

FILED

May 25, 2011

**NEW JERSEY STATE BOARD
OF MEDICAL EXAMINERS**

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

IN THE MATTER OF THE SUSPENSION : Administrative Action
OR REVOCATION OF THE LICENSE OF :
:
RONALD R. DiSCENZA, M.D. : ORDER
:
TO PRACTICE MEDICINE AND SURGERY :
IN THE STATE OF NEW JERSEY :
:

This matter was opened to the State Board of Medical Examiners on March 25, 2011 on application of Paula T. Dow, Attorney General of New Jersey, Joan D. Gelber, Senior Deputy Attorney General appearing, for an Order Of Temporary Suspension of the license to practice medicine and surgery in the State of New Jersey of Ronald R. DiScenza, M.D. pending plenary hearing. The Verified Complaint in this matter alleges Inter Alia, in Count I that in six instances (involving 11 patients) in 2009 and 2010, respondent fraudulently performed and prepared fabricated patient records for electrodiagnostic testing (hereinafter EDX), in that respondent had not conducted most testing claimed, but instead maintained an inventory of wave forms and numerical data on patients and inserted the identical data and wave forms into the reports of subsequent patients, then submitted interpretive reports of the tests with bills for consultation services. Count II alleges that in eight (8) instances (involving 15 patients) in 2009

CERTIFIED TRUE COPY

and 2010, respondent conspired to defraud and/or failed to supervise professional services of employees and independent contractors, and conspired to share fabricated test data by authorizing or condoning a scheme to draw upon a pre-existing inventory of tabular data and waveforms which were inserted into the reports of subsequent patients, which reports were then submitted irrespective of the identity of and interpretation for, the actual patient. Count III alleges at least nine (9) inconsistencies, discrepancies, or errors in reports (including improper placement of onset markers; an impression of radiculopathy not supported by EMG tabular data; wave forms for one patient identical to another or including shared data; respondent's report indicating multiple herniations on an MRI supporting electrodiagnostic testing when no herniations were shown on the MRI report; a physiologically impossible conduction velocity calculation of 111 meters per second in one report; and multiple miscellaneous errors such as referring to a patient incorrectly as a male in one report, a different patient incorrectly identified as a female in a report and with an incorrect age). Respondent was also alleged to have failed to identify and correct tests which had been performed improperly thereby generating incorrect data and unsupported diagnoses regarding his own testing and testing done by his agents. Each test enumerated in Count III was alleged to have been performed in a grossly negligent or deliberately false manner

rendering the interpretation unreliable and inconsistent with accepted standards of practice. The above allegations of Counts I-III were said to constitute gross and repeated negligence, malpractice or incompetence; misrepresentation, deception and fraud; and regarding Counts I and II, a failure to maintain the ongoing requirement of good moral character, in violation of N.J.S.A. 45:1-21(b), (c), (d) and (h) and of N.J.S.A. 45:9-6 respectively.¹ The Attorney General contends that respondent's continued practice palpably demonstrates a clear and imminent danger to the public health, safety and welfare and seeks the temporary suspension of respondent's license pending conclusion of a plenary hearing in the matter pursuant to N.J.S.A. 45:1-22.²

Respondent submitted a brief in opposition to the Attorney General's application, in which he responded in part, that based on apparently duplicative nerve conduction velocity studies (NCVs), which were performed by technicians and with no evidence to link respondent to misconduct, the Board should not leap to the conclusion that Dr. DiScenza is a "mastermind" of a widespread fraud that poses a clear and imminent danger to the public. Also

¹The State did not rely on Counts IV and V of the complaint upon this application for temporary suspension of license.

²Submitted in support of the Attorney General's application were a brief and a variety of documents including patient records, an expert report with certification of Gregory J. Mulford, M.D. as well as other certifications and exhibits (See Exhibit List).

submitted was a certification of Dr. DiScenza, a certification of Giulio Caruso, D.C. and an appendix including orders of temporary suspension in two other Medical Board matters and an Appellate Division decision.³

A hearing on the application for temporary suspension of respondent's license was held before the Board on April 13, 2011. Senior Deputy Attorney General Joan D. Gelber appeared on behalf of Paula T. Dow, Attorney General of New Jersey. Respondent appeared and testified at the hearing, represented by Ross Pearlson, Esq., (Sills, Cummis and Gross, P.C.). The Board considered the oral arguments of counsel, testimony of respondent and documents that were entered into evidence.

