

**FILED**

FEBRUARY 21, 2007

**NEW JERSEY STATE BOARD  
OF MEDICAL EXAMINERS**

**EFFECTIVE**

JANUARY 10, 2007

**NEW JERSEY STATE BOARD  
OF MEDICAL EXAMINERS**

STATE OF NEW JERSEY  
DEPARTMENT OF LAW & PUBLIC SAFETY  
DIVISION OF CONSUMER AFFAIRS  
STATE BOARD OF MEDICAL EXAMINERS  
DOCKET NO.

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

WILLIAM J. GALL, D.O. :  
LICENSE NO. MB0242440 :

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

Administrative Action

**ORDER OF TEMPORARY  
SUSPENSION OF LICENSURE**

This matter was opened to the New Jersey State Board of Medical Examiners ("Board") on the application for a temporary suspension of respondent's license to practice medicine brought by Attorney General Stuart Rabner by Doreen A. Hafner, Deputy Attorney General. An Order to Show Cause was signed by Karen Criss, R.N., C.N.M., Board Vice President on December 26, 2006, by which a hearing was scheduled for January 10, 2007. Respondent appeared at the hearing without benefit of counsel and elected to proceed pro se.

The State's Verified Complaint, Brief in Support of the Application for Temporary Suspension and Appendix (including Certification of Louis E. Baxter, Sr., M.D., F.A.S.A.M., Executive Medical Director of the Professional Assistance Program of New Jersey, Licensee Verification Letter and a transcript of respondent's testimony at a November 27, 2006 Impairment Review Committee ("IRC") appearance) was filed simultaneously with the

**CERTIFIED TRUE COPY**

Order to Show Cause. The Verified Complaint alleges in two (2) counts that respondent's continued practice of medicine poses a clear and imminent danger to the citizens of New Jersey and seeks an immediate temporary suspension of licensure pursuant to N.J.S.A. 45:1-22.

The Attorney General charges in Count One that respondent voluntarily enrolled in the Professional Assistance Program of New Jersey ("PAP") for alcohol dependence and depression and was accepted into the Alternative Resolution Program ("ARP") which offered him confidentiality in reliance on compliance with a treatment plan. The Complaint further alleges respondent admitted at an Impairment Review Committee ("IRC") appearance that he failed to comply with the treatment plan and admitted to consumption of alcohol on one occasion, November 23, 2006 and that he tested positive on November 27, 2006 for ingestion of a substantial amount of alcohol on a urine screen and thereafter refused to participate further in his treatment plan with the PAP. Count One also alleges that respondent's conduct before the IRC was belligerent and verbally abusive.

Additionally, the Complaint alleges in Count Two that respondent admitted in his testimony before the IRC that he prescribes Valium and sleeping pills for his own use in violation of his treatment plan and prescribes medications, including anti-

depressants, for friends and family members without maintaining medical records or performing physical examinations.

At the time of the hearing, Deputy Attorney General Hafner argued that respondent's addiction to alcohol, his lack of judgment and present incapacity to discharge safely the functions of a licensee, combined with his prescribing and treatment practices, create a clear and imminent danger to the public health, safety and welfare. Entered into evidence without objection by respondent were the following documents which had previously been served on respondent as Exhibit A, B and C to the Verified Complaint. Entered into evidence as P-5 is a one page License Verification Letter dated December 15, 2006 demonstrating that respondent's New Jersey medical license status is "Retired Paid" which is a category of licensure only available to licensees at least 65 years of age.<sup>1</sup>

In addition, the transcript of the IRC hearing conducted on November 27, 2006 at which the admissions alleged in the Verified Complaint were made was entered into evidence as P-6. Respondent admitted before the IRC that he self-prescribes "an occasional sleeper" and Valium, and sometimes prescribes for friends and family, including anti-depressants, without maintaining

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<sup>1</sup> Respondent is a 63 year old physician Board Certified in obstetrics and gynecology. He does not currently have an office although he maintains an active licensure status of "Retired Paid." This licensure status was granted to respondent in error as he is not yet 65 years old.

