

**FILED**

June 26, 2009

**NEW JERSEY STATE BOARD  
OF MEDICAL EXAMINERS**

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

---

In the Matter of:

JOSEPH F. ATANASIO, M.D.

ORDER SUSPENDING  
LICENSE

---

This matter was opened before the Board of Medical Examiners (the "Board") on June 3, 2009, upon the filing of a Verified Administrative Complaint by the Attorney General of New Jersey. Within the Complaint, the Attorney General alleges that respondent Joseph F. Atanasio, M.D., has, since April 2002, failed to comply with monitoring requirements (to include terms that he participate in regular psychotherapy sessions with his Board approved monitor, Dr. Thomas Sprague, and that he submit to random urine screening four times monthly for the presence of alcohol and controlled dangerous substances) that were placed on his continued practice pursuant to the terms of a Consent Order filed on April 6, 2001. The Attorney General also alleges that respondent violated the Duty to Cooperate Regulations, N.J.A.C. 13:45C-1, et seq., when he appeared before a Committee of the Board on May 27, 2009, which Committee was seeking to investigate respondent's compliance with the terms of the April 2001 Order and his present capacity to practice medicine. Specifically, the complaint charged that respondent acted in a "verbally combative" manner before the

**CERTIFIED TRUE COPY**

Committee, called members of the Committee "cretins," and ultimately "stormed" out of the meeting before the hearing had concluded, thus precluding the Committee from completing its investigation.

The Attorney General sought the entry of an Order suspending respondent's license based on the allegations within the Verified Complaint. An Order to Show Cause requiring respondent to appear before the Board on June 10, 2009, and then show cause why an order suspending his license should not be entered, was simultaneously filed on June 3, 2009. Respondent filed a six page handwritten "answer" to the complaint on June 8, 2009 (consisting of a four page initial answer and a two page postscript to the letter).<sup>1</sup>

---

1

Respondent's answer did not specifically respond to all of the charges set forth in the complaint, but did address his conduct and statements before the Board committee on May 27, 2009, his continuing participation in what he termed "real true AA" (in contrast with "so called AA meetings of fellow physicians") and his present working and general life circumstances. Dr. Atanasio stated in his Answer that he "regret[ted] that [he] specifically referred to one of the PEC members as a 'Creton' (sic) when I discovered I was not allowed to ask any questions of him or any of the Board members."

Respondent addressed his failure to have complied with the terms of the 2001 Order, and his continuing treatment since that time, as follows:

I was definitely at fault for not complying with the Board's Order after Dr. Sprague left for Texas to help the soldiers. I had been giving urines for about 6 or 7 years along with the quarterly reports and since they never even checked for alcohol I wrongly thought I could do without them and since I didn't hear from you, I,

This matter was set down for a hearing before the Board on June 10, 2009. Deputy Attorney General William Lim appeared at the hearing on behalf of Attorney General Anne Milgram. Respondent elected to proceed *pro se* at the hearing. Consistent with notice that had been provided to the parties at the time the complaint was filed, the hearing was conducted in a bifurcated fashion.<sup>2</sup>

The Attorney General predicated her case entirely on documents appended to a certification of Deputy Attorney General Lim (which certification, along with a letter brief, was filed with

---

being an arrogant Creton (sic) myself, considered your 'administrative oversight' of about 6 years as 'no news is good news.' I am sorry for that.

...

I have always continued in and love the AA new way of life. I have also continued with therapy and treatment for my bipolar disease mixed with ADD, anxiety, depression and substance abuse. It has not been easy, especially for mostly being out of work the last 2 years having had bilateral hip replacement surgeries...

In a two page postscript to his answer, respondent denied challenging the "bona fides" of any Board member, instead suggesting:

I just felt that such a nice understanding and concerned PEC with its 'remedial' and 'non adversary' position which 'afforded a liberal construction' might out of the manifested kindness of their hearts, let me ask some questions or maybe first one?! [underlining in original].

