

Final Order No. DOH-00-0299

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MOA Date

3/2/00

FILED

Department of Health
Angela Hall, AGENCY CLERK

STATE OF FLORIDA
BOARD OF MEDICINE

By: Vicki R. Ellison
Deputy Agency Clerk

DEPARTMENT OF HEALTH,

Petitioner,

vs.

AHCA CASE NO.: 95-10004
DOAH CASE NO.: 97-4939
LICENSE NO.: ME0029340

ALAN RAY TESSON, M.D.,

Respondent.

FINAL ORDER

THIS CAUSE came before the Board of Medicine (Board) pursuant to Sections 120.569 and 120.57(4), Florida Statutes, on February 5, 2000, in Jacksonville, Florida, for consideration of a Consent Agreement (attached hereto as Exhibit A) entered into between the parties in the above-styled cause. Upon consideration of the Consent Agreement, the documents submitted in support thereof, the arguments of the parties, and being otherwise advised in the premises,

IT IS HEREBY ORDERED AND ADJUDGED that the Consent Agreement as submitted be and is hereby approved and adopted in toto and incorporated by reference herein. On the record a technical correction was made to state that the monitor "shall" review records, rather than be "allowed to" review them. Accordingly, the parties shall adhere to and abide by all the terms and conditions of the Consent Agreement.

This Final Order shall take effect upon being filed with the Clerk of the Department of Health.

DONE AND ORDERED this 15th day of February, 2000.

BOARD OF MEDICINE

Danya Williams
for GASTON ACOSTA-RUA, M.D.
VICE-CHAIRMAN

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing Final Order has been provided by U.S. Mail to Alan Ray Tesson, M.D., 509 Riverside Drive, Stuart, Florida 34994-2566; to A. Russell Bobo, Esquire, 222 Lakeview Avenue, Sixth Floor, West Palm Beach, Florida 33401; and by interoffice delivery to Kathryn L. Kasprzak, Chief Medical Attorney, Agency for Health Care Administration, 2727 Mahan Drive, Tallahassee, Florida 32308-5403, on or before 5:00 p.m., this _____ day of _____, 2000.

STATE OF FLORIDA
DEPARTMENT OF HEALTH

DEPARTMENT OF HEALTH,
BOARD OF MEDICINE,

Petitioner,

vs.

ALAN RAY TESSON, M.D. :

Respondent.

DOAH CASE NO. 97-4939

Agency Case No. 95-10004

CONSENT AGREEMENT

THE PARTIES, ALAN RAY TESSON, M.D. ("Respondent") and the DEPARTMENT OF HEALTH, BOARD OF MEDICINE, stipulate and agree to the following Agreement and to the entry of a Final Order of the Board of Medicine (the "Board") incorporating the Stipulated Facts and Stipulated Disposition in this matter.

Stipulated Facts

1. At all times material hereto, Respondent was a licensed physician in the State of Florida having been issued license number ME 0029340.
2. Respondent was charged by an Administrative Complaint filed by the Department of Health (the "Department") and properly served upon Respondent with violations of Chapter 458, Florida Statutes, and the rules enacted pursuant thereto. A true and correct copy of the Administrative Complaint is attached hereto as Exhibit "A".
3. Respondent neither admits nor denies the allegations of the fact contained in the Administrative Complaint.

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Stipulated Conclusions of Law

1. Respondent admits that, in his capacity as a licensed physician, he is subject to the provisions of Chapters 455 and 458, Florida Statutes, and the jurisdiction of the Department and the Board.
2. Respondent admits that the facts set forth in the Administrative Complaint, if proven, would constitute violations of Chapter 458, Florida Statutes, as alleged in the Administrative Complaint.
3. Respondent admits that the Stipulated Disposition in this case is fair, appropriate and acceptable to the Board.
4. Respondent freely and voluntarily executed this Stipulation after having reviewed same and after having the benefit of advice of counsel.

