

**FILED**

August 14, 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	:	
	:	
EMMA BENJAMIN, M.D.	:	Administrative Action
License No. MA75631	:	
	:	CONSENT ORDER
	:	
TO PRACTICE MEDICINE AND SURGERY	:	
IN THE STATE OF NEW JERSEY	:	
	:	

**THIS MATTER** was opened to the New Jersey State Board of Medical Examiners ("Board") upon receipt of information that on or about January 30, 2008, the New York State Board for Professional Medical Conduct ("New York Board") entered a "Determination and Order" ("New York Order") against Respondent, Emma Benjamin, M.D., providing for the suspension of Respondent's license to practice

**CERTIFIED TRUE COPY**

medicine from the issuance of the Commissioner's Order of April 9, 2007 until the effective date of the New York Order, which is the date of service of the Order upon Respondent on or about February 10, 2008. The New York Order further provides that Respondent shall be placed on probation for three (3) years with certain terms and conditions, which is stayed until Respondent returns to the active practice of medicine in New York.

More specifically, the New York Board determined that Respondent violated New York Education Law Section 6530(9)(a)(i) in that: (1) on September 13, 2006, in the Supreme Court of the State of New York, Queens County, Respondent was found guilty of Falsifying Business Records in the first degree, in violation of New York Penal Law Section 175.10, a class E felony, and was sentenced to a three-year conditional discharge, a \$10.00 CVAF, and a \$200.00 surcharge; and (2) on or about June 11, 2007, in the Criminal Court of the City of New York, County of Queens, Respondent was found guilty, based on a plea of guilty, of three counts of insurance fraud in the fifth degree, in violation of New York Penal Law Section 176.10, a class A misdemeanor, and was sentenced to a one year conditional discharge.

As a result of the foregoing, the Board has determined that the above New York disciplinary action based on two criminal convictions, as well as Respondent's acts giving rise to the New York disciplinary action and two criminal convictions, provide a

basis for disciplinary action against Respondent's New Jersey license to practice medicine and surgery pursuant to N.J.S.A. 45:1-21(f) and N.J.S.A. 45:1-21(g).

**IT NOW APPEARING** that the parties wish to resolve this matter without recourse to formal proceedings; and the Respondent representing that she has not practiced medicine and surgery in New Jersey since April 9, 2007; and that the Respondent hereby waives any right to a hearing in this matter; and that Respondent's New Jersey license is currently active, although she represents that she is not in active practice at this time; and the Board finding the within Order adequately protects the public's health, safety and welfare; and for good cause shown;

**IT IS ON THIS** 14th day of August, 2008, **ORDERED AND AGREED THAT:**

1. Respondent's license to practice medicine and surgery in the State of New Jersey shall be, and hereby is, suspended retroactively from April 9, 2007 through February 10, 2008.

2. Respondent is placed on probation for a period of three (3) years commencing upon the filing date of this Consent Order with the following terms, conditions and/or limitations:

A. Respondent shall conduct herself in all ways in a manner befitting her professional status, and shall conform fully to the moral and professional standards of conduct and obligations imposed by law and by her profession.

B. Respondent shall submit written notification to the New Jersey State Board of Medical Examiners (hereafter "Board") and addressed to William Roeder, Executive Director, State Board of Medical Examiners, P.O. Box 183, Trenton, New Jersey 08625-0183; said notice to include a full description of any employment and practice, professional and residential addresses and telephone numbers within or without New Jersey, and any and all investigations, charges, convictions or disciplinary actions by any local, state or federal agency, institute or facility, within thirty (30) days of each action. The out-of-state practice of medicine may be credited towards fulfillment of the probationary period, provided Respondent complies with all the terms and conditions of this Consent Order. Periods of time in which Respondent is not practicing medicine shall be excluded from the computation of time to be served on probation.

C. Respondent shall fully cooperate with the Board and provide written verification every six (6) months of her compliance with the terms of this Order beginning upon her commencement of active practice in the State of New Jersey. Respondent shall personally meet with the Board, or a Committee thereof, as requested by the Board.

D. Respondent shall notify the Board, in writing, if Respondent intends to leave the active practice of medicine in New Jersey for a period of thirty (30) consecutive days or more.

