Progress Note by Timothy Wilens, M.D. (pp.164-165)
- 12/23/09: Progress Note by Donna A. Miller, L.I.C.S.W., M.S.W. (p.166)
- 11/25/09: Progress Note by Donna A. Miller, L.I.C.S.W., M.S.W. (pp. 167-168)
- 11/20/09: Progress Note by Timothy Wilens, M.D. (pp.169-170)
- 10/28/09: Progress Note by Donna A. Miller, L.I.C.S.W., M.S.W. (p.171)
- 10/21/09: Patient No Show note by Donna A. Miller, L.I.C.S.W., M.S.W. (p.172)
- 10/2/09: Return note by Mary Donnelly (p.173)
- 9/21/09: Progress Note by Donna A. Miller, L.I.C.S.W., M.S.W. (p.174)
- 9/16/09: Patient Cancelled note by Donna A. Miller, L.I.C.S.W., M.S.W. (p.175)
- 9/10/09: Patient Letter by Michael Bierer, M.D. (p.176)
- 9/2/09: Return note by Michael Bierer, M.D. (pp.177-180)
- 8/19/09: Progress Note by Timothy Wilens, M.D. (pp.181-182)
- 8/12/09: Progress Note by Donna A. Miller, L.I.C.S.W., M.S.W. (pp.183-184)
- 7/31/09: Progress Note by Timothy Wilens, M.D. (pp.185-186)
- 7/22/09: Return note by Michael Bierer, M.D. (pp.187-188)
- 6/24/09: Progress Note by Donna A. Miller, L.I.C.S.W., M.S.W. (p.189)
- 6/10/09: Patient No Show note by Donna A. Miller, L.I.C.S.W., M.S.W. (p.190)
- 5/8/09: Progress Note by Timothy Wilens, M.D. (pp.191-192)
- 5/6/09: Progress Note by Donna A. Miller, L.I.C.S.W., M.S.W. (pp.193-194)
- 4/1/09: Progress Note by Donna A. Miller, L.I.C.S.W., M.S.W. (p.195)
- 3/19/09: Rescheduled note by Donna A. Miller, L.I.C.S.W., M.S.W. (p.196)
- 3/11/09: Patient Cancelled note by Donna A. Miller, L.I.C.S.W., M.S.W. (p.197)
- 2/4/09: Progress Note by Donna A. Miller, L.I.C.S.W., M.S.W. (p.198)
- 1/9/09: Progress Note by Timothy Wilens, M.D. (pp.199-200)
- 1/7/09: Progress Note by Donna A. Miller, L.I.C.S.W., M.S.W. (p.201)
- 12/12/08: Return note by Claudia Church (p.202)
- 12/10/08: Progress Note by Donna A. Miller, L.I.C.S.W., M.S.W. (p.203)
- 12/10/08: Return note by Mary Donnelly (p.204)
- 12/3/08: Patient No Show note by Donna A. Miller, L.I.C.S.W., M.S.W. (p.205)
- 11/21/08: Progress Note by Timothy Wilens, M.D. (p.206)
- 11/19/08: Progress Note by Donna A. Miller, L.I.C.S.W., M.S.W. (p.207)
- 11/5/08: Progress Note by Donna A. Miller, L.I.C.S.W., M.S.W. (p.208)
- 10/22/08: Progress Note by Donna A. Miller, L.I.C.S.W., M.S.W. (p.209)
- 10/20/08: Return note by Michael Bierer, M.D. (pp.210-212)
- 10/8/08: Progress Note by Donna A. Miller, L.I.C.S.W., M.S.W. (pp.213-214)

- 9/24/08: Progress Note by Donna A. Miller, L.I.C.S.W., M.S.W. (pp.215-216)
- 9/12/08: Progress Note by Timothy Wilens, M.D. (pp.217-218)
- 9/10/08: Progress Note by Donna A. Miller, L.I.C.S.W., M.S.W. (pp.219-220)
- 9/2/08: Return note by Michael Bierer, M.D. (pp.221-223)
- 8/25/08: Progress Note by Donna A. Miller, L.I.C.S.W., M.S.W. (pp.224-225)
- 8/15/08: Progress Note by Timothy Wilens, M.D. (pp.226-227)
- 7/25/08: Progress Note by Timothy Wilens, M.D. (pp.228-229)
- 7/24/08: Progress Note by Donna A. Miller, L.I.C.S.W., M.S.W. (pp.230-231)
- 6/20/08: Progress Note by Timothy Wilens, M.D. (pp.232-233)
- 6/16/08: Patient No Show note by Donna A. Miller, L.I.C.S.W., M.S.W. (p.234)
- 6/9/08: Progress Note by Donna A. Miller, L.I.C.S.W., M.S.W. (pp.235-236)
- 6/9/08: Office Procedure by Theodore J. Ongaro, M.D. (p.237)
- 6/6/08: Progress Note by Timothy Wilens, M.D. (pp.238-239)
- 5/28/08: Progress Note by Donna A. Miller, L.I.C.S.W., M.S.W. (pp.240-241)
- 5/5/08: Progress Note by Donna A. Miller, L.I.C.S.W., M.S.W. (pp.242-243)
- 4/14/08: Evaluation Note by Donna A. Miller, L.I.C.S.W., M.S.W. (pp.244-245)
- 4/9/08: Patient Cancelled note by Donna A. Miller, L.I.C.S.W, M.S.W. (p.246)
- 4/7/08: Vas Consult Note by Theodore J. Ongaro, M.D. (p.247)
- 3/12/08: Progress Note by Timothy Wilens, M.D. (pp.248-249)
- 1/16/08: Progress Note by Timothy Wilens, M.D. (pp.250-251)
- 1/15/08: Return note by Michael Bierer, M.D. (pp.252-253)
- 12/14/07: Telephone note by Michael Bierer, M.D. (p.254)
- 11/14/07: Progress Note by Timothy Wilens, M.D. (p.255)
- 10/19/07: Evaluation Note by Timothy Wilens, M.D. (pp.256-259)
- 10/9/07: Other note by Lorraine Hollins (p.260)
- 10/9/07: Return note by Michael Bierer, M.D. (pp.261-262)
- 10/9/07: Medication refill note by Lorraine Hollins (p.263)
- 8/7/07: Chart Update note by Michael Bierer, M.D. (p.264)
- 8/7/07: Return note by Michael Bierer, M.D. (pp.265-266)
- 6/12/07: Telephone note by Michael Bierer, M.D. (p.267)
- 6/7/07: PAC Report by Lauren E. Pollak (pp.268-273)
- 5/22/07: "NEW" note by Michael Bierer, M.D. (pp.274-275)
- 1/27/06: Patient Note by Ronald F. Dixon, M.D. (p.276)
- 11/15/04: Patient Note by Ronald F. Dixon, M.D. (pp.277-278)
- 11/5/04: Patient Note by Ronald F. Dixon, M.D. (p.279)
- 4/26/04: PAP Habituation note by Douglas C. Johnson, M.D. (p.280)
- 4/22/04: Sleep Study note by Douglas C. Johnson, M.D. (pp.281-282)
- 1/15/04: Patient Note by Paul Levins, M.D. (p.283)
- 2/26/03: "ear" note by Helen Delichatsios, M.D. (p.284)
- 9/25/02: Visit Note by David C. Ring, M.D. (p.285)
- 9/12/02: Patient Note by Frank Bellistri, N.P. (p.286)
- 9/4/02: Visit Note by David C. Ring, M.D. (p.287)
- 9/4/02: Office Note by Frank Bellistri, N.P. (p.288)

    - 9/3/02: Initial Visit Male note by Richard Noah Winickoff, M.D. (pp.289-290)
    - 8/16/02: "ceruminosis" note by Helen Delichatsios, M.D. (p.291)
    - 1/28/00: Complicated Sick Visit note by Richard Noah Winickoff, M.D. (p.292)
- Pulmonary (pp.293-296)
- Radiology (pp.297-300)

17. Article entitled, "NC Physicians Health Program Undergoing State Performance Audit"; December 11, 2013; 7 pages.

This article, a draft for the Federation of State Physician Advocacy Groups (FSPAG) News, describes an audit of a Physicians Health Program in North Carolina, the results of which were to be released in January, 2014. The audit had been ordered by the North Carolina Office of the State Auditor. The NC audit was prompted by complaints similar to those of Dr. Langan's case. The article describes the NC complaints as: "multiple physicians' concerns about a spate of NC Medical Board (NCMB) 'fitness for duty' psychiatric evaluations, a pattern of coerced referral to select out-of-state cash-only diagnostic and treatment programs and denial of due process…" The article also notes that: "As its [NC's Physicians Health Program's] CEO and Medical Director is also head of the national Federation of State Physician Health Programs, adverse findings could portend major problems for the PHP movement as a whole." The article then goes on to describe the circumstances which led to the initiation of the audit, including the story of a physician who was coerced into an expensive PHP program of substance abuse monitoring despite there never having been any evidence to substantiate an anonymous person's allegation that the physician had an alcohol problem, nor any evidence to suggest that the physician posed any risk to patients. This physician drafted an article for submission to JAMA (the Journal of the American Medicine Association) and circulated the draft among his colleagues for comment, whereupon he received a large volume of responses confirming that his experience mirrored that of numerous other physicians in the state. The performance audit began in November of 2012. The article also recounts the case of a physician who successfully contested his license revocation in court:

> "So significant is the violation of due process by NCMB [the North Carolina Medical Board] and its administrative court system which is vested with conducting formal hearings that one physician licensee who at his hearing suffered the Board's revocation of his license contested that finding in Superior Court. There, after a comprehensive review (in August 2013), the Superior Court judge not only found that his constitutional rights were violated (in NCMB's /NCPHP's mandating participation in an exclusively religious-based 12-step program) but that the Board hearing itself evidenced fundamental violations of due process. Not only did the judge not refer his case back to the administrative court for the Board's rehearing of his case, he ordered that the Board rescind its revocation of his license and immediately reactivate his license. Of even further significance, the Board chose not to appeal this decision."

The document also contains a commentary by Dr. Kernan Manion, M.D. (1 page) and 1 page of links to organizations mentioned in, and relevant to, the article.

18. **E-mail from Michael Langan to unspecified recipient; October 25, 2013; 4 pages.** In this e-mail, Langan expresses frustration with his Attorney Liebert for his [Liebert's] having advised him to do anything that PHS recommended, and his [Langan's] difficulties with PHS and Linda Bresnehan. Langan describes several hardships posed by the PHS requirements, such as his having to abstain from use of his asthma inhalers despite his having a history of severe asthma, and their [PHS] having required him to violate the confidentiality/anonymity element of Alcoholics Anonymous meetings.

19. **Sims & Stakenborg P.A.; E-mail from Dorothy Clay Sims, Esq. to Michael Langan; [no date, but estimated to be sometime after 8/8/13, 2:24 p.m.; 4 brief paragraphs*.**
[NOTE: As I do not see a greeting such as "Dear Dr. Langan," or "Dear Michael," I am not sure if I have the entirety of Ms. Clay Sims's e-mail to Dr. Langan. Below is a summary of the portion that I did receive.]
In this e-mail, Attorney Clay-Sims notes that "the doctor" "clearly misrepresented the significance of the scale" [presumably the L-scale of the MMPI-2] and encourages Dr. Langan to write an article about what happened, how it affected him as a physician, and the steps he had to take in order to get the correction. Clay Sims also mentions a 30-page article she was writing at the time for a neuropsych journal and suggests possibly using Langan's story "as an example of why these types of tests should NOT be used to assess credibility." She also cautions Dr. Langan that publishing his story "makes your personal business not so personal."

