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**FILED**

June 19, 2008

**NEW JERSEY STATE BOARD  
OF MEDICAL EXAMINERS**

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

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IN THE MATTER OF THE SUSPENSION OR REVOCATION OF THE LICENSE OF	:	Administrative Action
	:	
SHIVA KOTTURI, M.D.	:	CONSENT ORDER GRANTING
MA059794	:	LIMITED REINSTATEMENT OF
TO PRACTICE MEDICINE	:	LICENSURE
AND SURGERY IN THE	:	
STATE OF NEW JERSEY	:	

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This matter was most recently reopened to the New Jersey State Board of Medical Examiners (the "Board") upon receipt of a petition from Shiva Kotturi, M.D. ("Respondent"), for reinstatement of his license to practice medicine and surgery in the State of New Jersey. By way of background, on February 21, 2002, a Final Order was entered by the Board, wherein facts and conclusions of law set forth in a decision of Administrative Law Judge Edith Klinger were adopted. Specifically, the ALJ had found that Dr. Kotturi (1) ordered unnecessary and unjustified immunological tests and spirometry tests for five identified

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patients and billed Medicaid for these repeated and unnecessary tests; (2) provided treatment which constituted gross negligence and gross malpractice which endangered the life of each of these patients; (3) maintained incomplete and grossly inadequate patient records for the patients; and (4) was employed by a non-physician who was allowed to control his practice of medicine. As a result of this Order, Dr. Kotturi's license to practice medicine in New Jersey was suspended for a period of five years, the first two years to be served as a period of active suspension. Prior to resuming any practice of medicine, Dr. Kotturi was ordered to provide proof of successful completion of courses acceptable to the Board in medical record keeping and medical ethics during the period of active suspension; payment of assessed penalties totaling \$52,000, with interest, and costs totaling \$6,832.07; and he was to demonstrate to the satisfaction of the Board that he is competent to resume the practice of medicine.

The Board filed a Consent Order on March 31, 2003 supplementing the Board's Final Order of February 21, 2002, following a report from the New Jersey Department of Health and Senior Services alleging that Dr. Kotturi had engaged in activities prohibited by the terms of the Final Order after the effective date of his license suspension. Specifically, the Board learned that the doctor had ordered ten 100mg packages of

Methadone for the American Habitare facility on March 12, 2002, after his medical license was suspended. By the terms of the supplemental Order and the attached directives, Dr. Kotturi was reprimanded and the active suspension of his license was increased by an additional six months.

On August 22, 2007, Dr. Kotturi appeared with his counsel, Robert J. Conroy, Esq., to testify before a Preliminary Evaluation Committee in support of his application for reinstatement. Counsel presented a copy of a personal check from Charles Schwab in the amount of \$55,000.00, with a posting date of August 20, 2007, and a letter from the Board dated August 17, 2007, acknowledging receipt of Dr. Kotturi's payment by four separate methods, in amounts totaling \$62,532.16.

In further support of his petition for reinstatement, Dr. Kotturi provided a chronological listing of all CME credit (146.35 hours) obtained since February 2002. Some of his credit concentrated on methadone, but the doctor testified that he has also gained knowledge in other areas of medicine, such as medical record keeping, medical ethics and appropriate documentation.

Dr. Kotturi indicated that he also participated in and completed the PRIM-E course held in Bridgewater, New Jersey on September 20-22, 2002, and he provided a letter, dated October 16, 2002, from Russell L. McIntyre, Th.D., Professor and Course Director, which stated that the doctor attended all sessions of the PRIM-E program, completed all the written assignments and

showed evidence of having read the relevant assignments and articles in the collection of readings. His overall assessment of Dr. Kotturi's capacity for ethical thinking and insight was unqualified, and he opined that Dr. Kotturi should be thought of as remediated. Dr. Kotturi also provided the Committee with a letter, dated August 16, 2007, from Joan Murray, Mini Residency in Appropriate Prescribing ("MRAP") Program Coordinator, which stated that Dr. Kotturi completed a course in appropriate prescribing and record keeping. The program consisted of 22.5 hours of DVD viewing and 2.5 hours of reading. Dr. Kotturi testified that the course was extremely helpful regarding its detailed approach of how to maintain medical records and documenting the complete history of a patient and receiving informed consent. Consequently, the Board has found that Dr. Kotturi has satisfied the terms and conditions to be completed prior to restoration of his medical license, as set forth in the Final Order of February 21, 2002 and Consent Order of March 31, 2003.