medical records. He further testified that he had a glass of wine at Thanksgiving dinner (which occurred only a few days prior to his testimony) and that "it's ludicrous" to participate in the PAP to retain his license. He also stated he has "no clue" if he's earned any Continuing Medical Education credits during 2006 and admitted to "minor dementia" based upon his age or "earlier years of too much alcohol." He acknowledged a history of a "little bit" of depression and one "blackout" from alcohol. He opined that he doesn't believe it's the standard of practice to keep records for someone if you're not getting paid and doing it as a "kindness." He also stated he was "hoodwinked" into joining the PAP and wouldn't recommend it to anyone. He said "he'd play the game" of participating in the PAP and described participation as "a little bit like VD, the gift that keeps on giving." He concluded the proceedings by uttering a profane comment addressed to the Committee members.

Lastly, entered into evidence was P-7, the Certification of Louis Baxter as to respondent's refusal to comply with the PAP treatment plan and which informed the Board of respondent's November 27, 2006 urine screen which was positive for the use of alcohol. Dr. Baxter's certification recounts that respondent's letter agreement with the PAP required him to: maintain total abstinence from any psychoactive substance, including alcohol; attend Alcoholics Anonymous ("AA"); continue treatment with a

therapist for depression (the agreement was subsequently modified to delete this requirement); submit to random urine screens; and have monthly face-to-face meetings with a representative of the PAP. Respondent was also instructed not to self-prescribe any medications and was required to remain compliant with the PAP's treatment plan until such time as he completely retired his license. Dr. Baxter also certified that on September 18, 2006 respondent notified the PAP that he was no longer going to comply with the treatment plan. Subsequently, he appeared before the IRC and admitted to consuming a glass of wine on or about November 23, 2006. His November 27, 2006 urine sample tested positive for Ethyl Glucosamide which confirmed respondent's ingestion of alcohol. Dr. Baxter further certified that the test result showed 310 ng/ml of Ethyl Glucosamide which indicates that a substantial amount of alcohol had been ingested. He concluded by certifying that respondent has not submitted to any further monitoring by the PAP.<sup>2</sup>

At the conclusion of the State's case, respondent declined to address the Board in his own defense indicating this forum was the same as the IRC and that he had already presented a defense in that venue. However, after it was explained that this

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<sup>2</sup> Prior to entry of the documents into evidence Respondent was given a second opportunity to object. He declined and said he understood the procedure and had previously been served with and read the documents. He was then given another copy of the Exhibits and offered an additional opportunity to review same. He chose not to accept the offer.

was a different proceeding with different decision makers present and that respondent's continued licensure was at stake he determined to address the Board. He then acknowledged, and it was clear to the Board, that he realized the impact of the proceeding and that his ability to retain his license was at issue.

Respondent took the position that he voluntarily entered the PAP and at the time of his agreement to join he was not informed that it was a lifelong commitment. He is also of the opinion that although the program leaders originally had good intentions they have deviated from the tenets of the program. When Respondent was asked by the Chair if he had a defense to the allegations in the Complaint, he asked that the Counts of the Complaint be reviewed for him. The allegations of the two count Verified Complaint were summarized several times on the record for respondent. Respondent testified that he had been served with the documents and read the Complaint previously. He declined the opportunity for a brief recess in order to again read the submissions.<sup>3</sup>

During his defense, respondent challenged the Board asking if physicians may prescribe on the phone without an office visit or examination. He also argued that there is no danger if he

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<sup>3</sup> The Prosecuting Deputy Attorney General provided Respondent with another copy of the Verified Complaint and referred to documentation proving service which Respondent did not contest. It was clear to the Board that respondent recalled and was able to respond to the allegations despite his acknowledged memory lapse.

holds a license because he does not maintain an office and he merely prescribes for himself, friends and relatives. He asserted that when he writes a prescription he keeps medical records which he stores in his desk drawer. In essence he vehemently disagreed with the allegations in Count Two and admitted to the allegations of Count One of the Complaint. He characterized his violation of the PAP treatment plan and his unilateral decision to cease participation with the program as not in accord with his PAP agreement, stating "I didn't do precisely what I signed up to do some point in the past."