20. **Michael Langan; Portion of E-mail to Dorothy Clay Sims; subject: "L-scale confirmatory distortion"; August 8, 2013, 2:24 p.m.; 1 paragraph & beginning of 2nd paragraph.**
In this e-mail, Dr. Langan writes that he has read Attorney Sims's article on the misuse of the "fake-bad scale" and writes, "You might be interested in another group that is misusing this scale as a template for 'confirmatory distortion' in support of false diagnoses leading to inpatient treatment in 12-step rehabilitation facilities." I did not receive the entirety of this e-mail from Dr. Langan, but I believe it was included to provide context for Attorney Clay Sims's response to Langan (summarized above.)

21. **Michael Langan; e-mail to D. Becker; June 10, 2013, 3:36 a.m.; 3 paragraphs.**
In this e-mail, Dr. Langan writes to Ms. Becker about problematic practices employed by PHS. He describes his case briefly (summarized elsewhere in this report). He expresses his belief that it "should be exposed on a local level."

22. **Appignani Humanist Legal Center; Letter from Monica Miller, Esq. and William J. Burgess, Esq. to John Polanowicz (Secretary of Health and Human Services), Robert Harvey, Esq. (BRM), and Luis Sanchez (PHS); multiple recipients on CC; Request for PHS Policy Change to Explicitly Make Secular Alternatives Known and Available; June 6, 2013; 2 pages.**

This letter references back to an earlier letter, sent on April 8, 2013 (summarized below), and a subsequent letter received from PHS (dated 4/16/13). This letter suggests changes to the wording of the template for PHS Substance Use Monitoring Contracts in order to make it explicitly known to participants that AA and NA are religious groups and that participation in secular, non-religious support groups is an acceptable alternative, albeit subject to the approval of the PHS director. The letter also notes that the list of possible treatment centers for "independent evaluations" should include a secular alternative, as the three centers offered mentioned "are expressly and exclusively 12 Step facilities."

23. **Stanton Peele; E-mail to Michael Langan; June 2, 2013; ~1 page.**
In this e –mail, Peele describes the possibility of his filing a report, characteristics of the report he would file and the process for completing it. He also mentions the fee he would charge, and the Boyd and Knight article. Peele characterizes Langan's case as an "egregious [one] given the absence of a substance abuse diagnosis by Hazelden."

24. **E-mail exchanges between Michael Langan and Sheila Berry; May & June, 2013.**
Dr. Langan provided a chain of e-mails between himself and Sheila Berry concerning his case possibly being discussed in the publication, *The Forensic Examiner*. One of Berry's e-mails includes a response from the publisher, Dr. Robert O'Block, who states that, "it would not be the first time that forensic labs have been involved in cover ups…" In the e-mail exchange between Berry and Langan, Langan had forwarded several letters and contact information. They include:
    - E-mail from Dr. Langan to a Mr. Loftus, summarized above (beginning of list of 2013 documents provided by Dr. Langan)
    - Contact information for Drs. Kenneth Minaker, Timothy Wilens, Spencer Van B. Wilking, and Michael Bierer (all MGH)
    - E-mail or letter to a "Mr. Yeager"; no date; 1-2 pages – This letter summarizes Dr. Langan's case and the missteps of PHS. The content is consistent with Dr. Langan's case as summarized elsewhere in this document.

25. **Commonwealth of Massachusetts, Board of Registration in Medicine [BRM]; Letter to William J. Burgess, Esq. (of the Appignami Humanist Legal Center) from Brenda A. Beaton, General Counsel, BRM; April 19, 2013; 1 page.**
This letter acknowledges receipt of Attorney Burgess's April 8, 2013 letter to John Polanowicz, Robert Harvey, and Luis Sanchez. This response was sent on behalf of the members of the Board [BRM] and Attorney Harvey. Beaton states in her letter that the physician named in Burgess's letter "currently has an open matter with the Board and, therefore, it would be inappropriate for the Board members to receive your letter. Additionally, as you are not the attorney of record for the physician, I am unable to comment on the assertions you have made regarding the physician and his interaction with the Board and PHS." Beaton then notes that the BRM "adheres strictly to the applicable federal and state laws and regulations."

26. **Michael Langan; e-mail to [recipient unspecified, but most likely Sheila Berry]; April 14, 2013, 10:39 a.m.; 14 brief paragraphs.**

In this e-mail, Langan describes his contact with the ACLU and the Attorney General's office and his efforts to find an attorney willing to take his case on a contingency basis. Langan also describes some of the onerous financial and situational demands made upon him by PHS and its staff. Langan also explains his belief that the BRM is motivated by a need to "increase their numbers" so as to remedy "a reputation for protecting incompetent physicians." Langan references an Establishment Clause violation and problems with demands and requirements imposed by PHS and the BRM.

27. **Sheila Berry (truthinjustice@gmail.com); e-mail to Michael Langan; April 14, 2013, 9:42 a.m.; 3 paragraphs.**
    In this e-mail, Berry asks Langan why he has not retained counsel in Massachusetts and sued under 42 U.S.C. 1983 [civil action for deprivation of rights]. In her e-mail, Berry notes that Langan's attorney is not licensed to practice in Massachusetts and summarizes his case as an Establishment Clause violation. She states that "you have no choice but to sue" and encourages Langan to get in touch with the ACLU of Boston. Berry had also attached some relevant cases to her e-mail, but these were not included in the e-mail that I received.

28. **Appignami Humanist Legal Center; Letter from William J. Burgess, Esq., to John Polanowicz (Secretary of Health and Human Services), Robert Harvey, Esq. (BRM), and Luis Sanchez (PHS); multiple recipients on CC; Re: BRM and PHS Must Offer Secular Alternatives to AA/NA in Disciplinary Contracts; April 8, 2013; 3 pages.**
    In this letter, Attorney Burgess alerts the recipients to "a serious separation of church and state concern." The letter notes that the BRM required Langan to attend 12-step meetings as a condition of keeping his medical license, and notes that 12-step groups are "inherently religious programs." The letter recounts dates and events in the history of Langan's case with the BRM, including the Board's suspension of Langan's license on February 6, 2013, for failing to attend the 12-step meetings. Burgess's letter then recounts some of the legal history of the establishment cause and associated case law. The letter concludes by recommending SMART Recovery's group-based program and closes: "In the interest of avoiding any potential litigation, please notify me in writing about the steps you are taking to remedy this constitutional violation."

29. **Michael Langan & M.M.; E-mails exchanged in early April, 2013.**
    In these e-mails, Langan discusses his mandatory 12-step group participation and states that his alleged failure to attend the 12-step meetings was the only reason for his suspension. M.M. (whose name is omitted to protect this person's privacy/confidentiality) describes problems with another attorney and a conflict between some spiritual beliefs and the ideas that form the foundation of 12-step programs. Langan mentions that he was referred to his former attorney, (W.) Scott Liebert, by PHS.

30. **Results and follow-up note by Michael Bierer, M.D., for Michael Langan; February 6, 2013; 3 pages.**
    These results and follow-up document an appointment that Dr. Langan had with Dr. Bierer on December 21, 2012. Dr. Bierer writes: "Other than the stress related to the professional issues and licensure that is weighing heavily, the only major problem is the

shortness of breath you report and the wheezing I detected on exam that may relate to your abstaining from short-acting beta-2 agonists (albuterol) inhalers that you report has been mandated. With respect to drugs or alcohol use, there is no evidence by history, physical exam, or laboratory testing (included below), that you have used any. In addition, with your permission, I spoke with your chief who endorsed your statement that you have been performing well professionally and that performance is not consistent with relapse to heavy substance use. Indeed, your performance in the face of the disputes you relayed argues for competency and resilience despite psychosocial stressors." Following the note is a listing of laboratory test results.

31. **Wellness Note by Michael Bierer, M.D., for Michael Langan; February 6, 2013; 5 pages.**
This wellness note reports a visit date of January 30, 2013. It contains a problem list (consistent with diagnoses reported elsewhere in these document summaries) and updates from various appointment dates throughout Dr. Langan's treatment at MGH. The contents of this wellness note pertaining to other dates I have summarized elsewhere.

32. **Progress Note by Timothy Wilens, M.D., for Michael Langan; February 6, 2013; 3 pages.**
This progress note documents a visit that Dr. Langan had with Dr. Wilens on January 18, 2013. It contains a history of present illness, history, review of systems, list of current medications, results of other examinations, including a mental status examination, and Multi-Axial Diagnoses/Assessment. Dr. Wilens lists the following current diagnoses:

Axis I:	Opiate dependence in full sustained remission
	Attention-Deficit/Hyperactivity Disorder, Combined Type
Axis II:	No diagnosis on Axis II
Axis III:	seasonal allergies
	Asthma
Axis IV:	Economic problems
Axis V:	**(GAF) Current:** 65 [mild symptoms]

The assessment summary reports "appropriate use of medication and adherence to treatment."

33. **Wellness Note by Michael Bierer, M.D., for Michael Langan; January 30, 2013; 3 pages.**
This medical record document contains brief notes for various dates throughout Dr. Langan's treatment. These treatment notes are all consistent with other medical records for Dr. Langan that I have reviewed. The notes document the stress that Dr. Langan has been experiencing relating to his difficulties with PHS and the BRM. There is no indication of any relapse or treatment noncompliance. The note also documents Dr. Langan's wheeze (in the context of his inability to exercise), presumably due to his abstaining from his prescribed inhaler as recommended by PHS.

34. **Michael Langan; E-mail to "Mr. Gurdin" & "Ms. Peraner-Sweet"; January 24, 2013; 2 paragraphs.**

This e-mail describes Langan's having met with the Board [BRM] the previous day and introduces a statement prepared by Attorney Hafter, which Langan had attached to the e-mail.

35. **Jacob Hafter & Associates; Dr. Langan's Statement for January 23, 2013 [addressed to the Members of the Board of Registration in Medicine for Massachusetts]; 2 pages.**
This statement, although printed on Hafter's law firm's letterhead, appears to be Dr. Langan's prepared statement to the BRM for their 1/23/13 meeting. Dr. Langan's statement thanks the board for considering his Emergency Petition to resume the practice of medicine. Langan notes that he and his attorney "have not been told under what standard my petition will be considered or what I need to demonstrate to be able to resume my ability to practice medicine", despite their having requested such information. Langan also notes that "the Board has refused to provide me adequate notice with the reasons why this Board feels that I am unsafe to practice medicine." Langan notes the voluntary nature of his earlier agreement not to practice and its relationship to his difficulties with PHS and his desire to provide evidence demonstrating that he is fit to practice. Langan summarizes the documents (including laboratory test results) submitted to demonstrate that he is fit to practice medicine. He also notes that he is unaware of any evidence that contradicts this.

