BEFORE THE GEORGIA COMPOSITE MEDICAL BOARD

STATE OF GEORGIA

IN THE MATTER OF:

DAVID SAMUEL ROTH, M.D.

License # 54051 Respondent. Docket No. 1005-0023

PUBLIC ORDER TERMINATING PROBATION

WHEREAS, the Georgia Composite Medical Board ("Board") entered a Public Consent Order in the above-styled matter on December 7, 2006, which placed on probation. Respondent's license to practice medicine in the State of Georgia and

WHEREAS, Respondent has petitioned to have the probation terminated, and

WHEREAS, the Board has determined that the Respondent has complied with all the terms and conditions of the probation,

NOW, THEREFORE, IT IS HEREBY ORDERED that the probation of Respondent's license to practice medicine in the State of Georgia be **TERMINATED**.

SO ORDERED, this 6th day of January, 2012.

GEORGIA COMPOSITE MEDICAL BOARD

BY:

CHARLES L. WHITE, D.O.

Chairperson

(Board Seal)

ATTEST:

HÁRN HUGHES

Executive Director

BEFORE THE COMPOSITE STATE BOARD OF MEDICAL EXAMINERS

STATE OF GEORGIA

Composite State Board Of Medical Examiners

APR 0 3 2008

IN THE MATTER OF:

DOCKETNUMBER

DAVID SAMUEL ROTH, M.D., License No. 54051,

DOCKET NO. 10050023

Respondent.

AMENDMENT TO PUBLIC CONSENT ORDER

WHEREAS, on or about December 7, 2006, DAVID SAMUEL ROTH, M.D., Respondent, entered into a Public Consent Order with the Composite State Board of Medical Examiners ("Board"), Docket Number 10050023, which among other restrictions limited his DEA utilization, and placed his license on probation with terms and conditions; and

WHEREAS, on or about December 20, 2007, Respondent petitioned the Board to amend his Public Consent Order to permit him to prescribe, administer and dispense opioid medications; and

WHEREAS, in support of his petition, Respondent submitted a letter from his monitoring physician supporting this change in his Public Consent Order.

NOW THEREFORE, the Board hereby amends the Public Consent Order as follows:

1.

Order, Paragraph 1(h) on Page 5 of the Public Consent Order, restricting Respondent's DEA utilization, is deleted in part. In particular, "Respondent hereby agrees to relinquish his right to prescribe, administer, dispense, order or possess (except as prescribed, administered or dispensed to Respondent by another person authorized by law to do so) opioid medications as defined by the Federal or Georgia Controlled Substances Act. Respondent may request a lifting or modification of this restriction after one (1) year of his reentry to practice" shall be deleted. Except as provided below, all remaining provision under Order paragraph 1(h) shall remain.

2.

The Public Consent Order is further amended pursuant to Order paragraph 1(h) by imposing the following terms and conditions on Respondent's prescribing as deemed necessary by the Board:

- (h)(i) Respondent's DEA use shall be further governed by the following provisions:
 - 1) Triplicate Prescriptions. Respondent shall utilize a triplicate prescriptions system for all opioid medications, as defined by the Federal or Georgia Controlled Substances Act, prescribed by him for consumption off the institutional premises. Each prescription for such a controlled substance written by Respondent shall be sequentially numbered and the copies distributed as follows: original to patient, one copy to the Board, and one copy to the patient's chart. Respondent shall not begin renumbering when he reaches 1000, but shall continue to number sequentially. The copies for the Board shall be mailed or delivered to the Board by Respondent once per quarter. A copy of Respondent's dispensing records shall be provided to the Board upon request for all controlled substances dispensed by him or on his order.
 - 2) <u>Prescription Log</u>. Respondent shall personally maintain for inspection a contemporaneous log (separate from his clinical records or the clinical records of other health care providers) of all opioid medications prescribed, administered, dispensed, or ordered by him. The log shall include the date, patient name, drug, strength, quantity, and refill status, on a form approved by the Board. The log

shall also include the diagnosis and the reasons for prescribing, administering, dispensing, or ordering each drug. The Board shall be authorized to inspect Respondent's prescription log. If Respondent's prescription log fails to comply with the requirements of this Consent Order, the Board is authorized to summarily suspend Respondent's license, pending a hearing.

