FILED
June 11, 2004
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;	Administrative Action
EDWARD ANDUJAR, M.D. LICENSE NO. MA52473	ORDER ENTERING SUMMARY DECISION AND REVOKING LICENSURE
TO PRACTICE MEDICINE AND SURGERY IN THE STATE OF NEW JERSEY	

This matter was initially opened before the New Jersey State Board of Medical Examiners (the "Board") on March 23, 2004, upon the filing of a Verified Administrative Complaint against respondent Edward Andjuar, M.D. by the Attorney General of New Jersey. The Attorney General alleged therein that respondent had been convicted; following a trial by jury, of One Count of Bankruptcy Fraud and Twenty-Two (22) Counts of Willful Failure To File Individual, Corporate and Payroll Tax Returns in connection with respondent's medical practices, covering the years 1997 to 2002. The complaint further alleged that respondent's convictions constitute. convictions of crimes involving moral turpitude and crimes relating adversely to the practice of medicine in violation of N.J.S.A. 45:1-21(f), professional misconduct pursuant to N.J.S.A. 45:1-21(e) and a failure to maintain good moral character in violation of N.J.S.A. 45:9-6. The complaint also alleged that

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respondent's acts regarding the bankruptcy fraud constitute the use of *or* employment of fraud, deception or misrepresentation in violation of N.J.S.A. 45:1-21(b). Respondent filed an answer to the complaint on May 6, 2004 in which he inter alia admitted many of the allegations of the complaint, including that the jury found that he had knowingly and fraudulently committed the acts regarding bankruptcy fraud, and had willfully failed *to* file the tax returns as alleged, but denied that respondent either knowingly committed bankruptcy fraud or that respondent had willfully failed to file income tax returns. Similarly respondent denied that his acts as alleged constitute commission of crimes involving moral turpitude, crimes relating adversely to the practice of medicine, or evidence of failure to maintain good moral character.

Simultaneously with the filing of the Verified Complaint, the State requested that this matter proceed by way of Motion For Summary Decision. upon due notice, this matter was set down for argument and hearing before the Board on May 12, 2004. Deputy Attorney General Paul Kenny appeared for complainant Attorney General. Michael Testa, Jr., Esq. appeared for respondent.

Preliminarily, DAG Kenny moved into evidence certain documents which were attached as exhibits to *the* Attorney General's moving papers.[1] DAG Kenny asked for the entry *of* summary decision as he

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[1]The following documents were moved into evidence without objection:

P-1 - Certification of Thomas D. DiLeonardo, Assistant U.S.

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argued that there is no issue of material fact in this matter as Dr. Andujar is collaterally estopped from raising any different sat of facts than those represented by his conviction. DAG Kenny pointed to a "road map" contained in the documents entered into evidence that outlines the essence of Dr. Andujar's criminal acts. DAG Kenny argued that P-2, P-3 and P-4 in evidence demonstrate that Dr. Andujar filed a petition in bankruptcy on February 10, 1998 on behalf of his medical practice (Medi-One-Stop). The bankruprcy filing required him to truthfully reveal all material *facts* in the proceeding including all transfers of funds or disbursements on behalf of the medical practice within one year preceding the bankruptcy petition. These proofs demonstrated that the jury found that on *October* 27, 1997 and February 2, 1998, (the latter date approximately one week prior to the bankruptcy filing), Dr. Andujsr issued Medi-One checks totaling $41,500.00 to his father as "loans," and that twice in the year prior to the bankruptcy filing Dr. Andjuar deposited $64,975.00 of Medi-One medical practice receipts into his own bank account, and did not list any of these transfers in the bankruptcy. DAG Kenny directed the Board's

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Attorney in U.S. v. Edward Andujar.

P-2 - Superseding Indictment in U.S. v. Edward Anduiar, Criminal No. 03-331 FLW.

P-3 - Verdict Sheet in U.S. v. Edward Andujar.

P-4 - Jury Instructions in U.S. v. Edward Andujar.

P-5 - Order Modifyng Conditions of Release in U.S. v. Edward Anduiar. (It was represented that a sentencing date has been scheduled in June 2004).