In response to questions on cross-examination, respondent could not remember if he took his morning anti-depressant or it's name and denied taking any medications which would impair his ability to understand the proceedings. He again acknowledged he understood the nature and the possible sanctions that could result from the hearing. Respondent answered questions by indicating that he didn't feel he was jeopardizing anybody via his activities over the last few months.

In response to Board member questions, Respondent admitted to drinking on three (3) recent occasions in violation of his treatment plan with the PAP - Thanksgiving, Christmas Day or Christmas Eve dinner, and New Years Eve. Respondent articulated that he decided to cease participation with the PAP because he is no longer in practice taking care of patients. He characterized

his participation with the PAP before the IRC and the Board as "playing a game" in order to retain his license. Respondent claimed he maintains his license for "personal use and convenience" and he disclosed that he does not maintain malpractice insurance. He also asserted that a

Physical exam is not necessary - is not - physical exam in my very, very, very, very strong opinion, and I think I can find many, many, many medical educators that would agree with me, is not necessary for basic diagnosis and treatment.

Respondent answered other Board member questions by testifying that he would prescribe a maximum of ten Tylenol #III (a CDS), with no renewals for a young healthy individual presenting with a headache with no prior history. He also ultimately stated after some confusion that he writes a maximum of ten (10) prescriptions a year, approximately two (2) a year for five (5) separate individuals. Although he is no longer participating in a PAP program, respondent attends a substance abuse meeting twice a week because he enjoys the meetings and his significant other encourages his participation. Respondent could not remember the name of his primary care physician or therapist and stated that the last time he wrote a prescription for himself was between six months and three months ago. Respondent contradicted his testimony at the IRC and denied ever writing CDS for himself.

Respondent acknowledged that since approximately September 2006 he has not complied with the PAP's treatment plan.

After repeating his opinion that the public is not jeopardized by his writing of occasional, non-narcotic, prescriptions, respondent asserted that he earned this license and should not have to participate in the PAP to retain it. In response to a question as to whether he has dementia, respondent acknowledged.

I know I have dementia. It's my opinion that my memory is not what it should be now. How much of that is age 63 - and could be 90 percent. How much of that is, I think as I said to the Board, how much of that is too many - many years of a little too much alcohol, or what proportion thereof, I don't know.

In his closing remarks respondent argued that

I earned my license. I have every right to continue my license until I choose to give it up. I am not harming anybody ... out here on the street, in the public,

He clearly is of the opinion that his medical license is a right and not a privilege.

#### **DISCUSSION**

Upon examination of the evidence before us, and after hearing and observing Respondent's testimony, admissions, demeanor and mental state, the Board is satisfied that the Attorney General has made a palpable demonstration that Dr. Gall's continued practice in any capacity would present a clear and imminent danger to the public health, safety and welfare. The evidence thus supports a finding, at this juncture of the proceeding, that Dr. Gall has demonstrated a lack of judgment and/or capacity, for

medical or any other good cause, to discharge the functions of a licensee in a manner consistent with the public's health, safety and welfare. This finding is grounded on respondent's unilateral refusal to participate in the PAP, in his decision to continue practicing medicine by prescribing medications without observing appropriate standards of practice and in his practicing while not monitored. Our over arching concern is his failure to recognize he is impaired and his lack of the requisite control over his alcohol addiction and prescribing practices. Therefore, nothing short of a temporary suspension of license would be adequately protective.

In reaching this conclusion the Board considered respondent's admissions and demonstration of symptoms indicative of dementia. For example, his lack of focus was evident by his inability to remember the names of any of his health care providers or of medication he is taking or whether he had taken his medications the day of the hearing. He testified as to frequently losing his way while driving and was late for the hearing as he had difficulty locating the building. He was unable to retain information even for brief periods of time such as the allegations of the Verified Complaint which he admitted receiving in the mail and reading, and which were summarized for him several times during the proceeding. He confused the hearing before the Board with his previous testimony at the IRC. He candidly admitted on the record that he has dementia whether from age or use of excessive alcohol

or a combination of the two. Thus there was both a demonstration and an admission of a lack of mental capacity, which coupled with a medical license which includes prescribing privileges, creates an untenable danger. The risk presented in this matter is that respondent is in a position to hurt himself or others by prescribing or treating while so impaired and/or confused.