Stipulated Disposition

1. Future Conduct. Respondent shall not in the future violate Chapters 455, 458, and/or 893, Florida Statutes, or the rules promulgated pursuant thereto. Prior to signing this Agreement, the Respondent read Chapters 455, 458, and 893, Florida Statutes, and the Rules of the Board of Medicine, at Section 59R, Florida Administrative Code.
2. Fine. The Board shall impose an administrative fine in the amount of \$10,000.00 (ten thousand and no/100 dollars) against the Respondent. The fine shall be paid by the Respondent to the Board of Medicine within two (2) years of its imposition by Final Order of the Board. **THE RESPONDENT ACKNOWLEDGES THAT THE TIMELY PAYMENT OF THE FINE IS HIS LEGAL OBLIGATION AND RESPONSIBILITY, AND THE RESPONDENT AGREES TO CEASE PRACTICING IF THE FINE IS NOT PAID AS**

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AGREED TO IN THIS CONSENT AGREEMENT, SPECIFICALLY: IF THE RESPONDENT HAS NOT RECEIVED WRITTEN CONFIRMATION THAT THE FULL AMOUNT OF THE FINE HAS BEEN RECEIVED BY THE BOARD OFFICE WITHIN NINETY (90) DAYS AFTER THE DUE DATE, THE RESPONDENT AGREES TO CEASE PRACTICE UNTIL SUCH WRITTEN CONFIRMATION IS RECEIVED BY HIM FROM THE BOARD. (SEE EXHIBIT "B" OF THIS CONSENT AGREEMENT FOR BOARD ADDRESS AND STANDARD TERMS).

3. Records Review Course. Within one (1) year of the issuance date of a Final Order in this case, the Respondent shall complete the records review course offered by the Florida Medical Association. The Respondent shall submit documentation in the form of certified copies of the receipts, vouchers, certificates or other papers such as physician's recognition award, documenting completion of this medical education course. All such documentation shall be sent to the Board of Medicine, regardless of whether some or any of such documentation was previously provided during the course of any audit or discussion with counsel for the Department. These hours shall be in addition to those hours required for renewal of licensure.

4. Commencing upon the Board's rendition of a Final Order incorporating all terms and conditions of this Consent Agreement, the Respondent shall be placed upon monitored probation with indirect supervision for no more than one (1) year, provided however, that, at any time after the completion of the first three (3) months of probation, if the Respondent's monitor recommends that probation be terminated, then the Respondent may petition for and shall be granted early termination of his probation. In the event the monitor does not recommend termination of probation, the probationary period shall

automatically terminate immediately upon the conclusion of the above-referenced one- (1-) year term.

5. At all times during the probationary period, the monitor shall be allowed to review no less than twenty-five (25%) of the cases upon which Respondent is then working. At all times during the probationary period, the Respondent shall be subject to and shall comply with any and all restrictions deemed appropriate by the supervising monitor.

6. Standard Provisions. Respondent agrees that this Consent Agreement shall incorporate and be governed by the "Standard Terms Applicable to Consent Agreements", Exhibit "B" hereto, as if fully set forth herein.

7. It is expressly understood that this Agreement is subject to the approval of the Agency for Health Care Administration ("Agency"), the Board, and the Department. In this regard, the foregoing paragraphs (and only the foregoing paragraphs) shall have no force and effect unless a Final Order incorporating the terms of this Agreement is entered by the Board.

8. Respondent shall appear before the Board at the meeting of the Board where this Agreement is considered. Respondent, in conjunction with the consideration of this Agreement by the Board, shall respond to questions under oath from the Board, Board Staff, or Department Staff. The Respondent shall be prepared to explain the circumstances involved in this matter and what measures he has undertaken to prevent a recurrence. However, the Respondent shall offer no evidence, testimony or argument that disputes or contravenes any stipulated fact or conclusion of law.

9. Should this Agreement be rejected, no statement made in furtherance of this Agreement by the Respondent may be used as direct evidence against the Respondent in

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any proceeding; however, such statements may be used by the Petitioner for impeachment purposes.

10. Respondent and the Department fully understand that this joint Agreement and subsequent Final Order incorporating the same will in no way preclude additional proceedings by the Board and/or the Department against the Respondent for acts or omissions not specifically set forth in the Administrative Complaint attached as Exhibit "A" hereto.

11. Upon the Board's adoption of this Agreement, the Respondent expressly waives all further procedural steps and expressly waives all rights to seek judicial review of or to otherwise challenge or contest the validity of the Agreement and the Final Order of the Board incorporating said Agreement.

