BEFORE THE
MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation Against:	)	
ROBERT MORRIS LEVY, M.D.	)	**Case No. 800-2018-045693**
Physician's and Surgeon's Certificate No. G78575	)	**OAH No. 2019060062**
Respondent	)	

DECISION

The attached Proposed Decision is hereby adopted as the Decision and Order of the Medical Board of California, Department of Consumer Affairs, State of California.

This Decision shall become effective at 5:00 p.m. on September 4, 2019.

IT IS SO ORDERED August 5, 2019.

MEDICAL BOARD OF CALIFORNIA

By: _____
Ronald Lewis, M.D., Chair
Panel A

BEFORE THE
MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation Against: ROBERT MORRIS LEVY, M.D., Physician's and Surgeon's Certificate No. G 78575, Respondent.	Case No. 800-2018-045693 OAH No. 2019060062

PROPOSED DECISION

Administrative Law Judge Jill Schlichtmann, State of California, Office of Administrative Hearings, heard this matter on July 11, 2019, in Oakland, California.

Certified Law Student Elizabeth Silva represented complainant Kimberly Kirchmeyer. Deputy Attorney General Emily L. Brinkman was also present.

Respondent Robert Morris Levy, M.D., did not appear. Upon proof of compliance with Government Code sections 11505 and 11509, the matter proceeded as a default against respondent pursuant to Government Code section 11520.

The record closed and the matter was submitted for decision on July 11, 2019.

FACTUAL FINDINGS

1. On March 30, 1994, the Medical Board of California (Board) issued Physician's and Surgeon's Certificate No. G 78575 to Robert Morris Levy, M.D. (respondent). The license is scheduled to expire on August 31, 2019.

2. On March 25, 2019, complainant Kimberly Kirchmeyer, acting in her official capacity as Executive Director of the Board, issued an accusation against respondent. It alleges that respondent's certificate is subject to discipline as a result of restrictions placed on his privileges by the Department of Veteran's Affairs Medical Center (VA) in Arkansas, and discipline imposed by the Mississippi State Board of Medicine (Mississippi Board).

Out-of-State Discipline

3. Respondent, a pathologist, was initially licensed by the Mississippi Board in 1997. He was employed as the Chief of Pathology and Laboratory Services at the VA in Fayetteville, Arkansas.

4. In March 2016, respondent's privileges at the VA were summarily suspended due to reporting to work with a high blood alcohol level. Respondent entered and successfully completed an inpatient substance abuse program and a six-week professional recovery tract. Upon his discharge from the inpatient program, respondent was diagnosed with alcohol use disorder, severe.

5. On September 8, 2016, respondent entered into a Recovery Contract Agreement with the Mississippi Board and the Mississippi Physician Health Program. Respondent's clinical privileges were restored to active status by the VA on October 12, 2016. Respondent returned to work at the Fayetteville VA with monitoring, Alcoholics Anonymous meetings and daily online contact with the Mississippi State Medical Board.

6. On October 13, 2017, respondent reported to an 8:00 a.m. meeting at the VA. Colleagues were concerned about his cognitive state; respondent was witnessed appearing drowsy, having slurred speech patterns, repeating nonsense words and phrases, and having an unsteady gait. Respondent denied being ill and was unaware he was impaired. Results of a laboratory test for alcohol and drugs were negative; however, employee health performed a mini medical status and found him unfit to continue to working.

7. On October 13, 2017, the VA summarily suspended respondent's privileges based on concerns that aspects of his clinical practice did not meet the accepted standards of practice, and potentially constituted an imminent threat to patient welfare. A clinical review was conducted which showed 12 cases with minor and major discrepancies that did not have an addendum to ensure follow up by the referring physician. In addition, respondent had not followed clinical policies and procedures in 16 cases. Following the summary suspension, staff reported additional observations of respondent's impairment: on one occasion he had trouble ambulating, and in another instance, the police were called to his home, where he was transported to the hospital for an evaluation.

8. On January 11, 2018, respondent's clinical privileges were permanently revoked by the Fayetteville VA Chief of Staff and Medical Center Director.

9. On June 12, 2018, the Mississippi Board received a letter from the Fayetteville VA, advising the Board that there was substantial evidence that respondent "significantly failed to meet generally-accepted standards of clinical practice that constituted an imminent threat to patient welfare."

10. On June 20, 2018, the Director of the Mississippi Physician Health Program reported to the Mississippi Board that respondent was not fit to practice medicine with

reasonable skill and safety to the public, and that his continued practice constituted an imminent threat to the public health.

11. On June 21, 2018, the Mississippi Board issued an order prohibiting respondent from practicing medicine, effective immediately.

Respondent's Evidence

12. On April 25, 2019, respondent sent a letter to the Board in which he indicated that in October 2017, he had begun to experience neurologic symptoms and had sought the care of a neurologist. Respondent reported further that on March 1, 2018, he had been arrested for suspected driving under the influence after being observed with an irregular gait; however, the charge had been dismissed after test results were returned as negative for drugs and alcohol. Finally, respondent reported that in June 2018, he had suffered a stroke, which indicated that he had been experiencing ischemic attacks. Respondent has elected to pursue a non-clinical career and has no intention of returning to practice in California.

LEGAL CONCLUSIONS

Burden and Standard of Proof

1. The burden of proof in this matter is on the Board and the standard of proof is clear and convincing evidence. (*Ettinger v. Bd. of Medical Quality Assurance* (1982) 135 Cal.App.3d 853.)

Cause for Discipline

2. Business and Professions Code section 141, subdivision (a), provides that disciplinary action by another state or any agency of the federal government, for any act substantially related to the practice regulated by the California license may be a ground for disciplinary action. The discipline imposed by the VA and the Mississippi Board was based on acts that are substantially related to the practice of medicine. Cause for discipline exists pursuant to Business and Professions Code section 141, subdivision (a), by reason of the matters set forth in Factual Findings 3 through 11.

3. Business and Professions Code section 2305 provides that discipline imposed by another state or any agency of the federal government on a license to practice medicine, for conduct that would have been grounds for discipline in California, constitutes grounds for discipline for unprofessional conduct. The action taken by the VA and the Mississippi Board was based on conduct that would have been grounds for discipline in California. Cause therefore exists under Business and Professions Code section 2305 to take disciplinary action against respondent's license, by reason of the matters set forth in Factual Findings 3 through 11.

Disciplinary Considerations

4. Cause for discipline having been established, the issue is the appropriate level of discipline to impose. It is respondent's burden to demonstrate that he is sufficiently rehabilitated so that it would not be contrary to the public interest to allow him to continue to practice medicine in California. Respondent did not appear at hearing or submit any evidence of rehabilitation. Under these circumstances, revocation of respondent's license is necessary to protect the public.

ORDER

Physician's and Surgeon's Certificate No. G 78575, issued to respondent Robert Morris Levy, M.D., is revoked.

DATED: July 18, 2019

DocuSigned by:
Jill Schlichtmann
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JILL SCHLICHTMANN
Administrative Law Judge
Office of Administrative Hearings

XAVIER BECERRA
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Attorneys for Complainant

FILED
STATE OF CALIFORNIA
MEDICAL BOARD OF CALIFORNIA
SACRAMENTO March 25, 2019
BY ANALYST

BEFORE THE
MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation Against: **Robert Morris Levy, M.D.** 607 N. Park Avenue Fayetteville, AR 72701 **Physician's and Surgeon's Certificate No. G 78575,** Respondent.	Case No. 800-2018-045693 **A C C U S A T I O N**

Complainant alleges:

PARTIES

1. Kimberly Kirchmeyer (Complainant) brings this Accusation solely in her official capacity as the Executive Director of the Medical Board of California, Department of Consumer Affairs (Board).

