FILED
JUNE 9, 2004
NEW JERSEY STATE BOARD OF MEDICAL EXAMINERS

State of New Jersey

OFFICE OF THE ATTORNEY GENERAL
DEPARTMENT OF LAW AND PUBLIC SAFETY
DIVISION OF CONSUMER AFFAIRS
STATE BOARD OF MEDICAL EXAMINERS
140 EAST FRONT STREET, 2ND FLOOR, TRENTON NJ

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June 9,2004

VIA FACSIMILE &
CERTIFIED MAIL - R.R.R.

Susan Berger, D.A.G.
DIVISION OF LAW
124 Halsey St., 5th Fl.
PO Box 45029
Newark, NJ 07101

Steven I. Kern, Esq.
KERN AUGUSTINE CONROY
& SCHOPPMANN
1120 Route 22 East
Bridgewater, NJ 08807

RE: Don Henry Wijaya, M.D.

Dear Attorneys:

Please be advised that on June 4,2004, the Supreme Court of New Jersey denied Don Henry Wijaya's petition for certification. The Order Staying the Revocation of his medical license was only effective until when the Supreme Court disposed of the petition for certification. In order to allow for an orderly transfer of patient care, the revocation will be effective one week from today on June 16.2004.

Enclosed for your convenience is a certified true copy of the FINAL DECISION AND ORDER filed with the New Jersey State Board of Medical Examiners on March 25,2002. This Order now includes the Supreme Court's Order filed June 4,2004 and a filed copy of this letter.

As noted in item #1 of the attached Directives, Dr. Wijaya is required, on or before June 16, 2004, to forward to the Board Office his engrossed wall certificate, his current Board of Medical Examiners certificate of registration, and his Controlled Dangerous Substance certificate of registration.

CERTIFIED TRUE COPY

RE: DON HENRY WIJAYA, M.D.

Also enclosed is a confidential Addendurn which is not part of the Order but which all disciplined licensees are required by law to complete and submit to the Board. Please assure that this report is sent back immediately. Note that the Social Security number is maintained as part of the confidential files of the Board and is not deemed part of the public record.

Dr. Wijaya should forward his completed Addendum along with the above documents to my attention at the Board office mailing address: New Jersey State Board of Medical Examiners, P.O. Box 383, Trenton, NJ 08625-0183.

Should you have any questions, please do not hesitate to contact this office.

very truly yours,

NEW JERSEY STATE BOARD
OF MEDICAL EXAMINERS

William V. Roeder
Executive Director

WVR/PAH
Enclosures
cc: Don Henry Wijaya, M.D., w/encs.

J. BERGER

SUPREME COURT OF NEW JERSEY
C-1100 September Term 2003
56,000

IN THE MATTER OF THE SUSPENSION OR REVOCATION OS THE LICENSE OF DON HENRY WIJAYA, M.D., TO PRACTICE MEDICINE AND SURGURY IN THE STATE OF NEW JERSEY

(DON HENRY WIJAYA, M.D., - Petitioner)

ON PETITION FOR CERTIFICATION

FILED
JUN 4 2004
CLERK

To the Appellate Division, Superior Court:

A petition for certification of the judgment in A-3607-01 having been submitted to this Court, and the Court having considered the same;

It is ORDERED that the petition for certification is denied, with casta.

WITNESS, the Honorable Deborah T. Poritz, Chief Justice, at Trenton, this 2nd day of June, 2004.

The foregoing is a true copy of the original on file in my office.
CLERK OF THE SUPREME COURT OF NEW JERSEY

CLERK OF THE SUPREME COURT

FILED

March 25, 2002
NEW JERSEY STATE BOARD
OF MEDICAL EXAMINERS

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

IN THE MATTER OF THE SUSPENSION OR REVOCATION OF THE LICENSE OF DON HENRY WIJAYA, M.D. TO PRACTICE MEDICINE AND SURGERY IN THE STATE OF NEW JERSEY	Administrative Action **FINAL DECISION AND ORDER**

