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**JonesReporting**  
*COMPANY*

**Pre-Hearing Conference**

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**Volume: I**

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**COMMONWEALTH OF MASSACHUSETTS  
DIVISION OF ADMINISTRATIVE LAW APPEALS  
PREHEARING CONFERENCE**

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**BOARD OF REGISTRATION IN MEDICINE,**

**Petitioner,**

**Docket No.**

**vs.**

**BHARANI PADMANABHAN, M.D.,**

**10-426**

**Respondent.**

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**Before: Kenneth Bresler, Administrative Magistrate**

**At: Division of Administrative Law Appeals**

**One Congress Street**

**Boston, Massachusetts 02114**

**Date: August 21, 2014**

**Time: 9:50-10:31 a.m.**

**Cynthia F. Stutz, CSR, Court Reporter**

**Pre-Hearing Conference**

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**APPEARANCES:**

**STEPHEN C. HOCTOR, ESQ.**

**Board of Registration in Medicine**

**200 Harvard Mill Square, Suite 330**

**Wakefield, Massachusetts 01880**

**781-876-8200 stephen.hoctor@state.ma.us**

**on behalf of the Petitioner**

**BHARANI PADMANABHAN, M.D.**

**30 Gardner Road, Unit 6A**

**Brookline, Massachusetts 02445**

**617-566-6047 scleroplex@gmail.com**

**appearing pro se**

**ALSO PRESENT: Loretta J. Cooke, BSN, RN, LNC**

## Pre-Hearing Conference

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1 P R O C E E D I N G S

2 THE MAGISTRATE: So appearing for  
3 the Board, Mr. Hoctor, good morning.

4 MR. HOCTOR: Good morning.

5 THE MAGISTRATE: Are you with the  
6 Board?

7 MS. COOKE: Yes. I'm, my name is  
8 Loretta Cooke. I'm a clinical care investigator for  
9 the Board.

10 THE MAGISTRATE: Welcome.

11 MS. COOKE: Thank you

12 MR. HOCTOR: Okay, Doctor, you can  
13 fill it out now as the prehearing conference  
14 proceeds, or you can fill it out when the prehearing  
15 conference ends and leave it at the front desk.

16 Some matters that I want to raise  
17 before I hear from the parties. Doctor, you don't  
18 have to have a lawyer, but you do have to know what  
19 to do in a tribunal like this.

20 I'm sorry, welcome. Do you have a  
21 card? Okay. So, Miss Stutz, if anybody talks loud  
22 or too fast, let us know.

23 So parties are expected to be  
24 familiar with DALA's Website, the Division of

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1 Administrative Law Appeals Website, the Code of  
2 Massachusetts Regulations and the Standing Order  
3 13-1.

4 Doctor, I'm going to ask you to be  
5 familiar with what I'm allowed to do and not do. I  
6 have no more authority to report the Board of  
7 Registration in Medicine to the Office of the  
8 Attorney General than you do as a private citizen.  
9 I am not telling you to report the Board of  
10 Registration in Medicine to the Attorney General.  
11 I'm telling you that I don't have official authority  
12 to do that. And I expect to you be familiar with  
13 what I can and cannot do. It will save time for  
14 everybody involved, not only for me, but for the  
15 Attorney General.

16 The issue in any hearing that  
17 Division of Administrative Law Appeals will hold  
18 will be on the statement of allegations brought by  
19 the Board of Registration in Medicine, not whistle  
20 blowing or whatever. If your position is that the  
21 Board of Registration in Medicine made allegations  
22 because you were a whistle blower, your job is to  
23 refute the allegations.

24 You can explain to me that the Board

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1 of Registration in Medicine may have a motive for  
2 false allegations against you, but this is not going  
3 to be a whistle blower trial. This is not going to  
4 be a hearing of the truth of your allegations.

5 The Board of Registration in  
6 Medicine has brought allegations against you. Any  
7 hearing that is held is going to be on those. You  
8 have to refute those. Those are the issues.

9 Let's look at the pleadings that  
10 were filed. First I have something that I received  
11 August 4th. I'm holding it up now. It starts with  
12 a quote by Solzhenitsyn.

13 What you file with me, Doctor, has  
14 to be relevant. I will spend the proper amount of  
15 time on this, but what you filed with me has to be  
16 relevant. The Board of Registration in Medicine has  
17 to go over it, too, and other people need to be  
18 heard in this tribunal. If I'm spending time  
19 reading a quote by Colonel John R. Boyd of the  
20 United States Air Force, then I'm not tending to  
21 other people's cases.

22 So is this a motion for dismissal?

23 DR. PADMANABHAN: This, and the  
24 subsequent response to the Board's opposition.

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1                   **THE MAGISTRATE:** Okay. We'll get to  
2 the subsequent response. This is a motion for  
3 dismissal?

4                   **DR. PADMANABHAN:** Yes, sir.

5                   **THE MAGISTRATE:** Okay. Let's turn  
6 to Paragraph 85. I'm not going to expunge notices  
7 sent to the Board of Registration in Medicine.

8                   Number 87. I am not going to refer  
9 the Board of Registration in Medicine to the Office  
10 of the Attorney General.

11                   Are there any other requests in  
12 there that I'm missing besides the motion to  
13 dismiss?

14                   **DR. PADMANABHAN:** 81, sir. I would  
15 be grateful if you could read all the subparagraphs  
16 at some point.

17                   **THE MAGISTRATE:** Okay. So that's  
18 the motion to dismiss. Are there any other motions  
19 in these first nine pages?