2. On or about March 30, 1994, the Medical Board issued Physician's and Surgeon's Certificate Number G 78575 to Robert Morris Levy, M.D. (Respondent). The Physician's and Surgeon's Certificate was in full force and effect at all times relevant to the charges brought herein and will expire on August 31, 2019, unless renewed,

JURISDICTION

3. This Accusation is brought before the Board, under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.

4. Section 2227 of the Code provides that a licensee who is found guilty under the Medical Practice Act may have his or her license revoked, suspended for a period not to exceed one year, placed on probation and required to pay the costs of probation monitoring, or such other action taken in relation to discipline as the Board deems proper.

5. Section 2305 of the Code states:

"The revocation, suspension, or other discipline, restriction or limitation imposed by another state upon a license or certificate to practice medicine issued by that state, or the revocation, suspension, or restriction of the authority to practice medicine by any agency of the federal government, that would have been grounds for discipline in California of a licensee under this chapter [Chapter 5, the Medical Practice Act] shall constitute grounds for disciplinary action for unprofessional conduct against the licensee in this state."

6. Section 141 of the Code states:

"(a) For any licensee holding a license issued by a board under the jurisdiction of the department, a disciplinary action taken by another state, by any agency of the federal government, or by another country for any act substantially related to the practice regulated by the California license, may be a ground for disciplinary action by the respective state licensing board. A certified copy of the record of the disciplinary action taken against the licensee by another state, an agency of the federal government, or another country shall be conclusive evidence of the events related therein.

"(b) Nothing in this section shall preclude a board from applying a specific statutory provision in the licensing act administered by that board that provides for discipline based upon a disciplinary action taken against the licensee by another state, an agency of the federal government, or another country."

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CAUSE FOR DISCIPLINE

(Discipline, Restriction, or Limitation Imposed by Another Jurisdiction)

7. On October 13, 2017, the Department of Veterans Affairs (VA) Medical Center in Fayetteville, Arkansas summarily suspended Respondent's privileges based on concerns that he was an imminent threat to patient welfare. According to the VA documents, witnesses reported that Respondent appeared to be "drowsy, having slurred speech patterns, repeating nonsense words/phrases and having an unsteady gait." The VA required Respondent to undergo a Focused Professional Practice Evaluation and conducted a focused review of his recent medical cases.

8. On January 11, 2018, the VA sustained the recommendation for permanent revocation of Respondent's privileges "due to the failure to provide appropriate pathological diagnosis and failure to recognize impairment while making clinical decisions. As a result, Dr. Levy's actions have negatively impacted patient care outcomes." Attached as Exhibit A are true and correct copies of the VA suspension documents.

9. On June 21, 2018, the Mississippi State Board of Medical Licensure (Mississippi Board) issued an Order of Prohibition (Order) barring Respondent from practicing medicine in Mississippi. According to the Order, Respondent was diagnosed and treated for chemical dependency and on September 8, 2016 entered into a Recovery Contract Agreement with the Mississippi Physician Health Program (MPHP).

10. On June 12, 2018, the VA sent a letter to the Mississippi Board that "there is substantial evidence that Licensee 'significantly failed to meet generally-accepted standards of clinical practice that constituted an imminent threat to patient welfare.'"

11. On June 20, 2018, the Mississippi Board received a letter from the Medical Director of MPHP that Respondent "is not fit to practice medicine with reasonable skill and safety to the public, and that if he were to practice medicine at this time that it would represent an imminent threat to the public health." MDHP also informed the Mississippi Board that it could no longer monitor Respondent under the Recovery Contract Agreement. Attached as Exhibit B are true and correct copies of the Mississippi Board documents, including the Order.

12. Respondent's conduct and the actions of the VA and the Mississippi Board as set forth in paragraphs 7 through 11, above, and within the actual documents attached as Exhibits A and B, constitute unprofessional conduct within the meaning of section 2305 and conduct subject to disciplinary action within the meaning of section 141.

PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Medical Board of California issue a decision:

1. Revoking or suspending Physician's and Surgeon's Certificate Number G 78575, issued to Robert Morris Levy, M.D.;

2. Revoking, suspending or denying approval of Robert Morris Levy, M.D.'s authority to supervise physician assistants and advanced practice nurses;

3. Ordering Robert Morris Levy, M.D., if placed on probation, to pay the Board the costs of probation monitoring; and

4. Taking such other and further action as deemed necessary and proper.

DATED:
March 25, 2019

KIMBERLY KIRCHMEYER
Executive Director
Medical Board of California
Department of Consumer Affairs
State of California
Complainant

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EXHIBIT A

Department of Veterans Affairs Documents

DEPARTMENT OF VETERANS AFFAIRS
Medical Center
1100 North College Avenue
Fayetteville, AR 72703-6995

In Reply Refer To:

October 13, 2017

Robert M. Levy, M.D.
607 N. Park Avenue
Fayetteville, AR 72701

Dear Dr. Levy:

This is to notify you that your privileges are summarily suspended effective October 13, 2017. This action is being taken upon the recommendation of the Chief of Staff since concerns have been raised to suggest that aspects of your clinical practice do not meet the accepted standards of practice and potentially constitute an imminent threat to patient welfare. On October 13, 2017, you were witnessed appearing drowsy, having slurred speech patterns, repeating nonsense words/phrases and having an unsteady gait. It is noted that your decision-making capacity in relation to patient care decisions and disposition is affected and your clinical practice does not meet the accepted standards of practice.

You have the opportunity to provide any information you desire regarding these concerns. Correspondence needs to be sent within 14 calendar days from your receipt of this notice, and be addressed to:

Mr. Jerry Duncan, Chief, Human Resources Management Service
Department of Veterans Affairs
Building 4, Room 119
1100 North College Avenue
Fayetteville, AR 72703

The comprehensive review of the reason(s) for the summary suspension must be accomplished within 30 calendar days of the suspension, with recommendations to proceed with formal procedures for reduction or revocation of clinical privileges forwarded to me for consideration and action. Within 5 working days of receipt of the recommendations, I will make a decision either to restore your privileges to an active status or that the evidence warrants proceeding with a reduction or revocation process. Since you cannot perform clinical duties during the review, you are removed from patient care and placed in an administrative role as directed by the Chief of Staff.

Should the comprehensive review result in a tentative decision by me to restrict or revoke your privileges, and if appropriate, to take an adverse personnel action, you will be notified at that time of your rights as per VHA Handbook 1100.19 and VA Directive and Handbook 5021. You have a right to be represented by an attorney or other representative of your choice throughout the proceedings.

Summary suspending pending comprehensive review and due process is not reportable to the National Practitioner Data Bank (NPDB). However, if a final action against your clinical privileges is taken for professional incompetence or improper professional conduct, both the summary suspension and the final action, if greater than 30 days, will be reported to the NPDB, and a copy of the report must be sent to the State licensing boards in all states in which you hold a license (California, Florida and Mississippi).

If you surrender or voluntarily accept a restriction of clinical privileges, including by resignation or retirement, while your professional competence or professional conduct is under investigation during these proceedings or to avoid investigation, VA is required to file a report to the NPDB, with a copy to the appropriate State licensing board(s), pursuance to VA regulations in title 38 Code of Federal Regulations (CFR) Part 46 and VHA Handbook 1100.17, National Practitioner Data Bank Reports.

