

FILED

May 4, 2012

**NEW JERSEY STATE BOARD
OF MEDICAL EXAMINERS**

EFFECTIVE

nunc pro tunc April 11, 2012

**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:

SCOTT SALKIND, D.O.

FINAL ORDER SUSPENDING
LICENSURE

This matter was initially opened before the New Jersey State Board of Medical Examiners (the "Board") upon the Board's receipt of notification that respondent Scott Salkind, D.O., entered a guilty plea on or about March 8, 2012 in the United States District Court for the District of New Jersey to a criminal Information in which he was charged with having engaged in Willful Tax Evasion in violation of 26 U.S.C. § 7201. On April 10, 2012, respondent and the Attorney General entered into a Joint Stipulation of Facts and of Law, obviating any need that might otherwise have existed for the Attorney General to have filed an Administrative Complaint against Dr. Salkind and likewise obviating the need for scheduling of any fact finding hearings before the Board or before the Office of Administrative Law.

CERTIFIED TRUE COPY

Findings of Fact and Conclusions of Law

Within the Joint Stipulation of Facts and of Law, the parties stipulated that:

1. On or about March 8, 2012 in United States District Court for the District of New Jersey, Dr. Salkind pled guilty to a 1 Count Information charging income tax evasion in violation of 26 U.S.C. §7201.
2. Pursuant to Dr. Salkind's plea agreement with federal authorities, he admitted to diversion of income in 2005, 2006, 2007 and 2008.
3. Dr. Salkind has further admitted that he accepted insurance payments as payment in full for treatment rendered his patients, without charging the applicable co-pay or deductible.
4. Dr. Salkind admittedly diverted income from his medical practice by depositing a portion of his medical practice's insurance company payments into a bank account maintained under the name of "SAS Realty," and then failed to report the SAS Realty funds as income on his Federal and State income tax returns for the years 2005, 2006, 2007 and 2008.
5. Dr. Salkind diverted approximately \$1,000,000 in income to the SAS Realty account and withdrew funds from that account by way of cashier checks made payable to himself.
6. Dr. Salkind's failure to report this income from his medical practice resulted in a substantial understatement of his taxable income in each of the years at issue.
7. Dr. Salkind pled guilty but has not yet been sentenced on these charges which sentencing is currently scheduled for June 22, 2012.

Appended to the Joint Stipulation and incorporated therein by reference were the Information in United States of America v. Scott Salkind, Criminal No. 12-176 (JBS) (Exhibit A),

the written plea agreement between Dr. Salkind and the United States Attorney's Office (Exhibit B) and the "Application for Permission to Enter Plea of Guilty" which respondent completed and signed on or about March 8, 2012 (Exhibit C).

The Information sets forth in greater detail the manner in which respondent diverted a total of approximately \$1,000,000 in income to a shell company bank account under his control, and then withdrew the money in the form of cashier's checks made payable to himself [Information, ¶¶ 2(g)-2(i)], and his subsequent failure to report the diverted monies, which were used for Dr. Salkind's own personal benefit, to the Internal Revenue Service (Information, ¶¶ 3-13). Specifically, respondent engaged in a scheme to hide income that he received in the form of checks sent by insurance carriers directly to his patients, which checks would be delivered to Dr. Salkind by the individual patients as payment for medical services provided. [Information, ¶2(e), and see Information ¶¶ 2(c)-2(d), detailing that Dr. Salkind agreed with patients that he would submit his patient's insurance claims to the patient's insurance companies for services provided and accept whatever amount the insurance companies paid for services as payment in full without charging the patient any co-pay or deductible]. Dr. Salkind deposited checks made payable to individual patients into bank accounts maintained either under the name of "SAS Realty" or into

personal bank accounts [(Information, ¶¶ 1(c) - 1(d); 2(g)-2(h)]. He thereafter withdrew those funds for his own personal expenses, but omitted all of the diverted insurance checks from his reports to the Internal Revenue Service and the State of New Jersey [Information, ¶¶ §2(g)-2(i), 3]. In contrast, Dr. Salkind deposited insurance company checks that were made payable to Dr. Salkind's corporate practice entity ("General Medical of New Jersey, Inc.") into a business bank account, and in turn used those deposits to arrive at Gross Receipts reported on General Medical's corporate income tax returns [Information, ¶2(f)].

