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STATE OF NEW JERSEY  
OFFICE OF ADMINISTRATIVE LAW

2004 MAY 18 P 1:22

**FILED**

JUNE 28, 2004

**NEW JERSEY STATE BOARD  
OF MEDICAL EXAMINERS**

STATE OF NEW JERSEY  
DEPT OF LAW & PUBLIC SAFETY  
DIVISION OF CONSUMER AFFAIRS  
**BOARD OF MEDICAL EXAMINERS**  
OAL DOCKET NO. BDSME **5379-03N**

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IN THE MATTER OF THE SUSPENSION :  
OR REVOCATION OF LICENSE OF  
LEONARD S. PAPEL, D.O.  
TO PRACTICE MEDICINE AND SURGERY  
IN THE STATE OF NEW JERSEY

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ADMINISTRATIVE ACTION  
FINAL ORDER  
AS TO COMPLAINT II

This **matter** was presented to the **State** Board of **Medical** Examiners by the Attorney General of New Jersey, by Joan D. Gelber, Deputy Attorney General, by way of Administrative Complaint II<sup>1</sup> filed against respondent Leonard S. Papel, D.O. on August 8, 2002. Complaint II alleged in four Counts violations of N.J.S.A. 45:1-21(b), (c), (d), (e) and (h); N.J.S.A. 45:9-6; N.J.S.A. 56:1-13 recodified as 45:1-21(m), and violations of Board rules N.J.A.C. 13:345-6.1, 6.5, -7.2 and 7.6 involving twelve patients. all **as** set forth more fully in the Administrative Complaint.

Dr. Papel, who holds license number MB14720, has conducted a medical practice under the entity name "Broad Street **Medical** Clinic" at 800 Broad Street, Newark, NJ 07102.

Respondent, represented by Robert D. Zatorski, Esq., filed **an** Answer denying the charges, and the matter was transmitted by the Board to the Office of Administrative Law for hearing. The **case** was assigned to the Hon. Elinor Reiner, **A.L.J.** who scheduled hearings to commence on **May 3, 2004**.

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<sup>1</sup>The hearing on Complaint I under OAL Docket No. BDSME 01455-02N, has been completed and Initial Decision is pending.

**CERTIFIED TRUE COPY**

Dr. Papel, having considered the matter and having had the opportunity to consult with his attorney, has waived his opportunity for plenary hearing before the Office of Administrative Law as to Complaint II and, in the interests of amicable settlement of the matter, has amended his prior Answer to plead no contest to the allegations of Complaint II. He has consented to the surrender of his license and to the terms set forth below. In the circumstances herein, and for good cause shown,

IT IS, ON THIS <sup>12<sup>th</sup></sup> DAY OF MAY 2004

ORDERED;

1. The surrender of license of respondent Leonard S. Papel, D.O. to practice medicine and surgery in the State of New Jersey is hereby accepted and shall be effective on July 3, 2004. The license and current biennial registration shall be delivered to the office of the State Board of Medical Examiners by that date.<sup>2</sup>

2. In the interim as of May 3, 2004, no new patients shall be accepted at respondent's office and he shall undertake to provide medical services to no new patients,

3. Respondent shall promptly make reasonable efforts to contact all patients currently receiving prescriptions for, or administration or dispensing of, Controlled Substances from his office. Respondent shall advise them of the planned closure of his practice and discuss with them their medical circumstances and the advisability of arranging for future medical care from another physician. Respondent shall also contact each methadone clinic at which his patients are receiving services, to the extent known to him, to alert said clinics to the closure of the office and, with permission of the patient, to advise of the medications which respondent had hitherto been prescribing, in order that the clinic may undertake planning for any medical emergency that may arise as a result thereof. Respondent shall confirm in writing to the State Board of Medical Examiners that he has provided such notice to his patients and to the clinics, particularly with reference to the patients referenced in Complaint II.

4. Respondent shall immediately commence arrangements for the orderly transfer of patients and for availability to them of their patient records, pursuant to all the requirements of N.J.A.C. 13:35-6.5(h). He shall close his office, "800 Broad Street Medical Clinic" and any other corporate

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<sup>2</sup>The July 3, 2004 date supersedes the otherwise applicable dates referenced in paragraphs 1 and 2 of the attached Board Directives.

names under which he has practiced, **including** but not limited to “Leonard S. **Papel**, D.O., D.A.B.R.” and “Leonard S. **Papel**, M.D., D.O., D.A.B.R.”, in a manner not inconsistent with the Directives attached hereto, no later than July 3, 2004.<sup>3</sup> Respondent **shall arrange** for the lawful disposal **of all** drugs on the premises, including Controlled Dangerous Substances. and for the destruction **of** his prescription **pads**. He shall **arrange** for the lawful disposal of all medical equipment.