12. Upon the Board's adoption of this Agreement, the parties hereby agree that each party will bear his own attorney's fees and costs resulting from prosecution or defense of this matter. Respondent waives the right to seek any attorney's fees or costs from the Department in connection with this matter.

13. This Agreement is executed by the Respondent for the purpose of avoiding further administrative action with respect to this cause. In this regard, Respondent authorizes the Board to review and examine all investigative file materials concerning Respondent prior to or in conjunction with consideration of this Agreement. Furthermore, should this joint Agreement not be accepted by the Board, it is agreed that presentation to and consideration of this Agreement and other documents and matters by the Board shall

not unfairly or illegally prejudice the Board or any of its members from further participation, consideration or resolution of these proceedings.

Signed this 12th day of August, 1999.

Alan Ray Tesson MD
Alan Ray Tesson, M.D.
Respondent

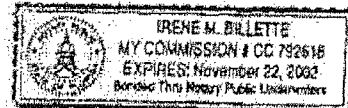
State of Florida
County of St. Lucie

Before Me the undersigned authority duly authorized in the State and County aforesaid to take acknowledgements personally appeared this day Alan Ray Tesson, M.D., known personally to me OR who presented _____ as identification (strike one), who stated that he executed the foregoing document freely and voluntarily and for the purposes therein stated and that the facts contained therein are true and accurate to the best of his knowledge and belief, after taking an oath.

Sworn to and subscribed before me this 12 day of August, 1999.

Irene M. Billette
Notary Public

(Seal)



Approved this 24 day of October, 1999.

Robert G. Brooks, M.D., Secretary
Department of Health

By: Larry G. McPherson, Jr.
Larry G. McPherson, Jr.
Chief Medical Attorney
Agency for Health Care Administration

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EXHIBIT "A"

STATE OF FLORIDA DEPARTMENT OF HEALTH

DEPARTMENT OF HEALTH,)	
)	
PETITIONER,)	
)	
v.)	CASE NO. 95-10004
)	
ALAN RAY TESSON, M.D.,)	
)	
RESPONDENT.)	

ADMINISTRATIVE COMPLAINT

COMES NOW the Petitioner, the Department of Health, hereinafter referred to as "Petitioner," and files this Administrative Complaint before the Board of Medicine against Alan Ray Tesson, M.D., hereinafter referred to as "Respondent," and alleges:

1. Effective July 1, 1997, Petitioner is the state agency charged with regulating the practice of medicine pursuant to Section 20.43, Florida Statutes (Supp. 1996); Chapter 455, Florida Statutes, and Chapter 458, Florida Statutes. Pursuant to the provisions of Section 20.43(3)(f), Florida Statutes, the Petitioner has contracted with the Agency for Health Care Administration to provide consumer complaint, investigative, and prosecutorial services required by the Division of Medical Quality Assurance, councils, or boards, as appropriate.

2. Respondent is and has been at all times material hereto a licensed physician in the state of Florida, having been issued license number ME 0029340. Respondent's last known address is 509 Riverside Drive, Stuart, Florida, 34994-2566.

3. Respondent is a board certified psychiatrist.

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4. On or about August 12, 1991, Patient S.T. presented to Respondent's office for psychiatric therapy with complaints of "being miserable, unhappy, unable to complete tasks, crying easily, irritable, low energy level, and compulsive eating." Respondent provided psychiatric treatment for Patient S.T. until on or about December 8, 1993.

5. Respondent utilized hypnosis as a part of Patient S.T.'s psychiatric therapy during the period of approximately October 1991 through April 1992. Documentation in the medical records does not distinguish between statements made when under hypnosis and when in a fully conscious state. A subsequent treating psychiatrist and psychologist of Patient S.T. did not use hypnosis as it was not indicated and is not used with survivors of sexual abuse.

6. There is no documentation of the risks, complications, and benefits of hypnotherapy or alternative therapies in the medical records. Respondent did not obtain an informed consent from Patient S.T. for the use of hypnosis in her treatment.

7. Respondent's medical records do not document the choices and rationale for psychiatric therapies or modalities of treatment utilized in the psychiatric care of Patient S.T. Few objective and observing comments are documented as well as scant documentation of conclusions or plans for treatment.