36. **Progress Note by Timothy Wilens, M.D., for Michael Langan; January 18, 2013; 3 pages.**
This progress note from an appointment Dr. Langan had with Dr. Wilens, contains a history of present illness, review of systems, results of a medical examination, and other clinical information. Results were within normal limits [WNL]. Medications were listed as Adderall for ADHD, Advair Diskus, Lipitor, Spiriva, Vyvanse, and Zafirlukast. The Axis I diagnoses were "Opiate dependence in full sustained remission" and ADHD. Axis IV indicated "economic problems," and Axis V was listed as 65 [mild symptoms]. The note also indicates stress due to the upcoming BRM meeting and Langan's "appropriate use of medication and adherence to treatment."

37. **Michael Langan; e-mail to Jacob Hafter; [date unspecified]; 5 paragraphs.**
At the bottom of this e-mail is what appears to be the header of another e-mail [not included] *from* Jacob Hafter (jhafter@hafterlaw.com), which was sent Jan. 24, 2013, at 1:48 p.m. This e-mail may be Langan's reply to Hafter's 1/24/13-1:48 p.m. e-mail, but he [Langan] in *this* e-mail references a Nov. 6th meeting, so it may be more distantly removed in time from Hafter's 1/23/13 e-mail.

In *this* e-mail [from Langan to Hafter], Langan discusses the BRM's allegation that he misrepresented his attendance at AA meetings and proposes a way of correcting the misunderstanding, i.e., by having AA members who were present at those meetings come to a November 6th meeting. Langan also states that he spoke with John Knight on the date of this e-mail and that he was going to meet with him [Knight] that afternoon. Langan notes that Knight and Wes Boyd "have been damaged and threatened by PHS…" Langan states that the reason Knight has not spoken to Hafter is because Knight is afraid of being sued by PHS. Langan states that Knight "asked if it would be possible to send a

letter that would contain Dr. Flood's expert opinion to each member of the PHS Board of Directors and the Massachusetts Medical Society briefly outlining how my current issues started and mushroomed out of control and ended up where we are starting in July of 2011." Langan states that he believes that Knight needs reassurance that what he says will be kept confidential.

38. **Board of Registration in Medicine; Fax from Robert E. Harvey to Jacob Hafter; January 16, 2013; 15 pages.**
This fax includes the following documents:
    - Fax cover sheet (1 page), with note from Harvey stating that the fax was "a copy of the supplemental PHS material."
    - Physician Health Services; Letter from Luis T. Sanchez to Robert Harvey; January 15, 2013; 3 pages, with 9 supplemental pages. The referring source also provided this letter and its supplements, which I summarized above.
    - Fax from Andy Moynihan, Ph.D. to Gary Chinman, M.D.; dated January 15, 2013; 2 pages, including fax cover sheet. This fax was Dr. Moynihan's note to Dr. Chinman summarized elsewhere in this list.

39. **Michael Langan; E-mail to Jacob Hafter; January 16, 2013, 3:15 p.m.; ~4 pages.**
In this e-mail, Dr. Langan responds to a document produced by PHS. In the e-mail, Dr. Langan notes the following:
    - compliance with the requirement recommended by Emil Jalonen to increase AA meeting attendance to three times per week, starting in September 2011
    - having been informed by Linda Bresnehan that Emil Jalonen recommended that he [Langan] obtain names and telephone numbers for attendees at AA meetings and provide them to PHS, and then having been informed by Jalonen that this request was not made; Langan's attorney apparently told him to comply with the PHS request
    - difficulties obtaining phone numbers, but Langan's compliance with the PHS request nonetheless and having provided documentation to PHS regarding his attendance at AA meetings
    - on a March 6th meeting with PHS (with his attorney present), Langan learned that PHS only had the first page of the documentation he had sent to them; Langan resent the documentation, this time writing it on paper oriented horizontally as apparently PHS had complained about his handwriting; upon receiving the documentation, PHS construed it as a falsified and noncompliant report, which is explainable by their having received only the first page of Langan's report in the initial fax
    - in Langan's report, apparently there was a typo, as he had listed a meeting on 10/19, and PHS noted that there was no meeting on that date; Langan acknowledges the typo and provides the name of someone who can confirm that he was in fact in attendance at a 10/17 meeting
    - in May 7th and July 31st reports, PHS reported difficulty in reaching the AA attendees whose contact information Langan had provided, but Langan explains that the difficulty stemmed from Dr. Chinman's handling of the contacts and AA

members' reluctance to relinquish their privacy, and Chinman's unwillingness to accommodate

- Langan notes that several of the AA contacts felt that Chinman was intimidating and asked too many personal questions of them; these individuals, Langan notes, would be willing to confirm this verbally
- Dr. Chinman had raised a concern that Langan's attendance at a Bournewood group did not meet requirements for being a physician meeting, so he had called Langan's contact there and asked her about the identities and professions of the people who attended the meeting; Chinman apparently then informed Langan that this meeting did not qualify as a physician meeting
- Langan then located another group [led by Dr. Moynihan] to satisfy the requirement to attend a physician group, and he notified Chinman that he would attend that group as soon as he finished the "mind body classes" since that group met at the same time
- Langan began attending Moynihan's group on Sept. 5th and signed a release of information allowing Chinman to speak with Dr. Moynihan; when Chinman spoke with Moynihan, he [Chinman] apparently offended Moynihan by asking intrusive questions about other members of the group; apparently Moynihan subsequently revoked the release of information
- Langan finishes his letter: "In conclusion, All of PHS complaints that I did not go to meetings is based on them not having or misinterpreting the facts. The documents PHS faxed over today contain the facts and I do not see any basis for their claim based on these papers."

40. Jacob Hafter; E-mail to Robert Harvey, CC'ed to Michael Langan; subject: "Additional documentation of attendance"; January 16, 2013, 11:12 a.m.; just over 1 page.

In this e-mail, Attorney Hafter introduces a PDF that documents Langan's attendance at AA meetings and his attempts to address that documentation. Hafter notes that some of the material is redacted because it is protected by attorney-client privilege and because "the scope of the documentation exceeds the topic at hand." Hafter's e-mail also notes the lack of evidence from PHS to support their allegations of Langan's noncompliance. Hafter characterizes the BRM's suspension of Langan's license as a due process violation.

41. Letter faxed to Dr. Chinman from A.J. Moynihan, Ph.D.; January 16, 2013; 1 paragraph.

In this letter, Dr. Moynihan reports the following dates for Dr. Langan's attendance at SARP meetings in 2012: 9/5, 9/12, 9/19, 9/26, 10/17.

42. Michael Langan; E-mail to Jacob Hafter; January 16, 2013, 12:28 a.m.; 1 line followed by 1 paragraph.

This e-mail introduces an attachment, entitled, "AA Attendance.pdf.zip," which Dr. Langan sent to Attorney Hafter. He characterizes the attachment as "documents that pertain to my struggle with documenting attendance at meetings from October 2011 (after being evaluated at Hazelden in September) until present time." Langan also notes that

the Hazelden discharge summary does not mention the requirement of obtaining names and phone numbers to confirm AA meeting attendance, and Lagan also describes frustrations in communications with Hazelden following his discharge from there.

43. **Jacob Hafter; E-mail to Robert Harvey (CC'ed to Michael Langan); subject: "RE: EMERGENCY PETITION TO ALLOW DR. LANGAN TO PRACTICE"; January 15, 2013, 3:25 p.m.; 2 paragraphs.**
In this e-mail, Attorney Hafter asks whether "PHS has provided anything?" [presumably meaning evidence to support their allegations] and asks for clarification and more information about what allegations they [Hafter and Langan] would need to overcome. Hafter notes sworn testimony from Dr. Langan as well as letters and contact information from meeting attendees, mentors and supervisors that have been supplied in support of Langan's case.

44. **Robert E. Harvey; E-mail to Jacob Hafter; subject: "RE: EMERGENCY PETITION TO ALLOW DR. LANGAN TO PRACTICE"; January 15, 2013, 12:05 p.m.; 1 paragraph.**
In this e-mail, responding to Hafter's earlier inquiry (summarized below) Harvey writes, "the Board does not hear from individuals telephonically. If you have any questions or concern, you should speak to Debra Stoller, Senior Board Counsel, who is responsible for issues of Board procedure and scheduling." Harvey then provides Ms. Stoller's telephone number.

45. **Jacob Hafter; E-mail to Robert Harvey; subject: "RE: EMERGENCY PETITION TO ALLOW DR. LANGAN TO PRACTICE"; January 11, 2013, 2:24 p.m.; 2 lines.**
In this e-mail, Hafter asks Harvey the following two questions:
"1) Will we be provided any documentation from PHS before the Wednesday deadline?
"2) Can I appear telephonically at the January 23, 2013 meeting?"
Harvey's response is summarized above.

46. **Michael Langan; E-mail to Jacob Hafter; subject: "Re: EMERGENCY PETITION TO ALLOW DR. LANGAN TO PRACTICE"; January 11, 2013, 12:45 p.m.; 3 paragraphs.**
In this e-mail, Dr. Langan asks Attorney Hafter if he [Langan] should assemble a "document that is in sequential order of everything related to PHS mandate that I obtain phone numbers at AA meetings." Langan notes that some of the content shows the difficulties posed by PHS's onerous mandates. Langan also notes that "PHS needs to specify exactly what Chinman's claim is, what dates, and what evidence there is that I 'repeatedly' did not go to meetings." Langan states that it is unfortunate that Hazelden staff will not confirm their recommendation that he obtain proof of his attendance at [peer support] meetings. Langan's e-mail to Hafter also includes an e-mail he [Langan] received from Eric Riensche from the Hazelden Foundation. Since the e-mail from Riensche is included here without a header [i.e., I don't have information about the date it was sent by Riensche], I will summarize it here:

In his e-mail to Langan, Eric Riensche states that he is "not in a position to provide the document that you have requested at this time. Again, I'm unable to get into the substance via e-mail."

47. **Robert E. Harvey; E-mail to Jacob Hafter; subject: "RE: EMERGENCY PETITION TO ALLOW DR. LANGAN TO PRACTICE"; January 11, 2013, 11:23 a.m.; 1 paragraph.**
In this e-mail, Harvey indicates that Hafter's request [i.e., the petition to allow Dr. Langan to return to practice] will be placed on the Board's agenda for the January 23, 2013 meeting. Harvey also indicates that if Langan has additional documentation to submit, it should be sent by Wednesday [presumably January 16, 2013] at 12:00 p.m.

48. **Jacob Hafter; E-mail to Robert Harvey; subject: "EMERGENCY PETITION TO ALLOW DR. LANGAN TO PRACTICE"; January 10, 2013, 11:59 a.m.; 1 line.**
The e-mail requests an immediate response. I believe that the petition must have been attached to this e-mail. See summary, below.