Dr. Salkind and the Attorney General further stipulated that Dr. Salkind's conduct provided bases for disciplinary sanction by this Board pursuant to N.J.S.A. 45:1-21(b) (engaging in the use or employment of dishonesty, fraud, deception, misrepresentation, false promise or false pretense); 45:1-21(e) (engaging in professional or occupational misconduct) and 45:1-21(f) (conviction of a crime involving moral turpitude or relating adversely to the activity regulated by the Board), and that the conduct constituted a breach of N.J.S.A. 45:9-6.¹ The Board has independently reviewed the Joint Stipulation of Fact and of Law, finds that there is a substantial predicate to

¹ N.J.S.A. 45:9-6 requires that applicants for medical license demonstrate good moral character. The requirement to maintain good moral character is a continuing requirement for licensure by this Board.

support all of the stipulated findings of fact and conclusions of law therein, and specifically adopts as its own all findings of fact and conclusions of law set forth within the Joint Stipulation.

Evidence and Testimony Presented at Mitigation Hearing

The Joint Stipulation provided that Dr. Salkind was to have leave to appear before the Board to present testimony and to seek mitigation of any penalty to be imposed by the Board, following which the Board would impose a penalty based on its assessment of the stipulated findings of fact and law and of any mitigation testimony and/or evidence presented. That hearing, limited to the issue of penalty to be assessed, was scheduled for and held on April 11, 2012. Deputy Attorney General Jeri Warhaftig appeared on behalf of Attorney General Jeffrey S. Chiesa, and Robert Ager, Esq., appeared on behalf of respondent Scott Salkind, D.O.²

² The following documents were moved into the record at the hearing:

J-1: Joint Stipulation of Facts and Conclusions of Law

J-2: Position Statement from the Professional Assistance Program of New Jersey, dated April 12, 2012.

AG-1: Prior Orders and other Public Records entered in previous actions involving Scott Salkind, D.O., to include:

Order of Temporary Suspension filed July 29, 1987, effective July 22, 1987

Superior Court Order by the Honorable Paul A. Lowengrub, dated April 11, 1988, permanently enjoining Scott Salkind from rendering or offering to render medical services until such time as the prior Order

Although respondent was afforded substantial latitude to present whatever additional evidence in mitigation he might wish the Board to consider, he elected to offer only his own sworn testimony and a Position Statement dated April 11, 2012 from the Professional Assistance Program of New Jersey (the "PAP"), by Louis E. Baxter, M.D., Executive Medical Director. The PAP Position Statement addressed only Dr. Salkind's recovery status and his standing in the PAP, but not any of the issues raised by his criminal conduct. Dr. Baxter reported that Dr. Salkind remains in long-term sustained recovery from his dependence to psychoactive substances, from a recovery date of

of the Board of Medical Examiners temporarily suspending his license has been vacated or modified by the Board, and permanently enjoining Dr. Salkind from representing himself to be eligible to practice medicine and from holding himself out as able to provide medical services or treatment until further Order of the Board.

Consent Order filed February 14, 1989 suspending license for an indefinite period deemed to begin on July 22, 1987.

Order Vacating the Stay of Suspension filed on April 10, 1989, effective March 14, 1989.

Order to Show Cause filed June 27, 1990.

Consent Order Reinstating Licensure Privileges filed April 10, 1992.

Answer to Verified Complaint filed January 18, 1994.

Affidavit of David I. Canavan filed November 16, 1993.

Final Order revoking licensure filed May 24, 1994.

Consent Order granting Restricted Licensure filed October 24, 1997.

Order of Automatic Suspension filed August 2, 1999.

Consent Order Granting Restricted Licensure filed July 15, 2004.

Order of Unrestricted Licensure filed April 29, 2008.

April 10, 2002. The Position Statement further detailed, *inter alia*, that Dr. Salkind had remained on random urine drug screens throughout his recovery period with all testing reported as negative, that he continues to remain active in the support group of Alcoholics Anonymous attending three meetings a week, and that he continues to be seen in regular face-to-face follow-up.

Respondent testified before the Board generally regarding the conduct and circumstances which led to his having been charged with, and then pleading guilty to, income tax evasion. Respondent repeatedly eschewed personal responsibility for having filed misleading tax returns, instead suggesting that all of the false tax returns had been prepared by his father, who had been a C.P.A. and had been Dr. Salkind's accountant between 2005 and 2008 (Dr. Salkind's father passed away early in 2012). In essence, Dr. Salkind testified that he simply provided his practice income information to his father, who in turn prepared all of the tax returns, and Dr. Salkind thereby maintained that he had not realized that his filed tax returns had grossly understated his income.