20                   **DR. PADMANABHAN:** No, sir.

21                   **THE MAGISTRATE:** Okay. So the  
22 motion to dismiss I deny.

23                   Now, anything you have submitted in  
24 the first nine pages and all the documents you have

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1 attached to them, if they are relevant to the  
2 allegations that the Board of Registration in  
3 Medicine has brought against you, you have to bring  
4 them again. You have to bring these statements and  
5 these documents to my attention again. The fact  
6 that you submitted them for a motion to dismiss  
7 doesn't mean they're in front of me for the  
8 substantive case.

9 DR. PADMANABHAN: By again, you mean  
10 I should submit another written motion?

11 THE MAGISTRATE: No, because after  
12 the motions, depending on how the case proceeds,  
13 there's going to be a hearing on the allegations  
14 against you. The fact that you have submitted these  
15 nine pages with 87 paragraphs in them does not mean  
16 that that information is in front of me for the  
17 hearing. You have to bring it back. Same thing  
18 with all these documents. It's about --

19 DR. PADMANABHAN: The nine pages,  
20 Your Honor, explain how this case came about and how  
21 the Board arrived at these false allegations and how  
22 the Board --

23 THE MAGISTRATE: Doctor, I'm  
24 speaking. If there's a hearing in the case, I am

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1 telling you you can bring this information back, but  
2 the fact that you have submitted this in a motion to  
3 dismiss does not mean it automatically enters into  
4 the hearing.

5 Same thing with the documents. If  
6 these documents are relevant to refuting the  
7 allegations, you have to propose them as exhibits  
8 before the hearing. Okay. So you're nodding your  
9 head, so you understand?

10 DR. PADMANABHAN: Understood.

11 THE MAGISTRATE: Okay. I'm going to  
12 let the Board of Registration in Medicine know that  
13 it does not have to respond to motions from the  
14 Doctor unless I invite a response.

15 MR. HOCTOR: All right, thank you.

16 THE MAGISTRATE: Now, Doctor, I want  
17 to talk about your response to the Board of  
18 Registration in Medicine's, to their opposition.  
19 This can't go on forever. You sent us a six page  
20 single-spaced opposition with a half inch of  
21 documents.

22 You have to make your case in a  
23 motion and the Board of Registration in Medicine  
24 will file an opposition and that's it. If you have

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1 a response to the Board of Registration in  
2 Medicine's opposition, file a motion with me asking  
3 for permission to respond to their opposition.  
4 Okay? That motion has to be one page maximum.  
5 Okay? Your submissions to me should be in 12 point  
6 and double spaced.

7 So, Doctor, if you file another  
8 motion, again, it has to be relevant. You have to  
9 be familiar with the law. You can not ask me to do  
10 things that I'm not authorized to do. The Board of  
11 Registration in Medicine does not have to respond to  
12 it unless I invite an opposition.

13 DR. PADMANABHAN: May I speak?

14 THE MAGISTRATE: Not just yet. If  
15 the Board of Registration files an opposition and  
16 you have a response to that, you have to file a  
17 motion, one page maximum, asking for permission to  
18 file an opposition, a response to the opposition.  
19 If I grant it, then you can file an opposition.

20 I'm going to ask you to -- I will  
21 give you a chance to speak, but I'm going to ask you  
22 to hold off.

23 Okay. In the opposition, if there  
24 are facts in the six pages and if there are

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1 documents attached to it that are relevant to your  
2 refuting the allegations by the Board of  
3 Registration in Medicine, you have to submit them  
4 during the hearing. The fact that you have  
5 submitted them in a response to the opposition does  
6 not mean that they're automatically before me. If  
7 you're saying -- Well, I'm going to move on.

8 Is there a motion to recuse in front  
9 of me? Have you moved to recuse me from the case?

10 DR. PADMANABHAN: No, sir.

11 THE MAGISTRATE: Okay. Okay. Those  
12 are my preliminaries.

13 Doctor, did you have questions or  
14 comments?

15 DR. PADMANABHAN: I actually wrote a  
16 short speech that I would like to read into the  
17 record.

18 THE MAGISTRATE: I'm going to ask  
19 you to hold off on that.

20 DR. PADMANABHAN: I would also,  
21 before that, explain that the reason why I sent in  
22 the response to the opposition was because I was  
23 taken unawares. I didn't realize that the Board  
24 would send in an opposition. I thought we were

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1 going to do everything here today. And since they  
2 sent in an opposition, I felt compelled to respond.

3 THE MAGISTRATE: Okay. Before we  
4 hear from the Doctor, are there other motions or  
5 procedural matters?

6 MR. HOCTOR: Just one. Just for the  
7 record, I wanted to get on the record who was  
8 accompanying Dr. Padmanabhan today.

9 THE MAGISTRATE: Doctor, you can  
10 identify the people who are with you if you want,  
11 but there haven't made appearances and it's a public  
12 prehearing conference.

13 DR. PADMANABHAN: This is a friend  
14 of mine.

15 THE MAGISTRATE: Okay.

16 Dr. PADMANABHAN: As appearing as  
17 the general public.

18 THE MAGISTRATE: Okay. Anything  
19 else preliminarily?

20 Doctor, so you said you have a  
21 speech to make.

22 DR. PADMANABHAN: Short speech.

23 THE MAGISTRATE: And this is in  
24 response to the allegations by the Board?

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1 DR. PADMANABHAN: Yes.

