

FILED

Dec 30, 2002

**NEW JERSEY STATE BOARD
OF MEDICAL EXAMINERS**

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

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

Administrative Action

BENITO B. RISH, M.D.
License No. MA 38266

FINAL ORDER
OF DISCIPLINE

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

This matter was opened to the New Jersey State Board of Medical Examiners upon receipt of information which the Board has reviewed and on which the following findings of fact and conclusions of law are made;

FINDINGS OF FACT

1. Respondent, Benito B. Rish, M.D. License No. MA 38266, is a physician licensed in the State of New Jersey and has been a licensee at all times relevant hereto. As a consequence of Respondent's failure to submit his biennial renewal in 1987, Respondent's license to practice medicine in the State of New Jersey was automatically suspended pursuant to N.J.S.A. 45:9-6.1, which allows for reinstatement upon payment of certain fees.

2. On or about February 7, 2000, Respondent voluntarily surrendered his New York license to practice medicine. A copy of

CERTIFIED TRUE COPY

the Surrender Order is attached as Exhibit A. More specifically, Respondent was charged with five specifications of professional misconduct. However, Respondent did not contest the first specification which charged him with unlawful fee splitting with unlicensed persons from prior to 1990 until January 1, 1998. As part of the surrender, Respondent agreed to a limitation against the issuance of a New York license to him and also agreed not to apply for re-licensure in New York.

CONCLUSIONS OF LAW

1. The above New York action provides grounds to take disciplinary action against Respondent's license to practice medicine and surgery in New Jersey in that the voluntary surrender of his New York license is tantamount to a revocation or suspension pursuant to N.J.S.A. 45:1-21(g).

Based on the foregoing findings and conclusions, a Provisional Order of Discipline revoking respondent's license to practice medicine in the State of New Jersey was entered on August 15, 2002 and a copy was forwarded to respondent at the last known address on file with the Board. The Provisional Order was subject to 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.

Although the record reflects that the Provisional Order was served upon respondent, no response has been received to date. Accordingly, the Board considered the matter, determined that further proceedings were not necessary and the Provisional Order should be made final.

ACCORDINGLY, IT IS on this 30th day of Dec, 2002, ORDERED that:

1. Respondent's license to practice medicine in the State of New Jersey be and hereby is revoked.

2. Prior to resuming active practice in New Jersey, Respondent shall be required to appear before the Board (or a committee thereof) to demonstrate fitness to resume practice, and any practice in this State prior to said appearance shall constitute grounds for the a charge of unlicensed practice. 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:



William V. Harrer, M.D., B.L.D.
Board President

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

APPROVED BY THE BOARD ON MAY 10, 2000

All licensees who are the subject of a disciplinary order of the Board are required to provide the information required on the Addendum to these Directives. The information provided will be maintained separately and will not be part of the public document filed with the Board. Failure to provide the information required may result in further disciplinary action for failing to cooperate with the Board, as required by N.J.A.C. 13:45C-1 et seq. Paragraphs 1 through 4 below shall apply when a license is suspended or revoked or permanently surrendered, with or without prejudice. Paragraph 5 applies to licensees who are the subject of an order which, while permitting continued practice, contains a probation or monitoring requirement.

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 any health care 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.)

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4. Medical Records

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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** record be **forwarded** to another health care provider, **the** licensee shall promptly provide the record without charge to the patient.

5. Probation/Monitoring Conditions

With respect to any licensee who is the subject of any Order imposing a probation or **monitoring** requirement or a stay of **an** active suspension, **in whole or in part**, which is **conditioned** upon compliance with a **probation** or monitoring requirement, the licensee shall fully cooperate with the Board and **its designated** representatives, including the Enforcement Bureau of the Division of Consumer Affairs, in ongoing monitoring of the licensee's status and practice. Such monitoring shall be at the **expense** of the disciplined **practitioner**.

ordered, the practitioner shall fully cooperate **by** responding to a demand for breath, blood, **urine or other** sample in a timely manner and providing the designated **sample**.

ADDENDUM

Any licensee who is the subject of an order of the Board suspending, revoking or otherwise conditioning the license, shall provide the following information at the time that the order is signed, if it is entered by consent, or immediately after service of a fully executed order entered after a hearing. The information required here is necessary for the Board to fulfill its reporting obligations:

Social Security Number¹ - _____

List the Name and Address of any and all Health Care Facilities with which you are affiliated:

List the Names and Address of any and all Health Maintenance Organizations with which you are affiliated:

Provide the names and addresses of every person with whom you are associated in your professional practice: (You may attach a blank sheet of stationery bearing this information).

Pursuant to 45 CFR Subtitle A Section 61.7 and 45 CFR Subtitle A Section 60.8, the Board is required to obtain your Social Security Number and/or federal taxpayer identification number in order to discharge its responsibility to report adverse actions to the National Practitioner Data Bank and the HIP Data Bank.

**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 which 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 00.8**, 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 revokes or suspends (or otherwise restricts) a license,
- (2) Which censures, reprimands or places on probation,
- (3) Under which a license is surrendered.

Pursuant to 45 CFR Section 61.7, the Board is obligated to report to the Healthcare Integrity and Protection (HIP) Data Bank, any formal or official actions, such as revocation or suspension of a license (and the length of any such suspension), reprimand, censure or probation or any other loss of license or the right to apply for, or renew, a license of the provider, supplier, or practitioner, whether by operation of law, voluntary surrender, non-renewability, or otherwise, or any other negative action or finding by such Federal or State agency that is publicly available information.

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.