Dr. Salkind conceded that he had taken approximately \$500,000 that had been deposited into the "real estate" account and used those funds for construction projects at his three offices, but claimed that he did not advise his father about

those expenses and monies because he thought the construction costs were "deductible." He also testified that he lent approximately \$300,000 to individuals who did not repay him, and claimed that he did not tell his father about those loans because he was ashamed and embarrassed that he had loaned such substantial sums of money. Dr. Salkind further stated that he did not believe there was any need to report funds which were in turn loaned, nor any tax liability for those funds. When asked about whether his father was aware of the activity in the "SAS Realty" account, Dr. Salkind claimed that, although his father had been aware of the account in earlier years, he did not provide information regarding the "SAS Realty" account to his father (for the tax years that are the subject of his criminal conviction) and that his father in turn simply did not ask for that information.

When responding to Board member questions, Dr. Salkind repeatedly claimed to have little knowledge about the financial details of his practice, either during the period between 2005 and 2008 or even at present. He was thus unable to answer a substantial number of questions propounded to him by members of the Board regarding what had occurred between 2005 and 2008, and was similarly unable to provide responses to questions about the present financial status of his practice. By way of example, Dr. Salkind claimed that he did not know the salary that he

presently pays to his only employee. Dr. Salkind further claimed that he had little day-to-day oversight over, or knowledge about, the manner in which income received in his office was accounted for or recorded.

Dr. Salkind urged the Board to consider that he cooperated fully with the IRS after he was approached in 2010, and that he was repaying a total of approximately \$400,000 to the government, to include back taxes and penalties. Respondent's counsel pointed out that the plea bargain that Dr. Salkind entered with the government allows him to present arguments for a lower sentence, and further asked the Board to consider that none of Dr. Salkind's criminal activity in any way reflected upon the quality of medical services that was provided to patients. Finally, Dr. Salkind implored the Board to consider that all that he has ever wanted to do is practice medicine, and that his focus has always been upon his patients.

Analysis as to Penalty and Mitigation

In considering the penalty to be assessed against Dr. Salkind, we begin with the proposition that the criminal actions in which respondent engaged unquestionably evidence fundamental dishonesty and corruptness. Respondent diverted substantial sums of money - totaling approximately \$1,000,000 - from his practice for his own personal use, failed to report those sums as income to the government and failed to pay taxes thereon.

Respondent sought to suggest in his testimony before the Board that blame should be placed on his father, and that his misconduct was a product of his own naiveté and lack of knowledge about the financial aspects of his practice. We discount that testimony, however, because it is clearly belied by and at odds with the details regarding respondent's actions recounted in the Information. Dr. Salkind was thus charged with, and pled guilty to, having engaged in deliberate and calculated acts to hide income and avoid reporting income on his taxes. Most significantly, it is clear that Dr. Salkind treated "traceable" practice income, received in the form of insurance company checks made directly payable to his practice group, in a different manner from "non-traceable" receipts in the form of insurance company checks made payable to his individual patients. While Dr. Salkind professed that he did not know the details of what types of checks were deposited into his various bank accounts, his admissions in the criminal action evidence an intentional and knowing scheme to hide income and to evade taxes thereon.

We therefore reject respondent's suggestion that his criminal conduct should be excused or discounted, and instead conclude that the crimes Dr. Salkind committed fully evidence base dishonesty, which we have repeatedly held to be grounds for imposition of severe disciplinary actions. The parties have

stipulated, and we assuredly would have found on the record before us, that the actions which Dr. Salkind engaged in were fraudulent, related adversely to the practice of medicine, evidenced a fundamental absence of good moral character and constituted professional misconduct.

We additionally find it to be particularly relevant and significant that Dr. Salkind has previously engaged in, and been disciplined for, deceitful and dishonest conduct. See, for example, N.J.S.A. 45:1-25 (allowing for enhanced monetary penalty assessments against licensees found to have engaged in multiple violations of statutes or regulations). We are acutely aware that Dr. Salkind has had a long history of disciplinary actions taken by the Board -- his license to practice medicine in New Jersey has been both suspended and revoked multiple times -- for conduct running the gamut from alcohol and cocaine abuse to findings of gross inability to function in the medical profession (see Exhibit S-1).

While we are cognizant that the vast majority of the prior disciplinary actions were directly related to psychoactive substance dependency, we draw a distinction between those actions and one prior action which was based not only on drug use, but also on findings that Dr. Salkind engaged in the unlicensed practice of medicine by continuing to treat patients after his license to practice had been temporarily suspended.