3) Record Keeping. Prior to prescribing, administering, ordering or dispensing any opioid medications, Respondent shall detail in full, in the patient's file, the examination performed and diagnosis reached. Respondent shall specifically record all physical data of the patient and detail the exact nature of Respondent's evaluation of the patient. In addition to this requirement, Respondent agrees to comply with all record keeping requirements, as directed by the Board.

3.

Except as provided herein, Respondent's license shall remain on probation and subject to all of the remaining terms and conditions as set forth in the Public Consent Order of December 7, 2006. A violation of this Amendment to Public Consent Order shall be considered a violation of a lawful order of the Board as if it were a violation of the December 7, 2006 Consent Order.

4.

This Amendment to Public Consent Order shall become effective upon its acceptance by the Composite State Board of Medical Examiners and its docketing by the Executive Director of the Composite State Board of Medical Examiners.

[Signatures on next page]

Accepted this 3rd day of April, 2008.

COMPOSITE STATE BOARD OF MEDICAL EXAMINERS

BY:

EDDIE R. CHEEKS, M.D. President

(BOARD SEAL)

ATTEST:

Executive Director

BEFORE THE COMPOSITE STATE BOARD OF MEDICAL S

STATE OF GEORGIA

JAN 1 2 2006

IN THE MATTER OF:

DOCKET NUMBER

DAVID ROTH, M.D.

License No. 54051

DOCKET NO.

10050023

Respondent.

PUBLIC CONSENT ORDER

By agreement of the Composite State Board of Medical Examiners ("Board") and David Roth, M.D., ("Respondent"), the following disposition of this matter is entered into pursuant to the provisions of O.C.G.A. § 50-13-13 (a) (4), as amended.

FINDINGS OF FACT

1.

Respondent is licensed to practice medicine in the State of Georgia and was so licensed at all times relevant to the matters stated herein.

2.

In or about January, 2004 Respondent began prescribing controlled substances inappropriately for his own personal use.

3.

On or about March 2005, a mental/physical assessment of the Respondent indicated that Respondent should enter a residential treatment program for chemical dependence.

On or about April 13, 2005 Respondent signed a Private Agreement Not to Practice and agreed to follow the treatment recommendations of the March 2005 mental/physical assessment. Respondent further agreed not to practice medicine in the State of Georgia until he received the written permission of the Board.

5.

In September 2005 Respondent sought an evaluation and treatment from Bradford Health Services. Said evaluation supported the recommendations of the March 2005 assessment and recommended that Respondent submit to long-term residential treatment for chemical dependence.

6.

In or about December, 2005, Respondent entered, but has not yet completed, a residential treatment program for chemical dependence. He alleges that this was due to financial constraints.

7.

Respondent waives any further findings of fact with respect to the above matter.

CONCLUSIONS OF LAW

Respondent's actions constitute sufficient grounds for the Board exercise its disciplinary authority and to impose sanctions on Respondent as a licensee under O.C.G.A. Chapters 1 and 34, T. 43, as amended and the Rules of the Composite State Board of Medical Examiners. Respondent hereby waives any further conclusions of law with respect to the above-styled matter.

<u>ORDER</u>

The Composite State Board of Medical Examiners, having considered the particular facts and circumstances of this case, hereby orders, and Respondent hereby agrees, to the following terms:

1.

Respondent agrees that his license as a physician shall be suspended indefinitely and that he shall not practice as a physician until further order of the Board. If Respondent practices as a physician without express written permission of the Board, Respondent's license shall be subject to revocation, upon substantiation thereof.

2.

Respondent shall enter and complete treatment. Following discharge from treatment, Respondent shall comply with any recommended follow-up care, including a continuing care program, as may be suggested by his treating physician and/or shall comply with further recommendations of the Board. Respondent shall execute a release so that the Board may obtain the results and records relating to any of Respondent's evaluation(s) and/or treatment.

3.

Respondent shall completely abstain from the consumption of alcohol. Respondent shall also completely abstain from the consumption of any mood altering substances, except as prescribed by a duly licensed practitioner for a legitimate medical purpose.

