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**FILED**

February 12, 2009

**NEW JERSEY STATE BOARD  
OF MEDICAL EXAMINERS**

STATE OF NEW JERSEY  
DEPT OF LAW & PUBLIC SAFETY  
DIVISION OF CONSUMER AFFAIRS  
BOARD OF MEDICAL EXAMINERS  
OAL Docket No. BDSME 07959-02N

IN THE MATTER OF THE SUSPENSION :  
OR REVOCATION OF LICENSE OF  
DENIS S. SCHISANO, M.D.  
LICENSE NO. 25MA0 3337500  
TO PRACTICE MEDICINE AND SURGERY  
IN THE STATE OF NEW JERSEY :

ADMINISTRATIVE ACTION

FINAL ORDER

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 Administrative Complaint filed July 22, 2002 and First Supplemental Complaint filed April 24, 2003. The consolidated Complaints alleged in eight Counts that respondent had engaged in a multi-year pattern of misconduct as set forth in the Complaints. The conduct was alleged to constitute violation of N.J.S.A. 45:1-21(b), (c), (d), (e), (h); N.J.S.A. 45:9-6; N.J.S.A. 45:9-19.17; and N.J.A.C. 13:35-2.5; N.J.A.C. 13:35-2.6; N.J.A.C. 13:35-6.5; N.J.A.C. 13:35-6.17; and N.J.A.C. 13:35-6.19; and of accepted standards of practice. Dr. Schisano is represented by Edward C Bertucio, Jr., Esq. and filed an Answer denying the allegations.

Administrative hearing was scheduled before the Hon. Barry E. Moscowitz, A.L.J. at the Office of Administrative Law to commence in January 2009. The parties have determined to engage in settlement negotiations and have submitted a proposal to the Board.

Dr. Schisano, 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 on this

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matter, hereby enters a plea of no contest, neither admitting nor denying the allegations set forth in the consolidated Complaints. He also represents, and the Board relies thereon, that with rare exceptions he has not ordered or performed any form of cardiac diagnostic testing for several years and to date.

The Board, having taken into account the lapse of time between the offenses alleged and the time finally scheduled for trial, the absence of new complaints in the interim, and certain brief remedial courses which respondent has taken, but also having taken into account the seriousness of the conduct alleged, has determined that a settlement at this time would be reasonable and in the public interest in the unusual circumstances of this case. For good cause shown,

IT IS, on this 16<sup>TH</sup> day of January 2009,

ORDERED:

1. The license of Respondent Denis S. Schisano, M.D. to practice medicine and surgery in the State of New Jersey shall be suspended for five years, the first two years of which shall be an active suspension, and the remaining three years shall be stayed as a probation period, conditioned on compliance with the provisions below. The active suspension period shall commence on April 1, 2009, at which time Respondent shall cause his engrossed license and biennial registration to be delivered to the State Board of Medical Examiners.

2. Respondent shall surrender his State Controlled Drug Registration and shall make prompt arrangements with the Division of Consumer Affairs Controlled Dangerous Substance Registration Program for the lawful disposal of all Controlled Drugs in his possession or under his control in the State of New Jersey, and shall arrange for the lawful disposal of all non-CDS medications in his possession or under his control within this State. He may, consistent with regulations of that agency, arrange to transfer such substances to the medical group by which he has been employed.

3. Respondent shall assure that his name is removed from all New Jersey office letterhead, and that all prescriptions pads bearing his name are destroyed. He shall make safe and appropriate disposition of all medical equipment in his possession or under his control within this State.

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<sup>1</sup>Excepted from this requirement are Controlled Drugs, if any, prescribed for respondent for a documented medical purpose by his treating physician.

4. Respondent is assessed an aggregate civil penalty and costs of \$100,000.00 for the quality of care offenses and the billing offenses, pursuant to N.J.S.A. 45:1-25. All costs and penalties shall be paid within 10 days of the entry of this Order, at the Board office at P.O. Box 183, Trenton, NJ 08625-0183.

5. If installment payments are requested, and approved by the Board for good cause shown, a Certificate of Debt shall be filed pursuant to N.J.S.A. 45:1-24. Respondent shall be permitted to pay \$10,000.00 within the first ten days, and shall be permitted to pay the balance of the debt in equal monthly installments of \$1,500.00, with the first payment due on May 1, 2009 and each subsequent payment due on the first day of each month thereafter. Interest on all financial assessments 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 the initial payment is not made within the first ten days, or a monthly payment is not received within five days of its due date, the entire balance of the civil penalty and costs shall become immediately due and owing.