This matter was initially opened to the New Jersey State Board of Medical Examiners on the Attorney General's filing of an Administrative Complaint on March 6, 1997 against Don Henry Wijaya, M.D. ("respondent") by Susan C. Berger, Deputy Attorney General. Respondent's answer to the Complaint was filed April 2, 1997 by Steven I. Kern, Esq. The matter was transmitted to the Office of Administrative Law on July 23, 1997 for determination as a contested case. A First Amended Complaint was filed with the Board on April 16, 1998. In the first two counts, the Attorney General alleged that respondent, a psychiatrist, engaged in intermittent sexual contact with his psychiatric patient, F.B., [including going to her home for dinner and afterwards having sexual intercourse and/or oral sex] on five occasions between the summer of 1983 and

December 1984. It is also alleged that respondent terminated his psychiatric treatment of F.B. in order to treat her daughter and that he resumed his medical care of F.B. in 1991. The sexual contact is alleged to have begun again in 1991 and occurred on seven occasions in various motels until 1994. The Attorney General charges that respondent's conduct is not justified in medical practice, represents a gross deviation from any acceptable standard of care, and constitutes an abuse of the doctor-patient relationship.

The second count also alleges that respondent failed to properly diagnose and treat F.B. Further, that respondent did not maintain appropriate psychiatrist-patient boundaries and he was negligent in failing to manage and document the transference and counter-transference which developed from their psychiatrist-patient relationship. Complainant also alleges that respondent negligently managed the termination of his psychiatrist-patient relationship in 1987 when F.B. self-terminated treatment and in 1989 when he terminated F.B. to begin treatment of F.B.'s daughter. Finally the Amended Complaint alleges that respondent did not obtain consultations or referrals for F.B. and failed to keep appropriate patient records.

The conduct set forth in the Amended Complaint is asserted to constitute gross or repeated acts of malpractice in violation of N.J.S.A. 45:1-21(c)and (d); professional misconduct in

violation of N.J.S.A. 45:1-21(e); evidence of an incapacity to discharge the functions of a licensee in a manner consistent with the public's health, safety and welfare in violation of N.J.S.A. 45:1-21(i) and failure to fulfill the ongoing statutory requirement of good moral character pursuant to N.J.S.A. 45:9-6.

Respondent in his Answer denied the allegations and asserted that any findings are entirely dependent upon the credibility of F.B. versus the credibility of respondent. He contended that F.B. cannot be believed because of her psychiatric condition, motive, vengeful character, litigious nature, tendency to fantasize, dependent nature, and the reinforcement she received from support groups, a psychic, friends and therapists.

The hearing at the Office of Administrative Law began on June 24, 1999 and was conducted on 22 dates ending November 28, 2000. The Initial Decision of Administrative Law Judge Joseph F. Fidler was issued on December 18, 2001.

By that Initial Decision the Administrative Law Judge unequivocally found as fact that respondent engaged in intermittent sexual contact with F.B. in her apartment several times in 1983 and 1984 and on at least seven occasions in 1993 and 1994 in motels. He found that respondent's treatment of F.B. was an "abuse of the psychiatrist parent relationship" because he engaged in a sexual relationship. Furthermore, he found that if F.B. had a severe borderline personality disorder leading to fantasy as respondent

asserts, then he failed to properly document, diagnose and treat her condition. The Initial Decision also included findings that respondent engaged in and permitted boundary violations and failed to recognize and deal with transference including the exchange of gifts between a psychiatrist and his patient, allowing F.B. to perform errands for him and his children, flirting behavior, her personal invitations for trips, personal inquiries, and F.B.'s over-involvement in respondent's personal life. He cited as examples: F.B. baptizing her daughter with the same name as respondent's daughter and enrolling her daughter in the same school as respondent's daughter. The Administrative Law Judge also found that respondent failed to adequately address and failed to monitor these boundary and transference issues in his medical records, failed to obtain appropriate consultation or referrals for himself, and negligently handled termination of F.B.'s therapy.

