

FILED

August 7, 1989

NEW JERSEY STATE BOARD
OF MEDICAL EXAMINERS

PETER N. PERRETTI, JR.
ATTORNEY GENERAL OF NEW JERSEY

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STATE OF NEW JERSEY
DEPARTMENT OF LAW & PUBLIC SAFETY
DIVISION OF CONSUMER AFFAIRS
BOARD OF MEDICAL EXAMINERS
DOCKET NO.

IN THE MATTER OF THE SUSPENSION :
OR REVOCATION OF THE LICENSE OF :
JAMES BERTEL, M.D. :
TO PRACTICE MEDICINE AND SURGERY :
IN THE STATE OF NEW JERSEY :

Administrative Action
INTERIM CONSENT ORDER

This matter was opened to the New Jersey State Board of Medical Examiners upon the filing of a Verified Complaint by Peter N. Perretti, Jr., Attorney General of New Jersey (Linda S. Ershow-Levenberg, Deputy Attorney General, appearing), seeking the temporary suspension of respondent's license to practice medicine in this State. The Complaint alleged that respondent engaged inter alia in gross negligence and gross incompetence in his care and treatment of four hospitalized patients, one of them a cardiac patient and the others patients on whom respondent performed or attempted to perform endometrial biopsies which were not indicated

and which exceeded the scope of respondent's hospital privileges. Respondent is presently engaged in a private family practice in Deptford, New Jersey and no longer holds any hospital privileges.

It appearing that the parties have agreed to the within order as effecting adequate protection of the public health, safety and welfare at the present time, and it further appearing that the parties have agreed that the within settlement is solely a settlement of the application for temporary suspension in that the matter is being referred to the Office of Administrative Law for a plenary hearing, and it further appearing that respondent understands the terms of the within order and agrees to comply with the obligations imposed upon him herein, and for good cause shown,

IT IS THEREFORE, on this 28th day of July, 1989,

ORDERED:

1. Respondent is prohibited from performing any gynecological or obstetrical procedures whatsoever in his office practice or in any other setting, with the sole exception of Pap Smears.

2. Respondent shall immediately secure an arrangement with two preceptors who are acceptable to himself and to the Board at a fee to be arranged between himself and the preceptors. The requirements of the preceptorships are as follows:

a. No part of the preceptor's fees are to be passed on to patients.

b. Each week for three months, beginning July 1, 1989 one preceptor shall retrieve from respondent's office a random sampling of the following patient charts: All new patients seen that week, all infant patients (age 0-18

mos.) seen that week, and 25% (but not less than 15) of the remaining charts for patients seen that week, with the exception of charts on patients with gynecological conditions, disorders and complaints; those charts will be reviewed by the second preceptor as set forth below. The selection of charts is left to the discretion of the preceptor. The preceptor shall also randomly select 20% (and not less than 3) of the charts on Dr. Bertel's nursing home patients each week.

i. The preceptor shall review the charts for compliance with generally accepted professional standards and regulatory standards with respect to recordkeeping, documentation, case management, medical decision making and referral requirements.

ii. The preceptor shall discuss with respondent any and all aspects of the patient care which he or she determines need to be discussed and shall provide such educational efforts as he or she determines is necessary and appropriate.

iii. Any major disagreements with respect to patient care, recordkeeping or documentation are to be reported to the Board by the preceptor immediately, and the Board will determine what action, if any, it deems fit, in response to such notification.

c. For three months beginning July 1, 1989, each patient for whom respondent has made a diagnosis of a need for treatment of an obstetrical or gynecological condition after having performed a history and physical consistent with par. 1 of this Order, shall be referred to Joseph Burns, M.D. for treatment. Dr. Burns shall serve as respondent's second preceptor.

i. Dr. Burns shall review the chart of each such patient for compliance with generally accepted professional standards and regulatory standards with respect to recordkeeping, documentation,

case management, medical decision making and referral requirements.

ii. The preceptor shall discuss with respondent any and all aspects of the patient care which he or she determines need to be discussed and shall provide such educational efforts as he or she determines is necessary and appropriate.

iii. Any major disagreements with respect to patient care, recordkeeping or documentation are to be reported to the Board by the preceptor immediately, and the Board will determine what action, if any, it deems fit, in response to such notification.

d. The preceptors shall each submit a detailed report to the Board at the end of each month which contains a candid, frank, honest and objective review of the previous month's activities and findings. A copy of the reports will be simultaneously submitted to respondent by the preceptors.

e. At the end of three months of the above-described preceptorship, but not sooner, Dr. Bertel may apply to the Board for modification of the intensity of the supervision requirements. At that time, the Board will consider the preceptors reports and may request an appearance by respondent before the Executive Committee.

3. During the pendency of this case including any proceedings at the Office of Administrative Law, respondent shall not apply to any hospital for privileges.

4. Respondent shall attend the Seton Hall University 5-session postgraduate course when next it is offered.

5. The entry of this order shall not prejudice in any manner whatsoever the ability of the Board of Medical Examiners to take whatever action it deems necessary, including additional

formal disciplinary action, based on conduct by respondent that is reported to the Board by the preceptor(s) or other parties during the pendency of the within matter and which evidences failure to conform with generally accepted professional standards or Board statutes or regulations.

STATE BOARD OF MEDICAL EXAMINERS

By Michael B. Grossman D.O.
Michael B. Grossman, D.O.
President
7-28-89

I have read and I understand
the terms of the within order.
I consent to its entry by the
Board of Medical Examiners.

James R. Bertel, M.D.
James Bertel, M.D.

7/11/89
Date

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