

RHODE ISLAND DEPARTMENT OF HEALTH
BOARD OF MEDICAL LICENSURE AND
DISCIPLINE

No. 05-332

IN THE MATTER OF APPLICATION OF DANIEL DEGRUTTOLA, M.D.

STIPULATED AGREEMENT

1. The applicant, Daniel DeGruttola, M.D., applied for licensure in the State of Rhode Island on February 28, 2003 while he was involved in investigation by the Massachusetts Board of Registration in Medicine. Subsequent to the application the applicant entered into an Assurance of Discontinuance and a Probation Agreement with the Board of Registration in Medicine.
2. The applicant has been in full compliance with the Massachusetts Probation Agreement that is in effect until December 8, 2009.
3. The Board of Medical Licensure and Discipline has considered the facts and circumstances surrounding this application. The application is denied at this time, however, the Board will permit Dr. DeGruttola to reapply, without prejudice, in one year of ratification of this agreement. Such application must be supported by the Massachusetts Medical Society and the Board of Registration in Medicine. Both organizations must indicate the applicant's compliance with the terms of the Probation Agreement.

The parties agree as follows:

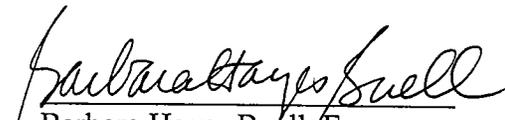
Respondent admits to the jurisdiction of the Board.

- (1) Respondent has read this Consent Order and understands that it is a proposal of an Investigating Committee of the Board and is subject to the final approval of the Board. This Consent Order is not binding on Respondent until final ratification by the Board.
- (2) Respondent hereby acknowledges and waives:
 - a. The right to appear personally or by counsel or both before the Board;
 - b. The right to produce witnesses and evidence in his behalf at a hearing;
 - c. The right to cross examine witnesses;
 - d. The right to have subpoenas issued by the Board;
 - e. The right to further procedural steps except for specifically contained herein;
 - f. Any and all rights of appeal of this Consent Order;
 - g. Any objection to the fact that this Consent Order will be presented to the Board for consideration and review;
 - h. Any objection to the fact that it will be necessary for the Board to become acquainted with all evidence pertaining to this matter in order to review adequately this Consent Order;
 - i. Any objection to the fact that potential bias against the Respondent may occur as a result of the presentation of this Consent Order.

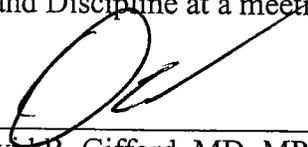
- (3) Acceptance of this Consent Order constitutes an admission by the Respondent of the facts set forth herein.
- (4) This Consent Order shall become part of the public record of this proceeding once it is accepted by all parties and by the Board.
- (5) Failure to comply with this Consent Order, when signed and accepted, shall subject the Respondent to further disciplinary surrender action.

Signed this 22 day of June, 2005.


Daniel DeGruttola, M.D.


Barbara Hayes Buell, Esq.
Attorney for Respondent

Ratified by the Board of Medical Licensure and Discipline at a meeting held
on _____, 2005.


David R. Gifford, MD, MPH
Director of Health

II. PARTIES

The parties to this Probation Agreement are the Board of Registration in Medicine (the "Board") and Daniel DeGruttola, M.D. (the "Respondent").

III. JURISDICTION

The parties agree that the Board has the authority to enter into this Probation Agreement, and that the Board may enforce the terms of this Agreement in accordance with applicable laws and regulations and the provisions of this Agreement.

IV. CONDITIONS OF PROBATION

During the probationary period, which shall be effective on the date the Board accepts this Agreement, the Respondent shall comply with each of the following requirements:

- A. The Respondent agrees to undergo monitoring by the Board until at least December 8, 2009, (five years from the date of his current contract with Physician Health Services) and for such further period thereafter as the Board shall for reasonable cause order. At the Board's discretion, any periods during which the Respondent is not practicing medicine, during the probationary period, may extend the probationary period.

B. The Respondent shall refrain from use of all controlled substances, unless such medication has been specifically prescribed by a treating physician for a legitimate medical purpose and in the usual course of the treating physician's medical practice.

C. The Respondent shall immediately notify the Board in writing any time that any treating physician writes a prescription for the Respondent for a controlled substance in Schedules II through IV, inclusive.