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attention to P-3 *(the verdict sheet)* and P-4 (jury instructions) demonstrating that the jury found beyond a reasonable doubt that omissions material to the bankruptcy ,were made by Dr. Andujar knowingly, willfully and with an intent to commit fraud an the bankruptcy court. Finally, DAG Kenny directed the Board's attention *to* the same documents to demonstrate that the jury found beyond a reasonable doubt that Dr. Andujar was guilty on five *(5)* counts of Willful Failure to File Personal Income Tax Returns during the period from 1997 through 2001, a time during which he earned personally between $50,000 and $236,000 from his medical practices. These documents also demonstrated a finding of guilt by the jury on five (5) counts of Willfully Failing to File U.S. Corporate Income Tax Returns for his medical practices between 1948 and 2001, and twelve counts (12) of Willfully Failing To File employers quarterly tax returns {including FICA and Withholding Tax Returns) on his various medical practices.

Respondent's counsel argued that, the Board could not summarily decide this matter and that respondent had the right to a full plenary hearing on the issue of liability in this matter. Although he acknowledged that respondent is not permitted to relitigate the criminal charges, he argued that he should bo given the opportunity to present evidence for the Board's determination of whether a particular offense implicated moral turpitude and that Dr. Andujar should be permitted to testify with respect to the underlying

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charges and how he *got to* the point that he was indicted, The Attorney General responded arguing that the case law indicated that respondent may not relitigate liability, and that respondent had already been afforded a full and fair opportunity to litigate each af the material facts in the case by virtue of the criminal trial.

DISCUSSION

This Board may enter Summary Decision pursuant to N.J.A.C.1:1-12.5(b) when the documents filed demonstrate that "there is no genuine issue as to any material fact challenged and [that] the moving party is entitled to prevail as a matter of law." Simply put, the Board finds no genuine issue of material fact with regard to any of the allegations in Counts I through XXIII of the complaint and finds that the State has adequately met its burden of palpably demonstrating the absence *of* any genuine issue of material fact. See, Judson v. Peoples Bark and Trust Co. of Westfield, 17 N.J. 67 (1954). We agree with the Attorney General that at this stage of the proceeding Dr. Andjuar is not permitted to relitigate liability in the face of a jury verdict following a full and fair opportunity tu litigate all of the material facts in the case. The Board's conclusion is squarely supported by several documents including P-2, P-3 and P-4, which demonstrate the jury's finding beyond a reasonable doubt that respondent "knowingly and fraudulently" made "a materially false statement under oath in a bankruptcy petition." The same documents demonstrate that the jury

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found respondent guilty of having "willfully* failed to file all of the U.S. individual income tax returns, U.S. corporate income tax returns, and employers quarterly federal tax returns, as alleged in the verified complaint. The Attorney General contends that these convictions can form *the* basis for disciplinary action as either a crime relating adversely to the profession or a crime of moral turpitude. Additionally the State alleges that these facts as established constitute professional misconduct and evidence a failure to maintain good moral character constituting additional grounds for discipline by the Board.

After due consideration of the documentary evidence admitted and the arguments presented, the Board concludes that the Attorney General has shown the conviction to be the basis for the imposition for disciplinary sanctions. We find that the evidence demonstrates a conviction of a crime of moral turpitude bath because the convictions include a crime of bankruptcy fraud, and any crime of fraud constitutes a crime of moral turpitude; and as the particular crimes involved here involve respondent's breach of "the social duties which a man owes to his fellow man, to society in general, contrary to the accepted and customary rules of right and duty between man and man." State Board of Medical Examiners vs. Weiner, 68 N.J. Super 468, 433 (App. Div. 19611. Moreover, the result of respondent's actions are identical to that which would have occurred as a result of tax evasion ox the filing of a false return

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and accordingly the crimes likewise should be considered crimes of moral turpitude. DeMauro v. Newark, 90 N.J. Super. 605 (App. Div. 1966). (Conviction for filing a false and fraudulent return is ant involving moral turpitude).

We also find that respondent's convictions adversely relate to the practice of medicine. Significantly, the bankruptcy fraud was committed by the abstraction of funds from Dr, Andjuar's Hedi-One medical practice. Additionally, the income which respondent was charged with having failed to report was derived from his practice of medicine, and his conviction undermines the public's confidence in medical practitioners add demonstrates respondent's failure to possess the integrity and responsibility which the public ha5 a right to expect of its physicians. Finally, the business tax returns which reapondent was found guilty of failing to file all related to his various practices of medicine, and included failure to file returns on behalf of the employees of his medical practice. Without question the acts which were conclusively proved by these convictions also constitute professional misconduct, and insofar as bankruptcy fraud is involved, a failure to maintain good moral character in violation of N.J.S.A. 45:9-6.