2 THE MAGISTRATE: So you may. You  
3 can do it standing or seated, as you wish.

4 DR. PADMANABHAN: I can stand.

5 Respected Magistrate Bresler, good morning. I thank  
6 you for the opportunity to be heard and be heard  
7 transparently in public as any matter concerning  
8 public safety fully should be.

9 You already have 150 pages of hard  
10 documentary evidence in your possession proving that  
11 the Commonwealth of Massachusetts Board of  
12 Registration in Medicine serves as the hit man for a  
13 criminal hospital system called Cambridge Health  
14 Alliance. The Board has consciously kept this  
15 docket open for 1,351 days to delay a massive civil  
16 lawsuit against Cambridge and Dr. Nardin.

17 THE MAGISTRATE: Doctor, I'm going  
18 to cut you off, because again, this proceeding is  
19 not about your allegations about anybody else.

20 DR. PADMANABHAN: It explains why we  
21 have the allegations in the first place, Your Honor.

22 THE MAGISTRATE: This proceeding is  
23 basically and primarily and first and foremost the  
24 allegations against you by the Board of Registration

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1 in Medicine.

2 DR. PADMANABHAN: I shall then  
3 respond to --

4 THE MAGISTRATE: Doctor, let me  
5 continue.

6 You may refute those. You may  
7 provide in a limited sense your reasons why you  
8 think the Board of Registration in Medicine has made  
9 false allegations against you, but this will not be  
10 about other hospitals. This will be not about be  
11 about the Board of Registration in Medicine. This  
12 will be about the allegations the Board has brought  
13 against you and your refutation against them. This  
14 will not be about your allegations.

15 DR. PADMANABHAN: No, sir. This is  
16 not about my allegations. This is about how the  
17 Board came up with these allegations against me and  
18 kept this docket alive for 1,351 days.

19 THE MAGISTRATE: You can proceed  
20 again with the, with the understanding that I may  
21 cut you off again if this veers into the irrelevant.

22 DR. PADMANABHAN: I shall be happy  
23 to just give this to you as a written motion, then.

24 THE MAGISTRATE: If it's not

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1 relevant, I'm not going to accept it, Doctor. I  
2 already have these documents in front of me from  
3 you.

4 DR. PADMANABHAN: There have been  
5 some developments since my response to the  
6 opposition and this is essentially from the Board.

7 THE MAGISTRATE: Okay. Are they  
8 relevant about the allegations the Board has made  
9 against you and substandard care against certain  
10 patients?

11 DR. PADMANABHAN: Yes.

12 THE MAGISTRATE: Okay.

13 DR. PADMANABHAN: May I read those  
14 portions?

15 THE MAGISTRATE: Yes.

16 DR. PADMANABHAN: Okay. After my  
17 initial response to DALA and my subsequent response  
18 to the Board's written opposition, the Board  
19 suddenly sent me 15 pages of e-mails.

20 And I actually made a copy for you,  
21 Your Honor.

22 THE MAGISTRATE: Well, before you  
23 hand them to me, I'm going to ask what the relevance  
24 is.

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1 DR. PADMANABHAN: It's relevant to  
2 the allegations in this case and how the allegations  
3 were formed.

4 THE MAGISTRATE: Okay. This is a  
5 preliminary -- What I'm doing now is giving you an  
6 informal and unofficial chance to tell me your side  
7 of the story. But in terms of giving me exhibits  
8 and presenting actual testimony, that will be at a  
9 hearing, not this prehearing conference

10 DR. PADMANABHAN: Fair enough. So I  
11 should present this at the hearing?

12 THE MAGISTRATE: If it's relevant,  
13 if it's relevant.

14 DR. PADMANABHAN: It absolutely is  
15 relevant, 100%.

16 THE MAGISTRATE: You can -- What you  
17 can do is tell me preliminarily, unofficially and  
18 informally your response to the allegation if you  
19 wish.

20 DR. PADMANABHAN: The allegations  
21 derive from Dr. Rachel Nardin and Cambridge Health  
22 Alliance and the Board of Registration in Medicine  
23 through these e-mails, communicated extensively and  
24 exclusively with Dr. Rachel Nardin in forming these

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1 allegations even after I was exonerated by a fair  
2 hearing on these allegations.

3 THE MAGISTRATE: Let me back up.  
4 The name of the doctor you were referring to?

5 DR. PADMANABHAN: Dr. Rachel Nardin,  
6 N-a-r-d-i-n.

7 THE MAGISTRATE: Okay.

8 DR. PADMANABHAN: Former chief of  
9 neurology. My apology for --

10 THE MAGISTRATE: And the hearing was  
11 where?

12 DR. PADMANABHAN: Cambridge  
13 Hospital.

14 THE MAGISTRATE: Okay. So that  
15 hearing may or may not be relevant to this  
16 proceeding. Any information that came out in that  
17 hearing might be relevant to hear, but the fact that  
18 Cambridge Hospital had a hearing, decided something,  
19 I'm not bound by that decision.

20 DR. PADMANABHAN: I understand, sir.

21 THE MAGISTRATE: Okay.

22 DR. PADMANABHAN: The issue is the  
23 biggest single allegations have been repeated by the  
24 Board after I was exonerated and the Board has not

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1 done --

2 THE MAGISTRATE: That's what I'm  
3 saying. The exoneration --

4 DR. PADMANABHAN: And the Board has  
5 not done its own independent evaluation.

6 THE MAGISTRATE: Doctor, the  
7 exoneration of you by another entity is not --

8 DR. PADMANABHAN: Understood.

9 THE MAGISTRATE: Does not dispose  
10 the allegations by the Board of Registration in  
11 Medicine.

12 DR. PADMANABHAN: My point is the  
13 Board is obligated to conduct an independent  
14 investigation and evaluation of the allegations  
15 before it submits its statement of allegations to  
16 DALA. The Board had 1,351 days --

17 THE MAGISTRATE: I'm not looking  
18 into the Board of Registration's procedure. I'm  
19 looking into the allegations that they've brought  
20 against you.

