Commonwealth of Massachusetts
Supreme Judicial Court
No.SJC-12242

Michael Langan, M.D. **April 20, 2017**
Plaintiff-Petitioner
v.
Board of Registration in Medicine (BORIM)
Defendant

Motion to Take Judicial Notice of Adjudicative Facts

To assist this Court in coming to a correct and just decision, pro se appellant Michael L. Langan, M.D. respectfully requests judicial notice of adjudicative facts not subject to reasonable dispute in documents previously made part of the court record in this case (SJ-2014-0437, #1, SJ-2015-0267, #1, #17, #19, #22, #31).

The court may take judicial notice of facts of common knowledge that are indisputably true. See Provencal v. Commonwealth Health Ins. Connector Auth., 456 Mass. 506 , 515 n.16 (2010), citing Nantucket v. Beinecke, 379 Mass. 345 , 352 (1979). See also Mass. G. Evid. § 201(b) (2016) ("The court may judicially notice a fact that is not subject to reasonable dispute because it [1] is generally known within the trial court's territorial jurisdiction or [2] can be accurately and readily determined from sources whose accuracy cannot reasonably be questioned").

The attached documents are not subject to reasonable question as they were all written and signed by the Medical Director of the state physician health program, Physician Health Services, Inc. (PHS) Luis T. Sanchez, M.D. or provided by their affiliated drug-testing lab, United States Drug Testing Labs (USDTL) and are reports or documentation of actions that were taken at the time they occurred. These documents provide an accurate record of exactly what happened when it happened and show the precise chains-of-events and chains-of causation that led to disciplinary action by the Board of Registration in Medicine ("board.").

Appellant requests judicial notice of the following adjudicative facts found in the attached documents and that be considered in rendering a decision in this case.

Attachment A: Initial Test Report (positive "PEth" test)

- July 28, 2011 letter written and signed by Medical Director of Physician Health Services **Dr. Luis T. Sanchez**
- The letter confirms a verbal report that was made **July 19, 2011**

- The letter reports a positive test for **phosphatidyl ethanol (PEth) at a level of 365.4**ng/ml
- The date of the **collection is July 1, 2011.**
- **The test was a "random drug test"**

Attachment B: Select Pages of "Litigation Packet"

These pages of the "Litigation Packet" contain important adjudicative facts critical to this case. Full "Litigation Packet" from United States Drug Testing Labs (USDTL) can be accessed at the following link:

https://mllangan1.files.wordpress.com/2017/03/borimoriginaldocpost-dated3617.pdf

- This document was obtained from USDTL and provided in a letter from Sanchez dated December 12, 2011 (page 1)

- A faxed document dated **July 19, 2011** from Sanchez' office manager Mary Howard to United States Drug Testing Labs requests the lab"update" an attached **"lab report to reflect the donor ID number as listed on the order: to 1310" and "update the lab report to reflect that chain of custody was maintained." (page 2)**

- The lab report attached to the fax requesting the lab update the donor ID # and chain of custody is positive for **phosphatidyl ethanol (PEth) at level of 365.4ng/ml** and lists the date reported as July 14, 2011. "Chain of" and "Donor ID" are both listed as 461430 (page 3)

- **The updated report is positive for phosphatidyl ethanol (PEth) at level 365.4 ng/ml.** "Chain of" has been changed from 461430 to **"1310"** (appellants' unique donor ID # for PHS drug testing—links the test to me) Collection date added as **July 1, 2011** and date reported changed to **July 20, 2011.** Lab report comments:

    - ***Revised Report per clients request***
    - ***Corrected donor ID from 46143 to 1310***
    - ***Corrected collection date to 07/01/2011***

- December 3, 2011 Summary of Results signed by Vice President of Laboratory Operations Joseph Jones certifying that the positive test was "*examined upon receipt, handled, and analyzed in accordance with this laboratory's Standard Operating Procedure.*"

Appellate requests judicial notice of the following adjudicative facts indisputably true in examining attachments A and B