D. The Respondent shall not prescribe any controlled substances in Schedules II, III and IV (243 CMR 2.07(19)), to himself or any member of his family and agrees that this provision contained in this sentence will survive the probationary period. Respondent shall adhere to all laws and regulations pertaining to the dispensing, administration and distribution of controlled substances.

E. The Respondent has entered into a contract, dated December 8, 2004, and in a form acceptable to the Board, with the Physician Health Services ("PHS") of the Massachusetts Medical Society. The Respondent agrees to abide fully by all terms of this contract. This contract includes a provision that PHS will promptly inform the Board of any lapse or violation of its terms by the Respondent, and the contract provides for any necessary waivers of privilege or

confidentiality by the Respondent. PHS shall submit quarterly reports to the Board which detail the Respondent's compliance with this contract.

F. The Respondent shall be under the care of a licensed or certified healthcare professional who shall submit written reports, including reports on all missed sessions, to the Board or its designee as often as the Board deems necessary but in any event at least once every three months. Copies of these attendance reports shall be part of the quarterly report that PHS submits to the Board. The healthcare professional shall immediately notify the Board by telephone whenever, in his professional judgment, the Respondent poses a potential danger to the health, safety and welfare of the Respondent's patients. In addition, the healthcare professional shall immediately notify the Board by telephone and in writing in the event that the Respondent terminates treatment, or is non-compliant with the treatment plan. In the event that the healthcare professional notifies the Board that the Respondent poses a danger to the health, safety or welfare of the Respondent's patients, or terminates treatment, the Board may obtain any and all information, reports and records for a period not to exceed ninety (90) days prior to the date of said notification from the healthcare provider concerning the Respondent. The Respondent hereby waives any privileges concerning such information, reports, records and disclosures to the Board. The healthcare professional shall confirm in writing, within ten (10) days of the Board's acceptance of this agreement, his agreement and undertaking with respect to the obligations set forth in this Agreement, and shall notify the Board if

agrees to obtain personally such information and furnish it to the Board, to the extent permitted by law.

I. In the event that the Respondent seeks licensure to practice medicine in another state, the Respondent shall notify the Board of such fact and shall disclose to the licensing authority in such state his status with this Board. The Respondent shall submit to the Board copies of all correspondence and application materials submitted to another state's licensing authority.

J. In the event the Respondent should leave Massachusetts to reside or practice out of the state, the Respondent shall promptly notify the Board in writing of the new location as well as the dates of departure and return. Periods of residency or practice outside Massachusetts will not apply to the reduction of any period of the Respondent's probationary licensure, unless the Respondent enters into a monitoring agreement, approved by the Board, in the new location.

K. The Respondent shall appear before the Board or a committee of its members at such times as the Board may request, upon reasonable advance notice, commensurate with the gravity or urgency of the need for such meeting as determined by the Board or such committee.

L. The Respondent shall notify and provide, within ten (10) days of acceptance of this Probation Agreement by the Board, a complete copy of this

Agreement with all exhibits and attachments by certified mail, return receipt requested, or by hand delivery to the following designated entities: any in- or out-of-state hospital, nursing home, clinic, other licensed facility, or municipal, state, or federal facility at which he practices medicine; any in- or out-of-state health maintenance organization with whom he has privileges or any other kind of association; any state agency, in- or out-of-state, with which he has a provider contract; any in- or out-of-state medical employer, whether or not he practices medicine there; and the state licensing boards of all states in which he has any kind of license to practice medicine. The Respondent shall also provide this notification to any such designated entities with which he becomes associated for the duration of this Probation Agreement. The Respondent is further directed to certify to the Board within ten (10) days that he has complied with this directive. The Board expressly reserves the authority to independently notify, at any time, any of the entities designated above, or any other affected entity, of any action it has taken.

M. The Respondent may engage in the practice of medicine under conditions that the Board may impose. The Respondent shall engage in the practice of medicine only at the following location, Doctors Plus in Fall River, Massachusetts. The Respondent has selected Dr. John Marshall to monitor his practice at Doctors Plus. Until the Board, upon petition of Respondent, orders otherwise, Respondent shall be monitored by Dr. Marshall. Dr. Marshall, or his Board approved successor, shall review six randomly selected charts of patients

cared for by the Respondent each month and submit a quarterly evaluation of the Respondent to the Board.