On January 24, 2002, respondent filed Exceptions to Judge Fidler's Initial Decision. Therein he asserted numerous objections which fall into the following categories. First, the Initial Decision failed to address crucial evidence including the testimony of respondent's expert witnesses and F.B.'s inability to identify what respondent termed as distinguishing marks on his body. He further contended that the Initial Decision failed to articulate a rationale as to why certain conflicting fact witnesses were credible and others were not, and failed to consider the reputation

and character of respondent. In his Exceptions respondent also asserted that the case should at a minimum be remanded for further findings or that pursuant to N.J.S.A. 45:1-22 (e) and (f) and/or N.J.S.A 45:1-18(g) respondent should be further evaluated before any final decision is issued.

The Board considered respondent's exceptions as well as the Attorney General's reply to the Exceptions at its regularly scheduled meeting on March 13, 2002.[1] Prior to commencement of oral argument on respondent's Exceptions, four (4) pre-hearing

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[1] The matter was originally scheduled to be considered January 8, 2002, that matter was first adjourned at respondent's request. It was rescheduled for February 13, 2002, however respondent's second adjournment request was granted and an Interim Order was issued which restricted respondent's practice. The Interim Order effective February 13 to March 13, 2001 contained the following provisions.

1. Respondent's one (1) month adjournment request is granted.
2. Respondent will refrain from seeing any routine non emergent patients.
3. Respondent may only see existing patients with emergent problems in the hospital setting.
4. Respondent may renew prescriptions only for his existing patients who are maintained on long term medications, provided an office visit is not necessary.
5. The Board agrees that the entry of the Order and the fact of the voluntary restrictions in the Order will not be used against respondent in any application for a stay of any adverse final disposition which may ultimately be taken by the Board.
6. The Board will not grant any further adjournments in the matter.

motions were considered and determined by the full Board on the papers.[2]

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[2] The Board considered the extensive arguments as set forth in the party's letter briefs. The Board declined oral argument on the motions and found it had adequate information and argument in the record. The Board made the following determinations:

(1) Respondent's request for a 40 minute oral argument on Exceptions instead of 20 minutes ordinarily granted - The Board, considering the availability of a 40 page brief plus exhibits were filed, and that oral argument on exceptions is discretionary, allowed respondent an increase to 30 minutes. Respondent was not limited in time for presentation of witnesses and argument in any mitigation phase of the proceeding.

(2) The Attorney General's motion to exclude photograph #12 an exhibit to Respondent's Brief on Exceptions - The photograph was excluded pursuant to N.J.A.C. 1:1-18.4(c) as it was not presented as evidence at the hearing.

(3) Respondent's motion to allow the Board to consider a polygraph report and a psychiatric report pursuant to N.J.S.A. 45:1-18 - The Board declined to include these reports as the newly enacted statutory amendment is not relevant to a proceeding on Exceptions. It creates a mechanism for the Board, not the respondent, to employ in the investigation phase of a matter. Moreover, the reports were not in evidence at the hearing as required by N.J.A.C. 1:1-18.4(c) and polygraphs are not admissible in New Jersey without the consent of the parties.

(4) Respondent's objection to the making of preliminary rulings by the Board President - The Board affirms its longstanding practice necessitated by the evident and proper handling of administrative disciplinary matters by an agency with a once a month meeting schedule. The full Board acting as the agency head fully considered the motions and made the final determination on the pre-hearing motions.

As the ALJ states in his well reasoned Initial Decision, whether respondent engaged in sexual contact with his patient rests in large part upon findings of credibility. This Board is loath to upset findings of fact as to issues of credibility reached by a trier of fact who had the opportunity over 22 days to hear the testimony and study the demeanor of the lay witnesses. Further, we find the credibility findings are supported by more than the required sufficient competent credible evidence in the record. Judge Fidler was able to weigh the testimony for reasonableness, detail or lack thereof, coherence and corroboration and judge the motives of those testifying. His findings and his rationale for them, are well supported by his 44 page decision which references ample credible, supporting evidence in the record. Matter of Seaman, 133 N.J. 67 (1993).

