

FILED

JULY 14, 1988

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ATTORNEY GENERAL OF NEW JERSEY

**NEW JERSEY STATE BOARD
OF MEDICAL EXAMINERS**

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STATE OF NEW JERSEY
DEPARTMENT OF LAW & PUBLIC SAFETY
DIVISION OF CONSUMER AFFAIRS
STATE BOARD OF MEDICAL EXAMINERS

In the Matter of the Suspension
or revocation of the License of

ALAN ROSENZWEIG, D.O.

To Practice Medicine and Surgery
in the State of New Jersey

:
:
Administrative Action
:
CONSENT ORDER
:

This matter was opened to the New Jersey State Board of Medical Examiners (the "Board") upon receipt of information suggesting that Alan Rosenzweig, D.O. ("respondent") had indiscriminately prescribed certain Controlled Dangerous Substances ("CDS"). Said information included, inter alia, data derived from a survey of respondent's prescriptions on file at 40 pharmacies, and from retrieval and analysis of over 2500 CDS prescriptions written by respondent.

The Board's inquiry focused upon questionable prescription records for 18 specific patients treated by respondent. Those records revealed that respondent had: (1) prescribed combinations of Doriden (Gluthethimide) and codeine-containing formulations to certain patients; (2) prescribed Ritalin to certain patients for purposes not approved within N.J.S.A. 13:35-6.7; and (3) written over 240 Percocet prescriptions to a certain patient, JRK, over a 4 year period.

CERTIFIED TRUE COPY

On February 3, 1988, respondent, represented by Edward A. Kondracki, Esq., appeared and testified before an Executive Committee of the Board. Upon review of respondent's testimony and all information provided to the Board, the Board has concluded that probable cause exists to support findings that respondent may have prescribed CDS in an indiscriminate manner, not in good faith, or without good cause, in violation of N.J.S.A. 45:1-13; that respondent may have engaged in professional misconduct in violation of N.J.S.A. 45:1-21(e); that respondent may have violated or failed to comply with the provisions of certain regulations of the Board in violation of N.J.S.A. 45:1-21(h); that respondent may have violated N.J.A.C. 13:35-6.7 by prescribing CDS in a manner not authorized by said regulation; and that respondent may have violated N.J.A.C. 13:35-6.6 by writing prescriptions not in accordance with the standards set forth in said section. The Board considers the nature of the charges against the respondent to be severe.

Notwithstanding the gravity of the actions outlined above, the parties are desirous of resolving this matter without the necessity of formal proceedings and have agreed that the matter can be resolved in accordance with the terms set forth herein. This order does not constitute an admission of any liability by the respondent and is made for the purpose of settling the issues between the parties, nor does this order constitute an admission of liability in any civil or criminal proceeding which may be brought against Dr. Rosenzweig. This agreement is solely between the Board and respondent, and shall not be evidential in any proceeding other than one between the Board and the respondent.

It appearing that respondent has read the terms of the within Order and understands their meaning and effect and consents to be bound by same, and it further appearing that the Board finds the within Order is adequately protective of the public interest and it therefore appearing that good cause exists for the entry of the within Order,

IT IS, on this 20th day of JUNE, 1988, ORDERED:

1. Respondent's license to practice medicine and surgery in the State of New Jersey is hereby suspended for a period of one year. Three months of the suspension shall be active and the remainder (9 months) shall be stayed. Respondent shall be credited with having served one week of his active suspension for the period he attended a remedial education course at the University of Medicine and Dentistry of New Jersey ("UMDNJ"), which course respondent was to attend the week of May 8 through May 14, 1988. Respondent's active suspension shall commence on June 19, 1988, and continue through and including September 3, 1988. During said suspension, respondent shall comply with each and every term included in the List of Prohibited Activities appended hereto and made a part hereof.

2. Respondent is to attend a remedial course on CDS prescribing at the University of Medicine and Dentistry of New Jersey, which course respondent was to attend the week of May 8 through May 14, 1988. Respondent shall submit proof to the Board that he attended the course on the dates indicated and proof that he satisfactorily completed said course.

3. Respondent shall not prescribe any Schedule II or Schedule III Controlled Dangerous Substances unless and until he (1) submits

to the Board proof of satisfactory completion of remedial education as required pursuant to Paragraph 2 above, and (2) he petitions the Board for modification of the prescription restrictions and the Board, upon review of respondent's petition, shall in its discretion agree to modify said restrictions.

4. During the 9 months respondent's suspension is to be stayed (from September 4, 1988, through June 4, 1989), respondent's medical records shall be subject to such random audits as may be directed by the Board. Said audits shall be conducted by a consultant to be selected by Dr. Rosenzweig subject to approval by the Board. The audits shall be conducted at the expense of respondent. The Board may require respondent to submit up to 10 records per three month period to the designated consultant.

5. Respondent shall pay a civil penalty in the amount of \$7,500.

6. Respondent shall pay investigative costs in the sum of \$10,000.

7. Respondent shall pay the penalty and costs as follows: \$1,000 to the Board on or before November 1, 1988; thereafter, the respondent shall pay \$1,500 per month on or before the first of each ensuing month. Respondent shall pay a total of \$17,500 to the Board, and pursuant to the above schedule, respondent's final payment shall be made on or before October 1, 1989.

8. Should respondent fail to comply with or violate any of the terms of the within Order, the Board may deem the full amount due and owing and cause a Complaint to be filed seeking activation of

the stayed portion of respondent's suspension and any and all other penalties available under law.

STATE BOARD OF MEDICAL EXAMINERS

By: 
Frank J. Malta, M.D.
President

I have read the within Consent Order and agree to be bound by its terms. I consent to its entry by the State Board of Medical Examiners.