The Board, having determined for good cause shown, that Dr. Kotturi has demonstrated both that he has sufficiently progressed in his rehabilitation and that he possesses the fitness, ability and current medical knowledge requisite for general medical practice, and that the within Order is therefore adequately protective of the public health, safety, and welfare, and the parties being desirous of resolving this matter with limitations

on respondent's license to practice medicine and surgery,

IT IS ON THIS 19 DAY OF June, 2008,

**ORDERED:**

1. That the license of Shiva Kotturi, M.D. to practice medicine and surgery in the State of New Jersey shall be reinstated upon completion of all requirements for re-application, including a criminal history background check and payment of all required fees, on the following conditions:

(a) Dr. Kotturi's practice shall, at his expense and with his full cooperation, be monitored on a random basis at a minimum of once per week for clinical competence and record keeping until further Order of the Board, by a monitor who shall be a healthcare professional licensed in New Jersey and approved in advance by the Board. Said monitoring shall include direct observation by the monitor(s) in Dr. Kotturi's office(s), encompassing any and all treatment, billing, and record keeping, as well as all office procedures occurring in Dr. Kotturi's practice, for compliance with the standards mandated by the statutes and regulations governing the practice of medicine and surgery in the state of New Jersey;

(b) Dr. Kotturi's approved monitor and any successor shall be provided with a copy of this Order and shall signify, via his or her signature, agreement to the monitoring and reporting responsibilities set forth herein;

(c) Reports of Dr. Kotturi's progress shall be provided

directly to the Board by the monitor, the first such report to be due no later than three months from the beginning of medical practice under this Order, and then on at least a quarterly basis until further Order of the Board;

(d) The monitor shall report to the Board, orally and in writing, immediately if practicable, and in all cases within 72 hours, any occurrence or behavior observed which the monitor believes to involve a recurrence of the type of improper conduct set forth in any of the previous Orders with respect to the doctor or to be violative of any statute or regulation governing the practice of medicine and surgery in the State of New Jersey; and

(e) Dr. Kotturi shall submit documentation to the Medical Education Director of the Board prior to the next renewal of his license that at least sixty percent of the CME Dr. Kotturi ~~undertakes for the next two years concerns medical topics common in the adult addicted population.~~

2. Dr. Kotturi hereby consents to the entry of an Order of automatic suspension of license, upon the Board's receipt of any information which the Board in its sole discretion deems reliable that he has materially failed to comply with any provision of this Order, including any report of the monitor of recurrence of improper conduct and/or violations of the statutes or regulations governing the practice of medicine and surgery in the State of New Jersey.

3. Respondent shall have the right to apply for removal of the automatic suspension on two (2) days notice but, in such event, shall be limited to a showing that the information submitted was false.

STATE BOARD OF MEDICAL  
EXAMINERS

By:

  
Mario A. Criscito, M.D.  
President

I agree to the form and entry  
of the above Order.

\_\_\_\_\_  
Robert J. Conroy, Esq.

I have read and understood  
the within Order and agree  
to be bound by the terms  
therein. Consent is hereby  
given for the Board to enter  
this Order.

\_\_\_\_\_  
Shiva Kotturi, M.D.

3. Respondent shall have the right to apply for removal of the automatic suspension on two (2) days notice but, in such event, shall be limited to a showing that the information submitted was false.

STATE BOARD OF MEDICAL EXAMINERS

By:

*[Signature]*  
Mario A. Criscito, M.D.  
President

I agree to the terms and entry of the above Order.

*[Signature]*  
\_\_\_\_\_  
Dr. Genroy, M.D.

I have read and understood the within Order and agree to be bound by the terms therein. Consent is hereby given for the Board to enter this Order.

*[Signature]*  
Shiva Kotturi, M.D.

I have read and understood  
the within Order and agree  
to comply with the terms which  
relate to monitoring and reporting  
requirements.

\_\_\_\_\_  
MONITOR

Jeffrey A. Bernstein