

FILED

April 29, 2011

**NEW JERSEY STATE BOARD
OF MEDICAL EXAMINERS**

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

In the Matter of:

SALVATORE M. GAGLIANO, M.D.
License No. 25MA03052000

CONSENT ORDER

This matter was opened before the New Jersey State Board of Medical Examiners (the "Board") upon the Board's receipt of a report from the Medical Practitioner Review Panel (the "Panel"), detailing findings and recommendations made by the Panel following an investigation of medical practice by respondent Salvatore M. Gagliano, M.D. Specifically, the Panel commenced an investigation upon receiving notice from the MIIX Insurance Company that a payment of \$900,000 was made on respondent's behalf to settle a civil malpractice action brought by patient L.P. and infant A.C. The civil action was predicated on allegations that respondent failed to recognize fetal distress during the course of L.P.'s labor, resulting in neurologic damage to the infant.

The Panel reviewed available information, to include patient and hospital records and expert reports prepared during the civil litigation. The Panel additionally considered testimony

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offered by respondent when he appeared pro se before the Panel on June 18, 2010. Respondent has subsequently secured legal counsel and is now represented by Robert J. Conroy, Esq. Jeffrey Scharf, M.D., served as a consultant to the Panel during the course of the Panel's investigation.

On review of available information, the Panel concluded that respondent provided grossly negligent care to patient L.P. during her labor and delivery on February 7, 2000. L.P. was admitted to the hospital in labor at approximately 4:00 on said date. An epidural and pitocin were initiated at approximately 10:00. Pitocin administration was consistently increased throughout the labor, which continued to approximately 18:00 hours, at which time L.P. delivered vaginally. Respondent was the sole attending physician for L.P., and was present, at intermittent times throughout the day and consistently from approximately 17:00 through the time of her delivery. The infant delivered, A.C., suffered hypoxic brain injury and was diagnosed with permanent neurological deficits. Specifically, the Panel found that respondent engaged in gross negligence by:

- failing to recognize the significance of ominous fetal tracings, to include fetal monitoring strips that evidenced repeated late decelerations and evidenced hyperstimulation. While

Dr. Gagliano suggested, when appearing before the Panel, that responsibility for monitoring of the fetal tracings should have been on labor nurses, the Panel found that Dr. Gagliano should have recognized the non-reassuring fetal heart rate tracings at times that he examined L.P., as there was then clear evidence of hyperstimulation on the tracings; and

- failing to have discontinued Pitocin (or slowed the rate at which Pitocin was being administered).

The Board has reviewed the report and recommendations made by the Panel, and adopted the Panel's findings in their entirety. Based thereon, the Board concludes that grounds for the imposition of disciplinary sanction against respondent exist pursuant to N.J.S.A. 45:1-21 (c). The parties desiring to resolve this matter without the need for further administrative proceedings, and the Board being further satisfied that good cause exists to support entry of the within Order,

IT IS on this day of , 2011

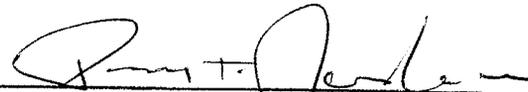
ORDERED and AGREED:

1. Respondent Salvatore M. Gagliano, M.D. is hereby formally reprimanded for having engaged in gross negligence when providing care to patient L.P., for the reasons set forth above.

2. Respondent is hereby assessed a civil penalty in the

amount of \$5,000, which penalty shall be payable in full upon the entry of this Order.

NEW JERSEY STATE BOARD
OF MEDICAL EXAMINERS

By: 
Paul T. Jordan, M.D.
Board President

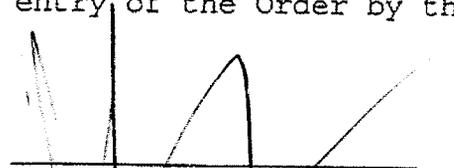
I represent that I have carefully read and considered this Order, and consent to the entry of the Order by the Board.


Salvatore M. Gagliano, M.D.

Dated: _____

4/11/11

Consent provided to the form of Order and entry of the Order by the Board


Robert J. Conroy, Esq.
Counsel for Dr. Gagliano

**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.