Specifically, the action taken by this Board within a Consent Order filed February 14, 1989, whereby Dr. Salkind's license to practice medicine and surgery was suspended for an indefinite period (eighteen months of which were to be deemed to be an active suspension), was an action that was predicated in part upon findings that Dr. Salkind had continued to practice medicine for a period of approximately two and one-half months while his license was temporarily suspended, during which time he "rendered or offered to render medical care and treatment on approximately six hundred (600) occasions." See Consent Order In the matter of Scott Andrew Salkind, D.O., filed February 14, 1989, and see Superior Court Order in New Jersey State Board of Medical Examiners and W. Cary Edwards, Attorney General of New Jersey v. Scott Andrew Salkind, D.O., entered by the Honorable Paul A. Lowengrub, dated April 11, 1988 (permanently enjoining Dr. Salkind from continuing to engage in medical practice and/or representing himself eligible to do so, until further Order of the Board of Medical Examiners).³

³ The filed Consent Order did not specify what period of the suspension that was then meted to Dr. Salkind was directly related to the initial filed complaint (which alleged incapacity to practice medicine because of substance abuse) and what period of the suspension represented a punishment based on Dr. Salkind's continued practice while temporarily suspended. It is clear, however, that a portion of the punishment meted therein can be attributed to the unlicensed practice, given that the Consent Order specifically included findings (acknowledged by Dr. Salkind) directly related to the unlicensed practice.

It is thus the case that Dr. Salkind has previously engaged in acts which, at their core, were dishonest and evinced a contumacious disregard for the authority of this Board. In that manner, Dr. Salkind's prior unlicensed practice is not dissimilar from his present misconduct, as in both cases Dr. Salkind readily and consciously ignored requirements of law for personal gain.⁴

Dr. Salkind has provided limited mitigation evidence, and his portrayal of himself as having been an unwitting participant in tax evasion appears at odds with the admissions that he made upon pleading guilty to the charges in the criminal action. We find it significant that Dr. Salkind has not accepted full responsibility for his conduct, but instead either seeks to directly blame others -- most directly his late father - or to suggest that his tax evasion was the product of a lack of awareness of the requirements of the tax laws and even of the manner in which his own medical practice accounted for monies received. Indeed, we find the vast majority of Dr. Salkind's testimony to be self-serving and to strain credulity. Examples

⁴ We also note that the repeated suspensions and revocations of Dr. Salkind's license should have made Dr. Salkind acutely aware of the authority of this Board to take disciplinary actions, and of the very fragile nature of licensure. Dr. Salkind, perhaps more so than any other licensee of this Board, has been afforded opportunity after opportunity to reclaim his medical career. Given that history, and given Dr. Salkind's own testimony regarding the value that he places on practicing medicine, we would have expected that Dr. Salkind would have conducted himself in an honest and forthright manner, and would have zealously avoided engaging in any further misconduct which could have subjected him to this Board's scrutiny and/or to the loss, yet again, of his medical license.

include Dr. Salkind's testimony that he thought he didn't need to report income which he received but then loaned to others, or income which was spent on construction projects, because those expenses would have been "deductible." Even more dubious and incredible is his testimony that he loaned huge sums of monies to acquaintances that he barely knew, to include his claim that he loaned approximately \$100,000 to assist the wife of an individual he had met only once five years before the loans were made at a football game, but had not had any contact with in the five year period.

Dr. Salkind has shown only limited contrition for his actions, and his testimony suggests that, even today, he has failed to gain insight and/or engage in curative actions to ensure that any misconduct would not recur.⁵ Notwithstanding his criminal guilty plea, he professes to continue to have limited knowledge of financial aspects of his practice. Further, even were we to accept at face value all of respondent's testimony, we cannot conclude that his testimony provides anything other than a *de minimus* predicate for mitigation of penalty.⁶

⁵ For example, respondent conceded that he had not (as of April 11, 2012) begun to prepare, or even sought to hire any professional help to assist in the preparation of his 2011 tax returns.

⁶ We note that we do find it clearly positive that Dr. Salkind has continued to seek to address his prior substance abuse issues by continuing to participate with the PAP, and we find commendable his ten years of documented recovery from substance abuse. We have, however, drawn a fundamental distinction between prior actions that were based on substance abuse and the issues that are before us in this case, and we reject any

We further are constrained to note that respondent's repeated inability to answer questions posed to him by members of the Board raise concerns regarding his present mental acuity, and could be suggestive of underlying mental health deficits. At a minimum, his responses reasonably suggest a need for this Board to require Dr. Salkind to submit to a psychiatric evaluation, for the purpose of ensuring that he is fit and competent to continue to engage in medical practice.⁷

Finally, we categorically reject the suggestion advanced by respondent that any penalty should be mitigated because there are no allegations that relate to the quality of medical care provided by Dr. Salkind. See In re: License issued to Zahl, 186 N.J. 341 (2006). Simply put, dishonesty and fraudulent conduct can be, independent of any allegations of patient harm, an adequate predicate upon which to order the revocation or suspension of a medical license. Id.

suggestion that Dr. Salkind's continued recovery can or should be a basis to excuse or mitigate the criminal conduct which underlies the current action.