The Attorney General contended that respondent's performance of electrodiagnostic testing through mobile entities he set up (Pomona Pain Management, R.R.D. Medical and Advanced Medical of New Jersey) from which he issued reports at a New Jersey address which was a billing company owned by a chiropractor, Dr. Giulio Caruso, was run more "like a store" than a medical practice. The Attorney General argued that no person authorized to perform an electrodiagnostic study had examined the patient prior to testing, and that an electrodiagnostic test must be preceded by a clinical examination of a physician taking an appropriate history to

³See Exhibit List, and note Dr. Caruso is a chiropractor or "D.C." but was listed in one submission as an "M.D."

determine whether or not the test is warranted or whether (given that these are motor vehicle accident cases) there was simply a musculoskeletal injury.

SDAG Gelber further argued that the method of practice in this matter - a technician performs a nerve conduction study, followed by the physician evaluating the patient and deciding whether an EMG should be done - is not an appropriate sequence. According to the Attorney General, a physician is to make those decisions first, determining a provisional diagnosis, and then instructing the technician as to what, if anything, needs to be tested. Additionally, a claim by respondent that the technicians are independent contractors who maintain all of the data, keeping it on their laptops, and that he only has access to a printed out report days or weeks later, is not the proper practice of medicine. Rather the physician, as the owner of the particular medical practice, is responsible for the staff that he uses, supervising the quality of care, the accuracy of patient records and everything that goes on under the physician's entity name. Pursuant to N.J.A.C. 13:35-6.16, the physician is specifically notified of this responsibility. Therefore according to the Attorney General, the claim of respondent that the technicians are independent contractors does not erect a buffer between what they do and Dr. DiScenza.

SDAG Gelber reviewed the multiple cases before the Board,

including what are alleged to be fabrications or duplications of test data as found in the certification of expert Dr. Gregory Mulford. His report points out six (6) instances where the charts contained complete upper and lower bilateral extremities as well as tabular data which is identical. Dr. Mulford asserted that it is virtually impossible for the nerve conduction velocity wave forms of two patients to be identical due to physiological and technical reasons.

Presented to the Board were also five instances where the entire bilateral upper extremities or lower extremities were identical, as well as one instance in which the wave forms are identical for three (3) patients (DK, DE and CA) claimed to be an even more impossible physiological circumstance.

SDAG Gelber also detailed several instances where some wave forms for many nerves were identical but some were not, and where the wave forms were identical but the tabular data had been changed, although the Attorney General asserted the tabular data is typically generated by a computer program and must be adjusted at times to make it correlate with the wave forms, but here as the wave forms are identical the numbers must have been manually changed.

SDAG Gelber also indicated numerous other errors including the claimed impossible conduction velocity of 111 in the report for patient SD, which is beyond human physiology and that

the identical data with the identical error is found in a report for patient NC issued in the name of another physician affiliated with respondent's company.

SDAG Gelber pointed out respondent's training in neurodiagnostic testing took place in November 2009, well after he started his mobile testing companies, and raised several minor points regarding the misspelling of words in reports, and typing errors. SDAG Gelber argued that respondent's purported justifications in response to the application for temporary suspension were inadequate in that he as the physician is responsible for all of the work done in his name and by his companies, that all the tests are dated on the day they were given without a follow-up report and thus you would not know that he did not see the data until days or weeks afterward as he claimed. SDAG Gelber asserted this is supported by the fact that an EMG is not printed out but is a fleeting signal that is subjectively graded which would be difficult if not impossible to do many weeks later. Although the doctor seeks to place blame on technicians, the Attorney General contended he should have seen the erroneous wave forms and data and corrected them when they were impossible.