6. Prior to commencement of the probation period, Respondent shall appear, on notice, before a Board Committee to discuss his status and shall submit in advance to the Board proof of the following:

(a) An evaluation by the Center for Personalized Education for Physicians (CPEP) in competency in internal medicine, including diabetes, Coumadin therapy and cardiology, which finds that Respondent possesses an adequate fund of knowledge in those subjects and in their application to his intended practice. The evaluation shall include adequacy of documentation of chief complaint, physical examination, assessment, plan of testing or treatment, informed consent of the patient, interpretation of diagnostic studies, integration of results into the plan of care, and accurate coding and billing (irrespective of Respondent's proposed form of employment).

(b) If the evaluation finds that remedial measures are warranted and can be implemented with due regard for patient safety and welfare, Respondent shall agree to undertake at his expense such remedial measures, which may include refresher courses in internal medicine, including treatment of diabetes, Coumadin therapy, and office cardiology (but without ordering or performance of any form of cardiac diagnostic testing as described below)

(c) Upon resumption of practice, diagnostic testing shall not include any form of cardiac study, including but not limited to ordering, requesting, performing or interpreting electrocardiogram, echocardiogram, cardiovascular stress test whether by treadmill or bicycle, Doppler echocardiogram, Doppler pulsed wave and/or continuous wave with spectral display, Doppler color flow velocity test, or Doppler rhythm ECG.

(d) Proof of compliance with financial assessments as scheduled to that date.

7. In the event that Respondent is permitted reinstatement pursuant to the terms of this Order, and until further order of the Board, Respondent shall practice only as an employee of a medical group or of a licensed health care institution approved by the Board.

8. Respondent's medical practice and billing shall be supervised by a Board-approved New Jersey-licensed physician who is Board-certified in the specialty of internal medicine. The preceptor/monitor shall not be a friend or relative or anyone with whom respondent has or had a financial relationship of any kind, except upon Board approval. Respondent shall promptly submit to the Board, with a copy to the prosecuting Deputy Attorney General, a curriculum vitae of the proposed preceptor, along with a signed agreement of the candidate acknowledging the responsibilities incumbent upon the preceptor as set forth herein and agreeing to accept same, and submitting a proposed plan of preceptorship including regular review of a Board-approved percentage of respondent's patient records and billings. Approval of the preceptor/monitor is at the sole discretion of the Board, and shall not be unreasonably withheld.

9. Respondent shall cooperate with the Board-approved preceptor/monitor and shall assure that the preceptor/monitor shall submit quarterly reports to the Board. Respondent shall authorize the preceptor/monitor to make immediate report to the Board regarding work (whether documented or not documented by respondent) which, in the opinion of the preceptor, fails to meet accepted standards of practice and also of any individual matter which is believed to present an imminent peril to the patient or to the public health, safety or welfare. The cost of the preceptor/monitor's services shall be borne by Respondent and shall not be passed on to patients/third party payors.

10. Respondent shall provide appropriate releases to any and all persons who are participating in the evaluation and/or supervision program as outlined herein, as may be required. Respondent shall make such arrangements with his employer(s) as are necessary in order that all reports, records

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and other pertinent information (whether or not such patient records are otherwise the property of Respondent's employer) shall be provided in a timely manner to the Board, which shall preserve patient confidentiality. Respondent agrees that none of the person(s) proposed and/or approved as course evaluator, or preceptor/monitor shall have or incur any liability to Respondent as a result of their good faith performances of their services.

11. Upon receipt of said proofs, the abovesaid representations of adequate safety and competence from the several programs, and Respondent's appearance before a Board Committee, the Board shall determine Respondent's reinstatement, subject to such limitations as to type and location of practice, review, preceptorship/monitoring requirements as it may reasonably determine, taking into account recommendations of the evaluation programs and the other terms of this Order.

12. The entry of this Order shall not limit the authority of the Attorney General or 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. It is the understanding of the parties that all matters related to the allegations of the Attorney General's Complaints have been resolved.

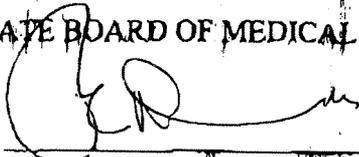
13. It is intended by the parties that this Order shall resolve all administrative and license issues with respondent, which were specifically alleged as violations by the Attorney General in the present Administrative Complaint, with regard to his responsibility to the State Board of Medical Examiners, all and solely in connection with Professional Board statutes and regulations.

14. The Disciplinary Directives are incorporated in this document.

THIS ORDER IS EFFECTIVE UPON ENTRY.

STATE BOARD OF MEDICAL EXAMINERS

By:

  
Paul C. Mendelowitz, M.D.  
President

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

Denis S. Schisano M.D.  
Denis S. Schisano, M.D.

Witness:

Edward C. Bartucio, Jr.  
Edward C. Bartucio, Jr., Esq.  
Counsel for Dr. Schisano

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

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 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.

**5. Probation/Monitoring Conditions**

With respect to any licensee who is the subject of an 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.

**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.