

PETER VERNIERO  
ATTORNEY GENERAL OF NEW JERSEY

FILED

By: Claire M. Rizzo  
Deputy Attorney General  
Division of Law  
124 Halsey Street  
P.O. Box 45029  
Newark, New Jersey 07102  
Telephone (201) 648-2478

November 19, 1998  
NEW JERSEY STATE BOARD  
OF MEDICAL EXAMINERS

STATE OF NEW JERSEY  
DEPARTMENT OF LAW & PUBLIC SAFETY  
DIVISION OF CONSUMER AFFAIRS  
STATE BOARD OF MEDICAL EXAMINERS  
FILE 10-4141-95-90

IN THE MATTER OF:

Administrative Action

JOHN R. STABILE , M.D.  
LICENSE NO. MA36301

ORDER

LICENSED TO PRACTICE MEDICINE AND  
SURGERY IN THE STATE OF NEW JERSEY

CERTIFIED TRUE COPY

This matter was opened to the State Board of Medical Examiners based upon allegations that John Stabile, M.D. (hereinafter respondent) indiscriminately prescribed Phentermine and Phendimetrazine, (controlled dangerous substances, hereinafter CDS), failed to perform physical examinations and/or failed to maintain proper patient records, and failed to follow CDS prescribing or dispensing controls. The Board found that Respondent acted improperly by failing to follow appropriate protocols regarding treatment and CDS management of weight loss. On April 21, 1998, Respondent and the Board of Medical Examiners entered into a consent order a copy of which is attached hereto and incorporated herein. On May 13, 1998 and September 9, 1998, the Board considered Respondent's petitions for removal of the CDS

restrictions contained in Paragraph 4 of the April 1998 Order. The Board having determined that Respondent has successfully completed the required courses and satisfied the requirements of paragraph 4 of the April 1998 Order, and that Respondent is in compliance with the Order's remaining ongoing requirements.

IT IS, therefore, on this 19th day of November , 1998,

ORDERED THAT:

1. The Consent Order filed April 21, 1998, a copy of which is attached hereto and incorporated herein, is hereby amended only as to remove the CDS restrictions set forth in Paragraph 4. Respondent's CDS prescribing privileges are hereby fully restored.

NEW JERSEY BOARD OF MEDICAL EXAMINERS

By:



Bernard Robins, M.D., F.A.C.P.  
Board President

furtherance of that obligation, a licensee should ensure that to the greatest extent possible, treatment should take place during the licensee's usual working hours in a professional setting, unless the specific therapy mandates otherwise (i.e. home visits for the housebound, in vivo desensitization as part of behavioral therapy). A licensee should not engage in economic dealings with psychotherapy patients.

- (iii) Explanation of Procedures, Tests and Need for Examinations—This will ensure that patients do not misunderstand the appropriateness of the exposure of their bodies or the touching that occurs.
- (iv) Patient Privacy—Examination conditions should ensure that patients are not embarrassed. To that end, licensees should provide privacy while a patient is removing or replacing undergarments and should provide examination gowns or draping cloths which limit exposure of the patient to the field of clinical interest.
- (v) Chaperon—Consistent with promoting patient privacy, licensees should inform patients of the option of having a chaperon present during examination and should provide a chaperon when requested by a patient.
- (vi) Avoidance of Discussion of Personal Matters—While it is appropriate for a licensee to discuss for example his or her training and qualifications with patients, in furtherance of the maintenance of appropriate boundaries, licensees should avoid any discussion of their own intimate personal problems or disclosure of details of their sexual lives.

<sup>1</sup> "... I will come for the benefit of the sick, remaining free . . . of all mischief and in particular of sexual relations with both female and male persons . . .".

<sup>2</sup> "[Sexual or romantic interactions between physicians and patients detract from the goals of the physician patient relationship, may exploit the vulnerability of the patient, may obscure the physician's objective judgment concerning the patient's health care, and ultimately may be detrimental to the patient's well being . . . at a minimum, a physician's ethical duties include terminating the physician patient relationship before initiating a dating, romantic or sexual relationship with a patient . . . sexual or romantic relationships with former patients are unethical if the physician uses or exploits trust, knowledge, emotions or influence derived from the previous professional relationship."