2

The Board first considered whether cause existed to support the charges made in the Verified Complaint. Upon sustaining those allegations, the Board afforded the parties additional opportunity to present arguments and/or testimony on the issue of what penalty should be assessed.

the Verified Complaint and Order to Show Cause). Those documents included copies of prior Orders entered by the Board involving Dr. Atanasio; copies of correspondence between Dr. Atanasio and William V. Roeder, Executive Director of the Board, between August 25, 2008 and April 14, 2009; a March 3, 2009 letter from Deputy Attorney General Lim to Dr. Atanasio; a March 12, 2009 letter from Dr. Atanasio to his current treating physician, Michael Cannella, M.D.; and a copy of the transcript of Dr. Atanasio's appearance before the Preliminary Evaluation Committee on May 27, 2009.<sup>3</sup>

---

3

While the Attorney General did not formally move any of the documents appended to Deputy Attorney General Lim's certification into evidence at the hearing, the documents were all properly authenticated within the certification. The specific documents considered by the Board were:

- Interim Consent Order of Surrender In the Matter of: Joseph Atanasio, M.D., filed August 14, 1996. [Exhibit A to the Certification of William Lim, Deputy Attorney General, dated June 3, 2009]
- Consent Order Reinstating Restricted Licensure In the Matter of: Joseph Atanasio, M.D., filed April 9, 1998. [Exhibit B to the Certification of William Lim, Deputy Attorney General, dated June 3, 2009]
- Consent Order In the Matter of: Joseph Atanasio, M.D., filed April 6, 2001. [Exhibit C to the Certification of William Lim, Deputy Attorney General, dated June 3, 2009]
- Letter dated August 25, 2008 from William V. Roeder, Executive Director of the Board, to Joseph F. Atanasio, M.D. [Exhibit D to the Certification of William Lim, Deputy Attorney General, dated June 3, 2009]
- Letter dated September 1, 2008 from Joseph Atanasio Jr., M.D. to William V. Roeder. [Exhibit E to the Certification of William Lim, Deputy Attorney General, dated June 3, 2009]

Dr. Atanasio, acting as his own counsel, did not call any witnesses or present any documents for the Board to consider in his defense. He did, however, offer testimony when appearing before the Board, and responded to questions that were posed to him both by Deputy Attorney General Lim and individual Board members.<sup>4</sup> Indeed, during the course of the hearing, Dr. Atanasio responded to many questions that likely would have been posed to him at the Preliminary Evaluation Committee on May 27, 2009, had he not unilaterally decided to leave that meeting. (References to the transcript of proceedings on June 10, 2009 shall hereafter appear as "T 6/10").

---

- Letter dated March 3, 2009, from William Lim, Deputy Attorney General, to Joseph F. Atanasio, M.D. [Exhibit F to the Certification of William Lim, Deputy Attorney General, dated June 3, 2009]

- Letter dated April 14, 2009 from William V. Roeder, Executive Director of the Board, to Joseph F. Atanasio, Jr., M.D. [Exhibit G to the Certification of William Lim, Deputy Attorney General, dated June 3, 2009]

- Transcript of Testimony of Joseph Atanasio before a Preliminary Evaluation Committee of the Board on May 27, 2009. [Exhibit H to the Certification of William Lim, Deputy Attorney General, dated June 3, 2009]

- Letter dated March 12, 2009 from Dr. Atanasio to Michael Cannella, M.D. [Exhibit I to the Certification of William Lim, Deputy Attorney General, dated June 3, 2009]

4

During the hearing, it became apparent almost immediately that Dr. Atanasio's comments would include statements of fact; accordingly, Dr. Atanasio was requested to, and did, affirm that he would tell the truth.

Significantly, respondent conceded when appearing before the Board that he may have had "relapses" since 2001 (T 6/10, 25:13 - 26:9) and that he has "stumbled and fallen." (T 6/10, 22: 21). While Dr. Atanasio did not specifically provide the date of his last relapse, he testified that he may have taken narcotics that had been prescribed for him, in amounts greater than prescribed amounts, shortly before he went for a hip operation (See T 6/10, 22:3-13, 38:5-14). Dr. Atanasio testified that he was last in an inpatient program for treatment at Oaks Hospital in Summit "in order to get weaned off the pain medicines that I had been taking before the operation." (T 6/10, 38:9-14).<sup>5</sup>

---

5

Dr. Atanasio's testimony about his treatment at Summit Oaks was (in a manner similar to his testimony on other points) confusing and difficult to follow; during the mitigation phase of the hearing, for example, he offered the following testimony concerning the care he received at Summit Oaks:

Mr. Lim: Can you just talk a little bit more about, I believe it was Summit Oaks Hospital that you were -

Dr. Atanasio: Yeah.

Mr. Lim: - in the treatment program.