N. The Respondent, and not the Board, shall be responsible for the payment of any fee or charge occasioned by the Respondent's compliance with this Probation Agreement.

O. The Respondent may request that the Board modify any of the conditions set forth above. The Board may, in its discretion, grant such modification. Except for requests for modifications related to the identity of the health care professional referenced in Paragraphs F, and the Respondent's employment, the Respondent may make such a request not more than once in any one year period, nor any sooner than one year from the date of this Probation Agreement.

V. TERMINATION OF PROBATION

A. If the Respondent complies with his obligations as set forth above, the Board, at the expiration of the five-year period, shall, upon petition by the Respondent, terminate the Respondent's probationary period and probation with the Board, unless the Respondent's probation is extended in accordance with paragraph IV(A).

B. If the Respondent fails to comply with his obligations as set forth above,

COMMONWEALTH OF MASSACHUSETTS

Suffolk, SS.

Board of Registration
in Medicine

Adjudicatory Case No.
AD 04-01-CO

In the Matter of)
)
Daniel DeGruttola, M.D.)
_____)

COPIES

ASSURANCE OF DISCONTINUANCE

Appearances:

Muriel Ann Finnegan, Complaint Counsel, for the Board of Registration in Medicine
Barbara Buell, Esq., for Daniel DeGruttola, M.D.

I. Summary of Proceedings

Pursuant to G.L. c. 112, § 5 and 243 CMR 1.03(3), the Board of Registration in Medicine (the "Board") caused an investigation to be made regarding Daniel DeGruttola, M.D. (the "Respondent"), a physician licensed to practice medicine in the Commonwealth of Massachusetts. During the investigation, the Board reviewed complaints that, between 2000 and 2002, the Respondent engaged in unprofessional and disruptive behavior with staff members at Whittier Rehabilitation Hospital ("Whittier") in Westborough, Massachusetts and that the Respondent has maladaptive personality traits which made it difficult for him to resolve conflict with colleagues. Based upon this investigation, the Board has determined that there is reason to believe that the Respondent has engaged in conduct that undermines public confidence in the integrity of the medical profession. *Raymond vs. Board of Registration in Medicine*, 387 Mass. 708 (1982).

Although it appears that disciplinary proceedings regarding such acts and practices may be in the public interest, it further appears that the Respondent is willing to enter into an agreement never to repeat such acts and practices. Pursuant to 243 CMR 1.03(13), this matter is suitable for resolution by means of an Assurance of Discontinuance ("Assurance")

II. Biographical Information

The Respondent was born on March 1, 1966. He graduated from the Medical College of Pennsylvania in 1992. He has been licensed to practice medicine in Massachusetts since July 26, 1995 under certificate number 81750. He is certified by the American Board of Medical Specialties in Physical Medicine and Rehabilitation. The Respondent currently does insurance physicals for Portamedic and American Para Professional Systems ("APPS") and he practices physiatry at Doctors Plus, Fall River, Massachusetts.

III. Board's Allegations

The Board has reason to believe that the Respondent has engaged in the following course of conduct:

1. The Respondent was the on call physiatrist for Whittier on the weekend of May 26-27, 2002. On Saturday, May 26, 2002, two patients were admitted to his service and the Respondent did not see them. On Sunday, May 27, 2002, Nurse SV spoke to the Respondent about these patients. SV told the Respondent that the patients would not take their medication because they had not been seen by a physician. SV reminded the Respondent that patients were supposed to be seen by their physician within twenty four (24) hours of their admission. The Respondent told Nurse SV that he was not going to make it into Whittier within twenty-four (24) hours of the patient's admission. The Respondent asked SV to tell Whittier's Medical Director that he had admitted those patients on Saturday, May 26, 2002, and SV refused to do so. SV

reported her conversation with the Respondent to supervisors. Later that week, the Respondent left a thank you note for SV in the nurse's lounge along with a loaf of bread that was foul smelling.