Respondent shall then notify the Board again prior to any change in her status.

E. Respondent's professional performance may be reviewed by the Board. The review may include, but shall not be limited to, a review of office records, patient records and/or hospital charts, and interviews or periodic visits with Respondent and her staff at practice locations or at the Board's offices.

F. Respondent shall maintain legible and complete medical records which accurately reflect the evaluation and treatment of patients. The medical records shall contain all information required by State rules and regulations regarding controlled substances.

G. With the exception of the practice of medicine as an employee of a medical facility that the government operates or that the government licenses, Respondent shall practice medicine in New Jersey with a billing monitor, pre-approved by the Board, as follows:

(i) The billing monitor shall be experienced in and familiar with medical billings and CPT coding and shall be approved by the Board prior to commencing monitoring functions;

(ii) Prior to active practice in the State of New Jersey, Respondent shall propose individuals to serve as the billing monitor and shall provide a curriculum vitae setting forth the experience of any proposed individuals for the Board's

consideration. The Board shall consider and approve a proposed individual provided there is a demonstration, to the Board's satisfaction, that the individual possesses an appropriate background to fulfill the functions of a billing monitor. The Board shall not unreasonably withhold approval of an appropriately qualified individual;

(iii) Respondent shall provide the billing monitor with unfettered access to original patient and billing records for those patients provided medical treatment by Respondent during the period of time encompassed by the monitoring;

(iv) Respondent shall ensure that the billing monitor submits quarterly written reports to the Board. The billing monitor shall determine whether Respondent is accurately and appropriately billing and coding for medical services provided. However, the billing monitor shall make an immediate report to the Board of any instances where he or she makes a determination that Respondent has submitted an inappropriate, unsubstantiated, or incorrectly coded bill;

(v) Respondent agrees to grant immediate access to each and every location at which Respondent practices medicine on a random unannounced basis to examine a selection of medical and billing records to assure that Respondent remains in compliance with the probation terms;

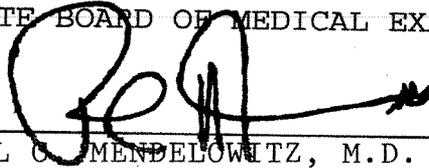
(vi) Respondent is directed to pay all reasonable fees and costs associated with the retention and employment of the billing monitor and any record duplication required hereunder. In

the event Respondent shall fail to timely pay any invoice submitted by the billing monitor, then said failure shall be deemed a failure to comply with the terms of this Consent Order and the Board may initiate a violation of probation proceeding and/or any such other proceeding against Respondent as may be authorized pursuant to the law.

H. Respondent shall comply with all terms, conditions, restrictions, limitations and penalties to which she is subject pursuant to this Order, as well as the New York Order, and shall assume and bear all costs related to compliance. Upon receipt of evidence of noncompliance with, or any violation of these terms, or the terms of the New York Order, the Board may initiate a violation of probation proceeding and/or any such other proceeding against Respondent as may be authorized pursuant to the law.

STATE BOARD OF MEDICAL EXAMINERS

By:



PAUL C. MENDELOWITZ, M.D.  
Board President

I hereby consent to the form  
and entry of this Consent Order.

MINTZ, LEVIN, COHN, FERRIS, GLOVSKY  
AND POPEO, P.C.

  
\_\_\_\_\_  
PETER A. CHAVKIN, ESQUIRE

I have read and I understand  
this Consent Order and agree to be  
bound by its terms. I further  
hereby consent to the entry of  
this Consent Order.

  
\_\_\_\_\_  
EMMA BENJAMIN, M.D.

STATE OF NEW YORK : DEPARTMENT OF HEALTH  
STATE BOARD FOR PROFESSIONAL MEDICAL CONDUCT

COPY

IN THE MATTER

OF

EMMA BENJAMIN, M.D.