It is the policy of VA to report to State Licensing Boards those licensee health care professionals, whether currently employed or separated (voluntarily or otherwise), whose clinical practice during VA employment so significantly failed to meet generally accepted standards of clinical practice as to raise reasonable concern for the safety of patients (see 38 CFR Part 47). In the event you are found to not meet standards of care, consideration will be given whether, under these criteria, you should be reported to the appropriate State Licensing Board(s) pursuant to the provisions of VHA Handbook 1100.18, Reporting and Responding to State Licensing Board.

If you have any questions, please contact Jane E. Shank, Supervisory Employee Relations Specialist at (479) 443-4301, extension 63335.

Bryan C. Matthews, MBA
Medical Center Director

DEPARTMENT OF VETERANS AFFAIRS
Medical Center
1100 North College Avenue
Fayetteville, AR 72703-6995

In Reply Refer To: 564/00

December 15, 2017

Robert Levy, M.D.
607 N. Park Avenue
Fayetteville, AR 72701

Dear Dr. Levy:

This is notice to advise you that based on the results of an OPPE review that was completed on December 14, 2017 an FPPE for Cause is being initiated.

Once this review is completed results will be forwarded to the Professional Standards Board (PSB) for review. You will be notified when this meeting will be held. The PSB recommendation will be forwarded to the Executive Committee of the Medical Executive Council (ECMEC) and their recommendation will be forwarded to the Medical Center Director.

MARK A. WORLEY, M.D., PhD
Chief of Staff

Veterans Health Care System of the Ozarks
Fayetteville, Arkansas

Professional Standards Board

Meeting Room: Conference Room PC 230
January 10, 2018 / 3:00 p.m. – 3:25 p.m.

MEMBERS/ SERVICE	
Mark A. Worley, M.D., PhD, Chief of Staff, Acting ACOS, Mental Health Service	Present
Medical Staff Coordinator, Facilitator	Present
Matthew A. Olearczyk, M.D., Chief, Surgery Service	Present
Ricky Kime, M.D., ACOS, Primary Care	Present
Ming-Tri Dang, M.D., Chief, Radiology Service	Present
Anurag Mehta, M.D., Chief, Medical Service	Present

Veterans Health Care System of the Ozarks
Fayetteville, Arkansas

Professional Standard Board
Meeting Room: Conference Room PC 230
January 10, 2018 / 3:00 p.m. – 4:00 p.m.

AGENDA ITEMS	DISCUSSION/HIGHLIGHTS/ISSUE STATUS/DECISIONS	ACTION	RESPONSIBILITY	TARGET DATE
1. Minutes	Minutes from October 30th, 2017 were approved as submitted.		Closed	
2. New Business	Summary Suspension regarding Robert M. Levy, M.D., Chief, Pathology and Laboratory Service			
2.a.1 Timeline	The PSB met to discuss the events that led up to the summary suspension of clinical privileges of Robert Levy, M.D. on October 13th, 2017. Mark A. Worley, M.D., Chief of Staff began the meeting reviewing the events which occurred in March 2016 to update Anurag Mehta, M.D. the new Chief, Medical Service. In March 2016 Dr. Levy's privileges were summarily suspended due to reporting to work with a high blood alcohol level. Dr. Levy entered and successfully completed an in-patient substance abuse program and a six (6) week professional recovery tract. Dr. Levy returned to work doing well and additional monitoring has continued including work place monitoring, attendance at Alcohol Anonymous meetings and daily online contact with the Mississippi State Medical Board. Dr. Levy's clinical privileges were restored to full and active status on October 12, 2016.	N/A		

AGENDA ITEMS	DISCUSSION/HIGHLIGHTS/ISSUE STATUS/DECISIONS	ACTION	RESPONSIBILITY	TARGET DATE
Timeline (con't)	On October 13, 2017 Dr. Levy reported at 8:00 a.m. to chair the monthly Tumor Board meeting. Members of the tumor board were concerned regarding his cognitive state and this information was reported to the Chief of Staff. When Dr. Worley reported to Dr. Levy's office he found him reviewing slides at the microscope. At that time, Dr. Levy denied being ill and was not aware of being impaired. Dr. Worley accompanied him to employee health where Dr. Levy submitted to various testing. Results of the laboratory test for alcohol and drugs returned negative. Dr. Levy's mini medical status was 25. Employee health found him unfit to continue to work. He was sent home. Due to information presented by witnesses at the PSB dated October 30, 2017 including Dr. Levy's lack of recognition of impairment and performing clinical activities while impaired the PSB members recommended revocation of clinical privileges. That recommendation went to the ECMEC who met on November 6, 2017 and upheld the recommendation of revocation and sent their recommendation to the Medical Center Director for approval.			
2.a.2 Clinical Review	Results of ongoing OPPE's showed no evidence of patient harm and did not trigger an FPPE. There was concern regarding the validity of the OPPE data so an additional 10% of random reviews were sent to Cynthia Lynch, M.D., Acting Chief, VISN P&LMS. Results of her review showed lack of additional stains or additional procedures that should have been performed to make the needed diagnosis. These results were sent to John W. Theus,		Professional Standards Board	January 10, 2018

AGENDA ITEMS	DISCUSSION/HIGHLIGHTS/ISSUE STATUS/DECISIONS	ACTION	RESPONSIBILITY	TARGET DATE
Clinical Review (con't)	M.D., Chief, P&LMS at Central Arkansas VA Healthcare System, Little Rock. Results of his review showed 12 cases with minor and major discrepancies that didn't have an addendum to ensure follow-up by the referring physician. It was noted that Dr. Levy did not follow the clinical policies and procedures in 16 cases to include pathology reviews, processing surgical reports and the process regarding a modified versus changed progress note. Since the initial summary suspension staff continue to report observations of impairment. Minh-Tri Dang, M.D., Acting Chief of Staff responded when an observation was made that Dr. Levy was having trouble ambulating. Dr. Levy was taken to Employee Health for evaluation including a mini mental status of 21. Transportation was arranged at that time to take Dr. Levy home. In another instance the Fayetteville police were called out to his home where they found him possibly intoxicated. At that time, he was transported to Washington Regional Medical Center for an evaluation.			
2.a.3 PSB Concerns	Based on the additional information presented today concerns from the PSB members include: a. Results of the FPPE review b. Clinical procedures and policies that weren't being followed.	Dr. Olearcyzk motioned to recommend approval; Dr. Kime seconded.	Professional Standards Board	January 10, 2018

AGENDA ITEMS	DISCUSSION/HIGHLIGHTS/ISSUE STATUS/DECISIONS	ACTION	RESPONSIBILITY	TARGET DATE
PSB Concerns (con't)	c. An 8% minor/major discrepancy d. Performing clinical activities while impaired	Information will be forwarded to the Director for approval.		
2.a.4 Decision of the Professional Standards Board	Based on review of the information presented, the PSB members recommended permanent revocation of clinical privileges. The recommendation will be forwarded to the ECMEC for review.	Recommendation being sent to the ECMEC for review.	Executive Committee of the Medical Executive Council	January 10, 2018

RECOMMEND APPROVAL/~~DISAPPROVAL~~

Anurag Mehta 1/11/18

ANURAG MEHTA, M.D. **DATE**
Chief, Medical Service
Secretary, Professional Standards Board

RECOMMEND APPROVAL/~~DISAPPROVAL~~

1/11/18

MARK A. WORLEY, M.D., PhD **DATE**
Chief of Staff
Chairman, Professional Standards Board

APPROVAL/~~DISAPPROVAL~~

1/11/18

BRYAN C. MATTHEWS, MBA **DATE**
Medical Center Director

Veterans Health Care System of the Ozarks
Fayetteville, Arkansas

Executive Committee of the Medical Executive Council

Meeting Room: Directors Conference Room
January 10, 2018 / 3:25 p.m. – 3:30 p.m.