- Sanchez " verbal report to the medical board and the faxed request are both dated **July 19, 2011**
- The reported PEth test was reported as **365.4 ng/ml**. The lab report faxed to USDTL and the updated lab report are also reported as **365.4 ng/ml**.
- .Sanchez" report to the medical board reports the test was collected on **July 1, 2011**. USDTL "updated" the collection date to**July 1, 2011.**
- The faxed request from PHS to USDTL requests **my donor ID #1310 be added to a positive test** that has no information linking the test to me.
- The lab complied with the request and **added my donor ID #1310 to an already positive test and filled in a collection** date of July 1, 2011 at the request of PHS.
- The July 19, 2011 PEth test was falsely created in collusion with the drug testing lab the same day it was reported to the board. It was an intentional and deliberate act and not error or oversight.

Attachment C: Request for Evaluation

- Written and signed by **Sanchez**
- Dated July 29, 2011.
- Document states *"you recently tested positive for ethyl glucuronide on two occasions and for phosphatidylethanol on one occasion"* and recommends an *"independent evaluation" by August 12, 2011.*
- Document states: "*you are responsible for the fees associated with the chosen resource. Therefore please address cost and payment arrangements directly with your chosen program prior to scheduling an appointment.*"
- Provides the following three choices for evaluation:

  - Marworth Treatment Center, Waverly Pennsylvania
  - Hazelden, Center City, MN
  - Bradford Health Services-Warrior

Attachment D: Conditions imposed by PHS and request for "Litigation Packet"

- Written and signed by **Sanchez**
- Dated December 6, 2011
- States the inpatient assessment resulted from ***"three positive test results from June and July of 2011" and: "because ETG is known to be a very sensitive test, PHS utilized a different test, PEth, in order to further confirm the presence of alcohol metabolite. This third test was also positive for an alcohol biomarker at a level beyond that expected from incidental ethanol exposure. PHS therefore recommended that you participate in an independent evaluation."***
- Imposes specific conditions on continued monitoring including discontinuing asthma inhalers, attending three "support group" meeting per week and increased alcohol biomarker testing and states if unable to

pay the laboratory fees "PHS will need to refrain from testing until the laboratory fees can be paid"

- States: "*you have expressed a plan to challenge the validity of the PEth test results. PHS explained that the testing laboratory is willing to support the test results and will provide a "litigation packet" of materials to you at its standard fee. On December 5, 2011 PHS received your request and fee payment for the litigation packet. PHS will submit a request for the litigation packet.*"

Attachment E: October 4, 2012 invalidated "PEth" test

- **October 4, 2012** USDTL report to Sanchez stating "appended report: External chain-of-custody protocol was not followed per standard protocol certified by USDTL VP of Laboratory Operations Joseph Jones who had certified on December 3, 2011 that the positive test was "*examined upon receipt, handled, and analyzed in accordance with this laboratory's Standard Operating Procedure.*"

(This was a result of a complaint to the College of American Pathologists who did an investigation and forced the lab to correct the test. As an accreditation agency they can investigate and force corrections but cannon sanction labs. As the PETh test is non-FDA approved there is no FDA oversight of these tests. The lab corrected it on October 4, 2012 and reported it to Sanchez but this information was concealed until December 2012).

Attachment F: October 23, 2012 report of non-compliance

- October 23, 2012 letter written and signed by Dr. Sanchez reports non-compliance with support group meetings. (This report is what led to suspension of medical license.)

Attachment G: December 11, 2012 report of invalid test

- December 11, 2012 letter written and signed by Sanchez in which he claims "Yesterday, December 10, 2012, Physician Health Services received a revision to a laboratory test result" and reports the appended report to the board and adds that he is not aware of any actions taken by the board as a result of this test and they will "continue to disregard the July 2011 Peth test result."

