

FILED

August 31, 1999

**NEW JERSEY STATE BOARD
OF MEDICAL EXAMINERS**

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

In the Matter of

Administrative Action

MARK S. JOSOVITZ, M.D.

**FINAL ORDER
OF DISCIPLINE**

Licensed to Practice
Medicine and Surgery in
the State of New Jersey

This matter was opened to the Board on information received which the Board has reviewed and on which the following findings are made:

FINDINGS OF FACT

1. Respondent Mark S. Josovitz, M.D., has been a licensee of the Board at all times relevant hereto.
2. On September 17, 1996, the Tennessee Board of Medical Examiners suspended respondent's license to practice medicine for a period of one year, six months stayed and six months of active suspension. (Copy of Agreed Order annexed hereto and made a part hereof). Respondent was also ordered not to resume the practice of medicine until the Tennessee Medical Foundation's Impaired Physician Program had recommended that it was safe for him to do so, and he was placed on five years probation with terms and conditions.

CERTIFIED TRUE COPY

3. Respondent's suspension was based on findings of unprofessional, dishonorable, and unethical conduct, habitual intoxication or personal misuse of drugs or the use of intoxicating liquors, narcotics, controlled substance, or other drugs or stimulants in such manner as to adversely effect the person's ability to practice medicine, and engaging in the practice of medicine when mentally or physically unable to safely do so, in that he had engaged in an approximately five-year escalating pattern of dangerous conduct toward colleagues and staff, including mood swings, violent and loud behavior, brandishing a gun in front of emergency room staff, threatening another physician with a gun, brandishing a gun in front of his office staff, being arrested for driving under the influence, and breaking into the home of his ex-wife and assaulting her, for which he was charged with aggravated burglary and aggravated assault. In addition, respondent was being treated for chemical dependency.

CONCLUSIONS OF LAW

Respondent's actions as set forth herein constitute acts of professional misconduct in violation of N.J.S.A. 45:1-21(e) and (i) and provide grounds for discipline pursuant to N.J.S.A. 45:1-21(g).

Based on the foregoing findings and conclusions, a Provisional Order of Discipline suspending respondent's license to practice medicine and surgery in the State of New Jersey was entered on August 14, 1998 and a copy served on respondent. The Provisional

Order was subject for finalization by the Board at 5:00 p.m. on the 30th business day following entry unless respondent requested a modification or dismissal of the stated Findings of Fact or Conclusions of Law by submitting a written request for modification or dismissal setting forth in writing any and all reasons why said findings and conclusions should be modified or dismissed and submitting any and all documents or other written evidence supporting respondent's request for consideration and reasons therefor.

By letter dated September 17, 1998, respondent indicated that he did not object to the entry of Order. Respondent's submissions were reviewed by the Board, and the Board determined that further proceedings were not necessary and that no material discrepancies had been raised. The Board was not persuaded that the submitted materials merited further consideration, as respondent did not dispute the Findings of Fact or Conclusions of Law.

IT IS, THEREFORE, on this 12 day of May, 1999,

ORDERED that:

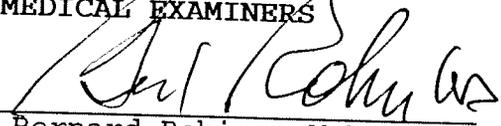
1. The license of Mark S. Josovitz, M.D., to practice medicine and surgery in the State of New Jersey is hereby suspended indefinitely.

2. Upon the Board's receipt of an application for the reactivation of his license, and prior to resuming active practice in New Jersey, respondent shall be required to appear before a committee

of the Board to demonstrate successful compliance with and completion of the requirements of his Tennessee suspension and his possession of an unrestricted license to practice medicine in all other jurisdictions where he is so licensed, and any medical practice in this State prior to said appearance shall constitute grounds for the automatic suspension of his New Jersey license. In addition, the Board reserves the right to place restrictions on respondent's practice should his license be reinstated.

NEW JERSEY STATE BOARD OF
MEDICAL EXAMINERS

By


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

Dated:

**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 forward to the Board office at Post Office Box 183, 140 East Front Street, 2nd floor, Trenton, New Jersey 08625-0183, 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.



STATE OF TENNESSEE
DEPARTMENT OF HEALTH
HEALTH RELATED BOARDS
FIRST FLOOR, CORDELL HULL BUILDING
426 FIFTH AVENUE NORTH
NASHVILLE, TENNESSEE 37247-1010

TENNESSEE BOARD OF MEDICAL EXAMINERS

January 29, 1997

MARK S JOSOVITZ, MD
WEST TN CARDIOLOGY
511 ROLAND AVENUE
JACKSON, TN 38301

TO WHOM IT MAY CONCERN:

The Tennessee Board of Medical Examiners is pleased to furnish the following information from our files:

NAME: MARK S JOSOVITZ
LICENSE NUMBER: MD18433
ISSUE DATE: 10/02/1987
EXPIRATION DATE: 10/31/1997
CURRENT STATUS: Suspended - TCA Violations
STATUS DATE: 09/20/1996



COMMENTS: There is derogatory information in our files concerning this Medical Doctor. Copies of documentation concerning disciplinary actions are available upon request and payment of copying fees.