DETERMINATION

AND

ORDER

BPMC #08-17

A hearing was held on January 24, 2008, at the offices of the New York State Department of Health ("the Petitioner"). A Commissioner's Order and Notice of Referral Proceeding dated April 9, 2007, and an Amended Statement of Charges dated November 1, 2007, were served upon the Respondent, **Emma Benjamin, M.D.** Pursuant to Section 230(10)(e) of the Public Health Law, **Peter B. Kane, M.D.**, Chairperson, **Cindy Hoffman, D.O.**, and **Janet Miller, R.N.**, duly designated members of the State Board for Professional Medical Conduct, served as the Hearing Committee in this matter. **William Lynch, Esq.**, Administrative Law Judge, served as the Administrative Officer.

The Petitioner appeared by **Thomas Conway, Esq.**, General Counsel, by **Jude Mulvey, Esq.**, of Counsel. The Respondent appeared at the hearing and was represented by Mintz Levin, PC, **Peter A. Chavkin, Esq.**, of Counsel.

Evidence was received and transcripts of these proceedings were made.

After consideration of the entire record, the Hearing Committee issues this Determination and Order.

**BACKGROUND**

This case was brought pursuant to Public Health Law Section 230(10)(p). The statute provides for an expedited hearing when a licensee is charged solely with a

violation of Education Law Section 6530(9). In such cases, a licensee is charged with misconduct based upon a prior criminal conviction in New York State or another jurisdiction, or upon a prior administrative adjudication regarding conduct that would amount to professional misconduct, if committed in New York. The scope of an expedited hearing is limited to a determination of the nature and severity of the penalty to be imposed upon the licensee.

In the instant case, the Respondent is charged with professional misconduct pursuant to Education Law Section 6530(9)(a)(i). Copies of the Notice of Referral Proceeding and the Statement of Charges are attached to this Determination and Order as Appendix 1. The Commissioner issued an Order pursuant to Public Health Law Section 230(12)(b), which prohibited the Respondent from practicing medicine in the State of New York until the final conclusion of the hearing in this matter.

#### **WITNESSES**

For the Petitioner:

None

For the Respondent:

Emma Benjamin, M.D.

#### **FINDINGS OF FACT**

The following Findings of Fact were made after a review of the entire record in this matter. Numbers below in parentheses refer to exhibits, denoted by the prefix "Ex." These citations refer to evidence found persuasive by the Hearing Committee in arriving at a particular finding. Conflicting evidence, if any, was considered and rejected in favor of the cited evidence. All Hearing Committee findings were unanimous.

1. Emma Benjamin, M.D., the Respondent, was authorized to practice medicine in New York State on December 17, 1997, by the issuance of license number 209190 by the New York State Education Department (Petitioner's Ex. 4).

2. On or about September 13, 2006, in the Supreme Court of the State of New York, Queens County, New York, Respondent was found guilty, of Falsifying Business Records in the first degree, in violation of New York Penal Law section 175.10, a class E felony, and was sentenced to a three year conditional discharge, a \$10.00 CVAF, and a \$200.00 surcharge.

3. On or about June 11, 2007, in the Criminal Court of the City of New York, County of Queens, New York, Respondent was found guilty, based on a plea of guilty, of three counts of Insurance fraud in the fifth degree, in violation of New York Penal Law section 176.10, a class A misdemeanor, and was sentenced to one year conditional discharge.

### **VOTE OF THE HEARING COMMITTEE**

#### **FIRST AND SECOND SPECIFICATIONS**

"Respondent violated New York Education Law Section 6530(9)(a)(i) by having been convicted of committing an act constituting a crime under New York state law..."

VOTE: Sustained (3-0)

### **HEARING COMMITTEE DETERMINATION**

The Respondent admitted the factual allegation and did not contest the charge specified in the Statement of Charges. She explained the circumstances surrounding her immigration to the United States as a political refugee, her medical licensure and training

in New York and her employment history. She testified that the criminal conviction relates to employment which she began one day per week with a medical clinic in Queens, New York, in January 2003. She noticed that changes were made to her reports, and she realized that the changes had been made to substantiate a reason for nerve induction studies so as to fraudulently increase the clinic's billing. Nonetheless, she continued her role with the fraudulent practice at the clinic until April 2003 when she was able to commence employment elsewhere. Petitioner recommended that Respondent's license be revoked.