5. Respondent is assessed costs of \$13,773.29 ~~(plus cost of transcript of May 3, 2004)~~ <sup>plus \$49.00 total line \$13,822.29</sup> payable to the State of New Jersey for the offenses set forth in Counts 1 through 4 of Complaint II. With regard to 11 of the 12 patients: E.B., J.B., P.H., M.H., L.L., D.M., D.W., Y.W., W.W., G.W. and P.W., respondent shall reimburse a total of \$ 5,858.00 to the following third-party payors:

(a) ~~\$4,379~~ to Medicaid/Unisys for patients E.B., M.H., L.L., D.M., D.W., Y.W., W.W., G.W. and P.W.;

(b) \$1,065.00 to Amerigroup for patients P.H., M.H., D.W., Y.W., P.W.;

(c) \$ 414.00 to Empire Medicare for patient J.B.

6. All costs and reimbursements shall be paid by certified checks or postal money orders payable within 10 days of the entry of this Order pursuant to N.J.S.A.45: 1-24, and shall be delivered to the Attorney General for transmittal to the specified recipient agency or entity. If any costs or reimbursements are not paid within the time stated, a Certificate of Debt shall be filed.

(a) Costs regarding Complaint II shall be payable to the State Board of **Medical** Examiners, State of New Jersey.

(b) Reimbursements to Medicaid regarding Complaint II are payable to Treasurer, State of New Jersey, Division of Medical **Assistance** and Health **Services**;

(c) Reimbursements to each of the other named entities shall be by separate certified check or money order payable to the **particular** entity.

7. Respondent shall comply with the attached Disciplinary Directives incorporated herein,

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<sup>3</sup>Consistent with Board Directives, the required closure shall not preclude respondent from transferring his entire interest in each practice entity to a physician holding a plenary license to practice in the State of New Jersey, who shall commence a new practice under that physician's own provider/tax identification number.

as specifically modified herein.

8. The entry of this Order resolving Complaint II applies in all respects solely to this proceeding before the State Board of Medical Examiners and shall not limit the authority of the Attorney General or of any other person or agency to initiate any further action permitted by law in any court or other forum of competent jurisdiction in connection with any matters coming within that jurisdiction. Respondent specifically acknowledges that this resolution will not raise a jurisdictional bar to adjudication, and any rights attendant thereto, of the other administrative proceeding presently pending as Complaint I, OAL Docket No. BDSME 01455-02N.

THIS ORDER IS EFFECTIVE UPON ENTRY BY THE OFFICE OF ADMINISTRATIVE LAW, WITH THE SURRENDER OF LICENSE OPERATIVE AS OF JULY 3, 2004.

This recommended decision may be adopted, modified or rejected by the State Board of Medical Examiners which, by law, is empowered to make a final decision in this matter. However, if the head of the agency does not so act in 45 days and unless such time limit is otherwise extended, this recommended decision shall become a final decision in accordance with N.J.S.A. 52:14B-10.

OFFICE OF ADMINISTRATIVE LAW

BY: Elinor R. Reiner  
Hon. Elinor Reiner, A.L.J.

I have read the within Order and understand its terms. I consent to the filing of the Order by the Board of Medical Examiners.

Witness:

By: Leonard S. Papel  
Leonard S. Papel, D.O.

By: Robert D. Zatorski  
Robert D. Zatorski, Esq., Counsel to Dr. Papel

ADOPTED:

STATE BOARD OF MEDICAL EXAMINERS  
By: David M. Wallace  
David M. Wallace, M.D., President

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OFFICE OF ADMINISTRATIVE LAW

BY: \_\_\_\_\_  
Hon. Elinor Reiner, A.L.J.

I have read the within Order and understand its terms. I consent to the filing of the Order by the Board of Medical Examiners.

Witness:

By: \_\_\_\_\_  
Leonard S. Papel, D.O.

By: \_\_\_\_\_  
Robert D. Zatorski, Esq., Counsel to Dr. Papel

ADOPTED:

STATE BOARD OF MEDICAL EXAMINERS

By: \_\_\_\_\_  
David M. Wallace, M.D., President

**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 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.R.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 himself 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 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 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 his/her representative requests a copy of his/her medical record or **asks** that that record be forwarded to another health *care* provider, the licensee shall promptly provide the record without charge to the patient.

**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 and 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.