MEMBERS/ SERVICE	
Mark A. Worley, M.D., PhD, Chief of Staff, Acting ACOS, Mental Health Service	Present
Medical Staff Coordinator, Facilitator	Present
Matthew A. Olearczyk, M.D., Chief, Surgery Service	Present
Ricky Kime, M.D., ACOS, Primary Care	Present
Ming-Tri Dang, M.D., Chief, Radiology Service	Present
Anurag Mehta, M.D., Chief, Medical Service	Present

Veterans Health Care System of the Ozarks
Fayetteville, Arkansas

Executive Committee of the Medical Executive Council
Meeting Room: Conference Room PC 230
January 10, 2018 / 3:25 p.m. – 3:30 p.m.

AGENDA ITEMS	DISCUSSION/HIGHLIGHTS/ISSUE STATUS/DECISIONS	ACTION	RESPONSIBILITY	TARGET DATE
1. Minutes	Previous minutes dated November 6th, 2017 were approved as submitted		Closed	
2. New Business	Summary Suspension regarding Robert M. Levy, M.D., Chief, Pathology and Laboratory Service			
2.a.6 Decision of the ECMEC	Based on review of the information presented by the PSB, the ECMEC members recommended permanent revocation of clinical privileges.	Dr. Olearcyzk motion to approve; Dr. Kime seconded. Information will be sent to the Director for approval.	Executive Committee of the Medical Executive Council	January 10, 2018

RECOMMEND APPROVAL/DISAPPROVAL

Anurag Mehta 1/11/18

ANURAG MEHTA, M.D. **DATE**
Chief, Medical Service
Secretary, Professional Standards Board

RECOMMEND APPROVAL/~~DISAPPROVAL~~

1/11/18

MARK A. WORLEY, M.D., PhD DATE
Chief of Staff
Chairman, Executive Committee of the Medical Executive Council

APPROVAL/~~DISAPPROVAL~~

1/11/18

BRYAN C. MATTHEWS, MBA DATE
Medical Center Director

Department of Veterans Affairs Memorandum

Date: January 11, 2018

From: Chairman
Executive Committee of the Medical Executive Council (ECMEC)

Subj: ECMEC Recommendation regarding Robert M. Levy, M.D.

To: Bryan C. Matthews, MBA (00)
Medical Center Director

The ECMEC met on Wednesday, January 11, 2018 to complete an additional clinical review recommended by the General Counsel concerning Robert M. Levy, M.D. After completeing the additional review, disscusion, and review of medical documentation, the committee unanimously agrees to sustain the recommendation for permanent revocation of Dr. Levy's privileges due to failure to provide appropriate pathological diagnoses and failure to recognize impairment while making clincial decisions. As a result, Dr. Levy's actions have negatively impacted patient care outcomes.

Mark A. Worley, MD, PhD — Date 1/11/18
Chief of Staff

Bryan C. Matthews, MBA — Date 1/11/18
Medical Center Director

Standardized PLMS Ongoing Professional Practice Evaluations (OPPE) Form

This form is to be used for Ongoing Professional Practice Evaluations of Pathologists to allow for consistent application and monitoring facility of OPPE compliance. The varied nature of pathology services and provider duties means that not all measures will be applicable to all practitioners. The N/A column should be used when criteria are not applicable to a specific pathologist's duty. Suggested thresholds have been supplied for some categories, however, services must determine their action thresholds and responses according to the needs of their services and define major/minor discrepancies and local turnaround times. Two additional rows have been provided in each category to allow for local requirements, however, this should not be considered mandatory. Additional measures may be added as necessary.

Provider: Robert Levy, MD

Credentialing reappointment Date: Aug 24, 2017

Review Period Date Range 10/1/2016 – 9/30/2017

Service: Pathology and Laboratory Medicine

P1 10/1/16–12/31/16	P2 1/1/17-3/31/17	P3 4/1/17-6/30/17	P4 7/1/17-9/30/17

Patient Care:	Threshold	P1	P2	P3	P4	Result	N/A	Actions Taken/Comments
10% Peer review diagnostic concordance	>90%	52/54 96%	60/66 91%	57/58 98%	76/82 93%	☑ Satisfactory ☐ Unsatisfactory	☐	Dr. Lynch extra 10% (P4) 82/94 = 87.2%
Major discrepancies by peer review (including frozen sections)	* Corrected: <0.7%	1/54 0% 1.9%	1/66 0% 1.5%	0%	2/82 0% 2.4%	☐ Satisfactory ☑ Unsatisfactory	☐	Dr. Lynch Major discrepancies in extra 10% reviews (P4) 5/94 = 5.3%
Routine surgical pathology reports completed <48hr after specimen accessioning	>90%	471/497 95%	521/529 98%	549/565 97%	690/699 99%	☑ Satisfactory ☐ Unsatisfactory	☐	
Routine non-gyn cytology reports completed <48hr after specimen accessioning	>90%	101/104 97%	130/131 99%	111/116 96%	131/131 100%	☑ Satisfactory ☐ Unsatisfactory	☐	
Standard autopsy reports completed within 30 days of receipt	>90%	NA	NA	1/1 100%	1/1 100%	☑ Satisfactory ☐ Unsatisfactory	☐	
Frozen section TAT <20min	>90%	1/1 100%	1/1 100%	1/1 100%	2/3 66%	☐ Satisfactory ☑ Unsatisfactory	☐	
						☐ Satisfactory ☐ Unsatisfactory	☐	
						☐ Satisfactory	☐	

* corrected - Dr. Lynch reviewed previous data and determined 4 total cases should be classified as major discrepancies.

						☐Unsatisfactory*		
Medical/Clinical Knowledge	**Threshold**	**Practitioner Data**				**Result**	**N/A**	***Actions Taken/Comments**
Practices within scope of granted privileges	*100%*	100% YES	100% YES	100%	100%	☑Satisfactory ☐Unsatisfactory*	☐	
Compliance with appropriate proficiency testing, quality control, and quality assurance activities	*>90%*	100% YES	100% YES	100%	100%	☑Satisfactory ☐Unsatisfactory*	☐	
Participation in transfusion committee	*Attendance ≥80%*	3/3 100%	3/3 100%	2/2 100%	2/3 1-E 100%	☑Satisfactory ☐Unsatisfactory*	☐	
Participation in required hospital clinical conferences	*Attendance ≥ 80%*	2/2 100%	3/3 100%	2/2 100%	3/3 100%	☑Satisfactory ☐Unsatisfactory*	☐	
						☐Satisfactory ☐Unsatisfactory*	☐	
						☐Satisfactory ☐Unsatisfactory*	☐	
Practice-Based Learning and Improvement	**Threshold**	**Practitioner Data**				**Result**	**N/A**	***Actions Taken/Comments**
Meets Specialty CME requirements (Total)	*(> 40 hours bi-annually)*	25	15	20	15	☑Satisfactory ☐Unsatisfactory*	☐	
Cytologic QC/QA program participation	*≥ 80%*	100%	100%	100%	100%	☑Satisfactory ☐Unsatisfactory*	☐	
Maintains and supports laboratory participation in appropriate PT, QC/QA activities	*≥ 90%*	100%	100%	100%	100%	☑Satisfactory ☐Unsatisfactory*	☐	
						☐Satisfactory ☐Unsatisfactory*	☐	
						☐Satisfactory ☐Unsatisfactory*	☐	
						☐Satisfactory ☐Unsatisfactory*	☐	
Interpersonal and Communication Skills	**Threshold**	**Practitioner Data**				**Result**	**N/A**	***Actions Taken/Comments**
Patient and Staff Complaints	*≤ 1%*	0%	0%	0%	0%	☑Satisfactory ☐Unsatisfactory*	☐	