Request for Judicial Notice of Adjudicative Drawn from the Sum of the facts drawn from these documents

In considering the facts contained in these individual documents, appellant requests judicial notice of the following facts drawn from the sum of these documents be considered true beyond any reasonable dispute:

- **The PEth test initiated the chains-of-events leading to disciplinary action (Attachments A, C, D). The report to the board and request for an evaluation was due to two-positive screening tests and the confirmatory blood test. Dr. Sanchez was aware legitimately prescribed asthma inhalers caused these positive screening tests and appellant attaches documentation confirming that hew was aware of the prescribed medications, aware they caused positive screening tests and advised they be continued (Attachment G). The confirmatory PEth test was done under the pretext that PHS requested they be discontinued but no documentation of this request exists. The PEth test was the direct cause of the report and request for an evaluation. But for this test none of the subsequent events would have followed. The report to the board and request for an evaluation was based solely based on these two screening tests and the confirmatory PEth test and the latter was necessary. It is indisputable that but for this test none of the subsequent events would have occurred.**

- **Dr. Luis Sanchez report of the positive PEth test and subsequent violation of terms that he directly based on this test resulted in both board actions. No other pretext exists.**

- **This test was falsely created on July 19, 2011 in collusion with the drug-testing lab on the very same day it was reported by Dr. Sanchez. The act was clearly deliberate and the consequences predictable. The documentation clearly shows that PHS requested my unique Identifier and a collection date of July 1, 2011 were requested by his office, The fraud is self-apparent.**

- **The board never considered this test at the December 21, 2011 hearing. It was not even reported to the board by Sanchez until December 11, 2012. The "Litigation" packet was provided to appellant by Sanchez on December 12, 2011 and it was provided to board counsel Deb Stoller and Tracy Ottina on December 15, 2011 but in a December 11, 2012 letter to the board Sanchez reports he just became aware of it and the 2012 report from USDTL to Sanchez clearly made him aware of the labs invalidation on October 4, 2012. Why would he notify the board of a chain of custody issue in December 2012 if they already considered it at the December 2011 hearing? Why would Sanchez notify the Board of the compromised test almost one year after the considered it as claimed?**

- **The board relied on Dr. Sanchez false report at the December 21, 2011 Board hearing that led to the extension and modification in the Letter of Agreement. The board relied on Dr. Sanchez second report of non-compliance with meetings in the second action leading to suspension. This second report was made on October 19, 2012 (two weeks after the October 4, 2012 appended report from the lab to Sanchez invalidated the test. The**

report was made while he concealed the corrected test from the board and lied about it 67-days later. This second report from Sanchez led to the second disciplinary action resulting in suspension.

These documents provide direct evidence of crimes (no other evidence is needed) and the fraud and perjury are obvious to any reasonable person as changing donor ID numbers "updating a chain-of-custody " a chain –of-custody is so glaringly wrong it fits into the domain of common knowledge. The perjury is also self-apparent. All one needs is to look at the documents and a timeline. Sanchez reported this positive test to the board with full knowledge it was fabricated and when an outside agency confirmed this to be the case he concealed the information, reported non-compliance to stipulations that directly resulted from the falsified test then lied about it 67-days later claiming he just found out about it. He did not report the invalid test to the board until December 11, 2012 claiming he just found out about it. It is indisputably true he knew about these issues on the dates below:

July 19, 2011 when faxed request was made to the drug-testing lab to "update" chain-of-custody
December 12, 2011 when he provided the "Litigation Packet" from USDTL
October 4, 2012 when he received the report from USDTL invalidating the lab.

These documents were provided to Board counsel Deb Stoller and Tracy Ottina on December 15, 2011 who know, or should know, the importance of chain-of-custody and that adding dates and Donor ID numbers to already positive tests is not only wrong but a crime. The litigation packet is dated nearly one-month after the December 21, 2011 hearing at which it was supposed to be heard. No evidence exists to suggest it was ever considered by the board and opposing counsel cannot produce any reliably date-stamped documentation it was every even acknowledged. The December 11, 2012 report from Dr. Sanchez proves beyond any reasonable doubt it was never considered as, if it was, why would he report it a second time.

The facts contained in these documents prove beyond any reasonable doubt by the trier of fact what happened, when it happened and who was responsible. A false instrument was used to set off a predictable chain of results and Board counsel Stoller and Ottina were aware of the fraudulent test *before* the board took any action.

Appellant prays this court recognizes the serious deprivations of due process and fundamental fairness, civil rights abuses and crimes contained in these documents and act sua sponte in this case.

