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FILED

JULY 24, 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

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

RUSSELL FERSTANDIG, M.D.)

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

Administrative Action

CONSENT ORDER

This matter was opened to the New Jersey State Board of Medical Examiners (the "Board") on May 14, 2008 by the Attorney General of New Jersey upon the filing of an Order to Show Cause and Verified Complaint seeking the temporary suspension of Dr. Russell Ferstandig's ("Respondent") license to practice medicine and surgery pursuant to N.J.S.A. 45:1-22. The Verified Complaint alleges that Respondent's admitted usage of cocaine in addition to other conduct demonstrated that he was incapable of discharging the functions of a licensee in a manner consistent with the public's health, safety and welfare, in violation of N.J.S.A. 45:1-21(i). The Verified Complaint further alleges violations of N.J.S.A. 45:1-21(1) and N.J.S.A. 45:1-21(e). The Board's file in this matter

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reflects that Respondent has a history of substance abuse, as well as a previous suspension from practice by the Board.

Respondent, through counsel, Steven I. Kern, Esq., entered a general denial of the charges and consented to the voluntary surrender of his license pursuant to an Interim Order of Voluntary Surrender effective on the close of business May 23, 2008. Pursuant to that non-disciplinary surrender, entered without prejudice or admissions, Respondent was to undergo an evaluation under the auspicious of the Professional Assistance Program ("PAP") and provide the results of same to the Attorney General and the Board.

The Interim Order of Voluntary Surrender reserved to the Attorney General the right to renew her application for a temporary suspension upon notice to Respondent with a return date on or before the expiration of the surrender order, July 9, 2008. Upon review of the materials submitted to the Attorney General and the Board from the PAP, the Board has now determined that this within Order is adequately protective of the public and shall be entered in full resolution of the Verified Complaint filed on May 14, 2008.

The Board notes that Dr. Ferstandig voluntarily cooperated in a thorough investigation and evaluation by the PAP. All of the urine screens performed since the time of his re-enrollment in the PAP have been negative for any illicit substances. Further, the doctor has produced a thorough psychiatric evaluation performed by

Dr. Jeffrey Berman. Respondent has admitted his drug use, voluntarily commenced treatment, and appears to have been compliant with every aspect of the Interim Order of Voluntary Surrender. He has represented, through counsel, that charges pending in the city of Newark related to this matter have been resolved with an agreement that he will enter a plea to creating a disturbance in violation of Newark City Ordinance §20:2-6 and pay a fine.

Based on the doctor's admissions, as well as the report of the PAP, the Board finds that Respondent has engaged in drug use within the past 365 days which use constitutes a violation of N.J.S.A. 45:1-21(1). Further, absent treatment, the Board finds that Respondent is incapable of discharging the functions of a licensee in a manner consistent with the public's health, safety and welfare. Finally, the Board finds that the use of illegal drugs constitutes professional misconduct in violation of N.J.S.A. 45:1-21(e) as does Respondent's self-administration of prescription drug samples after he no longer had a valid prescription.

The Board finding the within resolution to be protective of the public health, safety and welfare and Respondent being desirous of avoiding further formal proceedings and for good cause shown,

IT IS ON THIS 24th DAY OF July, 2008,

ORDERED AS FOLLOWS:

1. The license issued to Respondent Russell Ferstandig, M.D. to practice medicine and surgery in the State of New Jersey is restored to him effective July 9, 2008 and subject to the terms of this Order.

2. Respondent is hereby reprimanded for professional misconduct, in violation of N.J.S.A. 45:1-21(e).

3. Respondent shall comply, at his own expense, with all of the terms imposed by the PAP and the recommendations of Dr. Jeffrey Berman as set forth in his evaluation of June 30, 2008. That compliance shall include at a minimum, a return to practice with the following conditions in place:

A. Absolute abstinence from all psychoactive substances, including alcohol, unless prescribed by a treating physician for a documented medical condition with notification to the Executive Medical Director of the Professional Assistance Program of the diagnosis and treatment plan;