Respondent shall obtain professional advocacy from an advocate acceptable to the Board for his return to the practice of medicine and may be requested to personally meet with the Impairment Committee of the Board to discuss the course of Respondent's rehabilitation. The Board shall have the discretion following such meeting to lift the Respondent's suspension, to place upon Respondent's license any conditions that the Board may deem appropriate, or to deny lifting the suspension if the Board determines that Respondent needs further rehabilitation.

5.

This Consent Order constitutes a PUBLIC REPRIMAND and may be disseminated by the Board as public disciplinary action.

6.

During the period of suspension, the Respondent shall continue to pay the license renewal fee by and before each expiration date, as established by the Board. Failure to pay the license renewal fee shall be grounds for the administrative revocation of Respondent's license without a hearing, as provided by O.C.G.A. § 43-1-19(1), with reinstatement within the discretion of the Board. Respondent acknowledges that when considering the reinstatement of an administratively revoked license, the Board has the authority to review any investigative file relating to the Respondent.

7.

Respondent also understands that pursuant to O.C.G.A. Title 43, Chapter 34A, the contents of this order shall be placed on Respondent's Physician Profile. Furthermore, by

executing this Consent Order, the Respondent hereby agrees to permit the Board to update his Physician Profile reflecting this Consent Order.

8.

Respondent acknowledges that he has read and understands the contents of this Consent Order. Respondent understands that he has the right to a hearing in this matter, and freely, knowingly and voluntarily waives such right by entering into this Consent Order. He understands that this Consent Order will not become effective until approved and docketed by the Composite State Board of Medical Examiners. He further understands and agrees that a representative of the Department of Law may be present during presentation of this Consent Order to the Board and that the Board shall have the authority to review the investigative file and all relevant evidence in considering this Consent Order. Respondent further understands that this Consent Order, once approved, shall constitute a public record, which may be disseminated by the Board as a disciplinary action of the Board. If this Consent Order is not approved, it shall not constitute an admission against interest in this proceeding, or prejudice the right of the Board to adjudicate this matter. Respondent consents to the terms and conditions contained herein.

Approved, this 12 day of

COMPOSITE STATE BOARD OF

MEDICAL EXAMINERS

BY:

ATTEST:

(BOARD SEAL) (Signatures continued on next page.)

Executive Director

CONSENTED TO:

. ,

Sworn to and Subscribe Before me this /u day

of Januar, 2006

NOTARY PUBLIC

My Commission Expires:

DAVID ROTH, M.D.

Respondent

OTARY

OUBLIC

Mississippi Statewide Notary Public My Commission Expires: April 12, 2009 Bonded Thru Notary Public Underwriters

BEFORE THE COMPOSITE STATE BOARD OF MEDICAL EXAMINERS Composite State Board of Medical Examiners

STATE OF GEORGIA

DEC 0 7 2006

IN THE MATTER OF:

DOCKET NO.

DOCKET NUMBER 0050023

DAVID SAMUEL ROTH, M.D., License No. 54051,

Respondent.

PUBLIC CONSENT ORDER REINSTATING LICENSURE

By agreement of the Composite State Board of Medical Examiners (the "Board") and David Samuel Roth, M.D. (the "Respondent"), the following disposition of the matter is entered into pursuant to the provisions of O.C.G.A. § 50-13-13 (a) (4), as amended.

FINDINGS OF FACT

1.

Respondent is licensed to practice medicine in the State of Georgia and was licensed as such at all times relevant to the matters stated herein.

2.

On or about January 12, 2006, Respondent signed a Public Consent Order of indefinite suspension of his license, agreeing not to practice as a physician until further order of the Board.

On or about April 10, 2006, Respondent was discharged from the Harbor House Recovery Center in Jackson, Mississippi upon the successful completion of treatment goals related to his recovery from opioid dependence.

On or about May 12, 2006, the Board received correspondence from Kevin J. Winders, M.D., a psychiatrist in Savannah, Georgia. Dr. Winders confirmed Respondent's continued sobriety since beginning treatment with him in January 2005, as well as Respondent's

compliance with his directives. Dr. Winders also offered a positive prognosis for Respondent based on his continued adherence to treatment goals.

5.