Respectfully submitted,

Michael Langan, M.D.

April 20, 2017

Certificate of Service

Appellant Michael Langan M.D. has provided AGO Bryan Bertram a copy of the attached motion and all attachments by hand-delivery and email on April 20, 2011

Michael Langan, MD.

ATTACHMENT A

PHYSICIAN HEALTH SERVICES, INC.

A Massachusetts Medical Society corporation
www.physicianhealth.org

Luis T. Sanchez, MD
Director

860 Winter Street
Waltham, MA 02451-1418
(781) 434-7404 • (800) 322-2303
Fax (781) 893-5321

July 28, 2011

Robert Harvey, Esq.
Physician Health & Compliance
Board of Registration in Medicine
200 Harvard Mill Square, Suite 330
Wakefield, MA 01880

RE: Michael Langan, M.D.

Dear Attorney Harvey:

This letter is to provide you with written documentation of a prior verbal report made on July 19, 2011 that Dr. Michael Langan had a positive test for phosphatidyl ethanol at a level of 365.4 ng/mL on a random drug test on July 1, 2011.

Physician Health Services has requested that Dr. Langan participate in reevaluation at this time.

If you have any questions, please do not hesitate to contact me.

Sincerely,

Luis T. Sanchez, M.D.

/mh
cc: Michael Langan, M.D.
Gary Chinman, M.D.
Scott Liebert, Esq.

ATTACHMENT (B) (1) (2)

PHYSICIAN HEALTH SERVICES, INC.

A Massachusetts Medical Society corporation
www.physicianhealth.org

Luis T. Sanchez, MD
Director

860 Winter Street
Waltham, MA 02451-1414
(781) 434-7404 • (800) 322-2303
Fax (781) 893-5321

December 12, 2011

Michael L. Langan, M.D.
41 Kilsyth Road
Brookline, MA 02445

Dear Dr. Langan:

Per your request, US Drug Testing has supplied the enclosed litigation packet.

Please let us know if you have any questions.

Sincerely,

Luis Sanchez, MD

cc: Scott Liebert, Esq.

(2)

PHYSICIAN HEALTH SERVICES, INC.

A Massachusetts Medical Society corporation
www.physicianhealth.org

Luis T. Sanchez, MD
Director

860 Winter Street
Waltham, MA 02451-1414
(781) 434-7404 • (800) 322-2303
Fax (781) 893-5321

Date: July 19, 2011

To: United States Drug Testing Laboratories

Fax: 847-375-0775

Total number of pages: 3

Account Number: PHSWMA for Physician Health Services
attn: Kendyll

RE: Specimen Chain of: **461430**
Donor ID as listed: **461430**
Donor ID: 1310
Collection Date: **7/1/2011**
Received Date: **7/8/11**

Please update the lab report to reflect the donor ID number as listed on the order: to **1310**

Please update the lab report to reflect that chain of custody was maintained.

Requested by Mary Howard: M. Howard 7/19/11
(signed) (date)

If you have any questions, please call Linda Bresnahan 781-434-7404

3

UNITED STATES DRUG TESTING LABORATORIES
1700 S. MOUNT PROSPECT ROAD
DES PLAINES, ILLINOIS 60018-1804
847-375-0770 fax 847-375-0775

Report Luis Sanchez MD
Physicians Health Services
860 Winter Street
Waltham, MA 02451

Cust ID PHSWMA
Client Physicians Health Services
Location
Collector

Sample Information

Chain of 461430
Name NA
Lab Sample ID 877649
Donor ID 461430

Test Reason Not given
Type Blood
Collected
Received 7/8/2011 10:46
Reported 7/14/2011 18:39

Tests Requested

PEth-BLD Phosphatidyl Ethanol (Blood) **Sample** POSITIVE

Test	Result	Quantitation	Screen Limit	Confirm
PHOSPHATIDYL ETHANOL	POSITIVE		20 ng/mL	
Phosphatidyl Ethanol (LCMSMS)	POSITIVE	365.4 ng/mL		20.0 ng/mL

Laboratory Charles A. Plate, PhD
Scientific Director Douglas Lewis

(4)