⁷ Given that we are presently ordering a minimum three year period of active license suspension, we will defer requiring any psychiatric evaluation at this time, and instead impose the condition for Dr. Salkind to submit to a psychiatric evaluation until such time as he may seek leave to resume any practice of medicine in New Jersey.

Conclusion

Upon consideration of the record before us, and based on the analysis and reasoning set forth above, we conclude that the appropriate sanction to impose in this case is to order the suspension of Dr. Salkind's license to practice medicine and surgery in the State of New Jersey for a period of five years, the first three years of which are, at a minimum, to be served as an active period of suspension. We decline to impose any monetary penalties, given our recognition that Dr. Salkind has had to pay substantial sums in restitution and penalties to the federal government, and may have continued exposure to additional penalties, to include possible incarceration, at sentencing.

Dr. Salkind may, at his election, seek leave to resume the practice of medicine and surgery following the first three years of the period of suspension. In the event Dr. Salkind seeks leave to resume the practice of medicine at the conclusion of the period of active suspension or at any time thereafter, he will first need to appear before a Committee of the Board and demonstrate that he is fit to resume the practice of medicine. Conditions that we deem appropriate to then require include a condition that he submit to a psychiatric evaluation to assess whether he is fit to resume practice, to be conducted by a psychiatrist approved by the Board, and that any reapplication

be supported by the Professional Assistance Program of New Jersey. We further explicitly reserve the right, should Dr. Salkind then make a satisfactory demonstration of fitness to resume medical practice, to impose conditions and/or limitations upon any resumed practice of medicine by Dr. Salkind, to include the imposition of conditions that could limit or restrict the settings at which Dr. Salkind may practice and conditions that he practice only as an employee of another physician(s) or health care entity.

WHEREFORE, it is on this 4th day of May, 2012:

ORDERED, nunc pro tunc April 11, 2012:

1. The license of respondent Scott Salkind, D.O., to practice medicine and surgery in the State of New Jersey shall be suspended for a period of five years, three years of which are to be served as an active period of suspension and the remaining two years of which are to be stayed and served as a period of probation, provided that respondent complies with all further conditions set forth below.

2. Prior to resuming any practice of medicine and surgery in the State of New Jersey, either during the stayed period of suspension or thereafter following the conclusion of the five year period of suspension, respondent shall be required to appear before a Committee of the Board and demonstrate to the satisfaction of the Board that he is fit to resume the practice

of medicine. At that time, in order to demonstrate fitness, respondent shall be required to submit a report of a psychiatric evaluation to be conducted by a psychiatrist pre-approved by and acceptable to the Board, and to submit a position statement from the Professional Assistance Program of New Jersey supporting his petition and advising whether Dr. Salkind continued to fully participate with the PAP during the period of suspension. The Board reserves the right to impose any conditions or limitations upon any resumed practice of medicine and surgery by respondent, to include, without limitation, imposition of conditions that may limit the practice settings at which respondent may practice and/or conditions which may require that respondent work only as an employee of another physician(s) or health care entity without responsibility for billing.

3. During the period of active suspension, respondent shall complete courses, acceptable to the Board, in medical ethics and in medical office billing practices.

4. Respondent shall be assessed the costs of this matter. The Board directs that D.A.G. Warhaftig submit a written certification attesting to the costs that have been incurred in this matter not later than thirty days from the date of this Order. Respondent shall then have two weeks to submit a written reply in the event he objects to any or all items sought in costs. The Board will thereafter consider the written

submissions of the parties and then enter a supplemental Order setting the amount of costs.

4. The suspension ordered herein shall be effective (as orally ordered on the record on April 11, 2012) at the close of business on April 27, 2012. From April 11, 2012 through April 27, 2012, respondent shall not treat any new patients, and shall make arrangements for the orderly transition of care of his existing patients to other providers.

NEW JERSEY STATE BOARD
OF MEDICAL EXAMINERS

BY:



Paul T. Jordan, M.D.
Board President

**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.