Following determination of the Motion For Summary Decision, the Board convened a hearing regarding mitigating circumstances for a determination of penalty, at which hearing respondent was afforded an opportunity to testify and to make any presentation he

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deemed appropriate, Respondent entered two documents into evidence."[1] Respondent also presented the testimony of several witnesses on his behalf.

Reverend Erasmon Nieves, a minister at the Presbyterian Church USA, who has known Dr. Andujar for six or seven years, testified regarding Dr. Andujar's activities - accepting homeless people at his clinic, assisting of the church in bringing food to these Individuals, and hosting of dinners far "the loss fortunate" at his clinic in conjunction with the church two *or* three times per yeas. Nieves expressed the opinion that Dr. Andujar has an excellent reputation within the community, and testified he treats individuals who do not have medical insurance and others who have been refused treatment by other practitioners. On cross-examination, Reverend Nieves admitted that he instructs people as part of the teachings of his church to tell the truth, and acknowledged that people have an obligation to file tax returns and pay income taxes.

Dr. Andujar' s martial arts instructor, Mr. Joseph Artesi, also *testified.* He indicated *that* Dr. Andujar *is* a former welterweight karate champion, whom he has known for many years. In addition to

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"The documents entered into evidence by petitioner were:
R-1 - "Petition to save the clinic" signed by approximately 600 individuals.

R-2 - Newspaper editorial - the Press of Atlantic City- opining on the need of patients far Dr. Andujar's services.

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being a martial arts instructor, Mr. Artesi testified regarding his background of having attended the Kirksville College of Osteopathy, although not completing the program, and as to several awards that he has won, Mr. Artesi informed the Board of Dr. Andujar's background including that he was unable *to* afford an application for medical school, but was eventually accepted to, and completed *studies* at, Harvard Medical School. Mr. Artesi asserted *that* Dr. Andujar is the kind *of* individual who will always do the right thing when nobody is watching him, that his practice of medicine is "like one big family," and that Dr. Andujar's patient population consists of those that the rest of the medical profession in the area refuse to treat. Ne urged the Board to allow Dr. Andujar *to* continue to treat his patients. Upon cross-examination, *Mr.* Artesi also acknowledged that his trust *in* Dr. Andujar was so great that he would agree to get into a wheelbarrow on a tight rope that Dr. Andujar was taking across Niagra Falls, and that Dr. Andujar's patients have the same implicit trust in him. Mr. Artesi acknowledged that he has never failed to fils either his personal or business tax farms as a businessman during the past 35 years.

Joanne Rehill testified, reading a statement to the Board indicating that her background includes being a former nun, and a retired teacher including years a6 an assistant principal and principal. *As* a patient of Dr. Andujar she attested to the fact that she has never met *a* more knowledgeable, more sympathetic or

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kinder physician. She observed that he treats patients identically regardless of their race, their condition or their ability to pay. She further stated that Dr. Andujar provided her cart for several medical issues and resolved a difficult infection problem by referring her to another doctor, indicating that he was aware of his limitations and is a true professional. Additionally she attested tu his value to patients he cares for in his *clinic,* including the homeless, the poor and those who suffer fxom addictions. She requested the Board to permit Dr. Andujar to continue to treat needy patients in the Vineland community. Upon cross-examination Ms. Rehill acknowledged that as a teacher she had occasion to impose discipline if a child had lied, and did not do so out of vindictiveness, or jealousy. She further acknowledged that when Dr. Andujar's license was suspended by the Board previously, she made arrangements to be eared for by other physicians.

Wenda Viruet, an employee and sister-in-law of Dr. Andujar also testified. She first came into Dr. Andujar's efficc in or about 2001 and volunteered to cleanup as her niece was running the office and as she is a family member of Dr. Andujar. She noted that Dr. Andujar spent a lot of time treating patients who could not gay fox his services. He treated patients who did not have health insurance or funds to pay fees. She testified that in the year 2003 she kept a record of those patients treated far free and

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she valued the amount of the services provided at $476,000.00. Upon cross-examination Ms. Vixuet acknowledged that R-1, a petition of Dr. Andujar's patients, was circulated in the clinic and in the community at large and that she kept a file regarding the petition. She further acknowledged that she testified in Dr. Andujar's criminal case in Federal Court and the jury heard similar testimony to that she gave before the Board. She also testified that during the doctor' a active suspension of license by this Board previously, he made arrangements for his patients and referred them to other physicians in the area where necessary.