UNITED STATES DRUG TESTING LABORATORIES
1700 S. MOUNT PROSPECT ROAD
DES PLAINES, ILLINOIS 60018-1804
847-375-0770 fax 847-375-0776

Report Luis Sanchez MD
Physicians Health Services
860 Winter Street
Waltham, MA 02451

Cust ID PHSWMA
Client Physicians Health Services
Location
Collector

Sample Information

Chain of 1310
Name NA
Lab Sample ID 877649
Donor ID 461430

Test Reason Not given
Type Blood
Collected 7/1/2011 00:00
Received 7/8/2011 10:48
Reported 7/20/2011 16:17

Tests Requested

PEth-BLD Phosphatidyl Ethanol (Blood) Sample POSITIVE

Test	Result	Quantitation	Screen Limit	Confirm
PHOSPHATIDYL ETHANOL	POSITIVE		20 ng/mL	
Phosphatidyl Ethanol (LCMSMS)	POSITIVE	385.4 ng/mL		20.0 ng/mL

Sample Comments

REVISED REPORT PER CLIENTS REQUEST

CORRECTED DONOR ID FROM 48143 TO 1310

CORRECTED COLLECTION DATE TO 07/01/2011

Internal Certification Hardcopy

(5)

United States Drug Testing Laboratories
1700 S. Mount Prospect Road Des Plaines, Illinois 60018
847.375.0770 Ph. 847.375.0775 Fax
800.235.2367 Ph www.usdtl.com

SUMMARY OF RESULTS

ACCOUNT: Physician Health Services

USDTL NUMBER: 877649

SPECIMEN ID: 1310
461430

MATRIX: Blood

TEST REQUESTED: Phosphatidylethanol - Blood

INITIAL TEST METHOD: Liquid Chromatography – Tandem Mass Spectrometry

Drug	Cutoff (ng/mL)	Response of Specimen (ng/mL)	Result
Phosphatidylethanol	20	255.4	POSITIVE

CONFIRMATION TEST METHOD: Liquid Chromatography – Tandem Mass Spectrometry

Drug	Cutoff (ng/mL)	Response of Specimen (ng/mL)	Result
Phosphatidylethanol	20	365.4	POSITIVE

I certify that the specimen identified by the laboratory accession number above has been examined upon receipt, handled, and analyzed in accordance with this laboratory's Standard Operating Procedure.

Joseph Jonca, MS, NRCC-TC
Vice President, Laboratory Operations

Dec 03, 2011
Date

ATTACHMENT (C)

PHYSICIAN HEALTH SERVICES, INC.

A Massachusetts Medical Society corporation

www.physicianhealth.org

ATTN - Scott Lichent

Luis T. Sanchez, MD
Director

860 Winter Street
Waltham, MA 02451-1414
(781) 434-7404 • (800) 322-2303
Fax (781) 893-5321

July 29, 2011

Michael L. Langan, M.D.
41 Kilsyth Road
Brookline, MA 02445

As you know, you recently tested positive for ethyl glucuronide on two occasions and for phosphatidyl ethanol on one occasion. At this time, Physician Health Services, Inc. (PHS) is recommending that you participate in an independent evaluation with a program skilled in working with health care practitioners to assist in the assessment of your current health status. Below please find contact information for programs that can provide this service. Please contact one of the below providers to arrange for an evaluation.

- Marworth Treatment Center
  200 Lily Lake Road
  Waverly, PA 18471
  (570) 563-1112

- Hazelden
  15251 Pleasant Valley Road
  Center City, MN 55012
  (651) 213-4000

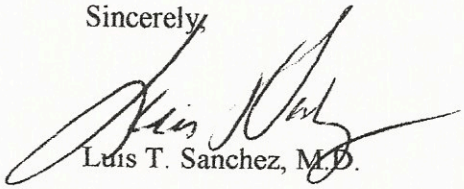
- Bradford Health Services-Warrior
  1189 Albritton Road
  Warrior, AL 35180
  (800) 333-1865

Please be advised that you are responsible for the fees associated with the chosen resource. Therefore, please address cost and payment arrangements directly with your chosen program prior to scheduling an appointment.