B. Documented attendance at the support group of Alcoholic Anonymous at a minimum of three meetings per week;

C. Random urine drug screens at a minimum of two to three screens per week commencing immediately and continuing until the conclusion of the first six months of Respondent's return to practice. Thereafter, Dr. Ferstandig's screens are to be at a frequency determined by the Executive Medical Director of the Professional Assistance Program but not less than once a week for

the subsequent 18 months. Further reductions in screens are to be at the recommendation of the Professional Assistance Program to the State Board of Medical Examiners;

D. Engagement with a therapist to address Respondent's identified mood disorder and to assist Respondent in addressing issues identified in the report of Dr. Berman. The therapist shall be acceptable to the PAP and the identity of the therapist shall be made known to the Executive Director of the State Board of Medical Examiners within 15 days of Respondent commencing therapy. The frequency of sessions shall be subject to determination by the therapist and any cessation of treatment shall be upon the authorization of both the therapist and the PAP. Therapy shall commence within thirty days of the filing of the within Order;

E. Respondent is to be seen in follow up by a clinical representative of the PAP on a monthly basis for the first 12 months of his relicensure pursuant to this Order and until he has been in practice for at least one year. The frequency of follow-up meetings thereafter shall be at the direction of the PAP with notification to the State Board of Medical Examiners;

F. Respondent is responsible for all monitoring costs arising from compliance with this Order;

G. The PAP shall be a signatory to this Order and hereby agrees to provide the State Board of Medical Examiners with quarterly status reports and immediate notification in the event

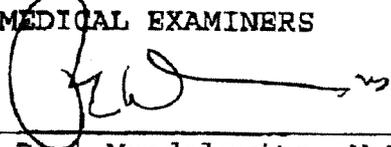
that Respondent is non-compliant with the monitoring requirements and recommendations of the PAP or if there is any information received that indicates that Respondent has used any substance or engaged in any conduct unauthorized by the PAP and/or indicative of relapsed behavior;

H. Respondent shall not practice psychiatry as a solo practitioner. Prior to resuming employment, Respondent shall propose to the PAP and to the Board the circumstances under which he intends to resume practice (i.e., his desired practice setting). Respondent shall refrain from resuming active practice absent approval of the Board or its designee which approval shall be timely and not unreasonably withheld and shall be granted with consideration given to the factors identified in Dr. Berman's evaluation. Thereafter, changes in Respondent's practice setting shall be made with the consent of the PAP;

5. This Order shall constitute a full and final resolution of the charges embodied in the Administrative Complaint filed May 14, 2008.

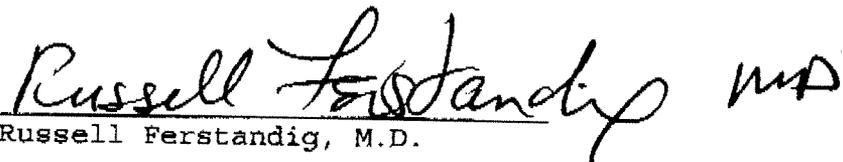
6. Respondent shall comply with the directives of the Board which are attached hereto and made a part hereof.

NEW JERSEY STATE BOARD
OF MEDICAL EXAMINERS

By: 

Paul Mendelowitz, M.D.
Board President

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


Russell Ferstandig, M.D.

Consented as to form and entry.


Steven I. Kern, Esq.
Counsel for Dr. Ferstandig

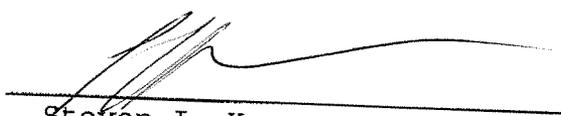
Consented to on behalf of the
PAP-NJ.

Louis E. Baxter, M.D.
Executive Medical Director

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

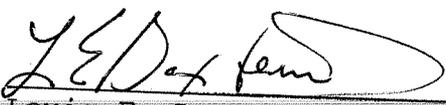
Russell Ferstandig, M.D.

Consented as to form and entry.



Steven I. Kern, Esq.
Counsel for Dr. Ferstandig

Consented to on behalf of the
PAP-NJ.



Louis E. Baxter, M.D.
Executive Medical Director

**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.

**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.