49. **Jacob Hafter & Associates; Emergency Petition to Allow Dr. Langan to Return to Practice; January 10, 2013; 4 pages.**
This petition, printed on Hafter's law firm letterhead, discusses the following issues:
    - The Board's refusal on 1/9/13 to hear Dr. Langan's petition for a new monitorship through MGH; that petition had been provided to the Attorney Harvey on 12/28/12;
    - the Board's focus on punitive action against Langan based on an allegation made by PHS, despite lacking any evidence to support this decision
    - Dr. Langan's having provided the board with sworn testimony as well as letters from various people confirming his attendance at groups and confirming that there was no evidence of relapse;
    - the Board's decision to allow Dr. Langan to produce additional evidence
    - Hafner and Langan sending such additional evidence, but the Board's ignoring it
    - "the Board refused to consider any other issues involving Dr. Langan at yesterday's meeting. They would not consider the fact that he revoked his voluntary willingness to refrain from practicing medicine on December 28, 2012. They would not consider his petition for new monitoring. Rather, it was told that his 'voluntary' agreement to refrain from practice was in effect until further action of the Board – no date was fixed."
    - Langan's and Hafner's indication that the "voluntary" nature of Langan's not practicing medicine would not extend past January 9, 2013
    - the indefinite nature of the Board's effective suspension of Langan's ability to practice medicine;
    - the lack of evidence to support the Board's action, which amounts to sanction against Langan
    - Langan's and Hafner's efforts to resolve the conflict without resorting to courtroom litigation
    - violation of Langan's due process rights

- request for the Board to meet soon to consider Langan's petition

50. **Michael Langan; E-mail to Jacob Hafter; Subject: "Re: Oct to now"; January 10, 2013, 8:47 a.m.; 7 paragraphs.**
In this e-mail, Langan responds affirmatively to Hafter's earlier e-mail inquiring as to whether Langan has a handwritten record or notes of the groups he has attended since October. (I have not provided a summary of that e-mail from Hafter, since it was a one-liner.) In this e-mail from Langan, he [Langan] describes the problems posed by PHS's requirements for his physician group attendance. He describes his inquiry into a particular group that was rejected by Linda Bresnehan at PHS on the grounds of it being a "behavioral group," despite Langan's and the group organizer's opinions that he would be a good fit for the group. Lagan describes efforts he has made to comply with the requirement for attendance at a physician group and the difficulty in finding one that meets PHS's demanding standards. Apparently Linda Bresnehan also rejected another physician support group, this time on the grounds that it was a "prayer group." Langan explains that he has "been running around trying to find groups that they will approve." Langan also notes that he offered to attend any group that PHS recommended if only they would tell him which one to attend, but they instead required him to find a group on his own.

51. **John Knight; E-mail to Michael Langan; date unspecified, but presumably early January 2013; 5 paragraphs.**
In this e-mail, Knight responds to Langan's earlier e-mail (summarized below) inquiring whether Knight would be able to go to the BRM. Knight responds that his legal advisor informed him that PHS is on solid ground in citing the Massachusetts Peer Review Statute and that Knight would violate the confidentiality of the peer reviewer by disclosing his his opinions before the BRM. He refers Langan to his [Knight's] published article, however, which has gone through multiple levels of review. Knight indicates that Langan is free to share "the legal document," which I believe refers to the letter Knight received from the law firm that represents PHS, warning him [Knight] about the confidentiality requirement. (I have summarized that letter elsewhere; I believe it is the document referred to by various parties as "the gag order."] Knight also asks whether Langan has seen Knight's chapter for "Soul of Medicine" and had attached it to this e-mail. Knight then offers Langan some words of encouragement.

52. **Michael Langan; E-mail to John Knight; subject: "Re: Wednesday"; January 7, 2013, 8:59 p.m.; 1 paragraph.**
In this e-mail, Langan asks Knight if he would be able to go to the BORM [BRM] and suggests that it would give him an opportunity to voice his opinions verbally but asks if it would violate "the gag order."

53. **Michael F. Bierer, M.D.; Results and Follow-up Communications, sent to Michael Langan; January 7, 2013; 3 pages.**
This document includes results of laboratory testing and a summary of Dr. Langan's appointment with Dr. Bierer on December 21, 2012. Dr. Bierer notes the stress related to Langan's licensure concerns and Langan's shortness of breath and wheezing secondary to

his abstention from using his prescribed albuterol inhalers [as mandated by Langan's monitoring by PHS]. Dr. Bierer notes that there is no evidence of any drugs or alcohol use by Langan and states that he (with Langan's permission) spoke with Langan's chief [supervisor] who reported Langan's performing well professionally and that Langan's performance was not consistent with relapse to heavy substance use. Bierer writes, "Indeed, your performance in the face of the disputes you relayed argues for competency and resilience despite psychosocial stressors. In sum, the history, including some corroborating information from your chief, physical, and lab exams demonstrate no evidence of illicit drug or alcohol use."

54. **Massachusetts General Hospital; Letter to Robert Harvey from Spencer Van B. Wilking, M.D.; January 5, 2013; 3 pages.**
In this letter, Dr. Wilking writes that:

> "... during the entire duration of my oversight I have never seen any evidence that Dr. Langan was using or abusing drugs or alcohol. His behavior has been professional, empathetic, courteous and, most importantly, consistent and even throughout this time period. In fact his professionalism and clinical acumen have remained intact despite the obstacles that PHS has thrown his way."

Dr. Wilking also describes the difficulties and onerous obligations placed upon Langan by PHS and summarizes Langan's case and the problems posed by PHS's approach to Langan's monitoring. Dr. Wilking recommends alternative monitoring for the duration of Langan's contract.

2012

55. **Article by J. Wesley Boyd, M.D., Ph.D., and John R. Knight, M.D., entitled "Ethical and Managerial Considerations Regarding State Physician Health Programs," *Journal of Addiction Medicine*, December 2012; Vol. 6, No. 4, pp.243-246; 4 pages.**
Dr. Langan provided me with a pre-press copy of this article. I downloaded the published version from the *Journal of Addiction Medicine* website to obtain the publication date and citation information. I reviewed the article in its entirety.
In his e-mail to me (summarized above) of 2/12/14, 2:17 p.m., Dr. Langan called my attention to the following quote from the Boyd and Knight article:

> "Also, because many centers that specialize in evaluating health care professionals also provide costly treatment, can anyone ensure that financial incentives did not play a role in the recommendation? In our experience, it is far more common for physicians to simply stay at the same facility for treatment rather than packing up and moving elsewhere.
>
> "To further complicate matters, many evaluation/treatment centers depend on state PHP referrals for their financial viability. Because of this, if, in its referral of a physician, the PHP highlights a physician as particularly problematic, the evaluation center might—whether consciously or otherwise—tailor its diagnoses and recommendations in a

way that will support the PHP's impression of that physician. Adding to the potential conflict of interest, evaluation and treatment centers often sponsor or exhibit at PHP regional and national meetings, thus supporting PHPs financially. The relationships between PHPs and evaluation/treatment centers are thus replete with potential conflicts of interest."

56. **Table listing support group attendance for dates 4/2/12 through 6/29/12; 1 page.**
    This table lists dates of attendance for Langan's support groups, along with location, topic, and contact person.

57. **Table listing support group attendance for dates 7/18/12 through 10/15/12; 1 page.**
    Like the table summarized above, this one lists dates of attendance for Langan's support groups, along with locations, topics, and contact person (with telephone numbers).

58. **John Knight (John.Knight@childrens.harvard.edu); e-mail to Michael Langan (mllangan1@me.com); subject: RE: Langan, Michael; December 29, 2012, 2:18 p.m.; 3 paragraphs.**
    In this e-mail, Knight responds to Langan's question (whether Knight had spoken with Jacob Hafter), "Not yet." Knight also states that he received a letter, which he apparently attached to this e-mail, along with copies of his confidentiality agreements with PHS. Knight states that Langan may pass it along to Hafter. Knight writes, "Essentially they would like to gag me, because they pretty much know what I will have to say and that I am a very credible expert in this area." Knight continues, "Before I have to retain my own counsel, I shall try one more time to see if Corinne [Broderick] and John [Fromson?] are willing to sit down with me and talk this through. Hope remains, but barely, for us to negotiate structural and procedural changes in PHS and its governing board. But it is quickly slipping away." I presume the "Corinne and John" from Knight's e-mail are the same Corinne Broderick and Dr. John Fromson to whom copies of the Choate Hall & Stewart letter of 12/28/12 were CC'ed regarding Knight's confidentiality agreements with PHS. (See summary of the Choate Hall & Stewart letter, below.)

59. **Michael Langan (mllangan1@me.com); e-mail to John Knight; subject: Fwd: Langan, Michael; December 28, 2012, 8:48 p.m.; 1 line.**
    Langan in this e-mail asks Knight if he ever spoke with Jacob Hafter.

60. **Letter from "Melissa," December 28, 2012; 2 pages.**
    In this letter, "Melissa," who served as a contact person to verify Langan's attendance, describes her discomfort with Dr. Chinman's intrusive questioning for specifics about the group and indicates that she is no longer willing to serve as a contact person to verify group members' attendance to anyone. She describes a phone call with Dr. Chinman in October that she characterizes as "an attack" and an "assault."

61. Choate Hall & Stewart LLP; Letter to John Knight, M.D., from Thomas E. Shirley; December 28, 2012; 1 page.

This letter from the law firm that represents PHS, in response to an e-mail from Dr. Knight to Corinne Broderick and Dr. John Fromson on 12/24/12 "regarding a PHS client," informs Dr. Knight:

"Please be advised that your disclosure of any confidential information concerning any PHS client or former client, including but not limited to the client who you identified as "ML," would be a breach of your Non-Disclosure and Associate Director Agreements with PHS, copies of which we enclose. Additionally, it would violate the Massachusetts Peer Review Statute. *See* M.G.L. Chapter 1.11, Sections 1, 2.03-2.05.

"Please confirm at your earliest convenience that you have not disclosed, and will not disclose, any such protected information." This letter was CC'ed to Corinne Broderick and Dr. John Fromson.

62. Massachusetts General Hospital and Harvard Medical School; Letter to the Board of Registration in Medicine from Kenneth L. Minaker, M.D.; December 19, 2012; 2 pages.

In this letter, Dr. Minaker praises the quality of Dr. Langan's work and also expresses his hope that the Board will allow MGH to have a greater role in Langan's treatment and monitoring.

63. Physician Health Services; Letter to Robert Harvey, Esq. from Luis T. Sanchez, M.D.; December 11, 2012; 1 page.

The Board of Registration in Medicine also provided this letter, which I summarized above. However, in this version that Dr. Langan provided, there is drawn an arrow pointing to the statement "PHS will continue to disregard the July 2011 PEth test result" and the handwritten comment, "contradicts original report of positive which was the sole basis for evaluation request".

64. Commonwealth of Massachusetts; Letter to W. Scott Liebert, Esq. [and Robert Harvey, Esq.?]; November 8, 2012; 1 page*.

[NOTE: the original letter seems to have been more than 1 page in length, but the second page does not seem to be in the documents I have received. This letter seems to be cut off before it reaches the end. Under Attorney Liebert's address in the letter header is contact information for Robert Harvey, Esq., from the BRM. It is not clear if this letter was sent *by* Attorney Harvey or sent *to* him along with Attorney Liebert.]

This letter advises "Counsel" that "on November 7, 2012, the Complaint Committee determined that Dr. Langan was in violation of his [LOA], as amended on February 1, 2012." The letter then details grounds for the BRM's having made this determination. These grounds are presented in a bulleted list. Unfortunately, as I received only the first page of this letter, I have only the first bullet point and the beginning of a second bullet point, so I do not have the complete list. The first bullet point merely quotes provisions from Langan's amended LOA (Paragraphs J and Y). The second bullet point states, "On October 19, 2012, [PHS] reported that Dr. Langan was not compliant with his monitoring

contract in that he was repeatedly—" Unfortunately, this is where the letter is cut off, and I do not have the remainder of the letter to review or to summarize here.