Alan Rosenzweig, D.O.

1504E

DIRECTIVE REGARDING FUTURE ACTIVITIES
OF MEDICAL BOARD LICENSEE WHO HAS BEEN DISCIPLINED

A practitioner whose license is suspended or revoked or whose surrender of license with or without prejudice has been accepted by the Board shall conduct him/herself as follows.

- 1) Promptly deliver to the Board the original license and current biennial registration and, if authorized to prescribe drugs, the current State and Federal Controlled Dangerous Substances registrations.
- 2) Desist and refrain from the practice of the licensed profession in any form either as principal or employee of another.
- 3) Inform each patient at the time of any inquiry of the suspended or revoked or retired status of the licensee. When a new professional is selected by a patient, the disciplined practitioner shall promptly make available the original or a complete copy of the existing medical record to the new professional, or to the patient if no new professional is selected. Such delivery of record does not waive any right of the disciplined practitioner to claim compensation earned for prior services lawfully rendered.
- 4) Not occupy, share or use office space in which another licensee practices the profession.
- 5) Desist and refrain from furnishing professional services, giving an opinion as to the professional practice or its application, or any advice with relation thereto; and from holding him/herself out to the public as being entitled to practice the profession or in any way assuming to be a practicing professional or assuming, using or advertising in relation thereto in any other language or in such a manner as to convey to the public the impression that such person is a legal practitioner or authorized to practice the licensed profession. This prohibition includes refraining during the period of suspension or revocation from placement of any advertisement or professional listing in any advertising medium suggesting eligibility for practice or good standing, such as listing in a professional directory of any type or a telephone directory or radio or television advertisement.
- 6) Not use any sign or advertise that such person, either alone or with any other person has, owns, conducts or maintains a professional office or office of any kind for the practice of the profession or that such person is entitled to practice, and such person shall promptly remove any sign suggesting ability of the disciplined practitioner to practice the profession.
- 7) Cease to use any stationery wherein such person's name appears as a professional in practice. If the practitioner was formerly authorized to issue written prescriptions for medication or treatment, such prescription pads shall be destroyed if the license was revoked. If the license was suspended, the prescriptions shall be destroyed or shall be stored in a secure location to prevent theft or any use whatsoever until issuance of a Board Order authorizing use by the practitioner. Similarly, medications possessed for office use shall be lawfully disposed of, transferred or safeguarded.

8) The disciplined licensee shall require that for a six-month period following the start of a suspension or revocation of license, a message be delivered to those telephoning the former office premises advising former patients where they may obtain their records. The message may inform callers that the practice is now being conducted by (another) named licensee, and the new telephone number of that licensee may be announced. The same information shall be disseminated by means of a notice to be published at least once per month for the same six month period in a newspaper of general circulation in the geographic vicinity in which the professional practice was conducted.

9) Not share in any fee for professional services performed by any other professional following the suspension, revocation or surrender of license, but the practitioner may be compensated for the reasonable value of the services lawfully rendered and disbursements incurred on the patient's behalf prior to the effective date of the suspension, revocation or surrender.

10) Use of the professional premises. The disciplined licensee may allow another licensee to use the office premises formerly occupied by the disciplined licensee on the following conditions only:

(a) The new licensee shall conduct the practice in every respect as his/her own practice including billings, claim forms, insurance provider numbers, telephone numbers, etc.

(b) The disciplined licensee may accept no portion of the fees for professional services rendered by the new licensee, whether by percentage of revenue, per capita patient, or by any other device or design, however denominated. The disciplined licensee may, however, contract for or accept payment from the new licensee for rent (not exceeding fair market value) of the premises and/or equipment.

(c) No use of name of disciplined licensee or personally owned office name or tax- or provider identification number.

1. Where the disciplined licensee was using an individual IRS number or where the licensee was the sole member of an incorporated professional association or a corporation, the disciplined licensee may contract to rent the office premises to a new practitioner. The new practitioner must use his/her own name and own provider number on all bills and insurance claim forms. Neither the name nor the number of the disciplined licensee may be used. When the license of a sole practitioner has been revoked, a trade name must be cancelled and a professional service corporation must be dissolved.

2. Where the disciplined licensee is a member of a professional group which uses a group-type name such as the ABC Medical Group. The disciplined licensee must arrange to have his/her name deleted, covered up or otherwise obliterated on all office signs, advertisements published by the group after the effective date of the Board disciplinary Order and on all printed billings and stationery. The other group members may continue to function under the incorporated or trade name, minus the name of the disciplined licensee, and may continue to use its corporate or professional identification number.

11) Report promptly to the Board compliance with each, directive requiring moneys to be reimbursed to patients or to other persons or third party payors or to any court, and regarding supervisory reports or other special conditions of the Order.

12) A practitioner whose license is surrendered, revoked or actively suspended for one year or more shall conduct him/herself as follows:

1) Promptly require the publishers of any professional directory and any other professional list in which such licensee's name is known by the disciplined licensee to appear, to remove any listing indicating that the practitioner is a licensee of the New Jersey State Board of Medical Examiners in good standing.

2) Promptly require any and all telephone companies to remove the practitioner's listing in any telephone directory indicating that such practitioner is a practicing professional.

13) A practitioner whose practice privileges are affected by a Board disciplinary Order shall, within 30 days after the effective date of the Board Order, file with the Secretary of the Board a detailed affidavit specifying by correlatively lettered and numbered paragraphs how such person has fully complied with this directive. The affidavit shall also set forth the residence or other address and telephone number to which communications may be directed to such person. Any change in the residence address or telephone number shall be promptly reported to the Secretary.