Dr. Andujar testified *in* hi5 awn behalf. Following a description of his background, Dr. Andujar testified that he was not "the best businessman" and as he had personally signed for the finances to continue to operate Medi-One Stop, and could not staff or service several of the facilities, he closed about eight medical clinics in 1996 and declared bankruptcy. Because of his financial situation he did not have an aceauntant at the time of the filing of the bankruptcy petition. As part of its investigation he claimed the FBI seized his files in the beginning of 1998 and thus he asserted he was not able to file tax returns for 1997 and 1998, He acknowledged that he had not filed returns for several years prior to 1994, and that several returns were subsequently filed simultaneously. He further indicated his personal difficulties and financial strain in that he moved his family to Colorado but was

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still trying to maintain a medical practice in New Jersey. He claimed he hired another accountant in 2000 but as the books were in disarray, he was told that it would be some time before the accountant would be able to file any tax returns. As he had previously filed four or five years of tax returns (in or about 1994) he believed the new filing would be done again in the same manner. He asserted that during the criminal trial all of his past tax returns were filed. Regarding the checks on which the bankruptcy fraud conviction was based (in the amounts of $41,500.00 and $64,975.00), Dr. Andujar explained that these checks were received from Medicaid/Medicare, and that the checks were placed into Dr. Andjuar's personal account because the checks were made out to him personally. According to Dr. Andujar this became "a hybrid" business account from which staff salaries and other bills were paid and checks were made out to his father as he could be trusted to bring the cash back to Dr. Andujar. He maintained that he never withdrew any money from his personal account. He claimed that checks were cashed to pay staff salaries in cash (T86) and further claimed a staff member was instructed by him to deposit sums in his personal account, and the staff member moved the money and paid the staff (T87-T88). He asserted that he had to file the bankruptcy quickly, and acknowledged failing to put the two checks referred to on his bankruptcy petition, and claimed that they were funds used to fund the payroll and bills. Over the objection of

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DAG Kenney he claimed that his attorney told him they did not belong there. Dr. Andujar also testified that he was truthful at a creditors meeting during his bankruptcy, and that his salary at around that time was approximately $150,000. As to his practice, Dr. Andujar testified that the office is open seven days a week twenty four hours a day and he sees approximately 100 to 150 patients per day. Many of his patients are homeless or recovering addicts, and he provides much of the medical care for free. Additionally he has been providing medications free of charge as many of his patients do not have insurance coverage or are unable to pay far the filling of prescriptions. He further testified regarding numerous awards that he has gotten from the city and county for his work, and thanked the Board for the opportunity to address it. He acknowledged in the past that the Board has always been fait with him and asked the Board to once again treat him in that manner, requesting that the Board not take sway the only doctor that many of his patients will ever have. Upon cross-examination Dr. Andujar admitted that his prior accountant, prior lawyer and prier office manager *were* called by the government to testify against him at his trial. He acknowledged that despite the many commendations to which he referred, none of the officials from the City of Vineland or Cumberland County or the State testified in his behalf.

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The State introduced several documents into evidence during its presentation.*** These documents were entered into evidence without objection by respondent.

DISCUSSION REGARDING PENALTY

Nothing presented *in* mitigation persuades us that respondent's bankruptcy fraud or failure to file tax returns was excusable or warrants further leniency from this Board. While the Baard recognizes that respondent's patients are in need of medical services, it *is* Dr. Andujar who has put these patients in the position of losing his services by his conduct. We agree with the Attorney *General* that respondent's conduct exhibits a lack of concern for consequences. Indeed Dr. Andujar's testimony served to emphasize that he still *does* not recognize the gravity of his acts. He views the bankruptcy fraud of which he was found guilty as simply a bookkeeping maneuver in which he willingly engaged in order *to* insure continued cash payments to staff. He justifies

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*** The State entered the fallowing documents into evidence during the penalty phase of the proceeding:

P-6 - Board Order filed August 12, 1999 I/M/O Edward Andujar
P-7 - Board Order filed December 12, 2002 I/M/O Edward Andujar
P-8 - Certification of Paul R. Kenny, DAG as to attorney's costs in I/M/O Andujar (up to April 5, 2004) - in the amount of $2,925.00.
P-9 - Certification of Casts of Robert Starrantino, Supervising Investigator of the Enforcement Bureau - in the amount of $6,061.57.
P-10 -Certification of Costs by Richard L. Perry, Supervising Investigator of Enforcement Bureau dated March 29, 2004 - *in* the amount of $1,164.24.