Respondent acknowledged her misconduct stating that she wrongly succumbed to economic pressures during the four months of employment at issue. She expressed remorse for her actions and asked the Hearing Committee to consider her otherwise unblemished medical career. The affidavits and letters others wrote on Respondent's behalf attest to her skill and dedication as a physician, her compassion and her remorse. In addition, the judge who had sentenced Respondent for her felony conviction issued a Certificate of Relief from Disabilities on September 5, 2007. Respondent also offered evidence that she completed several continuing medical education courses during the period of her suspension.

The Hearing Committee recognizes that the commission of a felony related to insurance fraud is a serious matter that damages the integrity of the medical care system and that the penalty for such conduct should serve as a punishment and deterrent. After careful consideration of all the evidence and the full range of penalties available, the Hearing Committee unanimously concludes, however, that the license revocation recommended by the Department is not necessary or appropriate to meet these objectives, given the evidence presented by Respondent. The conduct at issue was

limited to a four-month period during which Respondent was paid on an hourly basis, for a position at a clinic where she worked one day per week. There was no evidence that Respondent benefited financially from her misconduct, and the fact that the court required no incarceration or restitution and issued a Certificate of Relief from Disabilities is consistent with Respondent's testimony that she received no benefit from the fraud other than an hourly wage. The Hearing Committee felt that Respondent was sincere when she testified regarding her remorse and her assurance that she will not repeat the misconduct.

The Hearing Committee concludes that Respondent's license to practice medicine should be suspended for the period of time from the issuance of the Commissioner's Order on April 9, 2007, until the effective date of this Order. The Hearing Committee also determines that Respondent should be placed on probation for a three-year period. During the probationary period, Respondent should be required to have a billing monitor who reviews Respondent's patient and billing records and submits written reports to the Director of the Office of Professional Medical Conduct ("OPMC"). The OPMC should also have the ability to review patient and billing records on a random unannounced basis. There would, however, be no requirement for a billing monitor if Respondent only practices medicine as an employee of a medical facility that the government operates or that the government licenses. Such employment would remove Respondent from billing responsibility and assure supervision and oversight.

**ORDER**

**IT IS HEREBY ORDERED THAT:**

1. Respondent's license to practice medicine is suspended for the period of time from the issuance of the Commissioner's Order on April 9, 2007, until the effective date of this Order;

2. Respondent is placed on probation for three years. The probation is stayed until Respondent returns to the active practice of medicine in New York State. The terms of probation are as follows:

- a. Respondent shall conduct herself in all ways in a manner befitting her professional status, and shall conform fully to the moral and professional standards of conduct and obligations imposed by law and by her profession.
- b. Respondent shall submit written notification to the New York State Department of Health addressed to the Director, Office of Professional Medical Conduct (OPMC), Hedley Park Place, 433 River Street Suite 303, Troy, New York 12180-2299; said notice is to include a full description of any employment and practice, professional and residential addresses and telephone numbers within or without New York State, and any and all investigations, charges, convictions or disciplinary actions by any local, state or federal agency, institution or facility, within thirty days of each action.
- c. Respondent shall fully cooperate with and respond in a timely manner to requests from OPMC to provide written periodic verification of Respondent's compliance with the terms of this Order. Respondent shall personally meet with a person designated by the Director of OPMC as requested by the Director.

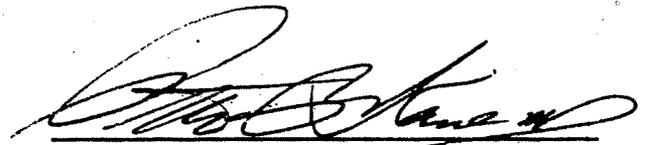
- d. The period of probation shall be tolled during periods in which Respondent is not engaged in the active practice of medicine in New York State. Respondent shall notify the Director of OPMC, in writing, if Respondent intends to leave the active practice of medicine in New York State for a period of thirty (30) consecutive days or more. Respondent shall then notify the Director again prior to any change in that status. The period of probation shall resume and any terms of probation which were not fulfilled shall be fulfilled upon Respondent's return to practice in New York State.
- e. Respondent's professional performance may be reviewed by the Director of OPMC. This review may include, but shall not be limited to, a review of office records, patient records and/or hospital charts, interviews with or periodic visits with Respondent and his/her staff at practice locations or OPMC offices.
- f. Respondent shall maintain legible and complete medical records which accurately reflect the evaluation and treatment of patients. The medical records shall contain all information required by State rules and regulations regarding controlled substances.
- g. With the exception of the practice of medicine as an employee of a medical facility that the government operates or that the government licenses, Respondent shall practice medicine with a billing monitor. The billing monitor shall be proposed by Respondent and subject to the prior written approval of the Director. Respondent shall authorize the billing monitor to have access to her patient and billing records, and Respondent shall ensure that the billing monitor submits quarterly written reports to the Director of OPMC. The Director of OPMC may require access to each and every location at which