21 DR. PADMANABHAN: How can a Board  
22 come up with allegations without investigation?

23 THE MAGISTRATE: I am not looking  
24 into the Board of Registration of Medicine's

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1 allegations, the procedure. I'm looking into the  
2 allegations against you. I'm narrowing the issues  
3 and letting you know how this appeal will proceed.

4 DR. PADMANABHAN: In that case, I  
5 should probably proceed straight to hearing, because  
6 the allegations are false.

7 THE MAGISTRATE: It sounds like this  
8 is heading towards a hearing, so let's talk about  
9 scheduling a hearing.

10 Mr. Hoctor, how many witnesses do  
11 you think you will call?

12 MR. HOCTOR: I'm not sure about  
13 that, Your Honor. About five to eight.

14 THE MAGISTRATE: Do you expect all  
15 the patients to testify?

16 MS. COOKE: No, sir.

17 MR. HOCTOR: I apologize. I just  
18 got on this late yesterday.

19 THE MAGISTRATE: Miss Cooke, your  
20 understanding of the case is that not all patients  
21 will testify?

22 MS. COOKE: That is correct, sir.

23 THE MAGISTRATE: Any idea how many?

24 MS. COOKE: Approximately five, but

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1 they're not patient related.

2 THE MAGISTRATE: Approximately five  
3 witnesses?

4 MS. COOKE: Five witnesses.

5 THE MAGISTRATE: And do you expect  
6 to have any of the patients testifying?

7 MS. COOKE: None. Maybe one.

8 THE MAGISTRATE: Okay. Doctor,  
9 assuming this proceeds to trial, how many witnesses  
10 do you think you will call?

11 DR. PADMANABHAN: Twelve.

12 THE MAGISTRATE: And do you expect  
13 to testify?

14 DR. PADMANABHAN: Yes, sir, gladly.

15 THE MAGISTRATE: Excuse me?

16 DR. PADMANABHAN: Gladly. It's  
17 important to note, Your Honor, that the Board has  
18 not contacted a single one of the patients on this,  
19 not in 1,351 days.

20 THE MAGISTRATE: Okay. Let's come  
21 up with an estimate as to how long the hearing will  
22 be. Four to five days?

23 MS. COOKE: Three to five days, sir.

24 THE MAGISTRATE: Three to five days?

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1 MS. COOKE: Yes.

2 THE MAGISTRATE: Okay. So let's  
3 look for a clear week in everybody's calendar. I'm  
4 looking at a personal calendar. I'm looking at  
5 availability of hearing rooms.

6 Hold on, I'm still checking. How  
7 does the first week of December look to the parties?

8 MS. COOKE: Actually, sir, I'm going  
9 to be here on another matter that week for the  
10 Board.

11 THE MAGISTRATE: I see that case.  
12 Yeah, okay.

13 MS. COOKE: The second?

14 THE MAGISTRATE: The next week is  
15 also a Board case here.

16 MS. COOKE: May I make a  
17 recommendation, sir?

18 THE MAGISTRATE: Of course.

19 MS. COOKE: January 5th or  
20 January 12th, that week.

21 THE MAGISTRATE: Doctor, how does  
22 that look for you?

23 DR. PADMANABHAN: Yes, sir.

24 THE MAGISTRATE: Okay. I don't have

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1 a 2015 calendar in front of me

2 MS. COOKE: I do. Martin Luther  
3 King Day will be on the 19th, which is a Monday.

4 THE MAGISTRATE: Thank you. So  
5 January 12th and then the Friday of that week is the  
6 --

7 MS. COOKE: 16th.

8 THE MAGISTRATE: 16th. Doctor, how  
9 does that look for you?

10 DR. PADMANABHAN: So January 12th?

11 THE MAGISTRATE: January 12th  
12 through 16th.

13 DR. PADMANABHAN: Yes, sir.

14 THE MAGISTRATE: We'll set it for  
15 10:00 in the morning until 4:00 in the afternoon.  
16 If we don't need all those days, we won't use them.  
17 If we need more time during the day, we might extend  
18 it a little bit earlier, a little bit later. Excuse  
19 me.

20 Okay. I'm going to ask the parties  
21 to actually stipulate to things, so certain things,  
22 Doctor, like your license number or your education,  
23 I'm going to ask for actual stipulations, facts that  
24 are not in dispute, so they can just be put on a

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1 piece of paper and submitted to me. We can save a  
2 little bit of time on that.

3 DR. PADMANABHAN: Should I submit  
4 them?

5 THE MAGISTRATE: You will confer  
6 with Mr. Hoctor or another representative of the  
7 Board of Registration in Medicine and there will be  
8 a joint thing. Mr. Hoctor will probably take care  
9 of it.

10 MR. HOCTOR: It's going to be  
11 Mr. Paikos. He was ill today, so I'm just standing  
12 in for him last minute.

13 THE MAGISTRATE: Okay. I will be  
14 sending out a written notice to both sides setting  
15 the date. I will tell you now what the notice will  
16 also say. I need a list of witnesses a week before  
17 the hearing, a list -- I need the actual exhibits a  
18 week before the hearing -- not a list of the  
19 exhibits, the actual exhibits. I'm going to ask the  
20 parties to confer so that there's not an overlap of  
21 exhibits. One exhibit has to be the statement of  
22 allegations and one exhibit has to be the Doctor's  
23 appeal. Doesn't have to be Exhibits 1 and 2, but  
24 they have to be in there. Excuse me.