It is anticipated that you will contact one of the above programs by August 12, 2011. Once you have chosen a program, please sign the enclosed consent form to allow PHS to communicate with that program in *advance* of your participation. This consent form can be faxed to PHS at (781) 893-5321.

Upon completion of the evaluation, PHS will be requesting a written report which we will consider when making recommendations for further services and continued monitoring. If you need additional resources, please let me know. If you have any questions, please contact Dr. Chinman at (617) 738-8900.

Sincerely,



Luis T. Sanchez, M.D.

/dmc
Enclosures
cc: Gary Chinman, M.D.

ATTACHMENT (B)

(D)

PHYSICIAN HEALTH SERVICES, INC.

A Massachusetts Medical Society corporation
www.physicianhealth.org

Luis T. Sanchez, MD
Director

860 Winter Street
Waltham, MA 02451-1414
(781) 434-7404 • (800) 322-2303
Fax (781) 893-5321

December 6, 2011

Michael L. Langan, M.D.
41 Kilsyth Road
Brookline, MA 02445

Dear Dr. Langan:

As you know, we met last week in follow-up to a Physician Health Services, Inc. (PHS) assessment stemming from three positive test results from June and July of 2011.* Although you explained that you have been abstinent throughout your PHS monitoring, PHS has not been able document this abstinence, due to your stated use of an asthma inhaler that contains an alcohol based propellant and your continued use of alcohol based hand wash, despite being cautioned that use of these products could confound your negative testing. When PHS received the June 20, 2011 EtG and Ets test results, suggesting a level of alcohol ingestion beyond that expected from incidental exposure, PHS repeated the tests. The subsequent test results from June 30, 2011 were comparable to those from June 20, 2011. As EtG is known to be a very sensitive test, PHS utilized a different test, PEth, in order to further confirm the presence of alcohol metabolite. This third test was also positive for an alcohol biomarker at a level beyond that expected from incidental ethanol exposure. PHS therefore recommended that you participate in an independent evaluation at a facility skilled in working with health care professionals. Resources for this evaluation were provided to you on July 29, 2011, and you were asked to initiate the assessment by August 12, 2011.

You participated in the recommended evaluation on September 18, 2011. During this evaluation you were tested for the presence of EtG and PEth at the outset of the assessment, the results of which were negative. 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.

PHS has received assurances from your workplace monitors and treatment providers that they have seen no evidence of impairment. Accordingly, PHS has agreed to continue to monitor you pursuant to the terms of your current monitoring contract, with the following agreement (in order to allow PHS more clearly address abstinence from substances of abuse, including alcohol).

- You have agreed 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

* June 20, 2011 positive test for ethyl glucuronide (EtG) at a level of 11,700 ng/mL and ethyl sulfate (Ets) at a level of 2070 ng/mL, June 30, 2011 positive test for EtG at a level of 13,700 ng/mL and Ets at a level of 2270 ng/mL, and July 1, 2011 positive test for phosphytidal ethanol (PEth) at a level of 365.4 ng/mL.

results. You have explained that if your health requires you to use an HFA inhaler (in lieu an inhaler with a non-alcohol based propellant) you will notify PHS *in advance* so PHS can assess its ability to continue monitoring.

- You have agreed to increase your participation in PHS-approved support group meetings, to three meetings a week for the next 3 months, at least one of which will be a physician meeting. You have agreed to provide PHS with the phone number of a consenting meeting participant willing to confirm your meeting attendance.
- You have acknowledged that PHS will continue testing for alcohol bio-markers consistent with recommendations of the independent evaluator.
- You have agreed with PHS to a payment arrangement to address laboratory fees. You acknowledged that if you are unable to meet this agreement, PHS will need to refrain from testing until the laboratory fees can be paid.

Recently, you have expressed a plan to challenge the validity of the PEth test results. PHS explained that the testing laboratory is willing to support the test results, and will provide a "litigation packet" of materials to you at its standard fee. On December 5, 2011, PHS received your request and fee payment for the litigation packet. PHS will submit a request for the litigation packet.

