



JON S. CORZINE
Governor

New Jersey Office of the Attorney General

Division of Consumer Affairs
State Board of Medical Examiners
P.O. Box 183, Trenton, NJ 08625-0183



ANNE MILGRAM
Attorney General

LAWRENCE DEMARZO
Acting Director

May 30, 2008

FILED

MAY 21, 2008 *Nunc Pro Tunc*

**NEW JERSEY STATE BOARD
OF MEDICAL EXAMINERS**

For overnight deliveries:
140 East Front St., 2nd Floor
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Trenton, NJ 08608
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ORDER OF THE NJ STATE BOARD OF MEDICAL EXAMINERS IN THE MATTER OF CLAUDIO L. MIRO, M.D.

On May 21, 2008, the New Jersey State Board of Medical Examiners ("The Board") considered, approved and adopted in its entirety the April 16, 2008 Initial Decision of the Honorable J. Howard Solomon recommending the settlement proposed by the Attorney General and accepted by Respondent with the advice of his counsel, which settlement had been provisionally approved April 10, 2008 by Board President Mario A. Criscito, M.D. This Order incorporates the April 16, 2008 Initial Decision of Settlement, the Final Order filed May 21, 2008 *Nunc Pro Tunc*, the Directives, and the Supplemental Order Declaring Exhibits Confidential.

EFFECTIVE DATE: May 21, 2008 *Nunc Pro Tunc*

CERTIFIED TRUE COPY



State of New Jersey
OFFICE OF ADMINISTRATIVE LAW
33 Washington Street
Newark, NJ 07102
(973) 648-6008

**A copy of the administrative law
judge's decision is enclosed.**

**This decision was mailed to the parties
on APR 18 2008**



State of New Jersey
OFFICE OF ADMINISTRATIVE LAW

INITIAL DECISION

SETTLEMENT

OAL DKT. NO. BDS 07976-07

**IN THE MATTER OF THE SUSPENSION
OR REVOCATION OF THE LICENSE OF
CLAUDIO MIRO, M.D. TO PRACTICE
MEDICINE AND SURGERY
IN NEW JERSEY,**

Joan Gelber, Senior Deputy Attorney General, for petitioner (Anne Milgram,
Attorney General of New Jersey, attorney)

Thomas M. Barron, Esq., for respondent

Record Closed: April 11, 2008

Decided: April 16, 2008

BEFORE **J. HOWARD SOLOMON**, ALJ:

This matter was transmitted to the Office of Administrative Law on August 13, 2007 for determination as a contested case pursuant to N.J.S.A. 52:14B-1 to -15 and N.J.S.A. 52:14F-1 to -13.

The hearings commenced on April 10, 2008. The matter was settled and a Final Order pursuant to settlement was executed on April 10, 2008.

I have reviewed the record and the settlement terms and I **FIND**:

1. Respondent, Claudio L. Miro, has voluntarily agreed to the settlement as evidenced by his signature.
2. The settlement fully disposes of all issues in controversy and is consistent with the law.

I **CONCLUDE** that this agreement meets the requirements of N.J.A.C. 1:1-19.1 and that the settlement should be approved. I approve the settlement and therefore **ORDER** that the parties comply with the settlement terms and that these proceedings be concluded.

It is further **ORDERED** that the parties and counsel comply with the terms of the attached Order declaring that exhibits, as noted therein, shall remain confidential, except to the undersigned and the State Board of Medical Examiners.

I hereby **FILE** my initial decision with the **BOARD OF MEDICAL EXAMINERS** for consideration.

This recommended decision may be adopted, modified or rejected by the **BOARD OF MEDICAL EXAMINERS**, which by law is authorized to make a final decision in this matter. If the Board of Medical Examiners does not adopt, modify or reject this decision within forty-five 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.