Dr. Atanasio: Yeah. I haven't thought of it for awhile, but now that you are asking, I remember that.

~~Mr. Lim: Well, could you just talk a little bit about that experience.~~

Dr. Atanasio: Oh, I went and they put me on this Saboxil [sic, should read Suboxone], which I'm taking now, and then - that's when I had a lot of pain in the hip before my surgery.

So - so they started the process with pain

Dr. Atanasio testified that he is currently being treated with Suboxone (a narcotic drug that is available by prescription for use in the treatment of opioid dependency). (T 6/10, 22:22-23; 24:21 - 25:7). He also testified that he has "bipolar illness with a little ADD and some anxiety and depression and substance abuse. In other words, I'm fine, let me keep helping people." (T 6/10, 22:25 - 23:4).

Dr. Atanasio testified that "last year" he "went back" to the Professional Assistance Program of New Jersey (although he also testified that he had prior problems and had to sue the PAP because of five false positive urine tests, see T 6/10, 12:25 - 13:1; 29:11 -15), "join[ed] again," but that thereafter he "show[ed] up" for two urine tests and "they don't show up twice." T 6/10, 28:10 - 29:2). Shortly after making those comments, Dr. Atanasio stated

---

management then, and they detox. And I was supposed to be in detox, I think I was in detox for, maybe - for maybe a day or two at the most.

I wasn't there - I wasn't having any major withdraw or anything.

But it was good to get on that Saboxil [sic, should read Suboxone] and - before the surgery. And then to continue in that kind of pain management.

---

Now I'm doing pain management. I'm seeing a psychiatrist, I'm going to AA.

Those who want me to do above and beyond that go ahead, you know. You got to do what you got to do.

[T 6/10, 38:21 - 39:24].

that the PAP "[doesn't] really like me" and that "I tried to rejoin them, but they rejected me." (T 6/10, 30:1-2).<sup>6</sup>

---

6

The testimony respondent offered is available for review in the transcription of the proceedings that were held before the Board. Beyond the actual testimony, however, we find it significant to herein make several additional observations about Dr. Atanasio's testimony, and the manner in which it was offered, when he appeared before the Board on June 10, 2009.

As he had done when appearing at the Preliminary Evaluation Committee, respondent exhibited manifest contempt for Board members and the Board generally. Initially, respondent sought to chastise a member of the Board for 'staring' at him, and then stated to the Board member that it "shows me that you don't have low self-esteem like most of the group does, but staring isn't appropriate either." (T 6/10, 3:1-5). Dr. Atanasio then stated that the Attorney General's claims were a "pack of lies," (T 6/10, 9:14-15), and that it was not he, but rather the Board itself that was "the disobedient ones and ... the liars." (T 6/10, 12:9-10). He then suggested that Board members might be seeking to require him to submit to urine testing because Board members "got some stock in the urine company." (T 6/10, 13:19-20). Dr. Atanasio further suggested that the Board "[doesn't] know and [doesn't] care" if he is "using or not," and continued "and you don't give a doo doo, you just want to see the urine test results; don't you." (T 6/10, p. 13:23 - 14:2).

We also observed that Dr. Atanasio repeatedly, when responding to questions posed to him, meandered far from the question directly before him when offering his responses. By way of example, when asked about his recovery and how he was working his recovery, respondent began by talking about his attendance at AA meetings, but then continued to offer comments to the effect that he does not allow his wife to talk for five minutes without interruption (as people are allowed to do at AA meetings), that the physician who "ratted" on him was taken care of by Dr. Atanasio's "higher power" because "he stabbed him in the heart, himself in the heart. He killed himself a couple of years ago, I guess it is now," and comments suggesting that the Board should not punish diseased physicians. (T 6/10, 18:7 - 21:21).

In short, Dr. Atanasio repeatedly testified in a confusing, non-linear fashion, that makes any reasoned evaluation of his testimony difficult if not impossible.

Dr. Atanasio also answered questions about his recent work history. Dr. Atanasio testified that he had been working until "about three weeks ago, maybe four" at Care Station, but was then fired by Dr. Bezozo "for being a drug addict and alcoholic." At various points in his testimony, Dr. Atanasio described Dr. Bezozo as "sociopathic," a "jerk," "narcissistic and anal" and as a "menace." (generally, T 6/10, 40:21- 43:20; 44:11 - 45:11). Dr. Atanasio testified that he was fired after he had put part of a patient note in the wrong column, at which point Dr. Atanasio described the events that occurred as follows:

The guy [Dr. Bezozo] just starts to rant and rave about my ability as an internist in front of everybody and patients, cursing and calling me a drug addict alcoholic and firing me. Telling me to get out. And pushed me. He pushed me.