65. **Massachusetts General Hospital and Harvard Medical School; Letter to Jacob Hafter from James G. Flood, Ph.D.; November 5, 2012; 3 pages.**
This letter presents Dr. Flood's opinion regarding the July 1, 2011 laboratory testing. Dr. Flood briefly summarizes his credentials and experience, then expresses that he "was astonished at the large number of errors" in the test. Flood details and describes several major problems with the test, including chain of custody issues and "fatal" flaws. Dr. Flood writes that: "In my conclusion, it appears from these documents that there is a purposeful and intentional act by PHS to show MLL's [Langan's] 7/1/11 test as valid when in reality this test was invalid, and involved both fatal laboratory errors and lack of adequate MRO [Medical Review Officer?] review of results. Anything based on MLL's 7/1/11 test as a confirmatory positive should be reversed, rectified, and remediated."

66. **James G. Flood (jflood@partners.org); e-mail to Michael L. Langan, M.D. (Langan.MichaelL@mgh.harvard.edu); October 31, 2012, 1:21 p.m.; 6 brief paragraphs.**
In this e-mail, CC'ed to Drs. Kenneth Minaker and Timothy Wilens, Dr. Flood states that "The number of errors in your sample collection astonished me" and details some potential errors regarding the sample collection, including Chain of Custody and "questionable LC/MS/MS testing practices." Flood asks whether PHS has a Medical Review Officer who approved the test. Flood also states his willingness to help, without charging a fee, but that he would need approval from his Chief of Service first.

67. **Michael Langan; E-mail to W. Scott Liebert; [no date, but presumably on or shortly after October 23, 2012, sometime after 8:16 a.m.]; 1 line.**
In this e-mail, Langan responds to Attorney Liebert's question (summarized below), "I told him [Gary Chinman] that I was not going to that meeting [the one run by Dr. Moynihan] until September [of 2012]."

68. **W. Scott Liebert;E-mail to Michael Langan; October 23, 2012, 8:16 a.m.; 1 paragraph.**
In this e-mail, Attorney Liebert asks Langan what he said to "GC" [Gary Chinman] about his [Langan's] attendance at group meetings run by Dr. Moynihan.

69. **W. Scott Liebert; E-mail to [recipient unspecified, but presumably Michael Langan]; October 18, 2012, 3:20 p.m.; 1 paragraph.**
In this e-mail, Attorney Liebert notifies Dr. Langan that PHS has informed them that they are reporting Langan to the BRM for noncompliance with his contract. Liebert also writes, "Deb Grossbaum told Sue that Chinman called Dr. Moynihan either late yesterday afternoon or this morning to try to get confirmation of your attendance and he informed them that he was not authorized to speak with them about you at all. What is going on?"

70. **Sue Berg (smblaw@me.com); e-mail to [unspecified recipient, but probably Michael Langan]; October 2, 2012, 3:02 p.m.; 1 line.**

In this e-mail, Berg confirms receipt of a fax and states that she will call Deb Grossbaum the following morning and fax it to the BRM in the meantime.

71. **Michael Langan (mllangan1@me.com); e-mail to Sue Berg; October 2, 2012, 2:57 p.m.; ~3 lines.**
    In this e-mail, Langan indicates that he sent a check "Sunday night" and just faxed a document confirming Langan's participation in an eight-week program from May 23rd to July 25th of 2012.

72. **Massachusetts General Hospital; Letter to Jacob Hafter; subject: Blood Collection/Testing Performed on Michael L. Langan, MD on July 1, 2011. November 5, 2012; 1 page*.**
    [NOTE: the original letter appears to have been more than 1 page in length, but the second page does not seem to be in the documents I have received. This letter seems to be cut off before it reaches the end. I cannot tell who was the sender of this letter.]
    This letter offers someone's "professional opinion regarding the quality and validity of testing performed on Michael Langan's (MLL) blood drawn on July 1, 2011 by a Quest Diagnostics specimen collector, at the request of Mary Howard of Physician Health Services, Inc. (PHS)." The sender indicates that he or she has directed the MGH Chemistry and Toxicology labs "for nearly thirty years." The sender indicates that he or she has "reviewed the documents MLL provided me relating to the July 1, 2011 testing" and "was astonished at the large number of errors (including so-called 'fatal' ones)." The sender goes on to explain problems with the 7/1/11 test. At the bottom of the letter, before it is cut off, is the phrase: "The many other errors in sample collection, processing, and transportation to USDTLabs include:" but the letter is cut off here, and the remainder was not provided to me for review.

73. **Physician Health Services; Letter to Robert Harvey, Esq. from Luis T. Sanchez, M.D.; October 23, 2012; 1 page.**
    This letter was also provided by the referring source and is summarized above.

74. **Michael Langan (mllangan1@me.com); portion of e-mail to W. Scott Liebert (CC'ed to multiple recipients); subject: Re: Last E-mail got cut off. Disregard. Attached is correct e-mail; May 8, 2012, 2:19 a.m.; 3 paragraphs***
    NOTE: This appears to be only the beginning portion of an e-mail.
    In this e-mail, Langan notes that he didn't receive an attachment with a prior e-mail from Scott Liebert. Langan indicates that he has attached, to this e-mail, PHS recommendations, and states that he is in compliance with them. The e-mail header indicates one 3.7MB attachment, but it does not appear to have been included in the documents I received. In this e-mail, Langan details in four items his compliance with PHS (lack of positive EtG or PEth tests; increased support group participation; payment of lab fees; and participation in stress reduction courses). Langan then describes problems related to providing contact information for persons who could confirm his support group attendance. He states:

    "I was asked to get a name and phone number from the meetings which I have done as documented on the attachment. That is what I was asked to do. I have heard

from two of the people who have provided me with names and numbers that a representative from PHS called them and asked personal questions. The first, a physician from the Monday night MMS group felt threatened and declined further participation. He became quite angry and blamed me for breaking anonymity in the group and others, rightly, agreed with him as it is against the basic principles and traditions. I now feel uncomfortable in this group and have spent a great deal of time locating alternative healthcare professionals peer support groups and have found several. These are often hard to find because they are 'closed' groups and are not open to the public. Nevertheless, I have compiled a list of physicians groups that are available.

"The second person called me and told me that Dr. Chinman called her and asked her her full name, her occupation, how she knew me, how long she knew me, and where she worked. She also feels threatened. Dr. Chinman denies asking her—"
This is where the e-mail is cut off, and I do not have the remainder of the e-mail to review.

75. **Michael Langan (mllangan1@mac.com); e-mail to J. Wesley Boyd (JWBoyd@challiance.org); subject: Re: PHS; March 1, 2012, 7:42 a.m.; 3 paragraphs.**
In this e-mail, Langan expresses frustration with his case and the Board's reliance on PHS. He states that "[t]he Board won't even look at the litigation pack that reveals forgery, fraud, and harmful intent." Langan expresses interest in getting [the litigation packet?] to the media.

76. **J. Wesley Boyd (JWBoyd@challiance.org); e-mail; recipient unspecified, but presumably sent to or CC'ed to Michael Langan; March 1, 2012, 6:10 a.m.; ~1 paragraph.**
In this e-mail, Boyd references what sounds like a draft of an academic paper "about PHP practice" and hopes that a revision will be accepted. Boyd also asks if MGH is supporting "you" (presumably Langan) "in your efforts with PHS."

77. **W. Scott Liebert; e-mail to unspecified recipient [presumably Michael Langan]; ~week of February 20—25, 2012; 4 paragraphs.**
In the e-mail, Liebert states that there is a discrepancy between what Langan and Deb Grossbaum are reporting regarding Langan's recent quarterly self-report. Liebert encourages Langan to review those issues with PHS when he [Langan] meets with PHS "this week." Liebert also encourages Langan to minimize the discussion he [Langan] has with any Quest [Laboratories] technicians. Liebert advises, "All you can do is continue to follow all of the PHS requirements to the letter, and if you are having any difficulties, you should notify Dr. Chinman asap." Liebert then indicates that he will be out of the office "starting tomorrow and through next wed. 2/29, returning 3/1."

78. **Michael Langan (mllangan1@me.com); e-mail to Sue Berg; re: Auto reply: mindfulness classes; February 24, 2012, 11:05 a.m.; 4 paragraphs(?)***
In this e-mail, Langan responds to an e-mail from Sue Berg that was sent earlier that morning, in which she asked who requested an upcoming meeting, i.e., Langan or PHS. In *this* e-mail, Langan replies that PHS requested the meeting. He also states his belief

that PHS is going to try to say that he is non-compliant with his monitoring contract because he has had difficulty obtaining phone numbers to confirm his AA group attendance. He states that his "goal is to make it to the conclusion of the CAP [College of American Pathologists] investigation without being sanctioned by the BORM [BRM]. Langan states that he can give his sponsor's phone number but that his sponsor will withdraw if they start asking him personal questions. Langan proposes some suggestions for attending physician meetings, but notes that "That would leave 1 meeting that needs to be taken care of and the community meetings are adamantly against giving out phone numbers." The e-mail is cut off here, without a name or signature, so it is possible that I have not received the full e-mail, or perhaps Langan did not sign his name to the end of it.

79. **Sue Berg [Law Office of W. Scott Liebert]; e-mail to Michael Langan; February 24, 2012, 10:47 a.m.; 1 paragraph.**
Berg indicates that she will forward a message from Michael Langan to Scott Liebert. She also says that she will contact PHS to find out if they will allow Liebert to attend Langan's meeting with them [PHS] and asks who requested the meeting (Langan or PHS).

80. **W. Scott Liebert (wsllaw@mac.com); e-mail to Michael Langan; February 21, 2012, 12:40 p.m.; 4 brief paragraphs.**
In this e-mail, Attorney Liebert mentions a discrepancy between what was reported to Liebert by Deb Grossbaum and what Langan included in a quarterly self-report. Liebert also mentions a discussion with Deb Grossbaum. Liebert then advises Langan to "minimize the discussion you have with any of the Quest techs, and limit it to the basic information needed to be sure that the test protocol is being followed." Liebert also urges Langan "to keep a detailed log of the testing [he undergoes]." He [Liebert] states, "All you can do is continue to follow all of the PHS requirements to the letter, and if you are having any difficulties, you should notify Dr. Chinman asap." He then notifies Langan that he will be out of the office from 2/22 through 2/29, returning 3/1 but that Sue [Berg] will be available.

81. **Michael Langan; e-mail to W. Scott Liebert; February 18, 2012, 2:43 a.m.; 7 paragraphs.**
In this e-mail, Langan seeks advice from his attorney (Liebert) regarding the possibility of safeguards "against PHS." In the e-mail, Langan mentions a Third Quarter report, attendance at support group meetings, financial compliance [with PHS], and the CAP investigation. Langan asks if there's a way to report compliance data directly to the Board instead of going through PHS, as he is concerned "that they [PHS] are going to just call noncompliance because they can."