Respondent practices medicine on a random unannounced basis to examine a selection of medical and billing records to assure that Respondent remains in compliance with the probation terms.

- h. Respondent shall comply with all terms, conditions, restrictions, limitations and penalties to which she is subject pursuant to the Order and shall assume and bear all costs related to compliance. Upon receipt of evidence of noncompliance with, or any violation of these terms, the Director of OPMC and/or the Board may initiate a violation of probation proceeding and/or any such other proceeding against Respondent as may be authorized pursuant to the law.

3. This Order shall be effective upon service on the Respondent in accordance with the requirements of Public Health Law Section 230(10)(h).

DATED: Cazenovia, New York  
1/30/08, 2008



**Peter B. Kane, M.D.**  
Chairperson

**Cindy Hoffman, D.O.**  
**Janet Miller, R.N.**

# APPENDIX I

STATE OF NEW YORK DEPARTMENT OF HEALTH  
STATE BOARD FOR PROFESSIONAL MEDICAL CONDUCT



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IN THE MATTER  
OF  
EMMA BENJAMIN, M.D.  
FR-05-01-0191-C

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COMMISSIONER'S  
ORDER  
AND  
NOTICE OF  
REFERRAL  
PROCEEDING

TO: EMMA BENJAMIN, M.D.  
6411 99<sup>th</sup> Street  
Apt. 604  
Rego Park, NY 11374

The undersigned, Richard F. Daines, M.D., Commissioner of Health, pursuant to New York Public Health Law §230, upon the recommendation of a Committee on Professional Medical Conduct of the State Board for Professional Medical Conduct, has determined that **EMMA BENJAMIN, M.D.**, Respondent, licensed to practice medicine in the State of New York on December 17, 1997, by license number 209190, has been convicted of committing an act constituting a felony under New York State law, as is more fully set forth in the Statement of Charges attached, hereto, and made a part, hereof.

It is, therefore:

ORDERED, pursuant to New York Public Health Law §230(12)(b), effective immediately **EMMA BENJAMIN, M.D.**, Respondent, shall not practice medicine in the State of New York or in any other jurisdiction where that practice is predicated on a valid New York State license to practice medicine. This Order shall remain in effect unless modified or vacated by the Commissioner of Health pursuant to New York Public Health Law §230(12).

Any practice of medicine in the State of New York in defiance of this Commissioner's Order shall constitute Professional Misconduct within the meaning of N.Y. Education Law §6530(29) and may constitute unauthorized medical practice, a felony, defined by N.Y. Education Law §6512.

PLEASE TAKE NOTICE that a hearing will be held pursuant to the provisions of New York Public Health Law §230, and New York State Administrative Procedure Act §§301-307 and 401. The hearing will be conducted before a committee on professional conduct of the State Board for Professional Medical Conduct on the 20<sup>th</sup> day of June, 2007, at 10:00 a.m., at Hedley Park Place, 433 River Street, 5<sup>th</sup> Floor, Troy, New York 12180, at the offices of the New York State Health Department and at such other adjourned dates, times, and places as the committee may direct. Respondent may file an answer to the Statement of Charges with the below-named attorney for the Department of Health.

At the hearing, evidence will be received concerning the allegations set forth in the Statement of Charges that is attached. A stenographic record of the hearing will be made and the witnesses at the hearing will be sworn and examined. Respondent shall appear in person at the hearing and may be represented by counsel. Respondent has the right to produce witnesses and evidence on her behalf, to issue or have subpoenas issued on her behalf for the production of witnesses and documents, and to cross-examine witnesses and examine evidence produced against her. A summary of the Department of Health Hearing Rules is enclosed. Pursuant to §301(5) of the State Administrative Procedure Act, the Department, upon reasonable notice, will provide at no charge, a qualified interpreter of the deaf to interpret the proceedings to, and the testimony of, any deaf person.

