

FILED

April 15, 2004

**NEW JERSEY STATE BOARD
OF MEDICAL EXAMINERS**

PETER C. HARVEY
ATTORNEY GENERAL OF NEW JERSEY
Division of Law
124 Halsey Street
Newark, New Jersey 07101
(973) 648-7457

By: Megan K. Matthews
Deputy Attorney General

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

IN THE MATTER OF THE LICENSE :
:
Alfredo Garcia, M.D.
License No. MA032552

Administrative Action

CONSENT ORDER

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

This matter was opened to the New Jersey State Board of Medical Examiners ("Board") upon the filing of a Complaint on January 15, 2003, by David Samson, former Attorney General, of New Jersey, by Megan K. Matthews, Deputy Attorney General, Said complaint arose out of the care and treatment rendered to patient O.B. by Respondent, Dr. Alfredo Garcia on or about August 25, 2000 and alleges the examination of O.B. was conducted without the presence of a third party and was medically inappropriate. Respondent filed an Answer to the charges in which ha admitted that there was no chaperone present during O.B.'s exam, Respondent denied the balance of the charges. The matter was transferred to

CERTIFIED TRUE COPY

the OAL and the hearing date in this matter was scheduled for March 15, 2004.

In February 2004, the Board was apprised of information from the Paterson Police Department that on or about February 5, 2004, Respondent conducted a physical examination of female patient A.P. without a chaperone present and that A.P. alleged that Dr. Garcia conducted a medically inappropriate examination.

The Board's records herein disclose that Respondent's license to practice medicine was previously limited pursuant to a Consent Order filed by the Board on May 19, 1989. Respondent agreed to have a third person present during all examinations of female patients whether performed in his office or elsewhere, Respondent never sought and was never granted relief from the provisions of this Consent Order and thus the limitation was in effect at the time Respondent examined both O.B. and A.P.

The Board finds that Respondent's conduct constitutes two instances of violation of the 1989 Consent Order requiring Respondent to have a chaperone during the examination of any female patient and, therefore, violations of the Duty to Cooperate regulation pursuant to N.J.A.C. 13:44C-1.4 and N.J.S.A. 45:1-21(e).

The parties being desirous of resolving this matter without further formal proceedings, and the Board having determined that the within disposition is adequately protective of the public health, safety and welfare and Respondent being desirous of

avoiding formal proceedings herein, and good cause therefore existing for the entry of this Order, it is

ON THIS 2nd DAY OF April, 2004

HEREBY ORDERED AND AGREED THAT:

1. Respondent Alfredo Garcia, M.D.'s license to practice medicine in the State of New Jersey is hereby suspended for two years effective upon the entry date of the within Order. Two separate periods of active suspension, each lasting 75 days, shall commence on May 15, 2004 and no later than January 15, 2005. The remaining periods of suspension shall be stayed and served as periods of probation,

2. Respondent will immediately cease and desist from examining female patients without the presence of an authorized third party. Respondent shall have a chaperone present during the examination of any female patient, regardless of location.

3. Respondent shall provide the names of all chaperones he intends to use to the Board of Medical Examiners. The chaperone present during any examination of a female patient shall initial the patient chart to certify presence during the exam. Respondent acknowledges that the Board may demand to review any and all patient charts to ensure a chaperone was present and initialed the chart.

4. Respondent shall, within one year of the date of this Order, submit to an evaluation by a mental health professional who will prepare a report to the Board and make recommendations

regarding Respondent's continued safe practice of medicine. Respondent shall follow the recommendations set forth by the evaluator. Dr. Garcia shall provide the names of three evaluators for Board approval prior to undergoing evaluation.

5. Respondent shall pay civil penalties in the amount of \$2500 within six months of the date of entry of this Order.

6. Within seven days of entry of the within Order, the Attorney General shall provide documentation of the attorney fees, investigative costs, expert fees and transcript costs incurred in the within matter. Upon submission of said documentation by the Attorney General, Respondent shall pay the costs incurred by the Board of Medical Examiners including the costs of investigation, expert review, attorneys fees and transcripts within six (6) months of the date of this Order, The Board reserves the right to file a certificate of debt in *the* event payment in full is not received.

7. Respondent shall, within one year following entry of this Order, take and successfully complete an ethics course approved in advance by the Board. Successful completion means that all sessions were attended, all assignments were properly and appropriately completed, and a passing grade was achieved which was unconditional and without reservations, Respondent shall submit proof of successful completion of said course-work to the Board within one year hereof.

8. Respondent shall comply with the "Directives Applicable to Any Medical Board Licensee who is Disciplined or Whose Surrender

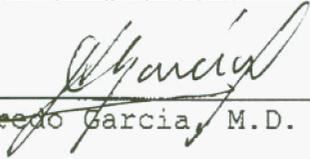
of Licensure has been Accepted" which is attached hereto and made a part hereof.

9. The Consent Order shall constitute a full and final resolution of the allegations raised to the Board by O.B. and A.P. and which were and could have been raised in the Complaint, *subject* only to enforcement of the terms contained in this Consent Order.

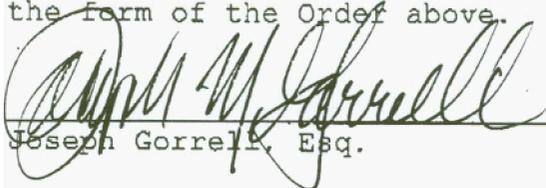
NEW JERSEY STATE BOARD OF
MEDICAL EXAMINERS

By: 
David Wallace, M.D.
Board President

I have read and understood the within Consent Order and agree to be bound by its terms. Consent is hereby given to the Board to enter this Order.


Alfredo Garcia, M.D.

I hereby acknowledge that I have read and consent to the form of the Order above.


Joseph Gorrell, Esq.

**DIRECTIVES APPLICABLE TO ANY MEDICAL BOARD LICENSEE
WHO IS DISCIPLINED OR WHOSE SURRENDER OF LICENSE
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 to, 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.)

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/her 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. 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 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). A licensee who is a member of a limited liability company organized pursuant to N.J.S.A. 42:1-44, shall divest him/herself 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