Meanwhile, PHS is hopeful that going forward we will be able to support your recovery program in a way that is most helpful to you.

Sincerely,

Luis T. Sanchez, M.D.

cc: Gary Chinman, M.D.
Timothy Wilens, M.D.
Scott Liebert, Esq.
Tracy Ottina, Esq.

ATTACHMENT E

UNITED STATES DRUG TESTING LABORATORIES
1700 S. MOUNT PROSPECT ROAD
DES PLAINES, ILLINOIS 60018-1804
847-375-0770 fax 847-375-0775

Report To Luis Sanchez MD
Physicians Health Services
860 Winter Street
Waltham, MA 02451

Cust ID PHSWMA
Client Physicians Health Services
Location
Collector

Sample Information

Chain of Custody 1310
Name NA
Lab Sample ID 877649
Donor ID 461430

Test Reason Not given
Type Blood
Collected 7/1/2011 00:00
Received 7/8/2011 10:46
Reported 10/4/2012 12:50

Tests Requested

PEth-BLD Phosphatidyl Ethanol (Blood) **Sample** POSITIVE

Test	Result	Quantitation	Screen Limit	Confirm
PHOSPHATIDYL ETHANOL	POSITIVE		20 ng/mL	
Phosphatidyl Ethanol (LCMSMS)	POSITIVE	365.4 ng/mL		20.0 ng/mL

Sample Comments

REVISED REPORT PER CLIENTS REQUEST

CORRECTED DONOR ID FROM 46143 TO 1310

CORRECTED COLLECTION DATE TO 07/01/2011

APPENDED REPORT: EXTERNAL CHAIN OF CUSTODY PROTOCOL WAS NOT FOLLOWED PER STANDARD PROTOCOL

Certification

Data approved by Joseph Jones on 10/4/2012

JOSEPH T. JONES
10/4/12

ATTACHMENT F

PHYSICIAN HEALTH SERVICES, INC.

A Massachusetts Medical Society corporation
www.physicianhealth.org

LUIS T. SANCHEZ, MD
Director

860 Winter Street
Waltham, MA 02451-1414
(781) 434-7404 • (800) 322-2303
Fax (781) 893-5321

October 23, 2012

Robert Harvey, Esq.
Physician Health & Compliance
Board of Registration in Medicine
200 Harvard Mill Square, Suite 330
Wakefield, MA 01880

RE: Michael Langan, M.D.

Dear Attorney Harvey:

This letter is to provide you with written documentation of a prior verbal report made on October 19, 2012 that Michael Langan, M.D. was non compliant with his Physician Health Services (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.

PHS has recommended that Dr. Langan participate in an evaluation at a facility skilled in working with health care professionals. Upon completion of this assessment, PHS will consider how and whether ongoing PHS monitoring will proceed.

If you have any questions, please do not hesitate to contact me.

Sincerely,

Luis T. Sanchez, M.D.

/mh
cc: Michael Langan, M.D.
Gary Chinman, M.D.

Attachment G

PHYSICIAN HEALTH SERVICES, INC.

a Massachusetts Medical Society corporation

www.physicianhealth.org

Luis T. Sanchez, MD
Director

860 Winter Street
Waltham, MA 02451-1416
(781) 434-7464 • (800) 322-2303
Fax: (781) 995-5321

December 11, 2012

Robert Harvey, Esq.
Physician Health & Compliance
Board of Registration in Medicine
200 Harvard Mill Square, Suite 330
Wakefield, MA 01880

RE: Michael Langan, M.D.

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.

Sincerely,

Luis T. Sanchez, M.D.

cc: Michael Langan, M.D.
Gary Chinman, M.D.
Kenneth Minaker, M.D.
Timothy Wilens, M.D.

ATTACHMENT (H)

PHYSICIAN HEALTH SERVICES, INC.

A Massachusetts Medical Society corporation
www.physicianhealth.org

Luis T. Sanchez, MD
Director

860 Winter Street
Waltham, MA 02451-1414
(781) 434-7404 - (800) 322-2303
Fax (781) 893-5321

August 24, 2009

Robert Harvey, Esq.
Physician Health & Compliance
Board of Registration in Medicine
200 Harvard Mill Square, Suite 330
Wakefield, MA 01880

RE: Michael Langan, M.D.