The hearing will proceed whether or not Respondent appears at the hearing. Scheduled hearing dates are considered dates certain and adjournment requests are not, therefore, routinely granted. Requests for adjournments must be made in writing to the New York State Department of Health, Division of Legal Affairs, Bureau of Adjudication, Hedley Park Place, 433 River Street, Fifth Floor South, Troy, NY 12180, ATTENTION: HON. SEAN D. O'BRIEN, DIRECTOR, BUREAU OF ADJUDICATION, and by telephone (518-402-0748), upon notice to the attorney for the Department of Health whose name appears below, at least five days prior to the scheduled hearing date. Claims of court engagement will require detailed affidavits of actual engagement. Claims of illness will require medical documentation.

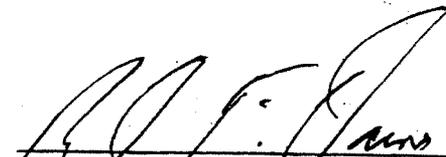
At the conclusion of the hearing, the committee shall make findings of fact, conclusions concerning the charges sustained or dismissed, and, in the event any of the charges are sustained, a determination of the penalty or sanction to be imposed or appropriate action to be taken. Such determination may be reviewed by the Administrative Review Board for Professional Medical Conduct.

**THESE PROCEEDINGS MAY RESULT IN A DETERMINATION THAT YOUR LICENSE TO PRACTICE MEDICINE IN NEW YORK STATE BE REVOKED OR SUSPENDED AND/OR THAT YOU BE FINED OR SUBJECT TO OTHER SANCTIONS SET FORTH IN NEW YORK PUBLIC HEALTH LAW §230-a. YOU ARE URGED TO OBTAIN AN ATTORNEY TO REPRESENT YOU IN THIS MATTER.**

DATED: Albany, New York

Apr 19

,2007

  
\_\_\_\_\_  
RICHARD F. DAINES, M. D.  
Commissioner of Health

Inquires should be addressed to:

Robert Bogan  
Associate Counsel  
Office of Professional Medical Conduct  
433 River Street – Suite 303  
Troy, New York 12180  
(518) 402-0828

STATE OF NEW YORK DEPARTMENT OF HEALTH  
STATE BOARD FOR PROFESSIONAL MEDICAL CONDUCT

EXHIBIT  
6

IN THE MATTER  
OF  
EMMA BENJAMIN, M.D.  
FR-05-01-0191-C

AMENDED  
STATEMENT  
OF  
CHARGES

EMMA BENJAMIN, M.D., Respondent, was authorized to practice medicine in New York state on December 17, 1997, by the issuance of license number 209190 by the New York State Education Department.

**FACTUAL ALLEGATIONS**

A. On or about September 13, 2006, in the Supreme Court of the State of New York, Queens County, New York, Respondent was found guilty, based on a plea of guilty, of Falsifying business records in the first degree, in violation of New York Penal Law §175.10, a class E felony, and was sentenced to a three (3) year conditional discharge, a \$10.00 CVAF, and a \$200.00 surcharge.

B. On or about June 11, 2007, in the Criminal Court of the City of New York, County of Queens, New York, Respondent was found guilty, based on a plea of guilty, of three (3) counts of Insurance fraud in the fifth degree, in violation of New York Penal Law §176.10, a class A misdemeanor, and was sentenced to a one (1) year conditional discharge.

**SPECIFICATIONS**

**FIRST AND SECOND SPECIFICATIONS**

Respondent violated New York Education Law §6530(9)(a)(i) by being convicted of committing an act constituting a crime under New York State law, in that Petitioner charges:

1. The facts in Paragraph A.
2. The facts in Paragraph B.

DATED: *Nov. 1*, 2007  
Albany, New York

*Peter D. Van Buren*  
PETER D. VAN BUREN  
Deputy Counsel  
Bureau of Professional Medical Conduct

**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.

**NAME:** Emma Benjamin, M.D.  
**NJ License #** MA075631

**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.