Respondent entered outpatient treatment with D. Ray Gaskin, Jr., M.D., an addiction medicine specialist in Savannah, Georgia, in June 2006. The Board received correspondence from Dr. Gaskin dated August 18, 2006, advocating for the Respondent to be allowed to return to the practice of medicine. Dr. Gaskin submitted an aftercare plan for the Respondent to the Board on August 23, 2006, containing suggestions for Respondent's ongoing treatment for chemical dependence.

6.

Respondent admits the above findings of fact and waives any further findings of fact with respect to the above-styled matter.

CONCLUSIONS OF LAW

Respondent's conduct/conditions constitute sufficient grounds to impose conditions upon Respondent's license to practice medicine in the State of Georgia, at such time as a license may be reinstated, pursuant to O.C.G.A. Chs. 1 and 34, T. 43, as amended. Respondent hereby waives any further conclusions of law with respect to the above-styled matter.

<u>ORDER</u>

The Composite State Board of Medical Examiners, having considered the particular facts and circumstances of the case, hereby orders, and Respondent hereby agrees, to the following terms and conditions:

1.

Beginning on the effective date of the Public Consent Order Reinstating Licensure, the suspension on Respondent's license shall be lifted and his license reinstated and placed upon

probation until terminated by a written order of the Board, and he will be allowed to practice medicine in the State of Georgia under the following terms and conditions:

- (a) Restrictions on Practice. Respondent may practice medicine only at a Board approved facility in the metro Savannah area or at another location approved by the Board. Prior to beginning employment, Respondent shall submit information about the practice, location and facility to the Medical Director for approval. In the event that Respondent changes employment or practice location during the period of probation, Respondent shall submit information about the practice, location and to the Medical Director for approval prior to beginning practice.
- (b) Work Hours Restrictions. Respondent shall work only an average of 40 hours per calendar week, but no more than 45 hours in one calendar week. After working under this limitation for one (1) year, the restriction may be lifted by the Board provided that Respondent has the support of his treatment counselor(s). Until the Board enters an Order increasing the maximum work hours per calendar week, Respondent will work under this restriction.
- (c) Treatment/Aftercare/Monitoring Physician. During the probationary period, the Respondent agrees to continue to participate in treatment and/or an aftercare program acceptable to the Board under D. Ray Gaskin, Jr., M.D., or another monitoring physician approved by the Board. Respondent shall provide a copy of this Consent Order to said monitoring physician, and said monitoring physician shall sign a statement in substantially the form attached hereto as Attachment A to be submitted to the Board within ten (10) days of the docketing of this Order, as evidence of having read and understood same and having agreed to serve as Respondent's monitoring physician. Respondent's monitoring physician shall submit to the Board reports as provided in section (f) regarding Respondent's progress in the therapy program and any medications Respondent is prescribed. Respondent shall obtain prior Board approval through the Medical Director for any change in monitoring physician. Failure of Respondent to comply with any of the

requirements of his aftercare contract shall subject Respondent's license to revocation, upon substantiation thereof after notice and hearing. After attending an aftercare program for four (4) years, Respondent may request a lifting or modification of this restriction. At the time of Respondent's request, he must provide written statements from his Monitoring physician that (s)he supports lifting or modifying this restriction. This restriction shall remain in effect pending notification from the Board that the restriction has been lifted.

- (d) Participation in Support Group. Respondent shall continue to regularly participate in meetings of Alcoholics Anonymous, Narcotics Anonymous, Caduceus Club or another similar support group acceptable to the Board a minimum of three (3) times per week in accordance with his aftercare contract or as otherwise required by the Board. Respondent shall also obtain an Alcoholics Anonymous sponsor and will relinquish anonymity to the extent to permit verification of attendance and participation.
- (e) Abstain from Mood Altering Substances. Respondent shall completely abstain from the consumption of alcohol. Respondent shall also completely abstain from the consumption of mood altering substances, except as prescribed by a duly licensed practitioner for a legitimate medical purpose. If such treatment entails the use of narcotics or other potentially addictive substances, Respondent shall have his treating physician obtain a consultation with the Board approved monitoring physician, who shall notify the Medical Director within ten (10) calendar days of the event.
- (f) Quarterly Reports. Respondent shall submit or cause to be submitted quarterly reports from his monitoring physician regarding his mental/physical condition by March 31, June 30, September 30 and December 31 of each calendar year, including a report on any medication being prescribed to Respondent. Failure to submit or have such reports submitted in a timely manner shall be considered a violation of the Consent Order. It is expected that said monitoring

physician will immediately report any change in Respondent's condition, which would render Respondent unable to practice with reasonable skill and safety to patients. By executing the Consent Order, Respondent specifically consents for such monitoring physician or any other facility where Respondent obtains medical treatment to report on Respondent's condition, notwithstanding any privilege provided by state or federal law. Respondent shall obtain prior Board approval through the Medical Director or Executive Director for any change in the monitoring physician.