Finally SDAG Gelber argued that even today respondent does not acknowledge that the test data was fabricated, and that if he cannot recognize that, anything less than immediate temporary suspension of his license would be a major disservice to patients.

In his submission and response to the Order To Show Cause, as well as oral argument, respondent indicated that he acknowledges there were problems with the test results involved in this case, but took the position that this is an underdeveloped and incomplete record and that the Attorney General is requesting the Board to leap to conclusions as to Dr. DiScenza's personal involvement and knowledge of the deficiencies in the test results. He points out that the state's expert finds no fault with the EMG testing portion that was performed by the physician. Rather, the criticisms are directed at the NCV testing - performed by a variety of technicians in a variety of locations. Respondent asserted there is no record to conclude that if there was a fabrication of test results, Dr. DiScenza was involved in or knew about it. Therefore respondent took the position that the application is premature, that the Attorney General has not made a showing that Dr. DiScenza poses any kind of danger to the community and that the application for temporary suspension of license should be denied.

Dr. DiScenza asserted that as soon as he was made aware by the insurance company of issues with the NCV portion of the tests, he withdrew his billing, and withdrew from pursuing a mobile EMG testing practice. He claimed that his companies (Pomona, R.R.D. and Advanced Medical) have been inactive, and that his sole medical practice is a personal practice in Jersey City where he provides limited electrodiagnostic testing, approximately three EDX

every two weeks. The remainder of his practice is in interventional and conservative pain management. Respondent's counsel asserted that while there appeared to be some tests with identical NCV results included, and while they appear to involve problems, there is no proof of a nexus between Dr. DiScenza and what appeared to be irregularities.

Respondent also claimed that the referring doctor makes the decision as to the testing to be done and follow-up treatment, that Dr. DiScenza was in the role of performing EDX testing, and was not responsible for the examination and evaluation of which electrodiagnostic testing was needed. Moreover, respondent suggested that it was appropriate in the circumstances of mobile diagnostic testing practice that EMG technicians own or lease the machine (Cadwell) which stored the data and later generated a hard copy for Dr. DiScenza. He finally asserted that he does not own several of the entities mentioned in the Attorney General's complaint (Atlantic Imaging, Atlantic Neuordiagnostic Group and Saturn Medical) and had not even heard of one of the entities (Saturn) before these proceedings.

According to counsel for respondent, there is only speculation as to whether Dr. DiScenza had any basis to know that something was wrong with the NCV tests, that the results were generated one or two at a time, a few days or weeks after the test is done, so that unless someone looks at the wave portion or

tabular data of each of the tests side-by-side, there is no way to have known of the problems raised by the Attorney General. Additionally respondent claims he did not have the opportunity to manipulate the data in the way suggested by the Attorney General as he had no control over the machines which were in the possession of, and owned or leased by, the technicians. Finally respondent asserted that the allegations of an existing inventory or library of data that was duplicated has not been documented and indeed he denied the existence of such an inventory. After asserting that he had been accused of fraud without any evidentiary support that he knew or should have known of any irregularities, and for that reason alone the application should be denied, Respondent testified before the Board.

Respondent began his testimony by claiming he has never posed a danger to anyone and that he attends "courses, seminars, reads journals, books to further my education and competency." Although he does not "pretend" to be an expert in the field, later he testified that he educated himself regarding neurodiagnostic testing by taking a multi-day course at UMDNJ Medical School. Given his two years of engaging in EDX testing and these claims to training, the Board finds surprising the lack of basic EDX knowledge exhibited by respondent in the testimony that followed.

For example, in response to Board questions, respondent inadequately explained the criteria necessary to diagnose

radiculopathy, a basic fundamental prior to performance of tests involved in this matter,⁴ and despite the fact that he was on notice through the Verified Complaint regarding the lack of appropriate support for the "impression" of "radiculopathy" in one of the reports (See Verified Complaint, Count III, paragraph 8). At this stage of the proceedings it also appears respondent did not recognize improper placement of cursors on NCV studies from data he reviewed; approved and sent out reports with physiologically impossible data from NCV studies and failed to recognize artifacts, and approved grossly substandard studies which can be used as a basis for treatment.

