

New York State Board for Professional Medical Conduct ("New York Board"). A copy of the Order and exhibits are attached to this Order as Exhibit A. The Amended Statement of Charges attached to the New York Order set forth factual allegations on behalf of five patients of misconduct by Respondent including, but not limited to: inappropriate touching of a 14 year old female patient; failure to adequately evaluate; failure to make or record a differential diagnosis and/or develop a follow-up plan; and failure to maintain a medical record which accurately reflected the evaluation and/or treatment of a patient. Ultimately, Respondent consented to enter a plea of "no contest" to two factual allegations, one of which was that he failed to maintain a medical record which accurately reflected the evaluation and/or treatment of a patient he treated from approximately April 11, 1990 through May 15, 1992, and the other which was that he failed to maintain a record which accurately reflected the evaluation of another patient he treated from December 18, 1992 through January 5, 1993.

3. As a result of the foregoing, the Order provided that Respondent was subject to a five year probation which included, among other terms, that Respondent practice only when monitored by a licensed physician and that a female chaperon must be present when Respondent examines and/or treats any female patient. Further, the female chaperon must be a licensed or registered health care professional or other health care worker and cannot be

a family member, personal friend or be in a professional relationship with Respondent which could pose a conflict with the chaperon's responsibilities. The chaperon must provide quarterly reports and logs; report any failure by Respondent within 24 hours to comply with the Order, including any sexual actions or inappropriate comments to a patient; and must confirm in writing her presence via logs during each examination of a female patient. Further, the Order provided that a permanent limitation be placed on Respondent's medical license that his medical practice, except under certain limited circumstances, is limited to his registered address and to hospitals where Respondent holds medical privileges.

CONCLUSIONS OF LAW

1. The above action provides grounds to take disciplinary action against Respondent's license to practice medicine and surgery in New Jersey in that it is based on admissions that would give rise to discipline in this State for misconduct pursuant to N.J.S.A. 45:1-21(h) and N.J.A.C. 13:35-6.5 since Respondent has failed to maintain proper medical records.

DISCUSSION

Based on the foregoing findings and conclusions, a Provisional Order of Discipline ("POD") suspending Respondent's license to practice medicine and surgery in the State of New Jersey was entered on August 24, 2001 and a copy was forwarded to Respondent's 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 setting forth in writing any and all reasons why said findings or 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.

Respondent responded that the POD should not be finalized because the Board failed to take into consideration any mitigating circumstances. However, Respondent failed to present any mitigating evidence after the Board had given him ample opportunity to do so. Respondent further stated that the Board has failed to "prevent inflammatory and prejudicial allegations from unfairly and adversely effecting its provisional decision." Respondent did not cite to any specific provisions to support his contention, but rather made a blanket statement. 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 by the Respondent. The Board was not persuaded that the submitted materials merited further consideration, as Respondent did not dispute the Findings of Fact and Conclusions of Law.

This matter was further reviewed by the Board when it was revealed that the sanction set forth in the POD proposed an indefinite suspension of Respondent's New Jersey license. On June 11, 2003 the Board determined to file a Final Order of Discipline ("FOD") and amend the penalty in response to the submission to the POD. The Board approved the issuance of an FOD that modifies the POD and mirrors the sanctions imposed by the New York Board, and such sanctions shall be retroactive to and concurrent with the period of probation imposed by the New York Board.

ACCORDINGLY, IT IS on this 6th day of August, 2003, ORDERED that:

1. Respondent's license to practice medicine and surgery in the State of New Jersey be and hereby is placed on probation for a period of five (5) years, such period of probation shall be concurrent with the five (5) year period of probation ordered by the New York State, Department of Health, State Board for Professional Medical Conduct.

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 satisfaction of all probationary terms and conditions set forth in the New York Orders. Any practice in this State prior to said appearance and reinstatement by the Board shall constitute grounds for a charge of unlicensed practice. In addition, the Board

reserves the right to place restrictions on Respondent's practice should he resume active practice in New Jersey.

NEW JERSEY STATE BOARD OF
MEDICAL EXAMINERS

By: David M. Wallace MD
David M. Wallace, M.D.
Board President