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**FILED**

June 25, 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

<u>IN THE MATTER OF THE SUSPENSION</u>	:	ADMINISTRATIVE ACTION
<u>OR REVOCATION OF THE LICENSE OF</u>	:	
Robert S. Sander, M.D.	:	
LICENSE NO. 25MA06942700	:	CONSENT ORDER
TO PRACTICE MEDICINE AND SURGERY	:	
<u>IN THE STATE OF NEW JERSEY</u>	:	

This matter was opened to the New Jersey State Board of Medical Examiners ("Board") upon its receipt of information alleging improper prescribing of controlled dangerous substances by Robert S. Sander, M.D. ("Dr. Sander"). As part of its investigation, Dr. Sander was directed to appear and testify before a Preliminary Evaluation Committee of the Board on June 15, 2011 regarding his care, treatment, and prescribing practices for nine patients.

From the aforementioned testimony and review of the nine patient records, the Board found that Dr. Sander failed to formulate and follow a treatment plan to manage his prescribing of Controlled Dangerous Substances. These findings combined with poor

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record-keeping practices caused the Board to have serious concerns about Dr. Sander's overall ability to practice medicine, specifically his prescribing of medications and his record-keeping abilities.

The Board finds Dr. Sander's care, treatment and prescribing practices for these nine patients constitute grounds for disciplinary action pursuant to N.J.S.A. 45:1-21 (d) and (h), specifically N.J.A.C. 13:35-7.6 and N.J.A.C. 13:35-6.5. These findings are sufficient to support the disposition herein.

Dr. Sander, being desirous of resolving this matter without the necessity of further formal proceedings, and agreeing to waive any right to same, and the Board finding the within disposition to be adequately protective of the public health, safety, and welfare, and for other good cause shown, and all parties agreeing to the terms of this Order;

IT IS on this 25th day of June, 2012,

ORDERED:

1. Robert S. Sander, M.D., is hereby formally reprimanded for his conduct as described above.
2. Robert S. Sander, M.D. ("Dr. Sander") shall immediately cease prescribing any Controlled Dangerous Substances ("CDS") above Schedule III.
3. Dr. Sander shall attend and successfully complete one Board

approved CDS prescribing course and one Board approved medical record keeping course. The courses shall be completed within three months of the date of entry of this Order. Dr. Sander shall additionally be responsible to ensure that the course providers submit written confirmation to the Board, following each course, attesting that Dr. Sander attended and successfully completed said courses. "Successful completion" means that Dr. Sander has attended all sessions of the courses, fully participated in the courses, and received a final evaluation of an unconditional pass. Dr. Sander shall be entirely responsible for any and all costs or expenses relating to the courses.

4. Upon successful completion of the Board-approved CDS prescribing and record-keeping courses, Dr. Sander may resume all CDS prescribing under the supervision of a Board-approved monitor. The monitor shall review five of Dr. Sander's patient records per month for a one year period.

5. The monitor must be approved in advance by the Board and licensed in this State. The monitor must not be a relative of Dr. Sander. In addition, the monitor must not be someone with whom he has or had a supervisory or financial relationship. Dr. Sander shall promptly submit to the Board a curriculum vitae of the proposed monitor, along with his/her signed acknowledgment that he/she read this Consent Order and agrees to accept the responsibilities as set forth herein. Approval of the monitor is

at the sole discretion of the Board but shall not be unreasonably withheld.

6. The monitor shall independently select the CDS patient records from a copy of Dr. Sander's practice's daily appointment book/daily sign-in sheets for the month. Prior to forwarding the daily appointment book/daily sign-in sheets to the monitor, Dr. Sander shall indicate which patients were prescribed CDS. Within five business days of the monitor informing Dr. Sander which patient records were selected, he shall be responsible to provide the monitor with certified true copies of the patient records. For each patient record selected, Dr. Sander shall provide the entirety of the selected patient's record to the present date including, but not limited to, intake documents, examination findings, diagnostic tests ordered and results thereof, treatment rendered, and fees charged in the context of billings. If necessary, the monitor shall have unfettered access to original patient medical records.

7. The monitor shall submit monthly written reports to the Board with a copy to Dr. Sander's counsel. The report shall summarize the nature of the work reviewed and include at least the following information: each patient chart reviewed identified by patient name, type of case, accuracy and completeness of charting, and comments on the quality of professional service(s) rendered. The monitor shall review the patient record to ascertain whether there is adequate medical justification for the prescribing of

Controlled Dangerous Substances and whether the treatment conforms to the accepted standards of practice. Dr. Sander agrees that the monitor shall neither have nor incur any liability as a result of his/her good faith performance as a monitor.

8. The monitor shall make immediate report to the Board and counsel to both parties of any instances where he/she makes a determination that Dr. Sander failed to materially comply with the monitoring provisions of this Order.

9. The cost of the monitor's services shall be borne by Dr. Sander and shall not be passed on to patients/third party payors.

10. The monitor shall comply with the requirements of HIPAA (45 CFR Parts 160 and 164) and maintain and respect the confidentiality of patients and any individually identifiable health information he/she may acquire in the necessary performance of his/her functions, and shall not make any disclosures of information concerning individual patients other than disclosures to the Board and counsel for both parties as may be necessary to comply with this Order.

11. Respondent is hereby assessed a civil penalty, pursuant to N.J.S.A. 45:1-22, in the amount of \$10,000.

12. The civil penalty shall be due and owing no later than sixty (60) days from the entry of this Consent Order. Payment shall be submitted by certified check or money order made payable to the State of New Jersey and shall be forwarded to William V.

Roeder, Executive Director, State Board of Medical Examiners at 140 East Front Street, Post Office Box 183, Trenton, New Jersey 08625.

13. Dr. Sander shall comply with the attached "Directives Applicable to Any Medical Board Licensee Who Is Disciplined or Whose Surrender of Licensure Has Been Accepted", which Directives are incorporated herein by reference.

14. If Dr. Sander fails to comply with the terms of this Consent Order, such conduct shall be deemed to constitute professional misconduct in violation of N.J.S.A. 45:1-21(e). In that event, the Attorney General or the Board may commence a disciplinary proceeding seeking, among other things, the suspension of Dr. Sander's license to practice medicine.

NEW JERSEY STATE BOARD OF MEDICAL EXAMINERS

By:



Paul T. Jordan M.D.  
President

I have read the within Consent Order and agree to be bound by its terms. I understand the meaning and effect of this Order and understand that it has serious legal consequences. Consent is hereby given to the Board to enter this Order.

Robert Sander, M.D.  
Robert Sander, M.D.

6/6/12  
Date

I hereby consent to the form and entry of the within Order.

Daniel Giaquinto, Esq.  
Daniel Giaquinto, Esq.

6/6/12  
Date

**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.