82. **W. Scott Liebert; e-mail to Michael Langan; February 17, 2012; 4 paragraphs.**
In this e-mail, Attorney Liebert notes having received a phone call from Deb Grossbaum at PHS regarding Langan's recent quarterly report and having been informed that Langan had not yet identified a sponsor and "had not presented a plan for providing verification of your attendance at AA meetings." Liebert cautions Langan regarding the importance

of absolute compliance [with the monitoring contract]. As Liebert explains, "you have no slack here—if PHS tells the Board that you are not fully following every aspect of your contract—your license will be suspended, and there will not be a thing that you or I can do to stop it." Liebert also cautions Langan "to be careful not to say too much" to technicians when arriving for a lab test, as apparently he [Langan] had discussed a prior problematic test with technicians at a lab. Liebert also mentions an upcoming meeting the following week between Langan and Dr. Sanchez [from PHS].

83. **Commonwealth of Massachusetts, Board of Registration in Medicine; final page from Letter of Agreement Addendum; February 1, 2012; 1 page***
Along with the other documents from 2012 provided by Dr. Langan was the final page from the LOA Addendum of 2/1/12. The Board of Registration in Medicine had provided the complete LOA Addendum (which totaled 4 pages), which I reviewed in its entirety and summarized above.

84. **College of American Pathologists; Letter to Michael Langan from Amy Daniels, MT; January 12, 2012; 1 page.**
This e-mail acknowledges that the College of American Pathologists is initiating an investigation in connection with some communication from Michael Langan, concerning Quest Diagnostics Laboratory in Cambridge, MA, and the US Drug Testing Labs in Des Plaines, IL.

85. **W. Scott Liebert; e-mail to Michael Langan; date unspecified or illegible, but estimated to be on or shortly after 1/5/12; 2 brief paragraphs.**
In this e-mail, responding to Michael Langan's e-mail below (of 1/5/12, 2:36 p.m.), Attorney Liebert responds that Langan should fax the document to him and mail him the original.

86. **Michael Langan; e-mail to W. Scott Liebert; January 5, 2012, 2:36 p.m.; 1 paragraph.**
In this e-mail, Dr. Langan states that he has been on vacation since the BORM [BRM] meeting but is returning to work on 1/11/12. He asks, "Does this need to be faxed to you or the BORM?", but the e-mail doesn't specify what "this" is.

87. **W. Scott Liebert; e-mail to Michael Langan; January 5, 2012; 1:39 p.m.; 1 paragraph, plus 1 sentence.**
This e-mail is a follow-up reminder to the e-mail Liebert sent to Langan on "Tuesday" (January 3, 2012), with the corrected/revised LOA addendum that Liebert received on 1/3 from Attorney Ottina. Liebert reminds Langan that he is expected to have a signed copy back to the BRM by the end of the day "tomorrow" (Friday, 1/6/12). Liebert requests that Langan get it back to him with his signature "today" (1/5/12). Liebert notes that the terms are non-negotiable at this point.

88. **W. Scott Liebert; e-mail to Michael [Langan?]; date unspecified, but probably sometime *after* 9:51 a.m. on January 3, 2012; 1 paragraph.**

This e-mail introduces an e-mail that Attorney Liebert forwarded to Langan. The e-mail that was forwarded was from Tracy J. Ottina to W. Scott Liebert, on 1/3/12, 9:51 a.m. EST, with a revised Letter of Agreement [LOA]. Liebert notes that requested changes were made *except* for a change regarding the number of weekly meetings that Langan would be required to attend—"At this point, that requirement is not negotiable." Liebert reminds Langan that he needs to get a signed copy of the revised LOA back to Tracy [Ottina] by "Friday." The original e-mail from Tracy Ottina to W. Scott Liebert does not appear to be among the documents I received.

89. W. Scott Liebert; letter or e-mail to Tracy J. Ottina, Esq., Assistant General Counsel for the Board of Registration in Medicine; date unspecified or illegible; 8 paragraphs.

In this e-mail or letter, Attorney Liebert responds to a proposed Letter of Agreement [LOA] Addendum and discusses a few suggested changes and corrections, including:

- typographical errors
- wording in Paragraph K, 8th line down
- Paragraph Y's required frequency of support group meeting attendance
- Paragraph D's identification of Dr. Langan's psychiatrist and therapist

90. W. Scott Liebert; e-mail to Michael Langan; date unspecified or illegible – may have been late 2011 or early 2012; 1 paragraph.

This e-mail introduces an attached copy of a letter that Liebert sent to the Board of Registration in Medicine on that date confirming Langan's agreement with the BRM's 12/21 order extending the Letter of Agreement, "but reserving your right to petition for reconsideration of the Order when you have obtained evidence that the 7/1 test was invalid."

2011

91. W. Scott Liebert, e-mail to Michael Langan; date unspecified (I estimate it to be after December 21, 2011 but before January 1, 2012, due to statements in the e-mail); 5 paragraphs.

Although this e-mail was included alongside the 2012 documentation, I believe it may be from late December 2011, as it states that Attorney Liebert received a BRM Order on the date of this e-mail, and the e-mail closes with, "If I don't talk with you, I do want to wish you and your family a very good holiday and New Year." In this e-mail, Liebert mentions some of the features of the BRM Order that he feels Langan should note carefully. For example, Liebert notes that the new Order requires an immediate VANP [Voluntary Agreement Not to Practice Medicine] upon any positive [drug or alcohol] test. However, as Liebert notes, "The letter [from the BRM] makes it clear that if you reject these recommendations, your case will go back to the Board on January 18th for consideration of sanction." Liebert advises, "Rather than reject it and face suspension and a reportable disciplinary action, I believe the better course is to pursue the matter with PHS." Liebert also notes finding a statement in the Federation of state Physician

Health Programs that Chain of Custody will be used on all toxicology specimen tests. Liebert indicates that he plans to "write a letter to PHS demanding that they rescind the PEth test report and notify the Board that it was an invalid test."

92. **Undated e-mail or letter portion; sender/recipient unclear; ~1 paragraph.**
This appears to be an e-mail from "Linda," but no header information is legible. This was included around the 2012 documents, but between e-mails that appear to be from late December 2011. The e-mail reads as follows: "The labs reply regarding the method for reporting levels is below. [new para.] As Deb G will explain we have been on the phone and emailing Quest daily for more information. Their first reply was that they had nothing more to provide other than what was within the US drug testing packet. We pursued more, and their reply yesterday was that a subpoena would be necessary. I pursued again and asked for their counsel to contact PHS to discuss further. [new line] Linda"

93. **Joseph Jones (joe.jones@usdtl.com); e-mail to Linda R. Bresnehan (e-mail address not provided); subject: RE: USDTL and Quest testing info; December 20, 2011, 11:17 a.m.; 2 sentences.**
This e-mail states, "It is standard practice in our industry to report only the confirmation result. The two values are within a 20% range of the mean of the two values." No further context or information is provided in this e-mail.

94. **W. Scott Liebert; e-mail to Michael Langan; date unspecified or illegible, but likely around Dec. 19 or 20th, 2011, given preceding & following e-mails in documents; 1 paragraph.**
This e-mail introduces a forwarded e-mail originally sent by Attorney Liebert to PHS earlier that day. Liebert mentions that he called USDTL on "Friday" (perhaps 12/16/11) and "today" and left messages for Joseph Jones.

95. **Michael Langan; e-mail to W. Scott Liebert; December 19, 2011, 12:25 p.m.; 1 paragraph.**
In this e-mail, Langan asks Liebert if there's been "Any word on the Quest Chain of Custody?" Langan also apparently attaches a letter he wrote, intended for Dr. Joseph Jones [of the USDTL], and asks Liebert to review it and consider sending it or an edited version. Langan mentions issues with the July 1 [2011] PEth test and states that "Pointing out these issues would necessitate Dr. Jones protect himself which could very well result in a letter deeming the test a rejected specimen as a correction."

96. **United States Drug Testing Laboratories; Litigation Package; 2011; 45 pages.**
This Litigation Package is the same set of documents provided by the Board of Registration in Medicine and summarized previously in this report.

97. **W. Scott Liebert; e-mail or letter to Michael Langan; no date specified; 2 paragraphs.**
This letter informs Dr. Langan that Attorney Liebert received the USDTL litigation packet on the date of this letter. In his letter, Liebert indicates an increase of nearly 40%

in values on a confirmation test and an 8-day delay. This letter or e-mail may have been sent around December 2011, as the cover letter on the USDTL litigation packet that was sent to Dr. Langan (provided by the referring source) and CC'ed to Attorney Liebert was dated December 12, 2011.

98. **W. Scott Liebert; e-mail or letter to Michael Langan; no date specified or legible; 3 paragraphs.**
In this letter, Attorney Liebert mentions having spoken to Linda at PHS the previous day. The letter concerns a request for a 1-page test report and the expected delivery date for the USDTL litigation packet. In the letter, Liebert also cautions Langan to avoid having any contact with the laboratories aside from providing samples for tests. Liebert discourages Langan from contacting the USDTL directly. This letter appears to have been sent sometime between 12/9/11 and 12/21/11, judging by its response to a question in Langan's 12/9/11 e-mail (summary below).

99. **W. Scott Liebert; e-mail to Michael Langan; December 14, 2011; 1 paragraph(?)*.**
This e-mail introduces a forwarded "string of e-mails from me [Liebert] to PHS, re the Quest material, back from PHS, and then my response to them. Very interesting that Quest says they don't have anything additional to send—obviously not true, and it only adds to the question of what they are hiding. I will let you know as soon as I receive anything in response. Scott"

100. **Michael Langan; e-mail to W. Scott Liebert, December 9, 2011, 1:23 p.m.; 6 paragraphs.**
In this e-mail, Langan asks Attorney Liebert if "they" have provided a lab report or litigation packet yet and inquires about receiving a 12/6/11 letter from Dr. Sanchez [at PHS]. Langan reports information he apparently received from "Dr. Jones of USDTL" regarding a data packet. The e-mail expresses Langan's belief that "the current tactic [of PHS] is to trip me up any way they can so that they can report me to the board for noncompliance either through getting a positive EtG or financially." Langan details some of the requirements imposed by the PHS monitoring program as of the date of this e-mail.

101. **W. Scott Liebert (wsllaw@mac.com); E-mail to Michael Langan (mllangan1@mac.com); subject: Re: PHS; November 22, 2011, 4:44 p.m. EST; 1 paragraph.**
In this e-mail, Liebert informs Dr. Langan that he requested, via e-mail, a 1-page report from Deb Grossbaum. Liebert asks about a payment issue with PHS. Liebert warns Langan that his license will likely be suspended by the BRM if PHS discontinues testing because of not receiving payment.

102. **Michael Langan; e-mail [to unspecified recipient, but probably W. Scott Liebert]; November 22, 2011, 3:43 p.m., 1 line.**
In this e-mail, Langan asks if Liebert has requested a copy of the USDTL report from the July 1st PEth.

103. W. Scott Liebert (wsllaw@mac.com); e-mail to Michael Langan; November 22, 2011, 3:35 p.m.; 1 paragraph.

In this e-mail, Liebert informs Langan that, according to Deb Grossbaum, charges did not go through successfully on his [Langan's] debit card. Liebert urges Langan "to rectify this asap" because of the risk of "drastic consequences with the BRM."

104. W. Scott Liebert (wsllaw@mac.com); e-mail to John Knight; CC to Michael Langan, Timothy Wilens, Spencer Wilking, & Kenneth Lloyd Minaker; subject: Re: Monday PHS mtg; November 20, 2011, 4:59 p.m.; 3 paragraphs.