- (g) Random Urine Drug/Alcohol Screens and other Screens. The Board or its representative or Respondent's monitoring physician shall have the authority at any time to order Respondent to undergo random witnessed and immediate drug/alcohol urine, biological fluid, hair or blood screen analysis, and at Respondent's expense. Proper chain of custody shall be maintained and positive results shall be confirmed by such means as may be required to ensure the validity of such screening. Refusal to undergo a properly requested drug/alcohol, biological fluid, hair or blood screen analysis shall be considered a violation of this Consent Order and shall be grounds for revocation of Respondent's license to practice medicine in the State of Georgia.
- (h) <u>Prescribing Restrictions</u>. Except as provided herein, Respondent hereby agrees to relinquish his right to prescribe, administer, dispense, order or possess (except as prescribed, administered, or dispensed to Respondent by another person authorized by law to do so), opioid medications as defined by the Federal or Georgia Controlled Substances Act. Respondent may request a lifting or modification of this restriction after one (1) year of his reentry to practice.

 After lifting this restriction the Board may impose additional terms and conditions on Respondent's prescribing as it deems necessary.
- (i) <u>Further Evaluation</u>. At any time during the period of probation, the Board shall also have the authority to order Respondent to undergo a physical or mental evaluation by physicians

designated by the Board. Respondent shall execute such releases as may be required for the Board to obtain the results of such evaluations.

- (j) <u>Periods of Residency Outside Georgia</u>. In the event Respondent should leave Georgia to reside or practice outside of Georgia for periods longer than thirty (30) consecutive days, Respondent shall notify the Board in writing of the dates of departure and return. Periods of residency or practice outside of Georgia as well as periods when Respondent is not actively engaged in practicing as a physician will not apply to the reduction of Respondent's probation period, except as authorized by the Board.
- (k) Employment/Residency. Respondent shall advise the Board of any change in address of record or employment status within ten (10) days of making the change.
- (I) Abide By Laws, Rules and Terms. Respondent shall abide by all State and Federal laws regulating his practice as a physician or relating to drugs, the Rules and Regulations of the Composite State Board of Medical Examiners and the terms of the Consent Order and probation. If Respondent shall fail to abide by such laws, rules or terms, or if it should appear from probation reports submitted to the Board that Respondent is otherwise unable to practice with reasonable skill and safety to patients, or should Respondent violate the criminal laws of the state, including any term of probation, if any, Respondent's license shall be subject to further discipline, including revocation, upon substantiation thereof after notice and hearing, and if revoked, the Board in its discretion may determine that the license should be permanently revoked and not subject to reinstatement. Respondent further agrees that any violation of the Consent Order shall be deemed to be sufficient to authorize the Board to order summary suspension of Respondent's license, pending further proceedings, pursuant to the provisions of the Georgia Administrative Procedure Act, O.C.G.A. § 50-13-18(c)(1), or any other statute

authorizing emergency action, but Respondent understands that Respondent shall be entitled to an expedited hearing to substantiate such violation(s), if the Board exercises such right.