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1           All communications with me, excuse  
2 me, should be by U.S. mail or fax, but not both.  
3 That's what the Standing Order 13-1 says.

4           I need you to follow Standing Order  
5 13-1, especially for continuances. If you did not  
6 get a copy of Standing Order 13-1, check with Miss  
7 Frisoli at the front desk. She has it.

8           Docket number has to go on all  
9 submissions and anything you send me has to go to  
10 the other side.

11          Social security numbers have to come  
12 off all documents. Please take out the names of  
13 minors, take out the names of any persons home  
14 address and any person's date of birth.

15          I am not going to allow either party  
16 to ask a question of a witness about a document that  
17 the witness has never seen before. Parties will not  
18 be allowed to show a document to a witness and ask  
19 for a comment on it.

20          Parties will not be allowed to ask  
21 one witness why another person may have said  
22 something either in the hearing or outside the  
23 hearing. Parties will not be allowed to ask one  
24 witness to comment on another witness' testimony.

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1                   If either side starts a question  
2 with, "Would it surprise you," I will stop them. I  
3 will not allow that question. If either party  
4 starts a question with, "Would it refresh your  
5 memory if I told you," I will stop them. That's not  
6 a way to refresh memory.

7                   I ask both parties to remember that  
8 there's no jury. That means that the parties do not  
9 have to make the same point multiple times.

10                  I'm going to ask both parties not to  
11 engage in what is colloquially called a document  
12 dump. I don't care about complete documents. I  
13 want relevant pages. Documents over five pages have  
14 to be numbered individually. When I say I want  
15 relevant pages, if there's a 50 page document and  
16 there's only one sentence that's relevant, find a  
17 way to give me the first page and just the relevant  
18 page.

19                  I especially don't want patient  
20 records that are unrelated to the allegations. I  
21 don't need to see people's medical records unrelated  
22 to the allegations. It's not a good use of my time  
23 and it's an invasion of other people's privacy.

24                  There will be no character witnesses

1 at the hearing.

2 Doctor, if you want to submit  
3 documents on why the Board of Registration in  
4 Medicine should not discipline you, if it decides to  
5 discipline you, you can submit that and I will make  
6 it part of the record and pass it along.

7 Any witnesses you call should be  
8 familiar with exhibits that they will testify about.  
9 It is not coaching for them to see documents in  
10 advance. If there's maps, such as layouts of  
11 hospital, witnesses should not be seeing them for  
12 the first time on the witness stand figuring them  
13 out. If a witness wrote a report and needs to  
14 testify about it, they should not be seeing it for  
15 the first time in a year or for the first time in  
16 five years or however long ago they wrote the  
17 report.

18 Any questions for me? Any other  
19 matters?

20 MR. HOCTOR: I had one other matter,  
21 Your Honor.

22 THE MAGISTRATE: Yes.

23 MR. HOCTOR: I just wanted to put on  
24 the record I have from Mr. Paikos the Board's

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1 responses to Dr. Padmanabhan's first request for  
2 production of documents, second request for  
3 production of documents, and the Board's first  
4 request for production of documents that I want  
5 to --

6 THE MAGISTRATE: Okay. Do I need to  
7 see them?

8 MR. HOCTOR: No. I just want to put  
9 on the record that I'm serving him with them today  
10 or providing these responses today.

11 THE MAGISTRATE: Okay. Is discovery  
12 proceeding smoothly or are there disputes?

13 MR. HOCTOR: I think there was a  
14 motion that I saw in here to compel -- That might  
15 have been to compel the answer to the statement of  
16 allegations, but I think Mr. Paikos told me when I  
17 spoke to him that this wasn't due until next week,  
18 but he wanted to provide it to Dr. Padmanabhan  
19 today.

20 THE MAGISTRATE: The documents  
21 aren't due until next week?

22 MR. HOCTOR: The response to his  
23 request for production of documents.

24 THE MAGISTRATE: Doctor, from your

1 perspective is discovery proceeding well?

2 DR. PADMANABHAN: No, sir. In fact,  
3 that was one of the things I wanted to bring up in  
4 my speech today.

5 THE MAGISTRATE: You can tell me  
6 about things that are not going smoothly, but the  
7 speech was about the Cambridge Health Associates.

8 DR. PADMANABHAN: No, no. May I  
9 approach that topic?

10 THE MAGISTRATE: Yes.

11 DR. PADMANABHAN: The Board sent me  
12 a letter dated August 18th that, stating that the  
13 Board does not have the Greeley report and it does  
14 not who wrote it after stonewalling me --

15 THE MAGISTRATE: Sorry. Which  
16 report?

17 DR. PADMANABHAN: Greeley.

18 THE MAGISTRATE: And this is by a  
19 doctor?

20 DR. PADMANABHAN: It's by a company  
21 called Greeley, G-r-e-e-l-e-y. And I have been  
22 asking for the Greeley report and the credentials of  
23 the expert who supposedly wrote it since  
24 January 2013.

1 All of a sudden, August 18th, after  
2 we have sent our submissions to you, I received a  
3 letter from the Board saying they don't have a copy  
4 and they don't have the credentials of the person  
5 who wrote the report.