Meets Customer Service expectations	≥ 95%	100%	100%	100%	100%	☑ Satisfactory ☐ Unsatisfactory*	☐	
Favorable Resident and trainee review	> 90%	NA	NA	NA	NA	☑ Satisfactory ☐ Unsatisfactory*	☐	
						☐ Satisfactory ☐ Unsatisfactory*	☐	
						☐ Satisfactory ☐ Unsatisfactory*	☐	
Professionalism	**Threshold**	**Practitioner Data**				**Result**	**N/A**	***Actions Taken/Comments**
No validated, disruptive or unprofessional behavior	> 95%	100%	100%	100%	100%	☑ Satisfactory ☐ Unsatisfactory*	☐	
Maintains patient privacy and security of information	> 95%	100%	100%	100%	100%	☑ Satisfactory ☐ Unsatisfactory*	☐	
Participates actively on Hospital Committees/Work Groups as assigned	≥90%	100%	100%	100%	100%	☑ Satisfactory ☐ Unsatisfactory*	☐	
Medical Staff Meeting Attendance	≥50%	1/1 100%	1/1 100%	1/1 100%	0/1 0%	☑ Satisfactory ☐ Unsatisfactory*	☐	
						☐ Satisfactory ☐ Unsatisfactory*	☐	
						☐ Satisfactory ☐ Unsatisfactory*	☐	
System-Based Practice	***Threshold***	**Practitioner Data**				**Result**	**N/A**	***Actions Taken/Comments**
VA Mandatory training	100%	100%	100%	100%	100%	☑ Satisfactory ☐ Unsatisfactory*	☐	
Documentation of Time-Outs before procedures	> 90%	NA	NA	NA	NA	☑ Satisfactory ☐ Unsatisfactory*	☐	
Compliance with Handbook 1106.1 requirements	≥ 90%	100%	100%	100%	100%	☑ Satisfactory ☐ Unsatisfactory*	☐	
Participation in National PLMS initiatives and programs	> 90%	100%	100%	100%	100%	☑ Satisfactory ☐ Unsatisfactory*	☐	
						☐ Satisfactory	☐	

						☐ Unsatisfactory		
						☐ Satisfactory ☐ Unsatisfactory	☐	

Additional Comments or Summary:

Recent concerns about quality care. Recommend revocation of privileges

Supervisor's Name/Title:	**Date:**
[signature]	2/12/16

EXHIBIT B

Mississippi State Board of Medical Licensure Documents

TELEPHONE: (601) 987-3079

FAX: (601) 987-6822

MISSISSIPPI STATE BOARD OF MEDICAL LICENSURE

STATE OF MISSISSIPPI
COUNTY OF HINDS

I, Frances Carrillo, Staff Officer of the Mississippi State Board of Medical Licensure, do hereby certify that I am the official custodian of the records of said Board certify that the preceding Consent Order concerning Robert Morris Levy, M.D., is a true and correct copy of the original hereof as appears on file in this office.

Witness my hand and official seal of the Board, this, the 11th day of October 2018.

Mississippi State Board of
Medical Licensure

Frances Carrillo
Frances Carrillo
Staff Officer

Sworn to and subscribed before me this the 21st day of June 2018.

STATE OF MISSISSIPPI NOTARY PUBLIC ID # 90334 DAYNA LAWRENCE Commission Expires March 16, 2020 SCOTT COUNTY

Dayna Lawrence
Notary Public

BEFORE THE MISSISSIPPI STATE BOARD OF MEDICAL LICENSURE

IN THE MATTER OF THE PHYSICIAN'S LICENSE

OF

ROBERT M. LEVY, M.D.

ORDER OF PROHIBITION

WHEREAS, Robert M. Levy, M.D., hereinafter referred to as "Licensee," currently holds Mississippi Medical License Number 15663, and said license is valid until June 30, 2018;

WHEREAS, due to a diagnosis and treatment for chemical dependency, on September 8, 2016, Licensee entered into a Recovery Contract Agreement with the Mississippi Physician Health Program, hereinafter "MPHP", and the Mississippi State Board of Medical Licensure, hereinafter referred to as the "Board," thereby imposing certain conditions and restrictions on Licensee in order to maintain his sobriety and insure his ability to practice with reasonable skill and safety to patients. A copy of the Recovery Contract Agreement is attached hereto as Exhibit "A";

WHEREAS, on June 12, 2018, the Board, received a letter, attached hereto as Exhibit "B", from the Department of the Veterans Affairs Medical Center, Fayetteville, Arkansas, advising the Board that there is substantial evidence that Licensee *"significantly failed to meet generally-accepted standards of clinical practice that constituted an imminent threat to patient welfare.";*

WHEREAS, on June 20, 2018, the Board received a letter, attached hereto as Exhibit "C", from the MPHP advising the Board that the MPHP could no longer provide advocacy for Licensee's continued practice of medicine, effective June 9, 2018;

WHEREAS, Licensee is in violation of his Recovery Contract Agreement, in that Licensee violated Item No. 19 of the Agreement, which states, in part:

> **Breach of Contract and/or Relapse.** *The withdrawal of MPHP's advocacy may, in the MPHC's discretion, include the express authority of the MPHC and the MPHP to notify any entity or individual before whom there has been (or would have been) support on my behalf, including without limitation, the following concerned parties: any employer, my referent, appropriate insurers with whom the MPHP has established agreements, or with whom the MPHP has communicated or offered support on my behalf, credentialing entities, and possibly, the MSBML (or other relevant licensing boards). This agreement constitutes my irrevocable authorization to the MPHP and the MPHC to make such communications about the withdrawal of support.*

WHEREAS, the Board is now in possession of documents establishing that MPHP received notification from the Arkansas Physician Health Program (PHP) that Licensee lost advocacy with the Arkansas PHP due to non-compliance issues with that program. Additionally, the correspondence from Scott Hambleton, M.D., Medical Director of MPHP, stated in part that, "*It is the opinion of the MPHC that Dr. Levy is not fit to practice medicine with reasonable skill and safety to the public, and that if he were to practice medicine at this time that it would represent an imminent threat to the public health*";

WHEREAS, by virtue of being in violation of the aforementioned Agreement, the Board has the authority to prohibit Licensee from practicing medicine until such time as the Board determines that Licensee may return to the practice of medicine;

NOW, THEREFORE, IT IS HEREBY ORDERED, that as a result of Licensee's non-compliance and the June 20, 2018, notification from MPHP, Licensee shall be and

is hereby **prohibited from practicing medicine** until such time as the Board and MPHP determine that Licensee is able to return to the practice of medicine. During any period of prohibition as provided herein, Licensee shall not seek renewal of his license.

IT IS FURTHER ORDERED, that a copy of this Order shall be sent by registered mail or personally served upon Robert M. Levy, M.D., and shall be effective immediately upon receipt thereof.

ORDERED this the 21st day of June, 2018.

Mississippi State Board of Medical Licensure

Kenneth E. Cleveland, M.D.
Executive Director

I, Leslie Ross, CMBI, CPM
personally served this
subpoena/summons on
Robert M. Levy, M.D.
This the 25th day of June, 2018.

BEFORE THE MISSISSIPPI STATE BOARD OF MEDICAL LICENSURE

IN THE MATTER OF THE PHYSICIAN'S LICENSE

OF

ROBERT M. LEVY, M.D.