4-16-08
DATE



J. HOWARD SOLOMON, ALJ

Date Received at Agency:

4-18-08

APR 18 2008
DATE

Mailed To Parties:


DIRECTOR A/LJ
OFFICE OF ADMINISTRATIVE LAW

pb

ANNE MILGRAM
ATTORNEY GENERAL OF NEW JERSEY

Division of Law - 5th floor
124 Halsey Street
P.O.B. 45029
Newark, New Jersey 07101

By: Joan D. Gelber
Sr. Deputy Attorney General
Tel. 973-648-2972

FILED

MAY 21, 2008 Nunc Pro Tunc

**NEW JERSEY STATE BOARD
OF MEDICAL EXAMINERS**

STATE OF NEW JERSEY
DEPT OF LAW & PUBLIC SAFETY
DIVISION OF CONSUMER AFFAIRS
STATE BOARD OF MEDICAL EXAMINERS
DOCKET NO. OAL BDSME 07976-2007N

IN THE MATTER OF THE SUSPENSION :	
OR REVOCATION OF LICENSE OF :	ADMINISTRATIVE ACTION
CLAUDIO L. MIRO, M.D. :	
TO PRACTICE MEDICINE AND SURGERY: *	FINAL ORDER
IN THE STATE OF NEW JERSEY :	

This matter was presented to the State Board of Medical Examiners by the Attorney General of New Jersey, by Joan D. Gelber, Sr. Deputy Attorney General, by way of Complaint filed February 1, 2007 against respondent Claudio L. Miro, M.D.

The Complaint alleged, in summary, that during the period 2002 through 2003, respondent conducted a multi-practitioner medical practice under the name "Miro Medical Associates," at 145 Wyckoff Road, Eatontown, New Jersey. The practice was organized and managed by "Main Line Medical"/"Shore Management, Inc." The Complaint alleged that Dr. Miro engaged in a pattern of conduct providing repeatedly negligent or incompetent and/or medically unnecessary services, including inadequate examinations, failure to preserve x-rays, ordering treatment not tailored to patient need, performance of spinal diagnostic ultrasound studies, performance of incompetent electrodiagnostic testing, and "electroceutical synaptic nerve block treatment" under various test names. He was also alleged to have performed trigger point injections without proper medical documentation, ordered performance of physical therapy by unlicensed persons and prolonged periods of purported treatment without medical justification.

Gail J-1

The Complaint additionally alleged deceptive advertising - including subsequent billing for an offered free medical evaluation, deceptive services, and billing under misleading codes. Finally, the Complaint alleged that respondent repeatedly engaged in medical practice after his license to practice in this State had expired. The Attorney General sought remedies, including sanctions as a subsequent offender, based upon two prior Board disciplinary Orders.

Dr. Miro's address of record is 5 Delaware Road, Morristown, New Jersey. He is represented by Thomas M. Barron, Esq., who filed an Answer denying the charges.

The case was transmitted to the Office of Administrative Law for hearing. Trial was scheduled to be conducted by the Hon. J. Howard Solomon, ALJ.

Respondent, having considered the matter and having had the opportunity to consult with his attorney, and being desirous to resolve this matter without recourse to further proceedings, hereby amends his prior Answer and neither admits nor denies the allegations of the Administrative Complaint. He has represented that he has no current medical practice, is unemployed, and with limited financial resources. He has agreed to certain settlement terms, including a permanent surrender of license to be deemed a revocation. In light of all the circumstances, the Board finds the following to be in the public interest as an adequate resolution of this matter. Therefore, for good cause shown,

IT IS, ON THIS 10TH DAY OF APRIL 2008

ORDERED:

1. Respondent's license shall be permanently surrendered and deemed a revocation.
2. Respondent shall accept no new patients. Respondent shall promptly notify all patients treated within the last six months regarding the availability for release or transfer of patient records pursuant to N.J.A.C. 13:35-6.5(g), and shall post newspaper and other notice as required by that rule.
3. On or before April 1, 2008, respondent shall arrange for permanent delivery to the Board of his New Jersey license and biennial registration, his federal Drug Enforcement Administration registration and his State Controlled Drug Registration, and shall make prompt arrangements with said agencies for the lawful disposal of all Controlled Drugs in his possession or under his control which were used in his medical practices. On or before April 1, 2008,

respondent shall arrange for the lawful disposal of all non-CDS medications which were used in his medical practices.

4. Respondent shall assure that all New Jersey office letterhead and all prescription pads bearing his name and all pads bearing the name of his corporate entity are destroyed. He shall make safe and appropriate disposition of all medical equipment.