- (m) <u>Disclosure</u>. In addition to other disclosures required by the Consent Order, Respondent shall supply a copy of the Consent Order, once approved and docketed, and within ten (10) days from receipt of the docketed copy by Respondent, to each hospital or other institution in Georgia where Respondent maintains staff privileges of any kind, and to any person with whom Respondent is associated in practice, including other physicians or physician's assistants or to any person or entity for whom Respondent is employed as a physician in the State of Georgia. Respondent shall also be required to disclose the existence of and provide a copy of the Consent Order to such individuals or entities in connection with any future application for institutional appointment, associated practice, utilization of a physician's assistant, or employment as a physician in the State of Georgia while the Consent Order is in effect. By executing the Consent Order, Respondent specifically consents to any such individuals or entities reporting to the Board information which would affect Respondent's ability to practice medicine with reasonable skill and safety to patients, notwithstanding any privilege provided by state or federal law. Respondent shall document compliance with this condition utilizing the form attached hereto as Attachment B, or a substantially similar form.
- (n) <u>Termination of Probation</u>. Respondent shall not be eligible to petition for termination of probation until demonstrating five (5) years of sobriety from the effective date of this Consent Order. At such time, Respondent may petition for termination by certifying under oath before a notary public that he has complied with all conditions of probation and by providing documentation supporting discharge from probation, including, but not limited to, a written statement from Respondent's supervisor and monitoring physician that said supervisor and monitoring physician agree with terminating the probation period. The Composite State Board

of Medical Examiners shall review and evaluate the practice of Respondent prior to lifting the probation. At such time, the Board shall be authorized, but is not required, to terminate the probation period. If the Board denies the Respondent's petition for termination of probation, Respondent may petition for termination of probation on an annual basis thereafter. In any event, the Consent Order shall remain in effect pending a final determination by the Board and notification that the probation period has terminated.

2.

This Consent Order Reinstating Licensure shall constitute a public order of the Board and may be disseminated as such.

3.

Respondent acknowledges that Respondent has read the Consent Order and understands its contents. Respondent understands that he has a right to an appearance, and freely, knowingly, and voluntarily waives that right. Respondent understands that the Consent Order will not become effective until approved and docketed by the Composite State Board of Medical Examiners. Respondent further understands and agrees that a representative of the Department of Law may be present during the presentation of the Consent Order to the Board and that the Board shall have the authority to review the application file and all relevant evidence in considering the Consent Order. Respondent further understands that the Consent Order, once approved, shall constitute a public record that may be disseminated as provided in Paragraph 2. However, if the Consent Order is not approved, it shall not constitute an admission against interest in the proceeding, or prejudice the right of the Board to adjudicate the matter. Respondent consents to the terms and conditions contained herein.

Approved, this 2 day of December 2006.

(BOARD SEAL)

COMPOSITE STATE BOARD OF

MEDICAL EXAMINERS

JOSEPH C. FINLEY, SR, M.P

President

ATTEST:

LASHARN HUGHES

Executive Director

CONSENTED TO:

Marin Samuel Roth M.D.
DAVID SAMUEL ROTH, M.D.

Respondent

Sworn to and Subscribed before me this _____ day of ______ 2006.

NOTARY PUBLIC

My Commission Expires:

ELIZABETH F. MILES Notary Public, Chatham County, GA My Commission Expires August 12, 2007

DISCLOSURE STATEMENT

I D.RAY GASKIN, JR, MD, have been provided with a copy of the Consent Order

between David Samuel Roth, M.D., and the Georgia Composite State Board of Medical

Examiners. My relationship to Dr. David Samuel Roth is that of a

P. Wile

MONITORING PHYSICIAN

NAME (please print) D. RAY GASKIN JR. M.D.

ADDRESS: 315 COMMERCIAL DRIVE SVITE 8-3

SAVANNAH, GA 31416-3145

TELEPHONE: 912 352-9902

LICENSE NO.: 28117

Sworn to and subscribed before me the day

NOTARY PUBLIC

My commission expires:

ELIZABETH P. MILES Notary Public, Chatham County, GA My Commission Expires August 12, 2007

ATTACHMENT B

MONITORING PHYSICIAN'S STATEMENT

The undersigned monitoring physician acknowledges that he has read the attached Consent Order and agrees to serve as Dr. David Samuel Roth's monitoring physician.

Sworn to and subscribed before me the day of 2006.

NOTARY PUBLIC

My commission expires:

(Signed) Mane: D. Ray Gaskin, Jr., M.D.

Monitoring Physician/Therapist

Program: D. Ray Gaskin, Jr., M.D. Address: 315 Commercial Drive

Suite B-3

Savannah, GA 31416-3145

Telephone: 912-352-9902

License No. 28117

ELIZABETH P. MILES Notary Public, Chatham County, GA My Commission Expires August 12, 2007