[T 6/10, 45:6-10].

We find it significant to expressly note that, during the course of the hearing, respondent repeatedly acted in a manner that suggested to us, in our capacity as physicians, that he may presently suffer from psychiatric, cognitive or other deficits. Specifically, it appeared that Dr. Atanasio repeatedly failed to directly answer questions that were posed to him, and repeatedly made statements that suggest that he has memory deficits. We also point out that his demeanor and affect during the hearing appeared abnormal, which in turn raised further concerns that Dr. Atanasio's

neuro-cognitive functioning may be impaired.<sup>7</sup>

Upon consideration of the entire record in this matter, we have concluded that cause exists to support the allegations made in the Verified Complaint that respondent violated the Duty to Cooperate Regulations and that he has continuously, since April 2002, been non-compliant with monitoring conditions placed on his practice. Based thereon, and based on our consideration of respondent's testimony, demeanor and conduct when appearing before the Board on June 10, 2009 and when appearing before the Preliminary Evaluation Committee on May 27, 2009, we have concluded that cause exists to order the suspension of respondent's license for an indefinite term. Specifically, we order that respondent's license be suspended until such time as respondent can obtain and present reports to the Board that will enable us to determine whether respondent can continue to practice with reasonable skill and safety and, if so, to determine whether cause exists to impose any present monitoring conditions, or other restrictions or limitations, on respondent's continued practice. We set forth

---

7

During the course of questioning, Dr. Atanasio offered testimony that would seem to suggest that he has not obtained sufficient continuing education that would otherwise be necessary in order to presently renew his license. T 6/10, 45:13 - 46:20. While the issue whether respondent has obtained sufficient continuing education was clearly not the focus or subject of this hearing, we nonetheless find it appropriate to require that, prior to any reinstatement of licensure, respondent first demonstrate that he has obtained sufficient continuing education to comply with regulatory requirements.

below the specific findings of fact and conclusions of law that we make, the basis for our determination to presently suspend respondent's license and the specific terms and conditions of suspension (and the specific reporting that we will require respondent to obtain prior to deciding whether to reinstate his license) which we herein impose.

*Findings of Fact*

1) Pursuant to terms of an Order entered on August 14, 1996, Respondent surrendered his license to practice medicine and surgery in the State of New Jersey. The action was based on the Board's receipt of information that Dr. Atanasio had "relapsed into a prior alcohol and substance abuse problem," which conduct in turn violated the terms of a private letter agreement that respondent had entered with the Board previously in April 1995.

2) Respondent's license to practice medicine and surgery in New Jersey was reinstated pursuant to the terms of a Consent Order filed on April 9, 1998. The Order included conditions that respondent maintain absolute abstinence from alcohol and drugs (unless prescribed by a treating physician for a legitimate illness) and established a monitoring program for respondent's continued practice. David J. Gallina, M.D. was therein approved to serve as respondent's monitor. Among other terms, the monitoring program required Dr. Atanasio to meet with Dr. Gallina for psychotherapy on a regular schedule (at a frequency to be determined by Dr. Gallina), to submit to random urine screening a minimum of six times per month to test for alcohol and drugs, and to attend a minimum of three Alcoholics Anonymous meetings weekly. The Order imposed reporting requirements, to include a requirement for quarterly reports from the monitor and for reporting within 24 hours upon any indication of a relapse.

3) On April 6, 2001, a Consent Order was filed modifying the terms of the April 1998 Consent Order. That Order continued the conditions for absolute abstinence from alcohol and drugs and for monitoring of Dr. Atanasio's practice. Thomas Sprague, M.D. was then specifically identified and approved to serve as Dr. Atanasio's practice monitor. The Order continued the requirements for monitoring of Dr. Atanasio's practice and for reporting by the monitor, modifying only the frequency of required psychotherapy (which was changed to "a regular schedule at a frequency of no less than one session per month") and of urine monitoring for the presence of alcohol and controlled dangerous substances (which was modified from a minimum of six times monthly to a minimum of four times monthly).