Respondent made many exceptions to the Administrative Law Judge's decision.[3] He asserted that F.B. was unable to identify distinguishing characteristics of Dr. Wijaya's body. He further contends the decision failed to articulate any rationale for discounting the expert psychiatric testimony and the conflicts

[3] Although they are not specifically detailed in this Final Order, this Board considered all of respondent's numerous other exceptions and discounted them. For example, at the time of consideration of the Exceptions respondent also questioned the appropriateness of the standard of proof. The Board finds, as does the Supreme Court, that the preponderance of the credible evidence is the appropriate standard. Matter of Polk, 90 N.J. 550 (1982).

between the testimony of F.B.'s two daughters. We disagree with the totality of respondent's claims. Judge Fidler found the whole of F.B.'s testimony sincere and candid and "consistent as one might expect from a truthful witness describing events which occurred over a substantial period of time, and which may or may not have been meaningful to her when they happened ... including her descriptions of respondent's unclothed body." He found her account "corroborated in material aspects by admissions, documents and other sincere and credible witnesses." Additionally, two women (including F.B.) testified to having intimate sexual contact with respondent during the relevant time period, however, the record is devoid of any witness, other than respondent himself, testifying that he had distinguishing body characteristics. Indeed one of respondent's other lovers testified the marks were not remarkable. Furthermore, we note that the eleven (11) photos in evidence depict the moles and skin tags F.B. acknowledged. They appear ordinary, usual body marks. That she did not find them to be distinguishing characteristics we find, as did the judge, understandable.

The expert testimony presented by the defense was also considered and discounted in the Initial Decision because the witnesses did not actually examine F.B. and their opinions are based on facts not established in the record. The opinions of Drs. Kern and Spady concerning the unlikelihood of F.B.'s allegations depend upon attributing to her "the inability to distinguish an

exotic fantasy from conscious reality." As the Initial Decision notes, "not even respondent viewed F.B. through this lens while treating her." Respondent's own medical treatment records in evidence as R2, R12 and R16 state "no psychotic symptoms, no evidence of formal thinking disorder, no hallucinations or delusions." Furthermore, the ALJ emphasized that none of F.B.'s four (including respondent) actual treating professionals found she had any inability to relate facts or was not in touch with reality.

A review of the testimony of respondent's expert Dr. Swartzburg, reveals his opinion that even if F.E. did have indicia of borderline personality disorder, it would not necessarily render her unable to separate fantasy from reality. He further explained that successful, functioning individuals can have such a personality disorder. As the Judge stated, to accept that one it not to be believed (even though there is extensive corroboration in the record) solely because of a psychiatric condition, would render an entire population without ability to prevail in a cause of action. It is for this reason that a psychiatric patient is so vulnerable and subject to prey by those in positions of trust and power. The Board finds, as did the Judge, that F.B. was able to distinguish between fact and fantasy and testified sincerely and candidly regarding her sexual liasons with respondent.

We find that there is no significant inconsistency which would support respondent's claims that the testimony of F.B. and

her daughters is lacking in credibility. An examination of the record reveals that counsel based his argument on his claim that respondent visited F.B.'s house only once. The record demonstrates, however, that F.B.'s two daughters, her mother, and a neighbor all witnessed respondent's separate visits on different occasions. Furthermore, the fact of the multiple visits is corroborated by witnesses who testified that F.B. contemporaneously told them over the course of many years about the visits.

The Initial Decision clearly and forcefully supports the rationale as to why F.B.'s testimony was believable and how it formed the foundation for a finding that the sexual contact indeed took place. Her testimony was very specific and detailed. She recounted the clothes she wore, the food she prepared and served respondent and the conversations they had. The Decision also relates that respondent's accounts were vague and lacking in detail and not supported by other evidence in the record. Therefore, it logically and consistently follows that respondent's testimony to the contrary would be rejected. The fact that the rejection of respondent as not credible is not explicitly stated, does not alter the credible findings that were made and does not require a contrary finding. Matter of Taylor, 158 N.J. 644 at 649 (1999).

Further, the Board does not accept respondent's assertion that while she was in the motel room F.B. knew several of her doctor's code and telephone numbers, disguised her voice as

respondent's and personally placed calls to respondent's answering service in order to retrieve his messages. He contends F.B. performed these functions years ago as part of a scheme to implicate respondent. The rejection of this contention is amply supported by the testimony of Don Thaler, the representative of respondent's answering service, and motel phone records documenting the call. Additionally, Mr. Thaler revealed that the operator who responded to the message retrievals clearly indicated in the company's records that Dr. Wijaya, who was known to the operator as a male, retrieved the calls.