Respondent's testimony also included acknowledgments that there were errors in reports that he missed and that in order to practice the profession effectively, he had to place reliance and trust on others. In this situation technicians performed the NCVs and there was never a suspicion of machine malfunction, technical errors or result tempering. Respondent also claimed he did not have access to the machines, nor the expertise to alter results.

In concluding arguments the Attorney General asserted that the risks patients are exposed to by fraudulent or incompetent testing are that pathology will be identified that does not exist,

⁴In our expertise as physicians we are aware that the classic definition of electrodiagnostic criteria of radiculopathy includes involvement of two separate muscles within the same nerve level and a paraspinal examination.

potentially leading to unnecessary invasive procedures; or a delay in proper treatment will occur if a report concludes the patient is "normal" yet the patient has an undiagnosed problem. The state claimed that review of respondent's charts reveals contradictory information - including abnormal findings, yet concluding that it is a normal study. Additionally the State asserted that a request by a referring physician for EDX testing is not sufficient. Rather the specialist called in to do the tests should make the decision as to which tests should be performed. Finally, the state asserted this physician has not demonstrated good or reliable judgment and should not be permitted to continue to practice.

Respondent's counsel in concluding arguments asserted the question before the Board is not whether he has shown perfect judgment or perfect practices, but whether he poses a clear and imminent danger to the public. While conceding that in hindsight perhaps respondent could have done things better, he claimed respondent takes his responsibilities seriously, recognizes that the EDX testing is only one test of many factors the referring doctor takes into consideration in coming to a diagnosis and treatment plan, and finally, asserted that respondent did exercise his independent judgment as he did not always administer an EMG in the cases before the Board, even when the referring doctor requested one.

Analysis and Determination

At this juncture, we must decide whether cause exists to order that respondent's license be temporarily suspended, or otherwise limited, pending the completion of plenary proceedings in this case. N.J.S.A. 45:1-22 provides that an order precluding practice - that is, temporarily suspending a license - can only be entered upon a palpable demonstration of clear and imminent danger to public health, safety and welfare:

A board may, upon a duly verified application of the Attorney General that

* * *

alleges an act or practice violating any provision of an act or regulation administered by such board, enter a temporary order suspending or limiting any license issued by the board pending plenary hearing on an administrative complaint; provided, however, no such temporary order shall be entered unless the application made to the board palpably demonstrates a clear and imminent danger to the public health, safety and welfare and notice of such application is given to the licensee affected by such Order. If, upon review of the Attorney General's application, the board determines that, although no palpable demonstration of a clear and imminent danger has been made, the licensee's continued unrestricted practice pending plenary hearing may pose a risk to the public health, safety and welfare, the board may order the licensee to submit to medical or diagnostic testing and monitoring, or psychological evaluation, or an assessment of skills to determine whether the licensee can continue to practice with reasonable skill and safety. [Emphasis Supplied].

While the Board cannot impose a temporary suspension in cases where a palpable demonstration of clear and imminent danger is not found to have been made, the statute provides that the Board may act to protect the public where a demonstration is made that a

licensee's continued practice may pose a risk to the public health, safety and welfare. In such cases, the Board can order the imposition of monitoring requirements on a licensee's practice, and can order that a licensee be assessed to determine whether the licensee can continue to practice with reasonable skill and safety.

Upon consideration of the limited evidence before us, we cannot at this juncture conclude that the Attorney General has met her burden of making a palpable demonstration of clear and imminent danger sufficient to predicate the entry of an order temporarily suspending respondent's license. The Attorney General has, however, more than adequately demonstrated that respondent's continued unrestricted practice may pose a risk to the public health, safety and welfare sufficient to warrant the imposition of a requirement that respondent secure an assessment of skills prior to the performance, interpretation or billing for any additional electrodiagnostic testing and so as to allow the Board to further evaluate whether respondent's continued practice may jeopardize the safety and welfare of the public.