AFFIDAVIT

STATE OF MISSISSIPPI

COUNTY OF HINDS

I, Leslie B. Ross, Director of Investigations, Mississippi State Board of Medical Licensure, do hereby make oath that I have reason to believe and do believe:

1. That Robert M. Levy, M.D., hereinafter referred to as "Licensee," was licensed to practice medicine in the State of Mississippi on November 10, 1997, by issuance of Mississippi Medical License Number 15663, and said license is current until June 30, 2018.
2. That due to a diagnosis and treatment for chemical dependency, on September 8, 2016, Licensee entered into a Recovery Contract Agreement with the Mississippi Physician Health Program, hereinafter "MPHP" and the Mississippi State Board of Medical Licensure, hereinafter referred to as the "Board," thereby imposing certain conditions and restrictions on Licensee in order to maintain his sobriety and insure his ability to practice with reasonable skill and safety to patients.
3. That on June 12, 2018, the Board received a formal complaint which included a letter dated June 7, 2018, from the Department of the Veterans Affairs Medical Center, Fayetteville, Arkansas, advising the Board that there is substantial

evidence that Licensee *"significantly failed to meet generally-accepted standards of clinical practice that constituted an imminent threat to patient welfare."*

4. That on June 20, 2018, the Board received a letter from the MPHP advising the Board that the MPHP could no longer provide advocacy for Licensee's continued practice of medicine, effective June 9, 2018. The letter dated June 20, 2018, from Scott Hambleton, M.D., Medical Director of MPHP, stated in part;

> *"It is the opinion of the MPHC that Dr. Levy is not fit to practice medicine with reasonable skill and safety to the public, and that if he were to practice medicine at this time that it would represent an imminent threat to the public health".*

5. That Item No. 19 of the Recovery Contract Agreement with MPHP states, in part:

> **Breach of Contract and/or Relapse.** *The withdrawal of MPHP's advocacy may, in the MPHC's discretion, include the express authority of the MPHC and the MPHP to notify any entity or individual before whom there has been (or would have been) support on my behalf, including without limitation, the following concerned parties: any employer, my referent, appropriate insurers with whom the MPHP has established agreements, or with whom the MPHP has communicated or offered support on my behalf, credentialing entities, and possibly, the MSBML (or other relevant licensing boards). This agreement constitutes my irrevocable authorization to the MPHP and the MPHC to make such communications about the withdrawal of support.*

6. That by his signature and consent to the Recovery Contract Agreement, Licensee understands and recognizes the Board's authority to immediately prohibit Licensee from the practice of medicine. Specifically, Item No. 19 states, in part:

> **Breach of Contract and/or Relapse.** *In the event I should relapse or fail to comply with any of the conditions of this agreement, the MSBML shall have the authority, with recommendation from the MPHP/MPHC, to immediately prohibit me from practicing medicine until such time as the*

MSBML and MPHP determines that I am able to return to the practice of medicine. In so doing, the MSBML and MPHP may require me to undergo further evaluation.

Leslie B. Ross

Leslie B. Ross, CMBI, CPM
Director of Investigations
Mississippi State Board of Medical Licensure

Sworn to and Subscribed before me, this the 21st day of June, 2018.

Frances E. Carrillo

Notary Public

FRANCES E CARRILLO
NOTARY PUBLIC
ID No. 034329
Commission Expires
Apr 24, 2021
STATE OF MISSISSIPPI
RANKIN COUNTY

Mississippi Physician Health Program

Recovery Contract Agreement

Effective Date: 7 X 11

Name: Robert Wiley MPHP No. 0460

Practice Name: Veterans Healthcare of the Ozarks

Practice Address: 1100 N College Ave
Fayetteville, AR 72703

Specialty: Pathology

Current Hospital Privileges: Suspended

Exhibit "A"

408 West Parkway Place · Ridgeland, Mississippi 39157-6010 · Ph: 601-420-0240 · Fax: 601-707-3792
www.msphp.com

Required by MPHP Initials

X RML IN CONSIDERATION of the Mississippi Physician Health Program (MPHP) agreeing to assume an active advocacy role on my behalf with the Mississippi State Board of Medical Licensure (MSBML), or other licensing boards, hospital boards, managed care panels, malpractice carriers and other appropriate agencies, I, _____, hereby agree to comply with the following terms and conditions:

IN CONSIDERATION of the MPHP agreeing to provide me with a provisional contract agreement for the purpose of documenting my recovery and/or compliance, I, _____, hereby agree to comply with the following terms and conditions of the agreement. Upon my completion of this agreement, MPHP may consider a contract agreement to assume an active advocacy role on my behalf with the MSBML, or other licensing boards, hospital boards, managed care panels, malpractice carriers and other appropriate agencies.

X RML 1. **Total Abstinence.** I agree to abstain completely from the use of any medications, alcohol and other mood-altering substances including non-approved over-the-counter medications. **Other than cases of medical emergencies, I agree to abstain from the use of any mood-altering, addictive, or potentially addictive prescription medications, including amphetamine preparations, without written permission from MPHP.** In the case of a medical emergency, please refer to Item #5 titled Primary Care Physician.

_____

_____

X RML I have been provided with a list of approved over-the-counter medications.

X RML I agree not to prescribe, dispense or administer to staff, family members, or myself any drug having addiction-forming or addiction-sustaining liability. I understand it is the strong recommendation of the MSBML that no recovering physicians treat themselves or family members in any way.

X RML 2. **Opioid Maintenance Therapy.** I agree that I will not seek employment or work in pain medicine, addiction medicine, or any medication assistant treatment (MAT) center for a minimum of the first two (2) years under MPHP contract. Future employment in these same specialties will be at the discretion of the MPHP Medical Director and my Case Manager.

X RML 3. **Urine and/or Tissue Screens.** I agree to provide random, unannounced, witnessed urine and/or blood drug screens as directed by MPHP/MSBML and agree to cooperate fully in this process. I understand the frequency will be determined by MPHP/MPHC. I understand the MSBML will receive a copy of any positive screens.

Exhibit "A"

Required by MPHP Initials

X RmL I shall provide to the MSBML a monthly work itinerary at the beginning of each month for the purpose of compliance with urine screen monitoring.

X RmL I agree to submit to polygraph testing, or provide hair or fingernail samples for analysis, if further verification of recovery and/or compliance is required, as directed by MPHP or MSBML, in addition to any other screens which may be obtained by other agencies. I understand the MSBML may receive a copy of any screens collected by the MPHP and reciprocally MPHP may receive a copy of screens from the Board.

X RmL I understand that I am responsible for all costs related to drug screening, whether at the request of the MSBML or MPHP and that failure to pay for screens is a violation of my contract.

X RmL 4. **Term.** I agree to the terms of this contract for the life of my medical practice, (hereinafter "Term"). I will abide by all stipulations in this contract and any subsequent recommendations of the Mississippi Physician Health Committee (MPHC)/MPHP during my continuing care/monitoring phase. Upon expiration of the Term, all requirements and conditions imposed by this contract will remain in full force and effect until such time as I personally appear before the MPHC for the purpose of discussing the status of my compliance and/or recovery, including extension, renewal or discharge from this contract.

X RmL Satisfaction of MPHP "Compliance" is determined at the sole discretion of MPHP/MPHC and my continued practice of medicine is contingent upon maintaining MPHP advocacy.

X RmL 5. **Providers.** I agree to notify MPHP in writing of the name and contact information of the following providers with-in 30 days of the date of this contract.

- X Primary Care Physician
- X Psychiatrist
- X Therapist
- X Physician Medication Monitor
- X Workplace Monitor, Immediate Supervisor, and/or Chief of Staff

X RmL I understand it is my responsibility to clear any and all medication prescribed by any provider through an approved Physician Medication Monitor.