4) Within the body of the April 2001 Order, it was specifically noted that Dr. Atanasio had, for a period of time, failed to comply with the requirement of the April 1998 Order that he be under the care of a Board-approved psychiatrist. The Order squarely placed the onus to ensure that no future violations of the Board Order occur on Dr. Atanasio alone, as paragraph 5 of the Order required that:

---

~~Respondent shall ensure that the monitor provides quarterly reports to the Board addressing the nature and quality of his participation in his monitoring program as well as the status of his psychotherapy. In no event shall any of the provisions of this order be unilaterally terminated absent further order of the Board. [emphasis added].~~

5) The April 2001 Order further provided that Dr. Atanasio could seek to appear no sooner than one year from date of entry of the Order to renew his application for a reduction in licensure restrictions.

6) The terms of the April 2001 Consent Order have remained in place, without any change, since the time that the Order was entered, and remain in place today.

7) Respondent appeared before a Committee of the Board on or about July 24, 2002, to request relaxation or discontinuation of the terms of the April 2001 Order. The Board then denied his request to terminate the terms of the Consent Order, however the Board's determination was not communicated to Dr. Atanasio.

8) On August 25, 2008, Executive Director Roeder wrote to Dr. Atanasio, and advised him that the Board office had discovered that the last quarterly report received from his monitor, Dr. Sprague, was dated April 9, 2002. The letter advised Dr. Atanasio that he may be out of compliance with the terms of the Consent Order he entered with the Board. Dr. Atanasio was asked to provide the Board office with the identity of his current monitor and with "a history and status as to your participation in your recovery program" by September 22, 2008. Dr. Atanasio was also asked to provide urine screen results obtained since April 9, 2002.

9) Dr. Atanasio responded to Mr. Roeder by letter dated September 1, 2008. Within his letter, Dr. Atanasio stated, among

other items, that he had been "seeing Dr. Sprague until recently, but not as a monitor since we both assumed (erroneously??) as did my sponsors that the request [to discontinue the requirements of the 2001 Order, which had been the basis for Dr. Atanasio's appearance before a Committee of the Board in July 2002] had been granted." Dr. Atanasio further stated that he had been "unsuccessful in getting my records from Dr. Sprague since he stopped working on February 14<sup>th</sup> , 2008 and soon after, left for Texas to work with the returning soldiers from Iraq." Finally, Dr. Atanasio stated that he had been seeing Dr. Cannella in West Orange once a month for ongoing psychiatric care, and that he was attending 7-10 AA meetings weekly.

10) On March 3, 2009, Deputy Attorney General Lim wrote to Dr. Atanasio. Within that letter, D.A.G. Lim requested that Dr. Atanasio arrange for a complete copy of his records from Drs. Sprague and Cannella to be provided to the Board (to include past due quarterly reports and urine screen results) and that Dr. Atanasio provide a description of his current employment and the nature of his medical practice.

11) Respondent was thereafter scheduled to appear before a Preliminary Evaluation Committee of the Board on May 27, 2009. Within a letter dated April 14, 2009, Executive Director Roeder advised Dr. Atanasio that "the Board's inquiry [was] based upon, but is not limited to, your compliance with the terms of the April

6, 2001 Consent Order, specifically the monitoring requirement as well as your request to terminate the Consent Order."

12) Respondent appeared before a Preliminary Evaluation Committee of the Board on May 27, 2009 (References to the transcript of proceedings on May 27, 2009 shall hereafter appear as "T 5/27"). While Deputy Attorney General Lim was attempting to provide Dr. Atanasio with general information concerning the nature of the Board's inquiry, Dr. Atanasio interrupted and stated to Committee members that it was "nice to see you every seven or eight years." T 5/27, 4:21 - 5:4. Dr. Atanasio then admonished Committee members to "maintain some eye contact with me," while lamenting (referring to the Board members lap top computers) that "it's amazing, it's all machines. These guys are into machines now." T 5/27, 5:18-21.

13) Dr. Atanasio was asked questions concerning his appearance before a Committee of the Board in July 2002. Dr. Atanasio testified that, following the July 2002 appearance, he had not continued to comply with the requirements of the April 2001 Order, stating that after the meeting, he considered "no news was good news" and that he "just went on with my life without doing those other things." T 5/27, 8:5 - 10:13.