#### 13:35-6.4 (Reserved)

#### 13:35-6.5 Preparation of patient records, computerized records, access to or release of information; confidentiality, transfer or disposal of records

- (a) The following terms shall have the following meanings unless the context in which they appear indicates otherwise:
- "Authorized representative" means, but is not necessarily limited to, a person who has been designated by the patient or a court to exercise rights under this section. An authorized representative may be the patient's attorney or an agent of an insurance carrier with whom the patient has a contract which provides that the carrier be given access to records to assess a claim for monetary benefits or reimbursement. If the patient is a minor, a parent or guardian who has custody (whether sole or joint) will be deemed to be an authorized representative.
- "Examinee" means a person who is the subject of professional examination where the purpose of that examination is unrelated to treatment and where a report of the examination is to be supplied to a third party.
- "Licensee" means any person licensed or authorized to engage in a health care profession regulated by the Board of Medical Examiners.
- "Patient" means any person who is the recipient of a professional service rendered by a licensee for purposes of treatment or a consultation relating to treatment.
- (b) Licensees shall prepare contemporaneous, permanent professional treatment records. Licensees shall also maintain records relating to billings made to patients and third-party carriers for professional services. All treatment records, bills and claim forms shall accurately reflect the treatment or services rendered. Treatment records shall be maintained for a period of seven years from the date of the most recent entry.
- 1. To the extent applicable, professional treatment records shall reflect:
    - i. The dates of all treatments;
    - ii. The patient complaint;
    - iii. The history;
    - iv. Findings on appropriate examination;
    - v. Progress notes;

- vi. Any orders for tests or consultations and the results thereof;
- vii. Diagnosis or medical impression;
- viii. Treatment ordered, including specific dosages, quantities and strengths of medications including refills if prescribed, administered or dispensed, and recommended follow-up;
  - ix. The identity of the treatment provider if the service is rendered in a setting in which more than one provider practices;
  - x. Documentation when, in the reasonable exercise of the physician's judgment, the communication of test results is necessary and action thereon needs to be taken, but reasonable efforts made by the physician responsible for communication have been unsuccessful; and
  - xi. Documentation of the existence of any advance directive for health care for an adult or emancipated minor, and associated pertinent information. Documented inquiry shall be made on the routine intake history form for a new patient who is a competent adult or emancipated minor. The treating doctor shall also make and document specific inquiry of or regarding a patient in appropriate circumstances, such as when providing treatment for a significant illness, or where an emergency has occurred presenting imminent threat to life, or where surgery is anticipated with use of general anesthesia.
- 2. Corrections/additions to an existing record can be made, provided that each change is clearly identified as such, dated and initialled by the licensee.
- 3. A patient record may be prepared and maintained on a personal or other computer only when it meets the following criteria:
  - i. The patient record shall contain at least two forms of identification, for example, name and record number or any other specific identifying information;
  - ii. An entry in the patient record shall be made by the physician contemporaneously with the medical service and shall contain the date of service, date of entry, and full printed name of the treatment provider. The physician shall finalize or "sign" the entry by means of a confidential personal code ("CPC") and include date of the "signing";
  - iii. Alternatively, the physician may dictate a dated entry for later transcription. The transcription shall be dated and identified as "preliminary" until reviewed, finalized and dated by the responsible physician as provided in (b)3ii above;
  - iv. The system shall contain an internal permanently activated date and time recordation for all entries, and shall automatically prepare a back-up copy of the file;
  - v. The system shall be designed in such manner that, after "signing" by means of the CPC, the existing entry cannot be changed in any manner. Notwithstanding the permanent status of a prior entry, a new entry may be made at any time and may indicate correction to a prior entry;
  - vi. Where more than one licensee is authorized to make entries into the computer file of any professional treatment record, the physician responsible for the medical practice shall assure that each such person obtains a CPC and uses the file program in the same manner;
  - vii. A copy of each day's entry, identified as preliminary or final as applicable, shall be made available promptly:
    - (1) To a physician responsible for the patient's care;
    - (2) To a representative of the Board of Medical Examiners, the Attorney General or the Division of Consumer Affairs as soon as practicable and no later than 10 days after notice; and
    - (3) To a patient as authorized by this rule within 30 days of request (or promptly in the event of emergency); and
  - viii. A licensee wishing to continue a system of computerized patient records, which system does not meet the requirements of (b)3i through vii above, shall promptly initiate arrangements for modification of the system which must be completed by October 19, 1993. In the interim, the licensee shall assure that, on the date of the first treatment of each patient treated subsequent to October 19, 1992, the computer entry for that first visit shall be accompanied by a hard copy printout of the entire computer-recorded treatment record. The printout

shall be dated and initialled by the attending licensee. Thereafter, a hard copy shall be prepared for each subsequent visit, continuing to the date of the changeover of computer program, with each page initialled by the treating licensee. The initial printout and the subsequent hard copies shall be retained as a permanent part of the patient record.