5. Respondent shall promptly initiate dissolution proceedings for the corporation "Miro Medical Associates," sending proofs of the initiation and of the completion of dissolution to the Board.

6. Respondent shall reimburse Health Net of the Northeast, Inc., pursuant to N.J.S.A. 45:1-22(d), the sum of \$1,642.40, which was paid to Miro Medical Associates for services rendered after Dr. Miro's license to practice medicine had lapsed. Said payment shall be made by certified check or money order payable to the carrier and delivered no later than June 1, 2008 to the Board of Medical Examiners for transmittal to the payee. ^{TM3} ^{437.20 CM}

7. Respondent is assessed a penalty of \$10,000.00 for the offenses set forth in Counts 1 through 3, pursuant to N.J.S.A. 45:1-25, as amended. He is assessed costs of \$47,000.00. A Certificate of Debt shall be filed upon entry of the Order to protect the judgment pursuant to N.J.S.A. 45:1-24, and shall be promptly discharged upon payment in full. Payment shall be submitted by certified check or money order payable to State of New Jersey, at the Board office at P.O. Box 183, Trenton, NJ 08625-0183 within 10 days of the entry of the Order.

8. If installment payments for the penalty are requested and approved for good cause shown, respondent shall be permitted to pay the first \$5,000.00 no later than May 1, 2008 and the remainder in monthly payments of at least \$500.00, each due on the first day of the month, commencing on June 1, 2008. Interest shall accrue in accordance with Rule of Court 4:42-11. All payments shall be made by certified check or money order payable to the State of New Jersey. In the event that a monthly payment is not received within five days of its due date, the entire balance of the civil penalty shall become due and owing.

9. Payment of costs of \$47,000.00 incurred in this matter shall be deferred until such time, if ever, as Dr. Miro petitions for reinstatement of his license. At such time the costs shall be due in full and with interest. Dr. Miro shall thereafter appear on notice before a designated

Committee of the Board to discuss his status and professional competence, and the Board shall exercise its sole and reasonable discretion in determining the conditions and restrictions, if any, under which Dr. Miro could be returned to practice.

10. With regard to any form or component of professional practice or services involving "Miro Medical Associates," alleged by respondent to have been performed by him or by or on behalf of his practice entities, for which no bill has yet been issued or which has been billed but is unpaid as of this date, respondent shall assure that no attempt is made by him or on his behalf to bill or to collect for such alleged services and shall withdraw all outstanding claims for payment for such alleged services. Proof of implementation of this paragraph shall be submitted within 30 days to the Board.

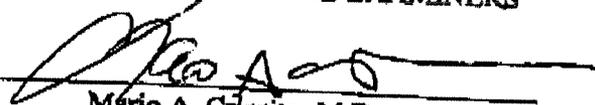
11. The Disciplinary Directives and the Notice provisions attached hereto are incorporated herein. Respondent shall complete (for Board confidential file use alone) the Addendum enclosed with this Order.

12. It is intended by the parties that this Order shall resolve all administrative and license issues with Respondent, which were specifically alleged as violations by the Attorney General in the present Administrative Complaint, with regard to his responsibility to the State Board of Medical Examiners in connection with Professional Board law and rules and accepted standards of practice. The entry of this Order shall not limit the authority of any other person or agency to initiate any further action permitted by law, whether administrative, civil or criminal, in any court or other forum of competent jurisdiction in connection with any matters coming within that jurisdiction.

THIS ORDER IS EFFECTIVE UPON ENTRY.

STATE BOARD OF MEDICAL EXAMINERS

By:



Mario A. Criscito, M.D.
President

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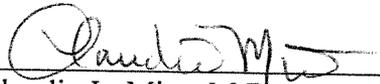
12 It is intended by the parties that this Order shall resolve all administrative and license issues with Respondent, which were specifically alleged as violations by the Attorney General in the present Administrative Complaint, with regard to his responsibility to the State Board of Medical Examiners in connection with Professional Board law and rules and accepted standards of practice. The entry of this Order shall not limit the authority of any other person or agency to initiate any further action permitted by law, whether administrative, civil or criminal, in any court or other forum of competent jurisdiction in connection with any matters coming within that jurisdiction.