X RmL I agree to a work site monitor as a condition of continuing advocacy. Said Monitor will send quarterly reports to the Medical Director regarding my ongoing progress. Examples of information reported include the following: appearance at work, any perceived problems, incident reports or other concerns. Said Monitor should have frequent contact with me, preferably be in

Required by MPHP Initials

the same field, be a neutral party, be sensitive to confidentiality and should not be a partner or subordinate. Said Monitor must be approved by the MPHP. I further agree to authorize and consent to the release of any work site related information to the MPHP.

X AmL I agree to notify MPHP in writing prior to any change in practice or office location.

X AmL I agree to provide the MPHP and MSBML with a release for monitoring, any treatment provided to me by my Primary Care Physician and/or any specialist to whom I am referred by my Primary Care Physician.

X AmL I agree that in the event my Primary Care Physician, Specialist, or Psychiatrist determines that it is necessary to administer, or prescribe to me any scheduled drug, or any drug having addiction-forming or addiction-sustaining liability, the treating Physician shall notify the MPHP Medical Director by phone, fax or in writing, within twenty-four (24) hours of administration, or issuance of any prescription. Other than medication administered directly to me, for immediate use, I agree to accept only written prescriptions for any controlled substance(s), to be used in the future. I agree not to take samples or dispensed medication for any controlled substance(s). This requirement shall also apply to any care rendered to me by a dentist.

X AmL I further agree to fax a copy of any prescription that I receive for any scheduled drug, or any drug having addiction-forming or addiction-sustaining liability to the attention of the MPHP Medical Director prior to having it filled.

X AmL It is my responsibility to ensure that my **Primary Care Physician** provides a list of all my prescribed medications every year.

X AmL I agree that I will not seek medical services from or provide to any MPHP participant currently under contract, unless approved by MPHP in writing.

X AmL I understand that any future employment must be approved in writing by MPHP and MSBML.

X AmL 6. **Self-Help Group Attendance.** I agree to attend a self-help group such as AA and/or NA three (3) times per week. I agree to document these meetings and send to MPHP, by mail or fax on the last day of each month.

X AmL I agree to participate in continuing care group therapy at Caduceus Club meetings each week. My group facilitator is:

Name: _____

Location: _____

Phone: _____

Exhibit "A"

Required
by MPHP Initials

X AnL 7. **Annual Retreat.** I agree to attend the Annual Caduceus Club Retreat and other special functions of the MPHP.

X AnL 8. **Reporting Requirements.** I agree to contact the office of the MPHP by phone at least once a month.

X AnL 9. **Medical Release and Authorization.** I agree to provide appropriate release forms for urine drug screen results, treatment center records, therapist reports, and other written and verbal information required by MPHP to document my compliance with this contract.

X AnL I hereby authorize the treatment center wherein I received treatment for chemical dependency, its administrator, medical staff and personnel, or any other treatment center or hospital to release to the MPHP/MSBML all records of any treatment. Additionally, I shall provide the MPHP/ MSBML with authorization to obtain medical information for the purpose of monitoring or reviewing treatment or therapy that I have received from the treatment center. I agree and understand there must be a free flow of information to and from the MPHP and MSBML, necessary to ensure my compliance with this Agreement, but most importantly, to ensure my continued recovery. In this regard, I hereby agree to execute any other medical releases necessary to accomplish this goal. At anytime, the MPHP and MSBML may freely communicate with, via telephone, facsimile, or personal interview, any individual or entity involved in my treatment and/or recovery, including but not limited to, any employee and/or representative of MPHP/MSBML, any hospital or healthcare facility in which I have received treatment, any physician or other healthcare entity from which I have received medical and/or dental care, business associates, partners, friends and family. In so doing, I waive all privileges and rights to confidentiality, which I would otherwise possess with respect thereto. This release and authorization is specifically granted in compliance with 42 U.S.C. §290(dd-2) (Confidentiality of Record of the Identity, Diagnosis, Prognosis and Treatment of Substance Abuse Patients) and 42 C.F.R. Part 2 (Regulations for Confidentiality of Alcohol and Drug Abuse Patient Records).

X AnL Any refusal on my part to execute a medical release deemed necessary to accomplish the above exchange of information or any act on my part, which may be interpreted by MPHP or MSBML as a revocation of a previously executed release shall be deemed a violation of this Agreement and shall be immediately reported to the MSBML.

X AnL 10. **Honest Disclosure.** I understand my ethical and contractual obligation to honestly and to completely answer all application questions regarding my recovery and participation with MPHP. Such questions may appear on

Required
by MPHP Initials

application or reappointment materials with practice groups, hospital credentialing groups, state licensing boards, malpractice carriers, etc. Infractions regarding dishonesty are viewed seriously and will result in a report to the MSBML and possible recommendation for further treatment, contract extension or loss of advocacy.

X RmL 11. **Progress Reports/Access to Agreement.** I understand that a copy of all reports and/or contracts shall be forwarded to the Executive Director of the MSBML. Any identifying information on anonymous participants will be redacted from said reports and/or contracts and will be reported by number only. However, the identity of the participant may be known to the Executive Director or the administrative staff of the MSBML.

X RmL I understand MPHP shall provide the MSBML with reports on a quarterly basis (or more often if requested to do so by the MSBML).

X RmL 12. **Periodic Re-Evaluation.** I agree to appear before the MPHC of the MPHP, currently located in Ridgeland, Mississippi, for periodic re-evaluation when scheduled by the MPHP.

X RmL 13. **Family and Spouse.** I will actively encourage my spouse/significant other/family to involve themselves in continuing, supportive care through Al-Anon or other sources.

X RmL 14. **Statutory Compliance.** I agree to obey all federal, state and local laws and all rules governing the practice of medicine in the State of Mississippi.

X RmL 15. **Notification of Change in Status.** I agree to notify the MPHP/MSBML of any change in my physical or mental health, my residence or place of employment.

X RmL I further agree to notify the MSBML and MPHP in writing, within ten (10) days prior to departing this state to practice in another state. Unless I affiliate with a recovery program recognized by the MSBML and MPHP, periods of residency or practice outside Mississippi may not apply to the reduction of time periods specified in this monitoring Contract Agreement.

X RmL I agree that MPHP hereby has my authorization to notify the appropriate State Licensure Board and/or Physician Health Program of my residence and/or practice in that state.

X RmL 16. **Payment of Costs.** I agree to pay annual MPHP dues and fees when billed. I understand that finance charges will apply toward balances unpaid by the due date.

Exhibit "A"

Required by MPHP Initials

X AmL 17. **Financial Responsibility.** I agree to be responsible regarding my financial obligations. I understand MPHC considers financial responsibility, in general, an important element of recovery. Specifically, I accept my financial responsibility to MPHP, my licensure board, laboratory screening services, therapist, psychiatrists, etc. Further, treatment facilities often extend treatment to program participants on credit in an effort to assist them with their recovery and the opportunity to resume work. MPHP fully expects that any outstanding debt to treatment providers/organizations be satisfied in a responsible and timely manner.

X AmL 18. **Subpoena for Records.** Unless directed otherwise by the Program Participant, MPHP/MPHC resists the release of subpoenaed participant records to the fullest extent of the law. I understand that I am financially liable for all MPHP/MPHC costs and attorney fees in such matters.

X AmL 19. **Breach of Contract and/or Relapse.** I understand that any breach of this contract will be grounds for re-evaluation by the MPHP with an immediate report to the MSBML.

X AmL I understand that if I experience a relapse, this fact shall be immediately reported by the MPHP to the Executive Director of the MSBML. Such report will include, or be followed by MPHP's response to the relapse and its recommendations regarding the relapse. I understand that MPHP's practice related recommendations regarding licensure/DEA issues are non-binding to the MSBML.