In making a determination in this matter the Board is mindful that although respondent owns three of the entities involved in the testing at issue, and is responsible for the practice of medicine from entities he owns, at this stage of the proceeding an insufficient showing has been made of the nexus between respondent and the duplicated test reports at issue to

permit us to conclude that respondent's practice poses an imminent danger to the public. The Board is aware of respondent's claim that mobile testing ceased, and that the three entities he owns became inactive, in the Summer of 2010. While respondent continues to personally perform EMG testing limited to 2-3 times every 2 weeks, he is no longer performing mobile EMGs with technicians on the patients of other physicians. Dr. Discenza has expressed a willingness to accept limitations on his administration of electrodiagnostic testing, an assessment of skills or cessation of electrodiagnostic testing (see respondent's brief at p. 14).

Given the deficiencies demonstrated on the records we reviewed, taken together with respondent's lack of knowledge as demonstrated in his testimony, we find there is a risk of harm to patients whose pain management or other treatment may be based, at least in part, on the testing performed by respondent. Therefore we find it appropriate to limit respondent's practice by requiring that he cease EDX pending the conclusion of plenary proceedings in this matter unless respondent undergoes an assessment of his EDX skills as indicated below and makes application to remove the limitation which will be considered by the Board.

IT IS THEREFORE ON THIS 25th DAY OF May , 2011

ORDERED as of the oral announcement of this Order on the record on April 13, 2011:

1. That the license to practice medicine and surgery in the State of New Jersey heretofore issued to Ronald R. DiScenza, M.D. is temporarily limited as indicated in paragraph 2 below until such time as the Board reviews an application pursuant to paragraph 3 below or reviews an Initial Decision following a plenary hearing regarding this matter.

2. That respondent shall cease, desist and refrain from the performance, interpretation or billing for EMGs, nerve conduction studies or any electrodiagnostic testing in the State of New Jersey until further order of this Board.

3. That prior to any application for the removal of the limitation imposed above, respondent shall submit to an independent assessment, at his expense, of his skills in the performance, interpretation and billing of eletrodiagnostic testing with an entity or individual proposed by respondent and pre-approved by the Board. The evaluator shall be provided with a copy of this Order and respondent shall approve the release of the results of such assessment directly to the Board prior to undergoing such evaluation.

NEW JERSEY STATE BOARD OF MEDICAL EXAMINERS

By: _____


Paul T. Jordan, M.D., President

EXHIBIT LIST

- P-1 Certification of Joan D. Gelber, SDAG (Bates 1)
- P-2 Certification, Danielle Lauth (Bates 4)
- P-3 Certification, Marianne Nucci (Bates 5) (Investigator Enforcement Bureau)
- P-4 Gregory J. Mulford, M.D. (Bates 9) (Expert Report)
- P-4a Curriculum Vitae of Dr. Mulford
- P-5 SK chart excerpt (Bates 15)
- P-6 RR chart excerpt (Bates 24)
- P-7 MM chart excerpt (Bates 44)
- P-8 AS chart excerpt (Bates 63)
- P-9 SD chart excerpt (Bates 83)
- P-10 NC chart excerpt (Bates 102)
- P-11 DG chart excerpt (Bates 114)
- P-12 JD chart excerpt (Bates 135)
- P-13 BF chart excerpt (Bates 155)
- P-14 MN chart excerpt (Bates 167)
- P-15 DE chart excerpt (Bates 184)
- P-16 SM-H chart excerpt (Bates 211)
- P-17 DK chart excerpt (Bates 229)
- P-18 EK chart excerpt (Bates 251)
- P-19 RS chart excerpt (Bates 264)
- P-20 Certification, William V. Roeder, with attached report of arrest of Dr. DiScenza (Bates 279).
- P-21 New York State Registration of R.R.D. Medical by Dr. DiScenza
- P-22 Packet of three examples of Dr. DiScenza's New Jersey practice at Advanced Medical of New Jersey, LLC.
- R-1 Certification of Ronald R. DiScenza, M.D., with attachments.
- R-2 Certification of Dr. Giulio Caruso

**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.

**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.