8. During the period of approximately April 22, 1992 through September 21, 1993, Respondent did not document approximately twenty-five (25) therapeutic sessions with Patient S.T. in the medical records. Respondent did not document any of the therapy sessions which took place in Patient S.T.'s home. Nine (9) of the undocumented therapeutic sessions occurred on successive Thursdays at lunchtime.

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9. Respondent provided psychotherapy for approximately six (6) patients whom he believed might have been exposed to ritualistic abuse by a satanic cult. Respondent attended seminars about satanic and ritual abuse and consulted with other professionals regarding satanic cults and ritual abuse in relation to Patient S.T. Respondent was a panel member at a symposium dealing with child abuse and ritual abuse, spoke to school principals and church leaders about satanic ritual abuse, and granted an interview on television discussing the possibility of the existence of satanic cults and ritual abuse of children. Respondent subscribed to "Survivors," a newsletter that primarily deals with ritualistic abuse.

10. Respondent encouraged Patient S.T. to learn more about cult activity and advised this knowledge would assist in therapy. Respondent provided Patient S.T. with the dates of seminars dealing with satanic ritual abuse and other materials related to cult activity.

11. Respondent documented possible sexual abuse had occurred in Patient S.T.'s childhood and elements of being exposed to satanic ritual abuse were discovered. These "memories" were revealed during the period of time Respondent was utilizing hypnotherapy.

12. Respondent and Patient S.T. developed a relationship outside of the psychiatric office as evidenced by visits to Patient S.T.'s home and attendance at a seminar in Daytona Beach, Florida, to which Respondent transported Patient S.T. in his private vehicle.

13. Respondent and Patient S.T. developed a relationship outside of the psychiatrist/patient relationship as evidenced by private lunches in the office and luncheons outside of the office. While on vacation, Respondent made long distance telephone calls to Patient S.T. which he charged to her telephone credit card. Respondent possessed a key to Patient S.T.'s home and gave his home telephone number to Patient S.T.

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14. Respondent hired Patient S.T. to work in the office on a part-time basis and continued treating Patient S.T. during the time Respondent employed Patient S.T. Respondent had approximately two (2) documented psychiatric sessions with Patient S.T. during the time she was an employee.

15. Taking patients to lunch, conferences, and hiring patients are boundary violations as defined by the American Psychiatric Association.

COUNT ONE

16. Petitioner realleges and incorporates paragraphs one (1) through fifteen (15), as if fully set forth herein this Count One.

17. Respondent failed to practice medicine as a reasonable prudent physician in that Respondent failed to present and discuss other treatments or alternatives in treatment and failed to discuss the benefits and risks of hypnotherapy. Respondent also failed in that he lost objectivity in treatment of Patient S.T. related to the personal relationship outside the patient/psychiatrist relationship. Respondent also lost his objectivity due to personal fascination and preoccupation with the subject of satanic ritual abuse.

18. Based on the foregoing, Respondent violated Section 458.331(1)(t), Florida Statutes, failing to practice medicine with that level of care, skill, and treatment which is recognized by a reasonably prudent similar physician as being acceptable under similar conditions and circumstances.

COUNT TWO

19. Petitioner realleges and incorporates paragraphs one (1) through fifteen (15) and paragraph seventeen (17) as if fully set forth herein this Count Two.

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20. Respondent failed to document objective or observing comments of Patient S.T.'s therapy sessions and treatment. Respondent's medical records do not document the choices and rationale for psychiatric therapies utilized in the psychiatric care of Patient S.T. and there is little documentation of conclusions or plans for treatment. Respondent did not distinguish between statements made by Patient S.T. while under hypnosis versus a fully conscious state. Respondent failed to document approximately twenty-five sessions with Patient S.T. Respondent failed to document approximately twenty-five (25) therapeutic sessions.