6 And why is it relevant? It's  
7 relevant because the Greeley report forms the basis  
8 of, verbatim the basis of the statement of  
9 allegations to DALA. Everything that is in the  
10 statement of allegations comes entirely from the  
11 Greeley report.

12 The Greeley report was commissioned  
13 had by Dr. Rachel Nardin at Cambridge Hospital.  
14 They paid for it. So in January 2013 when I went  
15 for my very first hearing at the Board complaints  
16 committee hearing, Mr. Paikos, the counsel stood up  
17 and quoted verbatim from the Greeley report.

18 THE MAGISTRATE: So I understand you  
19 need the Greeley report?

20 DR. PADMANABHAN: I need the Board  
21 to be compelled to produce the credentials of the  
22 expert they claim --

23 THE MAGISTRATE: Let's hear from Mr.  
24 Hctor about the possibility of providing the

1 Greeley report, or the Board's position.

2 MR. HOCTOR: My understanding, Your  
3 Honor, is that Dr. Padmanabhan is saying that no  
4 investigation has been done by the Board and the  
5 Board has totally relied on that report. And my  
6 information from Mr. Paikos is that's not the case.  
7 The Board hasn't relied on that report.

8 THE MAGISTRATE: Does the Board have  
9 a copy of the report? And is there a problem with  
10 turning it over?

11 MR. HOCTOR: I'm not sure if we have  
12 a copy of the report in the files, but our, if one's  
13 been provided or not, but it's not -- I don't see it  
14 as relevant, because the Board's done its own  
15 investigation here, but --

16 THE MAGISTRATE: Okay. So this is  
17 what I'm going to ask. I'm going to ask the parties  
18 to confer. See if you have it. If it's your  
19 position that it's not relevant, let me know.

20 Doctor, what you just told me about  
21 the Greeley report, is it in any of your written  
22 submissions?

23 DR. PADMANABHAN: (Nodding head up  
24 and down.)

1                   THE MAGISTRATE:   Okay.   Can you  
2 point me to it?

3                   DR. PADMANABHAN:   It's in both the  
4 first submission, the response, and in the response  
5 to the opposition.

6                   THE MAGISTRATE:   Okay.

7                   DR. PADMANABHAN:   But it's  
8 specifically in today's speech, if I can leave you a  
9 copy, because it directly deals with the  
10 relevance -- Because here's the thing.   The Board  
11 stood up and said that I'm an imminent danger --

12                   THE MAGISTRATE:   Doctor, I  
13 understand you want the Greeley report.   Is there  
14 anything else -- No, Doctor, I'm talking right now.  
15 Is there anything else that you're looking for in  
16 terms of discovery, which is exchange of legal  
17 information?

18                   DR. PADMANABHAN:   Yes.   I need the  
19 credentials of the expert that the Board claims did  
20 its independent investigation of me.

21                   THE MAGISTRATE:   Okay.   Besides  
22 those two things, is there anything else you're  
23 looking for?

24                   DR. PADMANABHAN:   At this point I

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1 can't think of anything.

2 THE MAGISTRATE: Okay. Now, have  
3 you asked the Board for the credentials of its  
4 expert?

5 DR. PADMANABHAN: From January 2013.

6 THE MAGISTRATE: Okay. Mr. Hoctor,  
7 I'll give you a chance to catch up. I see Miss  
8 Cooke writing you notes, which is fine. It's more  
9 than fine.

10 MR. HOCTOR: She is just saying,  
11 Your Honor, that we don't have that report, the  
12 Greeley report.

13 THE MAGISTRATE: Okay. What about  
14 the credentials of the expert?

15 MR. HOCTOR: I know that we have an  
16 expert in the case.

17 THE MAGISTRATE: Do you expect to  
18 call the expert as a witness?

19 MR. HOCTOR: Yes.

20 THE MAGISTRATE: Is it the same  
21 expert who conferred with the Board in forming the  
22 allegations?

23 MS. COOKE: Yes, sir.

24 THE MAGISTRATE: Okay. So you will

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1 be able to turn over the credentials.

2 MS. COOKE: I believe they're within  
3 this.

4 MR. HOCTOR: In the package.

5 MS. COOKE: Within the package, Your  
6 Honor.

7 THE MAGISTRATE: Okay. So did you  
8 follow what's going on? So the Board expects to  
9 call as a witness the expert that you just talked  
10 about. And the Board will turn over the credentials  
11 of the witness to you. And as a matter of fact,  
12 they have a packet in front of them that --

13 MR. HOCTOR: Yeah. There's a disk  
14 in here that has, we can provide the password so you  
15 can access the disk.

16 THE MAGISTRATE: Okay, which reminds  
17 me. Documents from the Board, they're going to  
18 provide me with hard copies, not a disk. Okay?

19 DR. PADMANABHAN: Thank you.

20 MR. HOCTOR: I'm sorry, Your Honor.

21 Not to interrupt, I just wanted to mention there  
22 could be, just in terms of scheduling the hearing,  
23 when I spoke to Mr. Paikos, he indicated there could  
24 be a problem with the expert, potentially, but

1 hopefully not, about his availability.

2 THE MAGISTRATE: Okay. Before we go  
3 today, if you want to give a call to Mr. Paikos or  
4 give a call to the expert or give a call to  
5 witnesses to make sure they're available? You want  
6 to do that?

7 MS. COOKE: I only have Mr. Paikos'  
8 number with me. I do not have the number of the  
9 expert with me, Your Honor, but I will be in touch  
10 with him today.

11 MR. HOCTOR: I just don't want -- I  
12 just don't want to get into a position where we're  
13 ready to go to a hearing and then there's a problem.