14) When asked about his current treatment, Dr. Atanasio testified that he was currently seeing Dr. Canella on a regular basis. When then asked about his treatment plan with Dr. Canella,

Dr. Atanasio responded "besides the substance abuse, disease and disorder, I have a bipolar issue, and also an ADD issue with some depression and anxiety thrown in along with the substance abuse; otherwise, I'm fine." T 5/27, 10:14 - 11:1.

15) The Committee next sought to ask Dr. Atanasio questions regarding his present monitoring and participation in AA meetings. Dr. Atanasio testified that Dr. Canella is not performing any urine screening presently. T 5/27, 11:4-8. When asked whether a meeting of AA that he was attending in Summit, New Jersey was a physician's group, Dr. Atanasio responded "no, no, that's not real AA, that's where you get ratted on and lose your license." T 5/27, 11:16-21. Board member Dr. Paul Jordan then asked Dr. Atanasio why he found that comment humorous, to which Dr. Atanasio responded: "because cretins like you with such understanding and intuition and knowledge still treat this as a disease to be punished." T 5/27, 11:23 - 12:5. Dr. Atanasio further stated: "it just means that you don't know what you are talking about when it comes to illnesses such as substance abuse." T 5/27, 12: 15-18.

16) During the course of his response, Dr. Atanasio then sought to ask Dr. Jordan whether he would "do that [presumably take away a license] to your diabetic patients," at which point he was advised that the Board members "don't answer questions." T 5/27, 13:11-17. The hearing then concluded with the following colloquy:

DR. ATANASIO: Well, then it's over, because I got some questions for you. I'll see you. You can't even answer questions? What kind of a group are you?

DR. ATANASIO: Now I'm losing my respect for you. I can't ask you questions?

DR. JORDAN: Thank you for coming in.

DR. ATANASIO: Oh, it's been great. You are a cretin.

T 5/27, 13:18 - 14:2.

17) Since on or about April 9, 2002 (the date of the last quarterly monitoring report submitted to the Board by Dr. Sprague), respondent has failed to comply with requirements for monitoring of his practice that were imposed upon him within a Consent Order which he entered with the Board on April 6, 2001. Specifically, since that time, respondent failed to comply with terms of a monitoring program, which was to have included regular psychotherapy with a Board approved psychotherapist and regular random urine screening for the presence of alcohol and drugs in respondent's urine at a frequency of not less than four times per month, and was to have required that respondent's Board approved monitor provide, at a minimum, quarterly written reports detailing respondent's continued participation in the monitoring program and the status of his psychotherapy.

---

### *Conclusions of Law*

1) Respondent's continuing failure, since on or about April 9, 2002, to comply with the terms of the Board's April 6, 2001 Order, is conduct for which respondent is responsible, particularly given the Order's specific recitation that "in no event shall any of the provisions of this order be unilaterally terminated." Respondent's failure to comply with the terms of the Order constitutes a violation of N.J.A.C. 13:45C-1.4 ("the failure of a licensee to comply with an order duly entered and served upon the licensee or of which the licensee has knowledge shall be deemed professional or occupational misconduct."). Based thereon, cause for the suspension or revocation of respondent's license exists pursuant to both N.J.S.A. 45:1-21 (e) (engaging in professional or occupational misconduct) and 45:1-21 (h) (violation or failure to comply with the provisions of any act or regulation administered by the Board).

2) Respondent's actions when appearing before a Committee of the Board on May 27, 2009, to include his unilateral determination to stop answering questions from Board members and to terminate the appearance, constitute violations of the Uniform Duty to Cooperate Regulations, specifically N.J.A.C. 13:45C-1.2 and N.J.A.C. 13:45-1.3(a)(5). Based thereon, cause for the suspension or revocation of respondent's license exists pursuant to both N.J.S.A. 45:1-21 (e) (engaging in professional or occupational

misconduct) and 45:1-21 (h) (violation or failure to comply with the provisions of any act or regulation administered by the Board).