The Board in its review of the Initial Decision has also considered counsel's contention that a psychic unduly influenced F.B. and the purport of the statement, "I've been alone so long and I can't imagine just being with him." The Board read that statement in the context of the entire testimony F.B. provided on the topic of the psychic. The Board then concluded she was merely affirming her feelings that she was lonely and did not have a loving relationship with her doctor - she just had sex. The Board did not find the psychic influenced her to fabricate her claims. The record demonstrates F.B. told others about her liaisons with her psychiatrist concurrent with the occurrence of the events.

Finally, with regard to counsel's contention that his client would not jeopardize his professional reputation (by engaging in a sexual relationship with F.B.), we agree with Judge

Fidler who addressed this assertion, (Initial Decision p. 41). We are daily presented with newscasts of highly regarded public figures who engage in risky sexual exploits. It is believable that an individual may risk everything and engage in such behavior.

The Board therefore adopts the Findings of Fact and Conclusions of Law of Administrative Law Judge Joseph F. Fidler in toto. In reaching this conclusion the Board is guided by N.J.S.A. 52:14B-10(c) which provides in relevant part that the

> Agency head may not reject or modify any finding of fact as to issues of credibility of lay witness testimony unless it is first determined that the findings are arbitrary, capricious or unreasonable or are not supported by sufficient, competent and credible evidence in the record.

Our review of the record and Judge Fidler's detailed and exhaustive Initial Decision compels this result.

Prior to determining the penalty, the Board afforded both respondent and complainant the opportunity to present mitigating and aggravating circumstances, respectively, or make further argument as to the appropriate sanction. Respondent presented mitigation testimony from physicians in the community and a certification of President and CEO Judith Persichelli of St. Francis Hospital. The physicians testified as to the scarcity of psychiatrists in the area willing to serve the needy, indigent, inner-city psychiatric patients there and the important role respondent fulfilled in meeting that need. The CEO offered on

behalf of the hospital to monitor respondent's work. In deciding on an appropriate penalty we did consider the needs of the community and the hospital's statement. However, as has long been held by the Board, the indigent patient population does not deserve any less quality of care than any other patient population. Furthermore, as to the potential for disruption of services, the hospital has been on notice that respondent's services might become unavailable as this matter has been pending for years, the December 18, 2001 Initial Decision recommended revocation, and finally an Interim Board Order was in place for the past month which restricted respondent's practice of medicine. Furthermore, we do not find monitoring an appropriate result for respondent's conduct.

Respondent's wife also testified as to the reputational and financial harm a revocation would cause to his family. Although we have empathy for respondent's family we are unswayed. Respondent himself testified at the hearing. He made no admission and has not shown a hint of remorse. He failed even to acknowledge his glaring boundary violations and mishandling of transference.

The Board did admit, over the DAG's objection, the psychological report by Martin P. Kafka, M.D. for the limited purpose of mitigation and accorded it appropriate weight. The report was based on one 75 minute interview conducted after the

trial. The evaluator did not have the benefit of the prior expert reports, and the report did not contain a diagnosis or plan of treatment. Again in this encounter respondent did not indicate any admission, sorrow or contrition. Furthermore, the report contained conclusions regarding a lack of sexual impulsivity on respondent's part despite the fact that there are no allegations of such in this case. The Board was not persuaded to mitigate the sanction by this additional information.

Both respondent and his counsel urged the Board to postpone penalty until respondent submitted to yet another psychological evaluation. Counsel asserted that the Board in 1995 ordered a psychological evaluation in a similar case In the Matter of Tricarico, M.D. There Dr. Tricarico submitted to a post hearing evaluation and in that process admitted to the sexual contact with his psychiatric patient. We have reviewed our action in that matter and decline to follow that course. The Board is not bound to grant such a request and will not do so. Furthermore, the Board has ample precedents where revocation was the sanction imposed in cases with similar facts; for example, I/M/O John W. Schermer, Jr., M.D., I/M/O David B. Baird, M.D., I/M/O Rodney A. Matz, M.D., I/M/O Howard Myers, M.D.