14 DR. PADMANABHAN: It's far away,  
15 January.

16 MR. HOCTOR: At the last minute or  
17 before that.

18 THE MAGISTRATE: I'm sorry, what  
19 kind of problem?

20 MR. HOCTOR: It's sort of an ethical  
21 problem with the expert, that he -- And I just  
22 wanted to bring it to your attention so that it's  
23 about his involvement in the case and not ethical on  
24 his part, but just he's worried about the

1    **repercussions about being involved in this case.**

2                   THE MAGISTRATE:    So --

3                   MR. HOCTOR:    I just wanted to bring  
4    that to your attention, because I know Mr. Paikos  
5    mentioned it to me and I don't want it to get to  
6    January and all of a sudden say we don't have an  
7    expert.

8                   **THE MAGISTRATE:    So it sounds like**  
9    **you're raising the possibility that you're not going**  
10   **to have an expert witness.**

11                  DR. PADMANABHAN:   Well, this  
12    particular expert that's been working on the case.

13                  DR. PADMANABHAN:   The expert who  
14    wrote the statement of allegations.   He will be  
15    anonymous.

16                  THE MAGISTRATE:   Well, Hold on a  
17    second, okay?   But right now you have the  
18    credentials?

19                  MS. COOKE:    Yes.

20                  MR. HOCTOR:    Yes.

21                  THE MAGISTRATE:   So right now you  
22    have the credentials.   You will get the credentials.

23                  DR. PADMANABHAN:   Thank you.

24                  THE MAGISTRATE:   Whether the Board

1 might not call an expert witness?

2 MR. HOCTOR: Well, I think it would  
3 be to try to find a different one if this expert  
4 doesn't want to go forward on the case.

5 THE MAGISTRATE: So it will be this  
6 witness or an another expert?

7 MR. HOCTOR: Yes. I think the Board  
8 needs an expert to prove its case. However, this  
9 particular expert, I think, because of the  
10 proceedings thus far, Your Honor, is feeling that  
11 they might not want to be involved in the case any  
12 more. That's the dilemma.

13 THE MAGISTRATE: In any event, if  
14 they change expert witnesses, Doctor, they're going  
15 to tell you.

16 DR. PADMANABHAN: I will be facing  
17 accusations, anonymous accusations with the person  
18 who won't be present in the room.

19 THE MAGISTRATE: No. Doctor, there  
20 will be an expert witness.

21 DR. PADMANABHAN: But not the person  
22 who wrote the statement of allegations and not the  
23 person who came up with these allegations in the  
24 first place. That's precisely the point. That's

1 the point I've been hammering for months.

2 THE MAGISTRATE: The Board's not  
3 required to call the expert they conferred with  
4 in --

5 DR. PADMANABHAN: But --

6 THE MAGISTRATE: Doctor, the Board  
7 is not required to call as a witness the person they  
8 conferred with in drafting the statement of  
9 allegations. As a matter of fact, they're not  
10 required to call an expert at all. They're choosing  
11 to call an expert. They may choose to call this  
12 expert. They may choose to call another expert.

13 DR. PADMANABHAN: But the person, I  
14 need to know who came up with the accusations,  
15 because when I face the accusations, I need to face  
16 my accuser.

17 THE MAGISTRATE: You will be facing  
18 the expert witness, but you do not have a right to  
19 confront the people who helped compile the  
20 allegations against you.

21 DR. PADMANABHAN: Would you give  
22 that to me in writing, Your Honor?

23 THE MAGISTRATE: Excuse me?

24 DR. PADMANABHAN: Could you give

1 that to me in writing, Your Honor, that I don't have  
2 the right to face the person who wrote the  
3 allegations?

4 THE MAGISTRATE: This is being  
5 transcribed and a transcript will be available.

6 DR. PADMANABHAN: Thank you.

7 THE MAGISTRATE: There's probably  
8 multiple people involved in drafting allegations and  
9 we're not going to identify all of them or call all  
10 of them as witnesses, but you have, you can call  
11 witnesses.

12 DR. PADMANABHAN: Thank you.

13 THE MAGISTRATE: I'm not telling you  
14 you can call the person who drafted the allegations,  
15 but you can call witnesses.

16 DR. PADMANABHAN: If I knew who the  
17 person was, I'd gladly call him or her, but they've  
18 kept that entity away from me for 1,351 days.

19 THE MAGISTRATE: Okay. Doctor, you  
20 have access to discovery. You can use it.

21 DR. PADMANABHAN: Thank you.

22 THE MAGISTRATE: Okay. From what I  
23 understand, you have two issues with discovery right  
24 now. One of them we've just resolved, the

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1 credentials. The other is the Greeley report. When  
2 you get the credentials of the expert, it names the  
3 expert, right?

4 MS. COOKE: Yes.

5 THE MAGISTRATE: Or does it?

6 MS. COOKE: Yes.

7 DR. PADMANABHAN: What is the name  
8 of the expert?

9 THE MAGISTRATE: Excuse me, Doctor.  
10 You will be able to find that out after the  
11 prehearing conference. This is not an anonymous  
12 accuser.

13 DR. PADMANABHAN: Okay.

14 THE MAGISTRATE: Back to the Greeley  
15 report. The Board doesn't have the copy of the  
16 Greeley report.

17 MS. COOKE: We never have.

18 THE MAGISTRATE: Okay. Greeley is a  
19 company that was hired by Cambridge Health  
20 Associates?

21 DR. PADMANABHAN: Yes.

22 THE MAGISTRATE: There's ways to get  
23 the report other than from the Board.

24 DR. PADMANABHAN: I have a copy of

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1 the report. I don't have the copy of the person --  
2 the CV of the person who wrote it, because that has  
3 been kept from me.