### *Penalty Assessment*

In determining the appropriate penalty to be assessed in this case, we have considered both the need to punish Dr. Atanasio and our paramount responsibility to act in a manner that will ensure the public health, safety and welfare. Respondent's continuing violation of the Consent Order that he entered with the Board in April 2001, coupled with his obstructive and contumacious conduct when appearing before a Preliminary Evaluation Committee on May 27, 2009, provide more than adequate grounds to support the entry of an Order suspending his license to practice. The monitoring of Dr. Atanasio's practice was intended to place safeguards to assure that he would not again relapse into drug and/or alcohol use - Dr. Atanasio's unilateral determination to discontinue the monitoring program we had established ultimately prevented the Board from learning of Dr. Atanasio's admitted subsequent misuse of narcotics (in turn necessitating inpatient treatment at Summit Oaks), thereby placing the public in general at risk. In a similar manner, his refusal to answer questions when appearing before the Preliminary Evaluation Committee, and his decision to unilaterally end the meeting, were actions which necessarily stymied the Board from being able to conduct a necessary and appropriate investigation.

Respondent has failed to provide any mitigating evidence to this Board which would persuade us that cause exists not to

presently order the suspension of his license. Rather, respondent's bizarre and aberrant behavior, exhibited now on two recent occasions, is behavior which necessarily raises concern that his ability to safely and competently practice medicine may be compromised.

On balance, we have concluded that the overriding need to protect public health, safety and welfare compels us to enter an Order suspending respondent's license at this time. Should respondent seek reinstatement of his license at any time after entry of this Order, he will need to demonstrate to our satisfaction that he in fact possesses the present capacity to safely engage in the practice of medicine and surgery in the State of New Jersey. We therefore will require that respondent obtain and present reports addressing his current psychiatric health, and reports that will suffice to demonstrate that he is presently not engaged in the use of alcohol or drugs (see requirements set forth in greater detail below). In the event we conclude, following review of the required reports, that respondent can resume the practice of medicine and surgery, we specifically reserve the right to then impose any conditions or limitations which we determine to be necessary to protect the public health, safety and welfare, to include conditions for monitoring of respondent's practice.

WHEREFORE, it is on this 25<sup>TH</sup> day of JUNE, 2009

ORDERED:

1. The license of respondent Joseph Atanasio is hereby suspended. The suspension shall remain in place for an indefinite term, until such time as respondent demonstrates, to our satisfaction, that he is fit to resume the practice of medicine and surgery in the State of New Jersey.

2. Respondent may seek leave for reinstatement of his license in New Jersey upon submitting a written request for reinstatement to the Board. In such event, respondent shall be required to first appear before a Committee of the Board, and to then demonstrate to the satisfaction of the Board that he is fit to resume the practice of medicine and surgery and that he is capable of doing so safely. Respondent shall then be required to provide the following reports to the Board:

a) a report from his treating psychiatrist, Michael Cannella, M.D., detailing the course of his treatment and offering an opinion on Dr. Atanasio's present mental competency and his present fitness to practice medicine.

b) a report of an independent psychiatric evaluation, to be conducted by a New Jersey licensed psychiatrist to be pre-approved by the Board. The report from the independent psychiatrist is to address Dr. Atanasio's present mental competency and his present fitness to practice medicine, and shall include a recommendation whether a need exists for Dr. Atanasio to submit to a comprehensive neuro-cognitive assessment.

c) in the event the independent evaluating psychiatrist recommends that a need exists for a neuro-cognitive assessment to be performed, then Dr. Atanasio shall also be required to submit a report of a neuro-cognitive assessment, which assessment shall be performed by a qualified physician pre-approved by the Board.

d) a report from the Professional Assistance Program, or from a Board approved monitor or monitoring entity, offering an opinion on the need for future monitoring to assure that respondent is not engaged in the use of alcohol or drugs. The report must include, at a minimum, results of a hair analysis, which analysis shall be conducted within two months of the date on which Dr. Atanasio appears before a Committee of the Board, and results of random urine monitoring, which monitoring shall have been conducted on a weekly basis, for a period of not less than eight weeks prior to Dr. Atanasio's appearance. The urine monitoring shall include testing for the presence of alcohol and controlled dangerous substances.

3. When appearing before a Committee of the Board, respondent shall demonstrate that he has met all continuing medical education requirements set forth within N.J.A.C. 13:35-6.15.

---

4. The Board explicitly reserves the right to impose conditions and limitations on Dr. Atanasio's continued practice following his appearance, and to hereafter enter a supplemental Order setting forth any conditions or limitations on practice that

the Board may then conclude are necessary to adequately protect public health, safety and welfare.

NEW JERSEY STATE BOARD  
OF MEDICAL EXAMINERS

By:

A handwritten signature in black ink, appearing to read 'P.C. Mendelowitz', written over a horizontal line.

Paul C. Mendelowitz, M.D.  
Board President