- (c) Licensees shall provide access to professional treatment records to a patient or an authorized representative in accordance with the following:
1. No later than 30 days from receipt of a request from a patient or an authorized representative, the licensee shall provide a copy of the professional treatment record, and/or billing records as may be requested. The record shall include all pertinent objective data including test results and x-ray results, as applicable, and subjective information.
  2. Unless otherwise required by law, a licensee may elect to provide a summary of the record in lieu of providing a photocopy of the actual record, so long as that summary adequately reflects the patient's history and treatment. A licensee may charge a reasonable fee for the preparation of a summary which has been provided in lieu of the actual record, which shall not exceed the cost allowed by (c)4 below for that specific record.
  3. If, in the exercise of professional judgment, a licensee has reason to believe that the patient may be harmed by release of the subjective information contained in the professional treatment record or a summary thereof, the licensee may refuse to provide such information. That record or the summary, with an accompanying notice setting forth the reasons for the original refusal, shall nevertheless be provided upon request of and directly to:
    - i. The patient's attorney;
    - ii. Another licensed health care professional; or
    - iii. The patient's health insurance carrier.
  4. Licensees may require a record request to be in writing and may charge a fee for the reproduction of records, which shall be no greater than \$1.00 per page or \$100.00 for the entire record, whichever is less. (If the record requested is less than 10 pages, the licensee may charge up to \$10.00 to cover postage and the miscellaneous costs associated with retrieval of the record.) If the licensee is electing to provide a summary in lieu of the actual record, the charge for the summary shall not exceed the cost that would be charged for the actual record.
  5. If the patient or a subsequent treating health care professional is unable to read the treatment record, either because it is illegible or prepared in a language other than English, the licensee shall provide a transcription at no cost to the patient.
  6. The licensee shall not refuse to provide a professional treatment record on the grounds that the patient owes the licensee an unpaid balance if the record is needed by another health care professional for the purpose of rendering care.
- (d) Licensees shall maintain the confidentiality of professional treatment records, except that:
1. The licensee shall release patient records as directed by a subpoena issued by the Board of Medical Examiners or the Office of the Attorney General, or by a demand for statement in writing under oath, pursuant to N.J.S.A. 45:1-18. Such records shall be originals, unless otherwise specified, and shall be unedited, with full patient names. To the extent that the record is illegible, the licensee, upon request, shall provide a typed transcription of the record. If the record is in a language other than English, the licensee shall also provide a translation. All x-ray films and reports maintained by the licensee, including those prepared by other health care professionals, shall also be provided.
  2. The licensee shall release information as required by law or regulation, such as the reporting of communicable diseases or gunshot wounds or suspected child abuse, etc., or when the patient's treatment is the subject of peer review.
  3. The licensee, in the exercise of professional judgment and in the best interests of the patient (even absent the patient's request), may release pertinent information about the patient's treatment to another licensed health care professional who is providing or has been asked to provide treatment to the patient, or whose expertise may assist the licensee in his or her rendition of professional services.

