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**FILED**

June 14, 2011

**NEW JERSEY STATE BOARD  
OF MEDICAL EXAMINERS**

By: Kathy Stroh Mendoza  
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STATE OF NEW JERSEY  
DIVISION OF LAW & PUBLIC SAFETY  
DIVISION OF CONSUMER AFFAIRS  
STATE BOARD OF MEDICAL EXAMINERS

IN THE MATTER OF THE SUSPENSION :  
OR REVOCATION OF THE LICENSE OF :  
: **Administrative Action**  
: **SUN C. TZENG, M.D.** :  
**LICENSE NO. MA28148** : **CONSENT ORDER**  
:  
TO PRACTICE MEDICINE AND SURGERY:  
IN THE STATE OF NEW JERSEY :

This matter was opened to the State Board of Medical Examiners (the "Board") upon receipt of notice that on or about October 24, 2007, Dr. Tzeng was arrested by the Jersey City Police Department and charged with two counts of storing regulated medical waste purposely and knowingly in violation of the State's Regulated Medical Waste Act N.J.S.A. 13:1E-48.20g(1) and maintaining an accumulation of filth or source of foulness hazardous to the health of the citizens of New Jersey, in violation of N.J.S.A. 2C-3B-7.

**CERTIFIED TRUE COPY**

A Verified Complaint was filed on December 5, 2007 by the Attorney General of New Jersey against the Respondent Sun C. Tzeng, M.D. alleging, inter alia, gross negligence, gross malpractice and gross incompetence that damaged or endangered the life, health, welfare, safety or property of any person, as may be determined by the Board, contrary to N.J.S.A. 45:1-21(c); repeated acts of negligence, malpractice or incompetence, as may be determined by the Board, in violation of N.J.S.A. 45:1-21(d); professional or occupational misconduct, as may be determined by the Board, in violation of N.J.S.A. 45:1-21(e); conviction, or acts constituting a crime or offense involving moral turpitude or relating adversely to the activity regulated by the Board, in violation of N.J.S.A. 45:1-21(f); violation or failure to comply with the provisions of any act or regulation administered by the Board, in violation of N.J.S.A. 45:1-21(h); and incapability of discharging the functions or a licensee in a manner consistent with the public's health, safety and welfare, in violation of N.J.S.A. 45:1-21(i).

On December 13, 2007, Respondent entered into an Interim Consent Order of Voluntary Surrender without admission with the State Board of Medical Examiners. On June 4, 2008, Dr. Tzeng was indicted by a Grand Jury of two counts of unlawful storage of regulated medical waste. He was enrolled in Hudson County Pretrial Intervention Program for a period of one year commencing on July 9,

2008. On July 21, 2009, the Order of Dismissal and Order to Discharge documented Dr. Tzeng's successful completion of the Pretrial Intervention Program, and therefore the indictment was discharged. Respondent filed his Answer to the Verified Complaint on May 27, 2009, through his then counsel, Thomas Roughneen, Esq.

On October 19, 2010, the First Amended Complaint added three counts: 1.) Allegations of deviations from the standard of medical care and negligent treatment of patients (e.g. failure to document physical examinations for each appointment; failure to document positive or negative findings; failure to order x-rays, labwork or relevant tests; failure to refer patients to specialists; with no evidence of consultative reports in patient files) in violation of N.J.S.A. 45:1-21(d) and (e); 2.) The allegation of aiding and abetting the unlicensed practice of medicine, in violation of N.J.S.A. 45:1-21(n); and 3.) Allegations that upon his surrender of license in the 2007 Consent Order, Dr. Tzeng failed to make provisions for his patients during his absence from medical practice in violation of N.J.A.C. 35:6.5(h), which in turn would be a violation of N.J.S.A. 45:1-21(h).

The Respondent, through counsel, Joseph Gorrell, Esq., filed his Answer to the Amended Complaint on December 30, 2010 denying the substantive allegations of the Complaint and asserting affirmative defenses. The matter was transferred to the Office of

Administrative Law and assigned to The Hon. J. Howard Solomon, ALJ.

Inasmuch as the parties now desire to resolve this matter without recourse to formal proceedings, and Respondent making no admissions and the Board finding that the conduct constitutes the violations alleged in the Amended Complaint; and the Respondent having agreed to the below listed terms, and the Board finding the provisions of the within Order sufficiently protective of public health, safety and welfare, and for good cause shown,

It is on the 14<sup>th</sup> day of June 2011,

ORDERED AND AGREED THAT

1. The license of Sun C. Tzeng, M.D. is hereby suspended for a period of active suspension of four years, effective nunc pro tunc December 31, 2007. The active period of the suspension will be tolled for any length of time, if any, that the Respondent practices in another jurisdiction.