2. On at least three occasions in the year 2000, the Respondent engaged in unprofessional behavior with Nurse DM.

a) Nurse DM advised the Respondent that one of his knee replacement patients had a hot (and probably infected) knee. Several days later, the patient's knee was still hot and DM asked the Respondent to come to this patient's room and examine him, which the Respondent did. In the presence of the patient, the Respondent stated in a hostile tone that no one had told him about the problem with the patient's knee before. When DM later confronted the Respondent about his behavior, the Respondent told DM that she had no right to tell him how to behave and that he could "make trouble for her". The Respondent denies making that specific statement to DM.

b) On another occasion, the Respondent and DM were in the room of a colostomy patient who complained that her private colostomy supplies were missing. In the presence of the patient, the Respondent accused nurses of being lazy and stealing the patient's colostomy supplies. When DM again confronted the Respondent, he told her to "do what she was told." The Respondent denies making that specific statement to DM.

c). DM later complained to a supervisor about the Respondent's behavior. The Respondent learned that DM had complained about him and he told DM not to talk to anyone about him any more. He told her to "be careful walking out in the parking lot". The Respondent denies making those specific statements to DM.

5. In January 2004, the Board received the results of a psychiatric evaluation of the Respondent. The evaluator determined that the Respondent had maladaptive personality traits, which made it difficult for him to resolve conflict with colleagues. The evaluator determined that the Respondent was in need of oversight and that he should engage in psychotherapy.

Based upon the above alleged conduct, the Board has reason to believe that the Respondent has violated the following statutes, regulations and standards of good and accepted medical practice:

A. The Respondent engaged in conduct that undermines the integrity of the medical profession pursuant to *Raymond vs. Board of Registration in Medicine*, 387 Mass. 708 (1982).

IV. Stipulations

The Respondent neither admits, nor denies the Board's allegations set forth above. However, in the interests of achieving a fair and expeditious resolution to this matter, the Respondent hereby assures the Board that he will not engage in disruptive or unprofessional behavior in the work place in the future.

The Board and the Respondent hereby stipulate as follows:

1. The Respondent agrees to enter into a Probation Agreement with the Board. The Respondent's Probation Agreement shall include provisions that he will enter into a behavioral health monitoring contract with Physician Health Service ("PHS"), that he will engage in psychotherapy, and that he will have a Board-approved clinical monitor with him at any workplace where he practices medicine.

The Respondent further stipulates and agrees that:

A. Violation of the terms of this Assurance of Discontinuance shall be *prima facie* evidence of violations of the applicable statutes, regulations, or standards of good and accepted

medical practice as set forth above, and the Board may revive this proceeding in the event of such violation, subject to the Respondent's rights to assert a defense at such proceedings.

B. Pursuant to G.L. c.112, §2, the Board must report this Assurance of Discontinuance to any national data reporting system that provides information on individual physicians.

C. In the event that any statute or regulation governing the facts that are the subject of this Assurance of Discontinuance is amended, revised, or repealed, this Assurance of Discontinuance shall be deemed modified in accordance with such amendment, revision, or repeal.

D. This Assurance of Discontinuance in no way impairs the right of private action that any consumer may have against the Respondent.

E. This Assurance of Discontinuance in no way impairs the right of any other state agency to investigate, prosecute, penalize, or punish the Respondent regarding the facts that are the subject of this Assurance of Discontinuance.

F. The Respondent shall provide a complete copy of this Assurance of Discontinuance with all exhibits and attachments, within ten (10) days by certified mail, return receipt requested, or by hand delivery to the following designated entities: any in or out-of-state hospital, nursing home, clinic, other licensed facility, or municipal, state, or federal facility at which he practices medicine; any in or out-of-state health maintenance organization with whom he has privileges or any other kind of association; any state agency, in or out-of-state, with which he has a provider contract; any in or out-of-state medical employer, whether or not he practices medicine there; and the state licensing boards of all states in which he has any kind of license. The Respondent shall also provide this notification to any such designated entities with which he

becomes associated for the duration of this Assurance of Discontinuance. The Respondent is further directed to certify to the Board within ten (10) days that he has complied with this directive.

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

DO Stitt
Respondent

5/19/04
Date

Barbara Hays Buell
Attorney for the Respondent

5/19/04
Date

Therese K. King
Complaint Counsel

5/21/04
Date

ASusan Carnacchi
Hearing Officer

11/17/04
Date

Approved and accepted by the Board of Registration in Medicine on this 17 day of November 2004.

Martin Crane M.D.

Martin Crane, M.D.
Chairman

Notified by Certified Mail 11/18/04 JT