Additionally, in reaching this finding, the Board also considered respondent's testimony that a physical exam is not necessary for a diagnosis or to write a prescription. We find that general premise, absent a medical evaluation, far below the standard of care and an unsafe practice. This cavalier attitude toward practice standards coupled with respondent's hostile and profane testimony before the IRC leads to the conclusion that respondent is a licensee with disdain and open disregard for established medical practices and professionalism. Furthermore, although respondent does not now have an office practice and claims to only use his license for personal convenience, we have no confidence in the reliability of this statement. Although respondent was adamant that he wrote prescriptions infrequently he could not definitively remember what his prescribing practice entailed and even infrequent prescribing by respondent has the potential for serious harm. We are troubled that respondent maintains a plenary license which affords him unfettered practice without the concomitant capacity to exercise that privilege

appropriately and most importantly safely. The Board finds respondent's practice of medicine presents a clear and imminent danger to the public health, safety and welfare and we are duty bound to exercise our mandate to protect the public from a licensee incapable of safe practice and to protect respondent from utilizing his license for any further or potential abuse of himself or others.

IT IS THEREFORE, on this                    day of                    2007,

**ORDERED THAT:**

1. Respondent's license to practice medicine and surgery in the State of New Jersey is hereby temporarily suspended effective immediately upon the oral announcement of this Order on the record on January 10, 2007 and until further Order of this Board. Respondent shall immediately cease and desist the practice of medicine and surgery in New Jersey including the prescribing of medications.

2. Respondent shall immediately return his original license to William Roeder, Executive Director at the Board of Medical Examiners, 140 E. Front Street 2<sup>nd</sup> Floor, P. O. Box 183, Trenton, New Jersey, 08625.

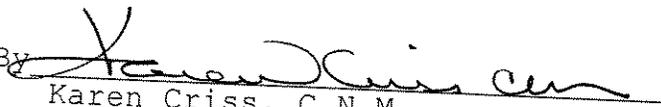
3. Upon receipt of a filed copy of this Order, respondent shall immediately return his original State CDS registration to the New Jersey State Board of Medical Examiners,

140 E. Front Street, 2<sup>nd</sup> Floor, P.O. Box 183, Trenton, New Jersey  
08625.

4. Upon receipt of a filed copy of this Order  
respondent shall immediately advise the DEA of this Order.

5. Respondent shall abide by the Directives for  
Disciplined Licensees attached hereto and made a part hereof.

NEW JERSEY STATE BOARD OF MEDICAL  
EXAMINERS

By   
Karen Criss, C.N.M.  
Vice-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.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 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 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 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.

NJ License # \_\_\_\_\_

### ADDENDUM

Any licensee who is the subject of an order of the Board suspending, revoking or otherwise conditioning the license, shall provide the following information at the time that the order is signed, if it is entered by consent, or immediately after service of a fully executed order entered after a hearing. The information required here is necessary for the Board to fulfill its reporting obligations:

Social Security Number<sup>1</sup>: \_\_\_\_\_

List the Name and Address of any and all Health Care Facilities with which you are affiliated:

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List the Names and Address of any and all Health Maintenance Organizations with which you are affiliated:

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Provide the names and addresses of every person with whom you are associated in your professional practice: (You may attach a blank sheet of stationery bearing this information).

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<sup>1</sup> Pursuant to 45 CFR Subtitle A Section 61.7 and 45 CFR Subtitle A Section 60.8, the Board is required to obtain your Social Security Number and/or federal taxpayer identification number in order to discharge its responsibility to report adverse actions to the National Practitioner Data Bank and the HIP Data Bank.

**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.