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FILED
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**NEW JERSEY STATE BOARD
OF MEDICAL EXAMINERS**

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

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

Administrative Action

STEPHEN N. HIRSCHBERG, D.P.M. :
LICENSE NO. MD 00875

CONSENT ORDER

TO PRACTICE PODIATRY
IN THE STATE OF NEW JERSEY

This matter was most recently opened to the New Jersey State Board of Medical Examiners ("Board") on receipt of information concerning Respondent's failure to comply with a 1998 Consent Order. A Board Order, filed on June 25, 1998, signed by Respondent and his attorney, Michael Quiat, Esq., resolved a matter concerning Respondent's inappropriate surgical practice, improper charting and record keeping, and misrepresentations regarding his medical malpractice insurance coverage. It provided that Respondent's podiatric practice was limited to house calls and the performance of routine care; Respondent was to cease and desist from the

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performance of podiatric surgery; Respondent was required to submit to random auditing of his patient charts and billing records; required Respondent to successfully complete the Fro 3E course and attend a mini-residency on record keeping; and finally, pay costs and penalties to the Board.

On February 26, 2001, the Attorney General filed a Complaint alleging that Respondent had failed to comply with the 1998 Consent Order by: performing an incision and draining an infected site; failing to take a record keeping course; failing to pay costs and penalties and failing to pay for audits of his podiatric practice.

Respondent filed an Answer denying a number of the allegations. Based on the exchange of information during the discovery process, the parties were able to arrive at a set of stipulated facts and scheduled a hearing for the purposes of mitigation. The stipulated facts included that:

1. Pursuant to paragraph two of the 1998 Order, Respondent was ordered to permanently cease and desist from practicing podiatric surgery, including nail root surgery. This term indicated that a Board order permitting Respondent to practice podiatry was necessary before Respondent could resume his surgical practice.

2. Pursuant to the 1998 Consent Order, Enforcement Bureau Investigators of the Division of Consumer Affairs performed audits of Respondent's medical records to verify his compliance with the Order.

3. Based on a review of records, questions arose concerning whether Respondent was performing nail root surgery.

4. Respondent denied performing surgery and sufficient proofs did not exist to prove this allegation.

5. Pursuant to paragraph six of the Order, Respondent was required to complete within six months of the entry of the Order, that is by December 1998, a Board-approved mini-residency course, addressing appropriate charting and record keeping.

6. On September 14, 2001, Respondent attended a record keeping course, Medical Record Keeping Symposium, that was taught by William Vilensky, D.O.

7. Paragraph seven required Respondent to pay costs of \$5,512.94, within one year of entry of the Order. Paragraph eight required Respondent to pay penalties of \$10,000 within two years of entry of the Order. Respondent has failed to pay the penalties and costs imposed pursuant to paragraph eight of the Consent Order.

8. Paragraph four required Respondent to pay the costs of random audits within thirty (30) days of Respondent's receipt of the statement of costs from the Enforcement Bureau. Respondent received notice regarding the costs incurred by the Enforcement Bureau for its performance of two audits of his medical records in October 2000, totaling \$1,424.18. Respondent failed to pay those costs within thirty (30) days.

9. In early 2001, Respondent paid for the two audits performed by the Enforcement Bureau.

10. Between November 2002 and October 2003, Respondent received credit for 20 continuing education units based on his participation at the American Podiatric Medical Association Annual Meeting; 10.0 Category 1 NJ Contact Hours (or 1.0 CEIJ) for an intensive one-day seminar and New York State Department of Education 5.25A and 1.25B credits for a seminar held by the Foundation for Podiatric Medicine.

11. Respondent admits that he failed to timely comply with several provisions of the 1998 Consent Order.

Based on Respondent's evidence submitted in mitigation to the Board, and the stipulated facts, and the Board finding the within disposition adequately protective of the public health, safety and welfare, and other good cause having been shown,

IT IS, therefore, on this 11th day of February, 2004,

ORDERED THAT:

1. Respondent, Stephen N. Hirschberg, D.P.M., is hereby reprimanded for failing to comply with all terms of the 1998 Consent Order.

2. Respondent hereby voluntarily agrees to cease and desist, from performing any bone surgery, including: exostectomy, small tissue or tendon lengthening procedures, or nail root surgery. Respondent is permitted to perform incision and drainage procedures once he complies with the following terms concerning continuing medical education and submits proof of such compliance.

3. Respondent shall complete 35 hours of Continuing Medical Education within twelve (12) months of the date of the filing of this Order. The CME credits shall be in Board-approved podiatric medical courses, with at least twelve (12) hours completed in hands-on clinical practitioner courses. Once Respondent has documented his successful completion of the thirty-five (35) hours of CME in podiatric medicine, Respondent shall be permitted to seek approval from the Board to perform incision and drainage procedures. Respondent shall acquire approval of the CME courses from Medical Director Joseph Gluck, M.D. before he takes them.

4. Respondent shall pay a civil penalty in the amount of \$5,000.00 within thirty-six (36) months of the entry of the within Consent Order, with interest accruing at the post-judgment interest rate as established by New Jersey Court Rule 4:42-11(a)(ii), which will be 2% for the year 2004. Payment shall be submitted by certified check or money order made payable to the State of New Jersey. Payment shall be sent via certified mail to William Roeder, Executive Director, Board of Medical Examiners, Post Office Box 183, Trenton, New Jersey 08625-0183.

5. Respondent shall, within ten (10) days of the filing of this Order, provide the Board with proof of his present medical malpractice coverage, and all coverage since June 1998.

6. Respondent shall direct the Physicians Health Program to provide the Board and above-named Deputy Attorney General with quarterly reports documenting Respondent's compliance with his PHP

contract. This term may be modified at the request of the PHP, following at least one (1) year of documented compliance.

7. Board approval of Respondent's performing incision and drainage procedures must be followed by Respondent's provision to Medical Director Gluck of ten (10) charts documenting accurate and thorough podiatric examinations and record keeping. Any evidence of failure by Respondent to properly provide podiatric care shall form the basis for an action seeking the immediate temporary suspension action before the Board seeking the suspension of Respondent's medical license, pending a hearing on the alleged violations of this Order.

NEW JERSEY STATE BOARD OF
MEDICAL EXAMINERS

By:



David Wallace, M.D.
Board President

I have read and understood *the*
foregoing Order and agree to be
bound by its terms.



Stephen N. Hirschberg, D.P.M.