In this e-mail, Attorney Liebert expresses his belief that "the focus at this time in all discussions with PHS needs to be cooperative—not confrontive [*sic*]." Liebert describes PHS as "the 'only game in town'" for Langan's monitoring, unless the BRM will consider an alternative for monitoring. Liebert notes that "When I [Liebert] spoke with the PHS attorney, Deb Grossbaum, last week to request the data packet for the 7/1 PEth test, she was aggressively defensive in her response. She asked if ML [Langan] was going to work against PHS or with PHS, because, she said, if he's working against PHS then they can't monitor him." Liebert continues, "My advice, given how touchy and defensive PHS seems to be about issues re the validity of their monitoring and testing protocols, is that when anyone speaks with them about their role in monitoring (i.e., Drs. Wilens and Wilking tomorrow), they need to avoid anything that will feel like confrontation to PHS."

105. John Knight; e-mail to multiple recipients (not specified); November 20, 2011, 9:22 a.m.; 3 sentences.

In this e-mail, Dr. Knight suggests that "[i]t might be best not to mention my [Knight's] involvement just yet to the PHS folks."

106. Michael Langan; e-mail to W. Scott Liebert; November 18, 2011, 12:45 p.m.; 6 paragraphs.

In this e-mail, Langan recommends that Attorney Liebert attend "the meeting" with him [Langan]. Langan mentions the importance of chain of custody in forensic drug testing. Langan states that, "According to Joseph Jones all we need is the specimen identification number from PHS and he can run a review." Langan also writes that "it would be preferable for us to obtain the 'litigation packet' or 'data packet' as soon as possible so they do not take some sort of action to either temporize or prevent its acquisition." Joseph Jones's contact information is listed at the end of this e-mail. Jones is identified as the Vice President of Laboratory Operations at the USDTL.

107. W. Scott Liebert; e-mail to Michael Langan; subject: Monday PHS mtg; November 18, 2011, 9:42 a.m.; 2 paragraphs.

In this e-mail, Attorney Liebert advises Langan that it would be a good idea for Liebert to attend "the Monday 4 pm meeting at PHS with [Langan]" and asks if Langan agrees. Liebert mentions having spoken with Deb Grossbaum the previous day (11/17/11) to request the data packet for the 7/1/1 [*sic*] [7/1/11] PEth test. Liebert notes that Grossbaum came across as "aggressive/defensive about the whole thing".

108. Michael Langan (mllangan1@mac.com); Portion of e-mail to W. Scott Liebert (wsllaw@mac.com), subject: Bingo (?); [no date or date illegible]; 14 brief paragraphs, but e-mail appears to be cut off at bottom of page (ends mid-sentence). This e-mail apparently had a 8.8 MB attachment and appears to have had "Bingo" as a subject header, but the ink at the beginning is faint, so this is uncertain. In the e-mail, Langan describes circumstances surrounding the July 1, 2011 PEth test, communications that a lab tech apparently received from someone at PHS, and details about the requisition forms involved in PEth tests. Langan discusses possible reasons for an invalid test and identifies four "issues":

1. "SAMHSA mandatory federal guidelines require forensic specimens to be received within 24 hours.
2. "Wrong requisition form and wrong destination.
3. "PEth requires special handling—Quest diagnostics courier apparently just drops them off at a lock box.
4. "Fatal chain of custody issues. ? how long the spec at Quest before the error was recognized."

Langan states that "the specimen was improperly labeled and shipped, compromised and invalid, and by any standard cannot be used." The e-mail is cut off mid-sentence, and the remainder of this e-mail was not provided to me.

109. W. Scott Liebert; e-mail or letter to Michael [presumably Langan]; no date specified—sometime after 7/1 and sometime before 9/21; 1 page (3 paragraphs). This e-mail concerns a test performed by USDTL on a specimen obtained on 7/1. Liebert counsels Langan about an upcoming BRM meeting on 9/21 and strategies Langan seems to have proposed, and explains, "I … believe that presenting an argument about the chain of custody for the PEth, while at the same time arguing that all the tests came back with high values due to the MDI [inhaler] simply confuses and weakens both arguments." The e-mail or letter may have been sent shortly after 9/8/11, as it appears that the beginning of an e-mail from Langan, sent on 9/8/11, may be at the bottom of the document.

110. Michael Langan (mllangan1@mac.com); portion of e-mail to W. Scott Liebert; subject unspecified; September 8, 2011, 4:21 p.m.; 4 paragraphs. This document is the beginning of an e-mail from Dr. Langan to Attorney Liebert regarding drug testing protocols and chain of custody requirements of NIDA, SAMHSA, DPH, and others. The e-mail mentions an attachment, i.e., PEthstat instructions, and Langan quotes from them in the body of the e-mail. The remainder of his e-mail is cut off and does not appear to be among the documents I received.

111. Sue Berg (smblaw@mac.com), law office of W. Scott Liebert; e-mail to Michael Langan, with attachment (not included); September 8, 2011; 1 paragraph. This cover e-mail introduces an attachment letter that was received by fax regarding the 9/21 BRM hearing on Langan's case. Berg also indicates that "the 37 documents were not faxed; we expect to receive them in the mail early next week."

112. Massachusetts General Hospital, MGH Senior Health; Letter from Diane Bucknill, MSN, ANP, to Attorney W. Scott Liebert; September 6, 2011; 1 page.

In this letter, Nurse Bucknill writes to attest to the character and fitness of Dr. Langan. Bucknill notes that she has worked closely with Dr. Langan for the past two years. Nurse Bucknill states that "there have been no changes in [Dr. Langan's] appearance, personality, clinical acumen, mood, or presence." Bucknill praises Langan's communication with patients and staff and his ability and manner as a physician. She writes, "The suggestion that he could be abusing alcohol and hiding it from his coworkers is just not on the table" and that she feels "very privileged to work with him and [has] no concern" about continuing to work with him.

113. Michael Langan (Langan.MichaelL@mgh.harvard.edu); e-mail to Joseph Jones [no e-mail address listed]; Subject: PEth collection protocol; September 4, 2011, 10:50 p.m.; 1 paragraph.

In this e-mail, Langan requests a copy of the collection protocol for the PEth test.

114. Michael Langan (mllangan1@mac.com); E-mail to W. Scott Liebert (wsllaw@mac.com), subject: USDTL/PEth; September 3, 2011, 11:41 a.m.; 4 paragraphs(?) or ~1 page.

In this e-mail, Langan discusses the dearth of research regarding the impact of inhaled ethanol on PEth test results, his impression of the lab as "at best, a non-certified lab with untrained and very busy techs who have not been trained in the procedure and strict protocol of drawing up a PEth." Langan also mentions his communication with "Jim Jones who is the director of the clinical lab" and issues regarding interpretation of lab results. Langan also states, "If USDTL told PHS that there was a problem with the test and Linda Bresnehan decided to use it anyway then this opens up significant ethical issues that need to be addressed not only with the BORM [Board of Registration in Medicine]—both officially and publically." The e-mail appears to be cut off, without a signature or name at the end, so it's unclear whether I was provided with the entire e-mail or merely a portion of it. I received two copies of this e-mail, both of which ended without a name or signature line.

115. Physician Health Services; Letter to Michael Langan from Luis T. Sanchez, M.D.; July 29, 2011; 1 page*

In this letter, PHS requests that Langan participate in an independent evaluation "with a program skilled in working with health care practitioners" and provides contact information for three different centers (Marworth Treatment Center, in Pennsylvania; Hazelden, in Minnesota; and Bradford Health Services-Warrior, in Alabama). The letter notes that Langan is responsible for associated fees and is expected to contact one of the programs by August 12, 2011. The letter references a consent form to be faxed to PHS, but the consent form was not included in the documents I received. Additionally, it appears that there was more than one page to this letter (as the page with Dr. Sanchez's signature does not appear), but I have received only p.1 of the letter.

116. Physician Health Services; Letter to Robert Harvey, Esq. from Luis T. Sanchez, M.D.; July 28, 2011; 1 page.

This letter was also provided by the referring source and summarized above.

117. Massachusetts General Hospital and Harvard Medical School; Letter to the Board of Registration in Medicine from Timothy E. Wilens, M.D.; July 22, 2011; 2 pages.

This letter was also supplied by the referring source, and I have summarized it above.

118. United States Drug Testing Laboratories; Lab Test Report; July 20, 2011; 1 page.

This reports the Positive test result from a Phosphatidyl Ethanol (PEth) test collected on 7/1/11, received 7/8/11, and reported 7/20/11. The sample comments indicate: "Revised report per client's request // Corrected donor ID from 46143 to 1310 // Corrected collection date to 07/01/2011."

119. Quest Diagnostics, Brookline #1; Lab Test Report; April 2011-June 2011; 1 page.

This list of lab test results identifies the following results in 2011:

- Negative for dates: 4/5, 4/20, 4/27, 5/17, 6/8, 6/30
- Positive Rx for dates: 4/6, 4/14, 5/3, 5/9, 5/27, 6/2, 6/17
- Positive for date: 6/20

The substance(s) for which these tests were conducted is not named on the document.

2010

120. Physician Health Services; Letter to Michael Langan from Luis T. Sanchez, M.D.; July 6, 2010; 1 page.

This letter informs Dr. Langan of a change in personnel at Physician Health Services and identifies a new associate director, with contact information, for the interim.

121. Physician Health Services; Letter to Kenneth Minaker, M.D. from Luis T. Sanchez, M.D.; February 10, 2010; 1 page.

This letter follows up on the 1/21/10 letter (below), stating that the information in the 1/21/10 letter is correct regarding test results and positive EtG result, but stating also that "PHS considers Dr. Langan to be compliant with his PHS Substance Use Monitoring Contract."

122. Physician Health Services; Letter to Kenneth Minaker, M.D. from Luis T. Sanchez, M.D.; January 21, 2010; 1 page.

This letter documents Langan having entered into his most recent contract with PHS on March 18, 2008, with a Behavioral Health Addendum that became effective on September 9, 2008. The letter describes the purpose of the contract and addendum and lists 7 requirements of the contract (same as earlier reported in the summary of documents provided by the referring source). The letter states that "Dr. Langan was compliant with his contract until June 25, 2009 when he had a random drug test that was positive for ethyl glucuronide (EtG) at a level of 555 ng/mL and for ethyl sulfate (EtS) at a level of 115 ng/mL. This sample was also dilute with a creatinine level of 14.4 mg/dL

and specific gravity of 1.002. Dr. Langan's testing was subsequently increased to three times a week for three weeks, the results of which were negative for substances of abuse." The letter also indicates that Dr. Langan informed PHS of his prescription for two asthma inhalers and the January 2009 FDA mandate for ethyl alcohol propellants in inhalers and provided documentation about his use of these medications. The letter states, "PHS has concluded that there was no evidence of relapse at that time."

2009

123. Assessment and Counseling Services; Letter to Judith Simmermon, Ph.D. from Steven Snook, Ph.D.; [no date] 2009; 1 page.

This cover letter introduced an enclosed addendum to the Psychological Evaluation Report of Dr. Langan. There is no date on this cover letter, but it was located with other documents from 2009.

The addendum, which is not dated, reads as follows (I quote it in its entirety here):

"The following is a corrected addendum to the previous psychological evaluation report of Michael Langan of 03/26/2008.