21. Based on the foregoing, Respondent violated Section 458.331(1)(m), Florida Statutes, failing to keep written medical records justifying the course of treatment of the patient, including, but not limited to patient histories; examination results; records of drugs prescribed, dispensed, or administered; and reports of consultations and hospitalizations

WHEREFORE, the Petitioner respectfully requests the Board of Medicine enter an order imposing one or more of the following penalties: permanent revocation or suspension of the Respondent's license; restriction of the Respondent's practice; imposition of an administrative fine; issuance of a reprimand; placement of the Respondent on probation; the assessment of costs related to the investigation and prosecution of this case, other than costs associated with an attorney's time, as provided for in Section 455.624(3), Florida Statutes, and/or any other relief that the Board deems appropriate.

SIGNED this 15 day of August, 1997.

James T. Howell, M.D., Secretary

FILED

DEPARTMENT OF HEALTH
DEPUTY CLERK

CLERK Rena Combs
DATE 8/18/97

[Signature]
Larry G. McPherson, Jr.
Chief Medical Attorney

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**EXHIBIT B
STANDARD TERMS APPLICABLE TO CONSENT AGREEMENTS**

The following are the standard terms applicable to all consent agreements, including supervision and monitoring provisions applicable to licensees on probation.

A. PAYMENT OF FINES. Unless otherwise directed by the consent agreement, all fines shall be paid by check or money order and sent to the Board address set forth in paragraph E, below. The Board office does not have the authority to change the terms of payment of any fine imposed by the Board.

B. COMMUNITY SERVICE AND CONTINUING EDUCATION UNITS. Unless otherwise directed by the consent agreement, all community service requirements, continuing education units/courses must be completed, and documentation of such completion submitted to the Board of Medicine at the address set forth below in paragraph E, **WITHIN ONE YEAR OF THE DATE OF THE FINAL ORDER.**

C. LAWS AND RULES EXAMINATION. Unless otherwise directed by the consent agreement, the Respondent shall take and obtain a score of at least 70% correct on the Laws and Rules Examination within six months of the Final Order. The Respondent shall notify the Agency at least one week prior to the date he wishes to take the examination to schedule a time for the examination at one of the Agency's Investigative Offices. The Respondent may take the examination as many times as needed to obtain a passing score of 70%. Contact Kevin Herrmann, (904) 487-9685, at the Agency for Health Care Administration, to schedule a time for the examination, or to answer any questions.

D. ADDRESSES. Respondent must keep current residence and practice addresses on file with the Board. Respondent shall notify the Board within ten (10) days of any changes of said addresses. Furthermore, if the Respondent's license is on probation, the Respondent shall notify the Board within ten (10) days in the event that Respondent leaves the active practice of medicine in Florida.

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E. COSTS. Pursuant to Section 458.331(2), Florida Statutes, the Respondent shall pay all costs necessary to comply with the terms of this Consent Agreement. Such costs include, but are not limited to, the costs of preparation of Investigative Reports detailing compliance with the terms of the Consent Agreement, obtaining supervision or monitoring of the practice, the cost of quality assurance reviews, and the Board's administrative costs directly associated with Respondent's probation.

F. BOARD ADDRESS. Unless otherwise directed by the Board office, all fines, reports, correspondence and inquiries shall be sent to: Board of Medicine, 1940 North Monroe Street, Tallahassee, Florida: 32399-0792, Attn: Final Order Compliance Officer.

G. PROBATION TERMS. If probation was imposed by the Final Order of the Board, the following provisions are applicable.

1. DEFINITIONS:

a. INDIRECT SUPERVISION is supervision by a monitoring physician (monitor) whose responsibilities are set by the Board. Indirect supervision does not require that the monitor practice on the same premises as the Respondent, however, the monitor shall practice within a reasonable geographic proximity to Respondent, which shall be within 20 miles unless otherwise provided by the Board and shall be readily available for consultation. The monitor shall be Board-certified in the Respondent's specialty area unless otherwise provided by the Board.

b. DIRECT SUPERVISION is supervision by a supervising physician (supervisor) whose responsibilities are set by the Board. Direct supervision requires that the supervisor and Respondent work in the same office. The supervising physician shall be board-certified in the Respondent's specialty area unless otherwise provided by the Board.

c. PROBATION COMMITTEE or "committee" are members of the Board of Medicine designated by the Chairman of the Board to serve as the Probation Committee.