4 THE MAGISTRATE: Okay. Doctor, I  
5 keep asking you what you need and I thought we were  
6 talking about the Greeley report.

7 DR. PADMANABHAN: I need the name of  
8 the person who wrote the report.

9 THE MAGISTRATE: Doctor, I'm asking  
10 you what documents you need and for a long time  
11 we've been talking about the Greeley report. Now  
12 you're telling me that you have the Greeley report.

13 DR. PADMANABHAN: From Cambridge  
14 Hospital. The Board used the report in  
15 January 2013 --

16 THE MAGISTRATE: Doctor, what do you  
17 need?

18 DR. PADMANABHAN: The credentials of  
19 the person they relied on that came up with the  
20 statement of allegations. If that is here, I'm  
21 satisfied. Their expert.

22 THE MAGISTRATE: Is this separate  
23 from the Greeley report?

24 DR. PADMANABHAN: I don't know, Your

1 Honor. That's precisely the point. I have no idea  
2 if it's the same expert, if it's a different expert.

3 THE MAGISTRATE: I can't get you  
4 discovery if you can't identify what you need.

5 DR. PADMANABHAN: I need the  
6 credentials of the person whose statements they  
7 relied on to create the statement of allegations.

8 THE MAGISTRATE: Is this separate  
9 from the Greeley report?

10 DR. PADMANABHAN: I don't know.

11 THE MAGISTRATE: Okay. Then I can't  
12 help you, because I can't order documents that you  
13 can't identify.

14 DR. PADMANABHAN: Because -- And the  
15 reason why I say I don't know, is because now the  
16 Board has put in writing that it is a different  
17 person. All these days I was absolutely sure, based  
18 on the verbatim verbiage that it was the same report  
19 and the same person, because I know Mr. Paikos stood  
20 up in January 2013 and recited verbatim from the  
21 Greeley report.

22 THE MAGISTRATE: Which you have.

23 DR. PADMANABHAN: Which I have,  
24 which is how I knew that.

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1                   **THE MAGISTRATE:** Doctor, are we done  
2 talking about the Greeley report?

3                   **DR. PADMANABHAN:** Yes, sir.

4                   **THE MAGISTRATE:** Okay. You have the  
5 Greeley report.

6                   **DR. PADMANABHAN:** Yes, oh, yes, sir.

7                   **THE MAGISTRATE:** Okay. What do you  
8 need to prepare your defense against the statement  
9 of allegations?

10                  **DR. PADMANABHAN:** The credentials of  
11 the person whom the Board relied on as the expert.

12                  **THE MAGISTRATE:** And the Board just  
13 turned it over.

14                  **MS. COOKE:** Yes.

15                  **THE MAGISTRATE:** Okay. We're done  
16 with discovery?

17                  **DR. PADMANABHAN:** Thank you.

18                  **THE MAGISTRATE:** Okay. Is there  
19 anything else for today?

20                  **MR. HOCTOR:** Just included in there  
21 is a request for production of documents for Dr.  
22 Padmanabhan to respond to.

23                  **THE MAGISTRATE:** Okay.

24                  **MR. HOCTOR:** That's the only thing.

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1                   **THE MAGISTRATE:** I am willing to  
2 handle disputes about discovery. There are plenty  
3 of judicial bench judges who want nothing to do with  
4 it. Parties have a right to get information.  
5 Having said that, do I need to get involved with  
6 this or will this be routine?

7                   **MR. HOCTOR:** I think, as of right  
8 now, there isn't a dispute.

9                   **THE MAGISTRATE:** Okay. And I don't  
10 have to prove it or anything, right? There's  
11 nothing unusual?

12                   **MR. HOCTOR:** No, I don't think there  
13 is.

14                   **THE MAGISTRATE:** Okay.

15                   **MR. HOCTOR:** I don't know as far as  
16 a response coming or what, you know, what will  
17 happen in the future, but as of right now, I think  
18 it's not a problem.

19                   **THE MAGISTRATE:** Okay. Yes.

20                   **DR. PADMANABHAN:** Should I send my  
21 response to you and them?

22                   **THE MAGISTRATE:** If it's about  
23 discovery, if it's about documents, you do not have  
24 to involve me, as far as I know. If the Code of

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1 Massachusetts Regulations says differently, let me  
2 know and proceed according to that, but the back and  
3 forth on discovery I don't need to be involved with  
4 unless there's a problem.

5 DR. PADMANABHAN: Okay.

6 THE MAGISTRATE: Anything else?

7 MR. HOCTOR: No.

8 THE MAGISTRATE: Okay. So I'll send  
9 out a notice about a hearing date of January 12th to  
10 16th. Okay, thank you.

11 MR. HOCTOR: Thank you.

12 DR. PADMANABHAN: Thank you.

13 (Whereupon, at 10:31 o'clock a.m.,  
14 the conference was concluded.)

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C E R T I F I C A T E

I, Cynthia F. Stutz, Certified Shorthand Reporter in and for the Commonwealth of Massachusetts, do hereby certify that the foregoing record, pages 1 through 43 inclusive, is a complete and accurate transcript of my computer-aided notes taken in the aforementioned matter to the best of my ability.

Dated at Boston, Massachusetts, this 27th day of August, 2014.

Cynthia F. Stutz  
Certified Shorthand Reporter