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several years of failing to file tax returns by a seizure of two years of his records, yet failed to file several additional returns and acknowledges that he failed to file many years of peraonal tax returns previously, at a time when he clearly had access to all records.

In determining the appropriate discipline in this matter, the Board has considered not only the serious nature of this offense, but that respondent appears before us for rhe third rime regarding a serious disciplinary matter, Those prior matters involved allegations of unsanitary and unsafe office conditions, shoddy medical practices, improper use of unlicensed personnel, billing and insurance irregularities and other improprieties. A 1999 matter resulted in a Consent Order in which respondent agreed inter alia to a two year stayed suspension of license, an order to refrain from treatment of any patient for Lyme disease, a requirement to successfully complete an ethics course, a restriction on ownership of a medical practice, a board waiver of investigative costs and permission to pay a $10,000 monetary penalty in installments, in light of respondent's demonstration of financial difficulties. In the second matter, concluded in 2002, respondent again entered a Consent Order, pursuant to which his license was suspended for two years, two months of which was an active suspension, the remainder probation. The Order also included inter alia, restrictions of respondent's practice to a

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portion of his premises until the remainder was inspected and found to comply with laws and regulations concerning, health, safety and welfare of patients, prohibition on operating any new practice location without notice *to* the Board, continued restriction an the treatment of Lyme disease, submission of a plan for the training of his employees who render medical services to patients, the retention of a cleaning service, restrictions an the conduct of any narcotic treatment program and a monetary penalty of $50,000.00 in monthly installments. During the course of these two prior disciplinary matters, respundent exhibited manifestly flawed judgment, by engaging in the continued improprieties which resulted in the convictions at issue here, even during the probationary period provided by the Board orders. We agree with the Attorney General that this Board has previously exhibited leniency to respondent on two occasions, an4 that this latest matter involving convictions of one count of Bankruptcy Fraud and 22 counts of Failing To File Tax Returns with Intent to Evade Tax Obligations, all integrally related to respondent's medical practice, can only be adequately redressed by the entry of an order revoking his medical license. We also find that the Attorney General's application for costs, to which respondent has raised no objections, is reasonable both in terms of the magnitude of this matter, and the tasks described, and therefore we grant the application for costs in full.

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IT IS THEREFORE ON THIS 9th DAY OF JUNE, 2004

ORDERED:

1. That the Motion Fox Summary Decision is granted as to all counts of the complaint.

2. That the license of respondent Edward Andujar, M.D., to practice medicine and surgery in the State of New Jersey is hereby revoked effective June 11, 2004, thirty days (30) from the oral announcement of this Order on the record, in order to permit continuity of care and appropriate transfer of patients,

3. Respondent Edward Andujar, M.D. is hereby ordered to pay costs in the amount of $4,751.11 by certified check or money order made out to the State of Mew Jersey and forwarded within thirty days (30) of the service of this Order to William Roeder, Executive Director of the Board of Medical Examiners at the office of the Board.

4. Respondent shall comply with the Board's directives applicable to disciplined licensees which is attached hereto and made a part hereof.

STATE BOARD OF MEDICAL EXAMINERS

By: David Wallace, M.D.
President

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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 ?he 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 hidher 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 hidher 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 hidher 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 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

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 hidher 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.

(a) Monitoring of practice conditions may include, but is not limited to, inspection of the professional premises and equipment, and Inspection and copying of patient records (confidentiality of patient identity shall be protected by the Board) to verify compliance with the Board Order and accepted standards of practice.

(b) Monitoring of status conditions for an impaired practitioner may include, but is not limited to, practitioner cooperation in providing releases permitting unrestricted access to records and other information to the extent permitted by law from any treatment facility, other treating practitioner, support group or other individual/facility involved in the education, treatment, monitoring or oversight of the practitioner, or maintained by a rehabilitation program for impaired practitioners. If bodily substance monitoring has been 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.

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 end the record, including the transcript and documents marked in evidence, are available for public inspection, upon request.

Pursuant to 45 CFR Subtitle A 60.8, 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.