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2. REQUIRED SUPERVISION.

a. If the terms of the consent agreement include indirect monitoring of the licensee's practice (MONITORING) or direct monitoring of the licensee's practice (SUPERVISION), the Respondent shall not practice medicine without an approved monitor/supervisor, as specified by the Consent Agreement, unless otherwise ordered by the Board.

b. The monitor/supervisor must be a licensee under Chapter 458, Florida Statutes, in good standing and without restriction or limitation on his license. In addition, the Board or Committee may reject any proposed monitor/supervisor on the basis that he has previously been subject to any disciplinary action against his medical license in this or any other jurisdiction, is currently under investigation, or is the subject of a pending disciplinary action. The monitor/supervisor must be actively engaged in the same or similar specialty area unless otherwise provided by the Board or Committee and be practicing within a reasonable distance of the Respondent's practice, a distance of no more than twenty (20) miles unless otherwise specifically provided for in the consent agreement. The Board or Committee may also reject any proposed monitor/supervisor for good cause shown.

c. MECHANISM FOR APPROVAL OF MONITOR/SUPERVISOR:

(1). TEMPORARY APPROVAL. The Board confers authority on the Chairman of the Board's Probation Committee to temporarily approve Respondent's monitor/supervisor. To obtain this temporary approval, Respondent shall submit to the Chairman of the Probation Committee the name and curriculum vitae of the proposed monitor/supervisor at the time this agreement is considered by the Board. Once a Final Order adopting this Agreement is filed, Respondent shall not practice medicine without an approved monitor/supervisor. Temporary approval shall only remain in effect until the next meeting of the Probation Committee.

(2). FORMAL APPROVAL. Respondent shall have the monitor/supervisor with him at his first probation appearance before the Probation Committee. Prior to consideration of the monitor/supervisor by the Committee, the Respondent shall provide to the monitor/supervisor a copy of the Administrative Complaint and Final Order in this case. Respondent shall

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submit a current curriculum vitae and a description of current practice from the proposed monitor/supervisor to the Board office no later than fourteen days before the Respondent's first scheduled probation appearance. Respondent's monitor/supervisor shall also appear before the Probation Committee at such other times as directed by the Committee. It shall be Respondent's responsibility to ensure that the appearance of his monitor/supervisor as directed. Failure of the monitor/supervisor to appear as directed shall constitute a violation of the terms of this Stipulation and shall subject the Respondent to disciplinary action.

d. CHANGE IN MONITOR/SUPERVISOR. In the event that Respondent's monitor/supervisor is unable or unwilling to fulfill his responsibilities as a monitor/supervisor as described above, then the Respondent shall immediately advise the Board of this fact. Respondent shall immediately submit to the Chairman of the Board's Probation Committee the name of a temporary monitor/supervisor for consideration. Respondent shall not practice pending approval of this temporary monitor/supervisor by the Chairman of the Probation Committee. Furthermore, Respondent shall make arrangements with his temporary monitor/supervisor to appear before the Probation Committee at its next regularly scheduled meeting for consideration of the monitor/supervisor by the Committee. Respondent shall only practice under the auspices of the temporary monitor/supervisor (approved by the Chairman) until the next regularly scheduled meeting of the Probation Committee whereat the issue of the Committee's approval of the Respondent's new monitor/supervisor shall be addressed.

3. CONTINUITY OF PRACTICE

a. TOLLING PROVISIONS. In the event the Respondent leaves the State of Florida for a period of thirty days or more or otherwise does not engage in the active practice of medicine in the State of Florida, then certain provisions of Respondent's probation (and only those provisions of the probation) shall be tolled as enumerated below and shall remain in a tolled status until Respondent returns to active practice in the State of Florida:

- (1). The time period of probation shall be tolled.
- (2). The provisions regarding supervision whether direct or indirect by another physician, and required reports from the monitor/supervisor shall be tolled.

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(3). The provisions regarding preparation of investigative reports detailing compliance with this Stipulation shall be tolled.

(4). Any provisions regarding community service shall be tolled.

b. ACTIVE PRACTICE. In the event that Respondent leaves the active practice of medicine for a period of one year or more, the Probation Committee may require Respondent to appear before the Probation Committee and demonstrate his ability to practice medicine with skill and safety to patients prior to resuming the practice of medicine in this State.

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