4. The licensee, in the exercise of professional judgment, who has a good faith belief that the patient because of a mental or physical condition may pose an imminent danger to himself or herself or to others, may release pertinent information to a law enforcement agency or other health care professional in order to minimize the threat of danger.
- (e) Where the patient has requested the release of a professional treatment record or a portion thereof to a specified individual or entity, in order to protect the confidentiality of the records, the licensee shall:
    1. Secure and maintain a current written authorization, bearing the signature of the patient or an authorized representative;
    2. Assure that the scope of the release is consistent with the request; and
    3. Forward the records to the attention of the specific individual identified or mark the material "Confidential."
  - (f) Where a third party or entity has requested examination, or an evaluation of an examinee, the licensee rendering those services shall prepare appropriate records and maintain their confidentiality, except to the extent provided by this section. The licensee's report to the third party relating to the examinee shall be made part of the record. The licensee shall:
    1. Assure that the scope of the report is consistent with the request, to avoid the unnecessary disclosure of diagnoses or personal information which is not pertinent;
    2. Forward the report to the individual entity making the request, in accordance with the terms of the examinee's authorization; if no specific individual is identified, the report should be marked "Confidential"; and
    3. Not provide the examinee with the report of an examination requested by a third party or entity unless the third party or entity consents to its release, except that should the examination disclose abnormalities or conditions not known to the examinee, the licensee shall advise the examinee to consult another health care professional for treatment.
  - (g) (Reserved)
  - (h) If a licensee ceases to engage in practice or it is anticipated that he or she will remain out of practice for more than three months, the licensee or designee shall:
    1. Establish a procedure by which patients can obtain treatment records or acquiesce in the transfer of those records to another licensee or health care professional who is assuming the responsibilities of that practice;
    2. Publish a notice of the cessation and the established procedure for the retrieval of records in a newspaper of general circulation in the geographic location of the licensee's practice, at least once each month for the first three months after the cessation; and
    3. Make reasonable efforts to directly notify any patient treated during the six months preceding the cessation, providing information concerning the established procedure for retrieval of records.

**13:35-6.6 Requirements for issuing prescriptions for and dispensing all medications; special requirements for prescribing or dispensing controlled drugs**

- (a) Physicians who possess a plenary license to practice medicine and surgery and podiatrists who issue prescriptions for medication shall advise all patients by adequate notice, such as but not limited to, a sign or pamphlet in the waiting room of the practitioner's office, that a request of the practitioner may be made by the patient to substitute a generic drug for any prescribed medication.
- (b) Physicians and podiatrists shall provide the following on all prescriptions:
  1. Prescriber's full name, address, telephone number and proper academic degree or identification of professional practice for which licensed. Identification may be in the form of a general term of plenary or limited licensure and may, in addition list a practice specialty; for example: Dr. John Doe, physician and surgeon; or Dr. Jane Smith, physician; or Dr. John Doe, surgeon; or Dr. Jane Smith, licensed to practice medicine and surgery; or Dr. John Doe, physician, practice limited to (name of specialty); or Dr. John Doe, podiatrist; or similar accurate descriptive terms;
  2. Full name, age and address of patient;

**DIRECTIVES APPLICABLE TO ANY MEDICAL BOARD LICENSEE  
WHO IS SUSPENDED, REVOKED OR WHOSE SURRENDER OF LICENSURE  
HAS BEEN ACCEPTED**

**APPROVED BY THE BOARD ON OCTOBER 11, 1995**

The following directives shall apply when a license is suspended or revoked or permanently surrendered with or without prejudice.

**1. Document Return and Agency Notification**

The licensee shall promptly deliver to the Board office at 140 East Front Street, 2nd floor, Trenton, New Jersey 08608, the original license, current biennial registration and, if applicable, the original CDS registration. In addition, if the licensee holds a Drug Enforcement Agency (DEA) registration, he or she shall promptly advise the DEA of the licensure action. (With respect to suspensions of a finite term, at the conclusion of the term, the licensee may contact the Board office for the return of the documents previously surrendered to the Board. In addition, at the conclusion of the term, the licensee should contact the DEA to advise of the resumption of practice and to ascertain the impact of that change upon his/her DEA registration.)

**2. Practice Cessation**

The licensee shall cease and desist from engaging in the practice of medicine in this State. This prohibition not only bars a licensee from rendering professional services, but also from providing an opinion as to professional practice or its application, or representing him/herself as being eligible to practice. (Although the licensee need not affirmatively advise patients or others of the revocation, suspension or surrender, the licensee must truthfully disclose his/her licensure status in response to inquiry.) The disciplined licensee is also prohibited from occupying, sharing or using office space in which another licensee provides health care services. The disciplined licensee may contract for, accept payment from another licensee for or rent at fair market value office premises and/or equipment. In no case may the disciplined licensee authorize, allow or condone the use of his/her provider number by the practice or any other licensee or health care provider. (In situations where the licensee has been suspended for less than one year, the licensee may accept payment from another professional who is using his/her office during the period that the licensee is suspended, for the payment of salaries for office staff employed at the time of the Board action.)