2. During the period of active suspension, Respondent shall  
a.) obtain a competency evaluation to be conducted by Center for Personalized Education for Physicians (CPEP), subsequent to which Dr. Tzeng will successfully fulfill all the recommendations made by that entity; b.) Dr. Tzeng will undertake three hundred (300) hours of continuing medical education, and the review course for the American Board of Family Practice and shall pass the re-certification examination of the American Board of Family Practice.

Should the American Board of Family Practice require that Dr. Tzeng be licensed in order to attend classes and sit for the examination, the Board agrees to reinstate Dr. Tzeng's medical license for the limited purpose of attending classes and sitting for the American Board of Family Practice re-certification examination; or c.) Dr. Tzeng will attend and successfully complete a six week session of the Drexel Medicine Physician Refresher/Re-Entry Course, which shall include an assessment of Dr. Tzeng's capability of returning to medical practice, which assessment will be provided to the Board.

"Successful completion" means that Respondent attended all sessions of the courses, fully participated in the courses, and received a final evaluation of an unconditional pass. The Board further requests that Respondent submit to the Director of Medical Education written verification that Respondent satisfactorily completed the Program.

3. During the period of active suspension, Respondent shall undergo a neurocognitive evaluation to be conducted by a Board approved entity.

4. During the period of active suspension, Respondent shall enroll in and successfully complete a Board approved ethics course and a Board approved recordkeeping course.

"Successful completion" means that Respondent attended all sessions of the courses, fully participated in the courses, and received a final evaluation of an unconditional pass. The Board further requests that Respondent submit to the Director of Medical Education written verification that Respondent satisfactorily completed the Program.

5. Respondent shall have the right to apply for reinstatement of his medical license after having completed the evaluation and education requirements set forth above. The appearance before the Board or a Committee thereof shall be for the purpose of assessing his qualifications to return to work and whether or not a monitor shall be required. Board reserves the right to continue the suspension until successful completion of the above-listed requirements and proof of current continuing medical education coursework has been submitted.

6. Should the Board require a monitor as a condition for reinstatement of Respondent's medical license, said monitor, obtained at Respondent's cost, shall be a professionally licensed medical doctor approved by the Board who will be furnished with a copy of this Order and who, in writing, will agree to provide routine quarterly reports to the Board confirming Respondent's quality of care and recordkeeping.

7. Respondent is assessed a civil penalty in the amount of \$30,000 for violations of N.J.S.A. 45:1-21(i).

8. Payment of said penalty totaling \$30,000 shall be submitted by certified check or money order made payable to the State of New Jersey and forwarded to the Board of Medical Examiners c/o William V. Roeder, Executive Director, State Board of Medical Examiners, 140 East Front Street, P.O. Box 183, Trenton, New Jersey 08625-0183. The initial payment shall include \$7,500 in penalties due upon the filing of this Consent Order. These subsequent installments shall be paid, each in the amount of \$7,500 at six (6) month intervals so that the entire outstanding sum shall be paid within two years from the filing of the Consent Order.

9. The Respondent, Sun C. Tzeng, M.D. shall fully comply with the Directives for Disciplined Licensees, a copy of which is attached as Exhibit A and is made a part of this Order.

10. The Board reserves the right to bring further disciplinary action upon receipt of any reliable information indicating that Respondent has violated any term of this Order.

11. The Board shall retain jurisdiction to enforce the terms of this Order. This Order shall be considered a full and final

resolution of the charges set forth in the Amended Administrative  
Complaint filed October 19, 2010.

New Jersey State Board of Medical Examiners

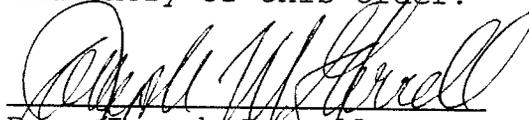
By:   
Paul T. Jordan, M.D.  
President

I have read and I understand the  
terms of this Order and I agree  
to be bound by it. I hereby consent  
to the entry of this Order.

  
Sun C. Tzeng, M.D.

Date 6/10/2011

We hereby consent to the form  
and entry of this Order.

  
By: Joseph Gorrell, Esq.  
Attorney for Sun C. Tzeng, M.D.  
Brach Eichler, LLC  
101 Eisenhower Parkway  
Roseland, New Jersey 07068

Date 6/10/11

**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.