

MAY 15, 1982
NEW JERSEY STATE BOARD
OF MEDICAL EXAMINERS

FILED

MAY 18, 1982

IRWIN I. KIMMELMAN
ATTORNEY GENERAL OF NEW JERSEY

**NEW JERSEY STATE BOARD
OF MEDICAL EXAMINERS**

BY: JOAN D. GELBER
DEPUTY ATTORNEY GENERAL
Division of Law, Room 316
1100 Raymond Boulevard
Newark, New Jersey 07102
Tel. (201) 648-2478

STATE OF NEW JERSEY
DEPARTMENT OF LAW & PUBLIC SAFETY
DIVISION OF CONSUMER AFFAIRS
BOARD OF MEDICAL EXAMINERS
DOCKET NO. H81-5139
OAL DOCKET NO. BDS 2205-81

IN THE MATTER OF THE SUSPENSION
OR REVOCATION OF THE LICENSE OF

Administrative Action

MARSHALL P. SILVER, M.D.
License No. 24569

FINAL ORDER

TO PRACTICE MEDICINE AND SURGERY
IN THE STATE OF NEW JERSEY

This matter was opened to the New Jersey State Board of Medical Examiners by way of Complaint filed by the Attorney General of New Jersey, by Joan D. Gelber, Deputy Attorney General, against respondent, practicing at 200 Norwood Avenue, Oakhurst, New Jersey. The Complaint charged in five counts that between 1977 and August 1980 respondent prescribed Controlled Dangerous Substances, Schedules II, III and IV, improperly or without sufficient medical cause with respect to five patients and further charged violation of administrative rules pertaining to prescribing of such drugs and maintenance of proper records. A sixth count charged that respondent had previously been reprimanded by the Board for exercise of poor medical judgment and

CERTIFIED TRUE COPY

inadequate record keeping with respect to prescribing of Controlled Drugs, and sought penalties for second offender status pursuant to N.J.S.A. 45:1-25.

Respondent is represented by Charles M. Moriarty, Esquire, of Anshelewitz, Barr, Ansell and Bonello, P.A., and Kevin J. Coakley, Esquire, of the firm of Connell, Foley & Geiser. Respondent has withdrawn his prior Answer and now pleads no contest to the charges.

With respect to the patients listed in the Complaint, it appears that patients G.M. and R.D. did indeed present serious past medical and some current residual difficulties which respondent did attempt to treat. It further appears that he belatedly came to recognize that drug abuse had become the dominant characteristic of those physician-patient relationships and that he had allowed himself, perhaps unwittingly, to become exploited for this purpose. The Board takes into consideration his attempt to reduce the dosages given to patient G.M. and that, on his own initiative, he actually terminated treatment of R.D. It appears that respondent attempted to treat the other three patients--P.E., A.A. and L.B. with Schedule II Controlled Drugs for weight problems and depression among other matters. N.J.A.C. 13:35-6.16 prohibits the use of Schedule II Drugs for treatment of depression except where shown to be refractory to other therapeutic modalities, a circumstance not demonstrated on this record. Schedule II Drugs are prohibited for use in weight management by the same rule.

In consideration of the above matters and of respondent's plea to the violations of N.J.S.A. 45:1-21(c) and Rules N.J.A.C. 8:65-7.4, -7.7, -7.8(e) and 13:35-6.6(b), -6.12 and -6.16(b), for good cause shown,

IT IS on this 12 day of May 1982

O R D E R E D that

(a) Respondent's license to practice medicine and surgery in the State of New Jersey is hereby suspended for one year, the first three months which shall be an active suspension and the remainder of which shall be a period of probation. This provision shall commence May 15, 1982 to enable respondent to make orderly transfer of patients under his current care;

(b) Respondent shall surrender to the Board his New Jersey C.D.S. Schedule II Registrations which shall remain suspended for nine months from May 15, 1982;

(c) On or before May 15, 1983, respondent shall complete 50 hours of Category Continuing Medical Education in Pain Management and Pharmacology of Psychotropic Drugs, Schedule II;

(d) For purposes of monetary penalty, Count Six is merged with Counts One through Five and respondent shall pay a penalty of \$9,000 plus \$1,000 costs to the Board of Medical Examiners on the following terms: \$3,000 within ten days of the entry of this Order and \$7,000 in equal monthly installments within the next twelve months;

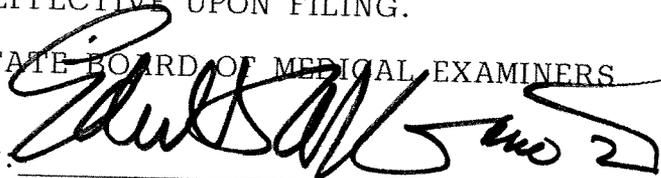
(e) Henceforth respondent shall maintain proper records on all patients treated, which records shall include the date of visit, physical examination and findings, diagnosis, identification of and dosage and quantities of medication prescribed, if any, and current status of the patient. Respondent shall exercise his best medical judgment consistent with accepted standards of practice in determining the need for and appropriateness of any prescription for Controlled Dangerous Substances, including consultation where appropriate, and adequate laboratory and clinical testing justifying such prescription. Respondent shall

closely monitor such prescriptions to prevent patient abuse, whether voluntary or involuntary. Respondent shall fully observe the restrictions set forth in N.J.A.C. 13:35-6.6 and, in writing all prescriptions of whatever nature, shall scrupulously comply with the requirements of the Medical Practice Act and all pertinent rules, including in particular N.J.A.C. 13:35-6.6 and 8:65-7.8(e).

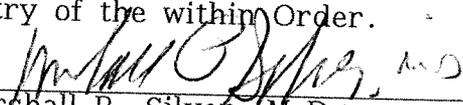
THIS ORDER SHALL BE EFFECTIVE UPON FILING.

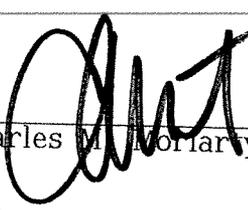
STATE BOARD OF MEDICAL EXAMINERS

By:

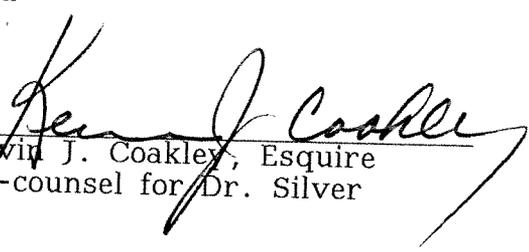

EDWIN H. ALBANO, M.D.
President

I consent to the terms and entry of the within Order.


Marshall P. Silver, M.D.


Charles M. Moriarty, Esquire

and


Kevin J. Coakley, Esquire
Co-counsel for Dr. Silver