"On page 3 the third paragraph incorrectly lists Dr. Langan's time on Trails A as 6 seconds, the corrected time should read 36 seconds.

"On page 4, the 1st paragraph under the personality assessment describing the validity scales is incorrect. The following is the corrected interpretation of the validity scales.

"The MMPI-2 and MCMI-III were completed as self-report measures of psychological functioning and personality characteristics. An analysis of his response style to this inventory showed that he understood the items and responded in a straightforward manner. The validity scales were noted to be within acceptable limits and the resulting profile was judged to have been useful for clinical interpretation.

"The third and fourth paragraph under the personality sections are correct and unchanged. The summary from the report is correct and unchanged."

124. Assessment and Counseling Services; Letter to Michael Langan from Steven Snook, Ph.D.; December 23, 2009; 1 page.

This is a cover letter introducing a corrected copy of the psychological report completed during Langan's stay at Talbott Recovery Campus [date unspecified]. The letter indicates that Langan had made a complaint about Dr. Snook's report and that Dr. Snook's report was submitted to and reviewed by the Georgia Psychological Association Ethics Committee. Apparently Dr. Langan had requested a correction to be made to Dr. Snook's report, and the GPA Ethics Committee approved this correction. A corrected report was sent to Dr. Langan.

125. Data collection forms (with raw data) and results from Michael Langan's MMPI-2; headers read "Psychology Assess Ctr // Steven Snook," and the date (which is partially obscured) appears to be 11/20/2009; 3 pages.

These documents are copies of an original form filled out by Dr. Langan and initial raw results and data-scoring sheet from Langan's MMPI-2 testing. The final page shows the Profile for Validity and Clinical Scales and contains a graph of data input and drawn by hand.

126. Physician Health Services; Letter to Robert Harvey, Esq. from Luis T. Sanchez, M.D.; August 24, 2009; 1 page. [NOTE: The referring source also provided this document]

This letter follows up on the July 10th, 2009 letter (summarized in referring source documents summary). This letter states, "Since that time Dr. Langan has had a second test that was positive for EtG and EtS on July 27, 2009, at levels of 277 ng/mL and 120 ng/mL respectively." The letter notes that Langan informed PHS that he uses an ethanol-propelled inhaler for his asthma. The letter also states: "PHS has concluded that there is no evidence of relapse at this time."

127. Signed letter [Sender's name withheld to protect sender's confidentiality] regarding March 2008 hair sample test on Michael Langan; May 18, 2009; 1 page.

Due to concerns that the author of this letter would be fired for making this report, I have chosen not to report the sender's name. The letter, which contains an ink signature, describes the procedure followed for obtaining the hair sample from Langan in March of 2008. The letter states that Langan's hair sample, as collected, represents about 10 to 11 months of growth, was obtained from multiple areas around his head, and that the technician who obtained the hair sample was following DATIA guidelines for a standard Hairstat test as the technician had been directed to do.

2008

128. E-mail from Michael Langan to Lauren E. Pollak; subject: "Re: Neuropsych report"; December 12, 2008, 3:47 p.m.; 1 paragraph.

In this e-mail, Langan responds affirmatively to Pollak's question as to whether he would like her to send the MMPI-2 raw data along to the Board [in Georgia?] on his behalf. He also asks that she fax it to another number and says he could ask "les-helley (?sp)" to take a look at it.

129. E-mail from Lauren E. Pollak to Michael Langan; December 12, 2008, 3:30 p.m.; 1 paragraph & 1 line.

In this e-mail, Pollak notes that she had a technician rescore the MMPI2 on a computer and that the raw scores are virtually the same. She notes that "there's no indication that any changes were made." She also says that she doesn't understand "on what basis Dr. Snook is making his statements re: your pattern of responding" and notes that she'll defer to the Board in Georgia. She asks if Langan would like her to forward the raw data to "the Board" on his behalf.

130. Michael Langan; E-mail to Lauren E. Pollak; subject: "Re: Neuropsych report"; December 11, 2008, 9:21 a.m.; 3 paragraphs.

In this e-mail, Langan thanks Pollak for agreeing to review his raw scores and also summarizes conversations he has had with other physicians who have had experiences similar to his own regarding the MMPI-2 results and misrepresentation of the L scale implications and alleged cognitive impairment that is unsupported by hard data. Langan writes, "The reason I am reporting this to the Board is because there have been multiple suicides of physicians and nurses who were assessed at Talbott and threatened with their licenses." Langan also encouraged Pollak to get the Board in Georgia involved so that she does not have to put her own reputation/name at stake and also provided some links to documents on the web that support his contention that his case is not an isolated occurrence.

131. Lauren E. Pollak; E-mail to Michael Langan; December 11, 2008, 8:50 a.m.; 1 brief paragraph, with following e-mail chain.

In this e-mail, Pollak acknowledges receipt of Langan's fax and agrees to take a look at his responses as soon as she can. Included in her e-mail is a chain of prior e-mails between her and Langan (dates: 12/10/08 [3:47 p.m.], 12/4/08 [2:28 p.m. and 2:13 p.m.]) as well as one from Deanna McDonald to Michael Langan from December 4, 2008. In the one from McDonald [apparently from Dr. Snook's office], McDonald indicates that they score the measure by hand, not electronically and that they have provided all they have for Langan's MMPI-2. The chain of e-mails between Langan and Pollak just confirm Pollak's plans for reviewing Langan's MMPI-2 responses to determine on what basis Dr. Snook had made his claims.

132. Assessment and Counseling Services; Addendum to Psychological Evaluation Report of March 26, 2008; [no date on Addendum], signed by Steven Snook, Ph.D.; 3 pages.

A cover letter (1 page) states that:

"The following is a corrected addendum to the previous psychological evaluation report of Michael Langan of 3/26/08.

"On page 3 the third paragraph incorrectly lists Dr. Langan's time on Trails A as 6 seconds, the corrected time should read 36 seconds.

"On page 4, the 1st paragraph under the personality assessment describing the validity scales is incorrect. The following is the corrected interpretation of the validity scales.

"The MMPI-2 and MCMI-III were completed as self-report measures of psychological functioning and personality characteristics. An analysis of his response style to this inventory showed that he understood the items and responded in a straightforward manner. The validity scales were noted to be within acceptable limits and the resulting profile was judged to have been useful for clinical interpretation.

"The third and fourth paragraph under the personality sections are correct and unchanged. The summary from the report is correct and unchanged."

Following this cover letter is a copy of a page from the original report showing the original wording of the paragraph above that begins, "The MMPI-2 and MCMI-III." The change or correction appears to have been to remove a statement that: "[Langan] responded in a rather guarded and cautious manner. His pattern of responding is typical of an individual who may be seen as making a naïve and unsophisticated attempt to

appear in a positive light. There may be a pattern of minimizing and denying even common human faults. Such a pattern of responding is not unusual in such an assessment, but may reflect a person who is not particularly insightful in terms of his own feelings and behavior. Additionally, such patterns of responding are also seen in individuals who are particularly moral or religious. Due to the level of defensiveness noted on the resulting profile, a degree of caution is warranted in interpreting these results."

The following page is another page from the Dr. Snook's original report.

Given the content of Dr. Pollak's letter of August 29, 2008, I suspect that the date for Dr. Snook's Addendum was sometime after this date (likely September 2008 or later).

133. Massachusetts General Hospital; Letter to the Board of Registration in Medicine from Lauren E. Pollak, Ph.D.; August 29, 2008; 1 page.

This letter discusses Dr. Pollak's opinion that she disagrees "with Dr. Snook's interpretation of Dr. Langan's response pattern on the MMPI-2." Dr. Pollak states that she had reviewed a copy of the raw data from Dr. Langan's MMPI-2 responses. Dr. Pollak writes:

> "In fact, Dr. Langan's attained score on the 'Lie' or 'L' scale, a validity index that was constructed to detect deliberate or 'unsophisticated' attempts to present oneself in an unrealistically favorable light, he receives a *T*-score of 49 (average). *T*-scores of greater than 65 are suggestive of an overly positive self-presentation.
>
> "In sum, I do not agree with Dr. Snook's interpretation of Dr. Langan's response pattern on the MMPI-2. Rather, it appears that Dr. Langan did <u>not</u> try to present himself in either an unusually positive or negative light in responding to the test items."

134. Susan M. Berg; Letter to Pamela Meister, Esq., PHC Counsel, BRM; re: Michael Langan, M.D – Petition to Terminate VANP; June 20, 2008; 2 pages.

In this letter, Ms. Berg provides some information and documentation to support Langan's Petition to Terminate his VANP [Voluntary Agreement Not to Practice medicine]. Specifically, Berg notes that Langan obtained independent hair and nail tests, the results of which were negative for all substances (the letter indicates that copies of these test results were attached). Berg notes that the samples represent several months' worth of growth and encompass the date of a positive urine test, thereby supporting Langan's contention that he did not use opiates at that time. The letter also indicates that Langan was entering the McLean Hospital Ambulatory Treatment Center at Naukeag on the date of that letter for an assessment. The letter also notes letters from Drs. Hesse and Wilens in support of Dr. Langan's readiness to return to work. The letter states: "One disputed test, that occurred over six months ago, is not evidence of a relapse. All of Dr. Langan's urine screens since January 7th (well over 100) have been negative, as were all the tests in the preceding year. Dr. Langan's treating physicians and work monitor find him to be committed to his recovery and fit to practice medicine, and we expect the Naukeag assessment to reach the same conclusion."

135. Covidien; Letter to Dr. Michael Langan from Enrico Antonini, Project Engineer, R&D; June 13, 2008; 1 page.

In this letter, Antonini responds to a question from Langan regarding Antonini's manuscript, "Method for Separation and Purification of Naltrexone by Preparative Chromatography." Antonini responds:

> "You had asked if oxymorphone and noroxymorphone are found in any quantity in the final product. We remove residual levels of noroxymorphone from our naltrexone. Based on our process, oxymorphone could not be present. The noroxymorphone needs to be reduced to less than 0.15 weight percent in the naltrexone. There could still be enough noroxymorphone present at 100 ng/ml to cause a positive opiate test.
>
> "I apologize for the delay in responding to your question. I needed to receive approval from our legal department before I could answer...."

136. United States Drug Testing Laboratories; NailStat-12 Test results from sample collected 4/28/08 from Michael Langan; Report dated May 13, 2008; 1 page.

This summary of test results for a NailStat-12 collected April 28, 2008 reports that the screen was negative for all 12 categories of substances of abuse listed on the screen, including methadone, opiates, and oxycodone.

137. United States Drug Testing Laboratories; HairStat 12 Test results from sample collected 3/26/08 from Michael Langan; Report dated March 29, 2008; 1 page.

This summary of test results for a HairStat 12 collected March 26, 2008 reports that the screen was negative for all 12 categories of substances of abuse listed on the screen, including methadone, opiates, and oxycodone.

138. Physician Health Services, Inc.; Letter to Nancy Nitenson, M.D. from Luis T. Sanchez, M.D.; March 26, 2008; 1 page.

This letter provides updated information regarding a previous report regarding a positive oxymorphone test on January 7, 2008. Dr. Sanchez indicates that Dr. Langan submitted a hair test on March 14, 2008 that tested positive for oxycodone at a level of 230 pg/mg. The letter indicates that Langan has been asked to participate in an independent evaluation and that his testing has been increased to three times per week.