Dear Attorney Harvey:

This letter is in follow up on our letter to you of July 10, 2009, at which time we informed you that on June 25, 2009 Dr. Michael Langan submitted a dilute sample 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. Since that time Dr. Langan 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.

Dr. Langan has informed PHS that he is being prescribed two asthma inhalers. By FDA mandate, the inhaler manufacturers changed to ethyl alcohol propellants in January of this year. Dr. Langan has provided documentation of this medication. Physician Health Services (PHS) will be working with Dr. Langan to determine whether there are alternative options for asthma treatment that do not utilize an ethanol propellant. Meanwhile, PHS has advised him to continue to use this medication as needed and as directed by his treatment providers.

As previously noted, Dr. Langan's testing was increased and PHS has spoken to his monitors and treatment providers. Dr. Langan also understands the importance of decreasing fluid intake prior to testing to ensure that the urine is sufficiently concentrated to provide uncompromised results.

PHS has concluded that there is no evidence of relapse at this time.

If you have any questions, please do not hesitate to contact me.

Sincerely,

Luis T. Sanchez, M.D.

/mh
cc: Michael Langan, M.D.
John Knight, M.D.
Susan Berg, Esq.

(2)

Documentation PHS aware of Asthma inhaler
No Documents produced by PHS showing I was told to divulge

PHYSICIAN HEALTH SERVICES, INC.

A Massachusetts Medical Society corporation
www.physicianhealth.org

Luis T. Sanchez, MD
Director

860 Winter Street
Waltham, MA 02451-1414
(781) 434-7404 • (800) 322-2303
Fax (781) 893-5321

February 10, 2010

Kenneth Minaker, M.D.
MGH Senior Health
165 Cambridge Street CPZ 502
Boston, MA 02114

RE: Michael Langan, M.D.

Dear Dr. Minaker:

I am writing in follow up to my letter to you of January 21, 2010 regarding Dr. Michael Langan. While the information in the letter is correct with respect to test results and the explanation that Dr. Langan provided for the positive EtG result, please note that given this explanation PHS considers Dr. Langan to be compliant with his PHS Substance Use Monitoring Contract. If you have any questions, please do not hesitate to contact me.

Sincerely,

Luis T. Sanchez, M.D.

/dg
cc: Michael Langan, M.D.
J. Wesley Boyd, M.D., Ph.D.

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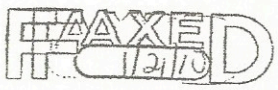
January 21, 2010

Cynthia Hubbard
Compliance Associate/Sr. Credentialing Specialist
Tufts Health Plan
705 Mount Auburn Street
Watertown, MA 02472



RE: Michael Langan, M.D.

Dear Ms. Hubbard:

Please accept this letter as documentation that Michael Langan, M.D. entered into his most recent Physician Health Services (PHS) Substance Use Monitoring Contract on March 18, 2008. A Behavioral Health Addendum to this contract became effective September 9, 2008. This contract is designed to guide and support compliance with monitoring and treatment, document his behavioral health, and to confirm abstinence from substances of abuse. The monitoring contract includes but is not limited to the following requirements:

- 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.

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.

In reviewing the positive test with Dr. Langan, he informed PHS that he is being prescribed two asthma inhalers. By FDA mandate, the inhaler manufacturers changed to ethyl alcohol propellants in January of 2009. Dr. Langan has provided PHS documentation of this medication. PHS has concluded that there was no evidence of relapse at that time.

If you have any questions, please feel free to contact me.

Sincerely,

Luis T. Sanchez, M.D.

/dmc
cc: Michael Langan, M.D.
J. Wesley Boyd, M.D., Ph.D.

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January 21, 2010

Kenneth Minaker, M.D.
MGH Senior Health
165 Cambridge Street CPZ 502
Boston, MA 02114

FAXED 1/21/10

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Sincerely,

Luis T. Sanchez, M.D.

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cc: Michael Langan, M.D.
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