X AmL In the event I should relapse or fail to comply with any of the conditions of this agreement, the MSBML shall have the authority, with recommendation from the MPHP/MPHC, to immediately prohibit me from practicing medicine until such time as the MSBML and MPHP determines that I am able to return to the practice of medicine. In so doing, the MSBML and MPHP may require me to undergo further evaluation.

X AmL In the event of a relapse or violation of this agreement, any action by the MSBML may be deemed disciplinary action, and all documents relating thereto, including this agreement, shall thereafter be deemed public record and reportable to the Federation of State Medical Boards, the National Practitioner Data Bank and other entities requiring MSBML reporting.

X AmL The withdrawal of MPHP's advocacy may, in the MPHC's discretion, include the express authority of the MPHC and the MPHP to notify any entity or individual before whom there has been (or would have been) support on my behalf, including without limitation, the following concerned parties: any employer, my referent, appropriate insurers with whom the MPHP has established agreements, or with whom the MPHP has communicated or offered support on my behalf, credentialing entities, and possibly, the MSBML (or

Required
by MPHP Initials

other relevant licensing boards). This agreement constitutes my irrevocable authorization to the MPHP and the MPHC to make such communications about the withdrawal of support.

X AmL 20. **Hold Harmless Agreement.** As an express condition for participation, I hereby release and forever discharge the MPHP, MPHC and the MSBML, their respective agents, representatives, employees, staff members, and all personnel designated by the MPHP, MPHC or MSBML to assist me, and each of them and all of them, past, present and future from any claims, demands, obligations, costs of any kind or nature whatsoever, arising out of any action of commission or omission in connection with my participation in the Mississippi Physician Health Program.

X AmL 21. I agree to provide a copy of this Recovery Contract Agreement to the following persons, at the first visit after the execution of this contract:

- X Primary Care Physician
- X Psychiatrist
- X Therapist
- X Physician Medication Monitor
- X Workplace Monitor, Immediate Supervisor, and/or Chief of Staff

X AmL 22. It is my responsibility to ensure that the following persons send quarterly reports on my behalf to MPHP:

- X Psychiatrist
- X Therapist
- X Workplace Monitor

X AmL 23. I agree to the following additional stipulations:
To follow all recommendations from PCP next step

Exhibit "A"

Required
by MPHP Initials

NOTE: Alterations of this contract cannot be made without prior written approval from the MPHP Medical Director and/or the MPHC.

Program Participant 19 Sep 16 Date

MPHC Chairman 7/26/16 Date

Medical Director, MPHP 9/20/16 Date

Executive Director, MSBML 10/21/15 Date

T:\M\Contracts\StandardContAgrmt
Rev. 12/13

Exhibit "A"

DEPARTMENT OF VETERANS AFFAIRS
Medical Center
1100 North College Avenue
Fayetteville, AR 72703-6995

In Reply Refer To:
Levy SLB Reporting

June 7, 2018

Mississippi State Board of Medical Licensure
1867 Crane Ridge Drive
#200B
Jackson, MS 39216

Dear Sir or Ma'am:

In compliance with applicable authority be advised that there is substantial evidence that Robert M. Levy, M.D. significanty failed to meet generally-accepted standards of clinical practice that constituted an imminent threat to patient welfare.

The following identifying data are submitted:

Name: Robert M. Levy, M.D.

Mississippi License Number: 15663, expires 6/30/2018.

Questions in this regard may be referred to Mark A. Worley, M.D., PhD; Chief of Staff at 479-443-4301 x65050.

If you wish to obtain the relevant information contained in the State Licensing Board Reporting File in this case, please submit a letter to the undersigned, which meets the requirements of subsection (b)(7) of the Privacy Act. A sample letter and instructions that will permit proper disclosure are enclosed.

Kelvin L. Parks, MA
Interim Medical Center Director

Enclosure

CC Dates

Licensed Health Care Professional:

DUSHOM (10NC):

Medical Inspector (10MI):

Exhibit "B"

Mississippi Physician Health Program

June 20, 2018

Kenneth E. Cleveland, M.D.
Executive Director
MS State Board of Medical Licensure
1867 Crane Ridge Drive
Jackson, MS 39216

Dear Dr. Cleveland:

Re: Robert Levy, M.D.

I regret to inform you that Mississippi Physician Health Program (MPHP) will no longer provide advocacy for Dr. Levy's continued practice of medicine effective June 9, 2018.

As you recall, Dr. Levy is a 51-year-old pathologist living in Fayetteville, Arkansas. He had previously practiced at the Veterans Healthcare System of the Ozarks (Virginia Hospital) in Fayetteville, Arkansas, utilizing his Mississippi medical license. On March 22, 2016, he was suspected of being impaired in the workplace secondary to alcohol use and was referred to Pine Grove Behavioral Health by the Louisiana State Board of Medical Examiners (LSBME). He completed a comprehensive three-day evaluation at Pine Grove Behavioral Health on May 25, 2016, and was diagnosed with alcohol-use disorder, moderate severity, and determined to be not fit to practice. He was admitted to Pine Grove Behavioral Health for residential treatment on July 11, 2016, and discharged appropriately on October 8, 2016. At the time of his discharge, his diagnosis changed to alcohol-use disorder, severe. He was instructed to obtain advocacy from the Arkansas Medical Foundation Physician Health Program (Arkansas PHP) and MPHP. Dr. Levy executed a life-of-practice Recovery Contract Agreement with MPHP on September 19, 2016 and he executed a 5-year monitoring agreement with the Arkansas PHP on October 27, 2016. He appeared before the Mississippi Physician Health Committee on November 2, 2016 and was cleared to return to work.

The current status of Dr. Levy at the VA Hospital is unclear. His Louisiana medical license is inactive, and he does not have an Arkansas medical license. He previously utilized his Mississippi medical license to practice pathology at the VA Hospital. He reported that he was placed on administrative leave sometime last year and had not practiced pathology since that time.

Exhibit "C"

408 West Parkway Place • Ridgeland, Mississippi 39157-6010 • Ph: 601-420-0240 • Fax: 601-707-3792
www.msphp.com

06/20/2018 15:04 FAX 6014200290 M P H P 001

On March 1, 2018, MPHP received a letter from the Medical Director of the Arkansas PHP, Brad Diner, M.D., stating that Dr. Levy was not cleared to work because of neurocognitive concerns. Dr. Levy signed an agreement not to practice with MPHP on March 7, 2018, pending results of neuropsychological testing.

On April 18, 2018 MPHP received a letter from H. G. Chambers, Ph.D., Clinical Neuropsychologist in Fayetteville, Arkansas stating that Dr. Levy had submitted to neuropsychological testing on April 10, 2018, and that "there were no major concerns regarding his neurocognitive status." The report recommended that Dr. Levy "return to his duties as a lab chief at the VA."

On June 9, 2018, we were notified by the Arkansas PHP that Dr. Levy no longer had their advocacy due to non-compliance with daily check-in requirements and failure to return phone calls to the AMF. Dr. Levy has not responded to our attempts to communicate with him regarding these events.

Considering Dr. Levy's recent difficulties, MPHC has determined that it is not possible to effectively monitor him, at this time. It is the opinion of MPHC that Dr. Levy is not fit to practice medicine with reasonable skill and safety to the public, and that if he were to practice medicine at this time that it would represent an imminent threat to the public health.

We will await recommendations for a final disposition from your office.

If I may provide additional information or assistance in this matter, please notify me.

Sincerely,

Scott L. Hambleton, M.D., D.F.A.S.A.M., M.R.O.
Medical Director

Exhibit "C"