THIS ORDER IS EFFECTIVE UPON ENTRY.

STATE BOARD OF MEDICAL EXAMINERS

By: _____
Mario A. Criscito, M.D.
President

I have read and understood the within Order and agree to be bound by its terms. I consent to the entry of the Order by the Board of Medical Examiners



Claudio L. Miro, M.D.

:
Witness



Thomas M. Barron, Esq.,
Counsel to Dr. Miro

**DIRECTIVES APPLICABLE TO ANY MEDICAL BOARD LICENSEE
WHO IS DISCIPLINED OR WHOSE SURRENDER OF LICENSURE
HAS BEEN ACCEPTED¹**

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.)

¹APPROVED BY THE BOARD ON MAY 10, 2000

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 such 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.

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Sr. Deputy Attorney General
Tel. 973-648-2972

FILED

MAY 21, 2008 Nunc Pro Tunc

**NEW JERSEY STATE BOARD
OF MEDICAL EXAMINERS**

STATE OF NEW JERSEY
DEPT OF LAW & PUBLIC SAFETY
DIVISION OF CONSUMER AFFAIRS
STATE BOARD OF MEDICAL EXAMINERS
DOCKET NO. OAL BDSME 07976-2007N

IN THE MATTER OF THE SUSPENSION :
OR REVOCATION OF LICENSE OF : ADMINISTRATIVE ACTION
CLAUDIO L. MIRO, M.D. : SUPPLEMENTAL ORDER
TO PRACTICE MEDICINE AND SURGERY : DECLARING EXHIBITS
IN THE STATE OF NEW JERSEY : CONFIDENTIAL

This matter was presented to the Office of Administrative Law on April 10, 2008, for the purpose of placing a settlement of all allegations in the Administrative Complaint filed February 1, 2007 on the record.

Appearing on behalf of the Attorney General was Joan D. Gelber, Sr. Deputy Attorney General. Appearing with and on behalf of Respondent Claudio L. Miro, M.D. was Thomas M. Barron, of Barron, Baker & Posternock, LLP.

Dr. Miro, sworn and questioned by his attorney and by the Court as to all aspects of the settlement, stated his understanding of and agreement to the settlement.

Dr. Miro was questioned as to the underlying basis for the financial aspects of the settlement by the Deputy Attorney General. Introduced into evidence, without objection, were the following exhibits:

P-1 EV, United States Income Tax Return, form 1040, for 2006, jointly filed by Dr. Miro and his wife Erin Burke Miro;

P-2 EV, Financial Questionnaire and Dr. Miro's answers thereto;

P-3 EV, State of New Jersey Income Tax Return, form NJ-1040/TR-1040, for 2006, jointly filed by Dr. Miro and his wife Erin Burke Miro;

P-4 EV, Dr. Miro's answers to additional questions, which Dr. Miro confirmed he had prepared.

In light of the personal and financial information contained in the four exhibits, necessary for support of the financial terms of the Final Order and approval of the Board of Medical Examiners, the parties have proposed that the exhibits should be deemed confidential, except to the Administrative Law Judge and to the State Board of Medical Examiners.

For good cause shown,

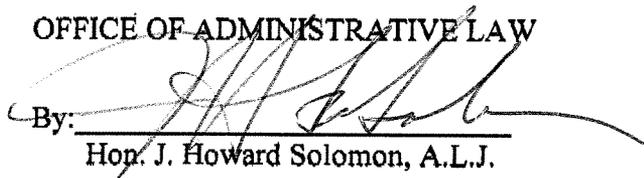
IT IS, ON THIS 16 DAY OF APRIL 2008

ORDERED:

The four marked exhibits, identified above, shall be deemed confidential, except to the Administrative Law Judge and to the State Board of Medical Examiners. This Order shall be deemed part of the Initial Decision in this case.

This Order may be reviewed by the State Board of Medical Examiners either upon interlocutory review, pursuant to N.J.A.C. 1:1-14.10 or when rendering a final decision under N.J.A.C. 1:1-18.6.

OFFICE OF ADMINISTRATIVE LAW

By: 

Hon. J. Howard Solomon, A.L.J.