A licensee whose license has been revoked, suspended for one (1) year or more or permanently surrendered must remove signs and take affirmative action to stop advertisements by which his eligibility to practice is represented. The licensee must also take steps to remove his/her name from professional listings, telephone directories, professional stationery, or billings. If the licensee's name is utilized in a group practice

title, it shall be deleted. Prescription pads bearing the licensee's name shall be destroyed. If no other licensee is providing services at the location, all medications must be removed and returned to the manufacturer, if possible, destroyed or safeguarded. (In situations where a license has been suspended for less than one year, prescription pads and medications need not be destroyed but must be secured in a locked place for safekeeping.

### **3. Practice Income Prohibitions/Divestiture of Equity Interest In Professional Service Corporations**

A licensee shall not charge, receive or share in any fee for professional services rendered by him/herself or others while barred from engaging in the professional practice. The licensee may be compensated for the reasonable value of services lawfully rendered and disbursements incurred on a patient's behalf prior to the effective date of the Board action.

A licensee who is a shareholder in a professional service corporation organized to engage in the professional practice, whose license is revoked, surrendered or suspended for a term of one (1) year or more shall be deemed to be disqualified from the practice within the meaning of the Professional Service Corporation Act. (N.J.S.A. 14A:17-11). A disqualified licensee shall divest him/herself of all financial interest in the professional service corporation pursuant to N.J.S.A. 14A:17-13(c). Such divestiture shall occur within 90 days following the disqualification to own shares in the corporation. Upon divestiture, a licensee shall forward to the Board a copy of documentation forwarded to the Secretary of State, Commercial Reporting Division, demonstrating that the interest has been terminated. If the licensee is the sole shareholder in a professional service corporation, the corporation must be dissolved within 90 days of the licensee's disqualification.

### **4. Medical Records**

If, as a result of the Board's action, a practice is closed or transferred to another location, the licensee shall ensure that during the three (3) month period following the effective date of the disciplinary order, a message will be delivered to patients calling the former office premises, advising where records may be obtained. The message should inform patients of the names and telephone numbers of the licensee (or his/her attorney) assuming custody of the records. The same information shall also be disseminated by means of a notice to be published at least once per month for three (3) months in a newspaper of general circulation in the geographic vicinity in which the practice was conducted. At the end of the three month period, the licensee shall file with the Board the name and telephone number of the contact person who will have access to medical records of former patients. Any change in that individual or his/her telephone number shall be promptly reported to the Board. When a patient or his/her representative requests a copy of his/her medical record or asks that that record be forwarded to another health care provider, the licensee shall promptly provide the record without charge to the patient.

**NOTICE OF REPORTING PRACTICES OF BOARD  
REGARDING DISCIPLINARY ACTIONS**

Pursuant to N.J.S.A. 52:14B-3(3), all orders of the New Jersey State Board of Medical Examiners are available for public inspection. Should any inquiry be made concerning the status of a licensee, the inquirer will be informed of the existence of the order and a copy will be provided if requested. All evidentiary hearings, proceedings on motions or other applications are conducted as public hearings and the record, including the transcript and documents marked in evidence, are available for public inspection, upon request.

Pursuant to 45 CFR Subtitle A 60.8, the Board is obligated to report to the National Practitioners Data Bank any action relating to a physician which is based on reasons relating to professional competence or professional conduct:

- (1) Which revoked or suspends (or otherwise restricts) a license,
- (2) Which censures, reprimands or places on probation,
- (3) Under which a license is surrendered.

Pursuant to N.J.S.A. 45:9-19.13, if the Board refuses to issue, suspends, revokes or otherwise places conditions on a license or permit, it is obligated to notify each licensed health care facility and health maintenance organization with which a licensee is affiliated and every other board licensee in this state with whom he or she is directly associated in private medical practice.

In accordance with an agreement with the Federation of State Medical Boards of the United States, a list of all disciplinary orders are provided to that organization on a monthly basis.

Within the month following entry of an order, a summary of the order will appear on the public agenda for the next monthly Board meeting and is forwarded to those members of the public requesting a copy. In addition, the same summary will appear in the minutes of that Board meeting, which are also made available to those requesting a copy.

Within the month following entry of an order, a summary of the order will appear in a Monthly Disciplinary Action Listing which is made available to those members of the public requesting a copy.

On a periodic basis the Board disseminates to its licensees a newsletter which includes a brief description of all of the orders entered by the Board.

From time to time, the Press Office of the Division of Consumer Affairs may issue releases including the summaries of the content of public orders.

Nothing herein is intended in any way to limit the Board, the Division or the Attorney General from disclosing any public document.