Sincerely,

Linda Hudgins

Linda Hudgins, Administrator
Tennessee Board of Medical Examiners

VERIFY/MD/V1

To expedite the verification process, the above is the standard format used by the Medical Board of Tennessee.

disclosure such that the Board or any of its members shall be prejudiced to the extent that requires their disqualification from hearing this matter should this Order not be ratified. Likewise, all matters, admissions and statements disclosed or exchanged during the attempted ratification process shall not be used against the Respondent in any subsequent proceeding unless independently entered into evidence or introduced as admissions.

3. At all times herein relevant, Respondent was licensed to practice medicine in Tennessee by the Tennessee Board of Medical Examiners. Respondent practiced internal medicine.

4. Respondent has engaged in an approximately five (5) year escalating pattern of dangerous conduct toward colleagues and staff. Said pattern is illustrated by the following:

(a) Respondent has been observed by colleagues and staff to exhibit mood swings and violent, loud behavior while practicing medicine.

(b) In or about 1992, Respondent brandished a gun in front of the Emergency Room staff at Bolivar Hospital.

(c) Respondent, in or about 1992, threatened another physician with a gun.

(d) In or about 1992, Respondent brandished a gun in front of his office staff. The Office Manager had to take the gun away from Respondent.

(e) Respondent was arrested in Hardeman County for driving under the influence on or about February 1, 1996.

(f) Respondent broke into his ex-wife's home and assaulted her during the early morning hours on or about February 20, 1996 after leaving a halfway house against medical advice. He was charged with Aggravated Burglary and Aggravated Assault after the incident.

5. Respondent has attempted to be treated for various problems, including substance abuse:

(a) He received inpatient treatment for chemical dependency in Atlanta, Georgia from approximately January 29, 1995 until June 10, 1995.

(b) Respondent entered into a continuing care contract with the Tennessee Medical Foundation's Impaired Physician's Program in June 1995.

(c) Respondent entered Charter Lakeside, Memphis, Tennessee in February 1996.

(d) On or about March 18, 1996, Respondent was transported to Copac treatment center in Brandon, Mississippi where he is scheduled to remain until the end of July 1996.

CONCLUSIONS OF LAW

The facts as found in the Findings of Fact section of this Agreed Order are sufficient to establish violation by the Respondent of the following provisions of the Tennessee Medical Practice Act, (T.C.A. 63-6-101 et seq.) for which disciplinary action before and by the Board of Medical Examiners is authorized:

1. Unprofessional, dishonorable, or unethical conduct.
T.C.A. 63-6-214(b)(1);
2. Habitual intoxication or personal misuse of any drugs or the use of intoxicating liquors, narcotics, controlled substances, or other drugs or stimulants in such manner as to adversely effect the person's ability to practice medicine. T.C.A. 63-6-214(b)(5);
3. Engaging in the practice of medicine when mentally or physically unable to safely do so. T.C.A. 63-6-214(b)(18).

REASONS FOR THE DECISION

It is the policy of the Board of Medical Examiners to discipline its licensees who are found to have violated the Medical Practice Act. The Board is concerned about the Respondent's past unsuccessful treatments and his propensity for violence when he is impaired. Based on the involvement of the Tennessee Medical Foundation's Impaired Physician Program; the fact that there have been no substantiated complaints about his medical competency; and the Board's "sentencing guidelines", the Board takes the following action. However, should like or similar events occur or should he violate this Order, the Board will strongly consider revoking the license of the Respondent.

IT IS THEREFORE ORDERED as follows:

1. The Tennessee medical license of Respondent Josovitz, number 18433, is hereby SUSPENDED for a period of one (1) year from the effective date of this Agreed Order. Six (6) months of said suspension are hereby stayed meaning that he is eligible to practice medicine six (6) months from the effective date of this order.
2. Under no circumstances shall Respondent undertake to practice

medicine at the end of his suspension period until the Respondent has caused the Tennessee Medical Foundation's Impaired Physician Program (the "TMF") to recommend to the Board that Respondent is able to safely resume the practice of Medicine in Tennessee.

3. Upon the termination of Respondent's suspension period, his medical license shall be placed on PROBATION for a period of five (5) years. Respondent must maintain the advocacy of the TMF for the duration of said probation. Respondent must personally appear before the Board at the end of five years in order to obtain permission to have his probation lifted.

4. Any violation of this order, including the loss of advocacy from the TMF, shall constitute a separate offense pursuant to T.C.A. §63-6-214(b)(2) and be grounds for further disciplinary action by the Board up to, and including, the summary suspension of Respondent's medical license.

SO ORDERED this the 17 day of September

19 96.

James B. Eason, MD
Panel Chairman

Approved for entry:


Mark Josovitz, M.D.
Respondent

Date: 7/20/96


A. Yarnell Beatty #13712
Associate General Counsel
Office of General Counsel
Tennessee Dept. of Health
3rd Floor, Cordell Hull Building
426 5th Avenue, North
Nashville, TN 37247-0120
(615) 741-1611

Date: 7/22/96

This order was received for filing in the Office of the Secretary of State, Administrative Procedures Division, and became effective on the 18th day of September, 1996.


Charles C. Sullivan, II
Director
Administrative Procedures Div.

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of this document has been served upon all interested parties, or their counsel, by delivering same to their offices or by placing a true and correct copy of same in the United States mail, postage prepaid.

This 18th day of September, 1996.

Harrell Braly
Associate General Counsel
Tenn. Dept. of Health

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