

FILED

March 15, 2010

**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:

DAVID M. CORWIN, M.D.
License No. 25MA04336100

ORDER

This matter was opened before the New Jersey State Board of Medical Examiners (the "Board") on October 29, 2009, upon the Attorney General's filing of an administrative Complaint seeking the imposition of disciplinary sanction against respondent David Corwin, M.D. The complaint was predicated upon respondent's conviction, following a bench trial in Municipal Court in Union, New Jersey, of having engaged in the disorderly persons offense of harassment, N.J.S.A. 2C:33-4(b).¹ The actions on which the conviction was based were found to have occurred during the course of an independent medical examination that Dr. Corwin performed

¹ The statute which respondent was convicted under provides as follows:

2C:33-4. Harassment. ... [A] person commits a petty disorderly persons offense if, with purpose to harass another, he:

...

(B) Subjects another to striking, kicking, shoving, or other offensive touching, or threatens to do so.

CERTIFIED TRUE COPY

upon patient D.H. on September 27, 2005. Within the Administrative Complaint, the Attorney General alleged that grounds to suspend, revoke or otherwise sanction respondent existed based both on the fact of respondent's conviction (i.e., that the conviction was of an offense that involved moral turpitude and/or related adversely to the practice of medicine) and on the actions that respondent was found to have engaged in, which actions were alleged to constitute violations of the Board's sexual misconduct regulation, gross or repeated malpractice, professional or occupational misconduct, and/or failure to demonstrate good moral character.²

Respondent filed an answer to the complaint, wherein he admitted that he had been convicted and sentenced for the offense, but denied that he engaged in the acts which D.H. claimed constituted the offensive touching. Thereafter, the Attorney General filed a motion for summary decision in the matter, asking that the Board find no genuine issues of material fact and enter judgment on the Complaint. Respondent filed a brief in opposition to the motion, and the matter was scheduled for hearing on March 10, 2010. Respondent appeared at said hearing, represented by Gary L. Riveles, Esq. Deputy Attorney General Carla Silva appeared for complainant Paula Dow, Attorney General of New Jersey.

² While the Complaint does not recite any specific actions of respondent during the course of the September 27, 2005 visit with D.H., it is generally alleged that during the course of that appointment, "respondent sexually touched D.H. with no medical purpose." Administrative Complaint, ¶3.

We initially entertained oral argument of counsel on the motion for summary decision. Ultimately, however, this matter was resolved prior to decision upon respondent's agreement to accept the entry of an Order including the findings set forth herein and the conditions and terms below. We note that all findings and conditions set forth herein were placed on the record, and that respondent, after being sworn, testified that he had considered and understood all of said findings and terms, that he had consulted with his attorney regarding the effect of the Board's entry of this Order, and that he expressly agreed to the Board's entry of an Order including said findings and terms.³

Findings

The Board finds that respondent was convicted, on March 3, 2008, following a bench trial in the Municipal Court of Union County, of violation of N.J.S.A. 2C:33-4(b), the disorderly persons offense of offensive touching. That conviction was affirmed, following a *de novo* review of the record, by the Superior Court of New Jersey, Law Division-Union County, on August 29, 2008, and again upheld on appeal by the Appellate Division on January 6,

³ Following respondent's acknowledgment that he agreed to the terms and conditions of this Order, Deputy Attorney General Silva moved for reconsideration by the Board, arguing that the penalty meted out was not sufficient to redress the conduct in which respondent was alleged to have engaged. We unanimously voted to deny the Attorney General's motion, based on our conclusion that the sanctions imposed herein are balanced and equitable, and will adequately protect the public health, safety and welfare.

2010.⁴ The Board finds that respondent's conviction was of an offense relating adversely to the practice of medicine, and thus provides basis for the imposition of discipline pursuant to N.J.S.A. 45:1-2(f). In entering this Order, the Board is aware that Dr. Corwin denied all allegations against him when testifying under oath before the Municipal Court, that he continues to presently deny those allegations, and that his agreement to accept the conditions and sanctions imposed herein was made without admission on his part of any improper conduct.

Based on our independent review of the record, we are fully satisfied that the within resolution is adequately protective of the public, and that good cause exists for the entry of the within Order,

WHEREFORE

IT IS on this 15th day of March, 2010

ORDERED nunc pro tunc March 10, 2010:

1. The license of respondent David Corwin, M.D. to practice medicine and surgery in the State of New Jersey is hereby suspended for a period of one year, the entirety of which shall be stayed, subject to respondent's compliance with all conditions and terms herein.

2. Pending any further Order of the Board, respondent

⁴ Respondent was sentenced, following the Superior Court review, to complete sixty hours of community service, to pay a fine in the amount of \$500 and costs in the amount of \$30, and to pay a total of \$125 in penalties.

shall see, examine and/or treat female patients only in the presence of a Board approved chaperone. Respondent shall be required to nominate and secure Board approval for any chaperone(s) within ten days of the date of entry of this Order, and any practice by respondent with female patients thereafter, other than in the presence of a Board approved chaperone(s), shall constitute a violation of the terms of this Order.

3. Respondent shall, within ninety days of the date of entry of this Order, submit to a comprehensive psychosexual evaluation, to be conducted by the Joseph J. Peters' Institute, or by such other entity that may be approved by the Board. Dr. Corwin shall fully authorize the Joseph J. Peter's Institute, or such other examining entity that may be approved by the Board, to prepare and submit an evaluation report to the Board. The report shall include, without limitation, detail of all findings and recommendations made upon evaluation of Dr. Corwin, and include a recommendation addressing whether a continuing need exists for a chaperone to be present when Dr. Corwin treats female patients.

4. The Board expressly reserves the right to take further actions, to include without limitation amending or imposing additional conditions and/or terms upon Dr. Corwin's practice, following the Board's review of the psychosexual report that is to be prepared in accordance with the terms of paragraph 3 above. Dr. Corwin may move to remove the condition that a chaperone be present whenever he treats a female patient, should the report

provide a basis for him to seek such relief.

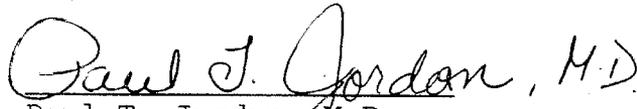
5. Dr. Corwin shall, during the period of stayed suspension, complete a course, acceptable to the Board, in professional boundaries.

6. Any violation of any of the terms and conditions of this Order, to include without limitation any practice by respondent with any female patient outside of the presence of a Board approved chaperone, shall be grounds upon which the Board may activate the one year period of suspension that has otherwise been stayed herein.

7. Respondent is assessed costs in this matter, to include attorneys' fees in the amount of \$2,281.50 and investigative costs in the amount of \$14,774.31 (as detailed within, and supported by, attachments to the Certification of Deputy Attorney General Carla M. Silva dated January 21, 2010). Respondent shall pay said fees and costs, which total \$17,025.81, in their entirety within thirty days of the date of entry of this Order, or pursuant to a schedule of payments (to include interest authorized by Court Rules) acceptable to the Board.

NEW JERSEY STATE BOARD
OF MEDICAL EXAMINERS

By:


Paul T. Jordan, M.D.
Board Vice President