Counsel in his closing arguments emphasized the findings involve one patient, occurred years ago and that there is little or no danger of recurrence. The Board weighed the fact that the

sexual contact took place multiple times over a period of years, the harm to the victimized patient and the damage to the public perception of those licensed to heal. Furthermore, the Board considered that it would be unlikely that there be a recurrence of the conduct during the past seven years while this matter was being continuously and aggressively investigated and litigated.

The Board notes the Attorney General's argument that respondent violated the Interim Order, but did not rely on it for purpose of determining penalty. He testified during the mitigation proceeding that he regularly treated new, nonemergent patients in a hospital setting during the one month he was prohibited from doing so. Counsel urged that he had advised respondent his actions were permissible. The Board has determined not to consider the violations for pusposes of determining penalty.

The Board is of the opinion that the only appropriate penalty in this case is revocation. Since the inception of the Hippocratic Oath, sexual contact between a physician and his patient has been violative of professional standards. Maintenance of a long term sexual liaison with a troubled psychiatric patient can only be viewed as unacceptable, destructive and psychologically damaging. For a physician to prey on a patient for years, assert that because of her illness she is not to be believed, and then to show no remorse or a glimmer of understanding as to how he erred regarding her treatment, can result in only the Board's most severe

sanction. Additionally, the public's trust in those granted a medical license is severely tarnished by respondent's long term egregious professional misbehavior. Hence, the revocation of respondent's license sends a message that the Board will not tolerate such conduct; thus the penalty has both a punitive and deterrent effect. Therefore the Board hereby adopts in toto the recommended penalty of ALJ Fidler. The Board announced its determination on the record at the time of the hearing.[4]

ACCORDINGLY, IT IS ON THIS 25th DATE OF MARCH 2002

ORDERED:

1. Respondent's license shall be and hereby is revoked. He shall comply with the directives applicable to disciplined licensees which are attached hereto.

2. In order to allow the safe transfer of respondent's patients to other practitioners, the revocation is effective April 13, 2002. However, during the one (1) month from pronouncement of the oral determination on the record to April 13, 2002 respondent may not see any new patients in any setting. Respondent may not perform any hospital service assignment. Respondent shall notify his patients he will no longer be available for psychiatric care as of April 13, 2002.

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[4] Respondent's motion for a stay of the effective date of the Order pending an application to the Appellate Division was denied.

3. Respondent shall surrender to the New Jersey State Board of Medical Examiners located at 140 East Front Street, 2nd Floor, P.O. Box 183, Trenton, New Jersey 08625 his license to practice medicine and surgery in the State of New Jersey by April 13, 2002.

4. Respondent shall pay a monetary penalty in the sum of $10,000.00 representing $5,000 per count, pursuant to N.J.S.A. 45:1-22b and N.J.S.A. 45:1-25, payable by certified check or money order by April 13, 2002.

5. Respondent shall pay costs for the use of the State in the sum of $38,529.41 payable by certified check or money order by April 13, 2002.

STATE BOARD OF MEDICAL EXAMINERS

By: William V Harrer MD BLD

William V. Harrer, M.D., BLD
President

DIRECTIVES APPLICABLE TO ANY MEDICAL BOARD LICENSEE WHO IS DISCIPLINED OR WHOSE SURRENDER OF LICENSURE WAS 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 **sea.** 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 hislher **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 himherself 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 hislher 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** hislher 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 hislher 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 hislher eligibility to practice is represented. The licensee must also take steps to remove hislher 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. A destruction report form obtained from the Office of Drug Control (973-504-6558) must be filed. 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 and Limited Liability Companies

A licensee shalt not charge, receive or share in any fee for professional services rendered by himherself or others while barred from engaging in the professional practice. The licensee may be compensated for the reasonabte 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). A licensee who is a member of a limited liability company organized pursuant to N.S.S.A. 42:1-44, shall divest himherself of all financial interest. Such divestiture shall occur within 90 days following the the entry of the Order rendering the licensee disqualified to participate in the applicable form of ownership. 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

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.