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FILED

October 10, 2012

**NEW JERSEY STATE BOARD
OF MEDICAL EXAMINERS**

By: Wendy Leggett Faulk
Deputy Attorney General
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STATE OF NEW JERSEY
DEPARTMENT OF LAW & PUBLIC SAFETY
DIVISION OF CONSUMER AFFAIRS
STATE BOARD OF MEDICAL EXAMINERS

IN THE MATTER OF THE SUSPENSION	:	ADMINISTRATIVE ACTION
OR REVOCATION OF THE LICENSE OF	:	
	:	
	:	ORDER OF
MURRAY SCHWARTZ, D.O.	:	IMMEDIATE SUSPENSION
LICENSE NO. 25MB03636200	:	PURSUANT TO
	:	<u>N.J.S.A. 45:9-19.16a</u>
TO PRACTICE MEDICINE AND SURGERY	:	
IN THE STATE OF NEW JERSEY	:	
	:	

This matter was opened to the New Jersey State Board of Medical Examiners (hereinafter the "Board") by Jeffrey S. Chiesa, Attorney General of New Jersey (Wendy Leggett Faulk, Deputy Attorney General, appearing) upon receipt of information revealing the following:

1. Respondent, Murray Schwartz, D.O., is the holder of active License No. 25MB03636200 and was first licensed to practice medicine and surgery in the State of New Jersey in 1979.

2. On or about March 27, 2012, Respondent entered into an

CERTIFIED TRUE COPY

Agreed Order of Surrender with the Kentucky Board of Medical Licensure ("KBML") voluntarily surrendering his license to practice osteopathy in the Commonwealth of Kentucky ("Surrender Order"). A copy of the Surrender Order is attached hereto as Exhibit A.

3. In the Surrender Order, Respondent acknowledged that he:
 - a. Prescribed medications outside the scope of his professional practice of diagnostic radiology;
 - b. Repeatedly prescribed controlled dangerous substances for a patient, a female x-ray technician (Patient A) who also worked with Respondent, without proper evaluation or diagnosis;
 - c. Repeatedly prescribed controlled dangerous substances for Patient A in the name of another (Patient B); and
 - d. Engaged in an inappropriate relationship with Patient A.

4. According to a report of the New Jersey Prescription Monitoring & Reporting System, Respondent prescribed controlled dangerous substances in September and October of 2011, and in May of 2012. A redacted copy of the Prescriber Rx History Report is attached hereto as Exhibit B.

5. The KBML and Respondent stipulated that Respondent's conduct violated Kentucky laws governing the practice of osteopathy in that jurisdiction, providing sufficient legal grounds for revocation of Respondent's license, and that the Surrender Order is the legal equivalent of an order of revocation.

6. The facts and conclusions of law stipulated by the KBML and Respondent in the Surrender Order demonstrate that Respondent's continued practice in New Jersey would endanger or pose a risk to public health or safety pending a determination of findings by this Board. Pursuant to N.J.S.A. 45:9-19.16a, the legal revocation of Respondent's Kentucky license on these grounds requires this Board to act immediately to suspend Respondent's New Jersey license, pending a determination of findings.

7. The facts and conclusions of law stipulated by the KBML and Respondent in the Surrender Order also provide a basis for disciplinary sanction in this State. Pursuant to N.J.S.A. 45:9-19.16a, the legal revocation of Respondent's Kentucky license on these grounds requires this Board to act immediately to suspend Respondent's New Jersey license, pending a determination of findings by the Board.

ACCORDINGLY, IT IS ON THIS 10th day of OCTOBER 2012,

ORDERED THAT:

1. Respondent's license to practice medicine and surgery in the State of New Jersey is immediately suspended pursuant to N.J.S.A. 45:9-19.16a and effective as of the date of service of this Order. Respondent shall comply with the Directives Applicable to Any Medical Board Licensee Who is Disciplined, which are attached hereto and

incorporated herein.

2. All documentation from the Kentucky Board of Medical Licensure, as referenced herein as Exhibit A, shall be made part of the record and establish conclusively the facts upon which this Board relies in suspending Respondent's license to practice medicine and surgery in New Jersey, pursuant to N.J.S.A. 45:9-19.16a.

3. All documentation pertaining to Respondent's prescribing history in New Jersey since September 2011, as referenced herein as Exhibit B, shall be made part of the record and establish conclusively the facts upon which this Board relies in suspending Respondent's license to practice medicine and surgery in New Jersey, pursuant to N.J.S.A. 45:9-19.16a.

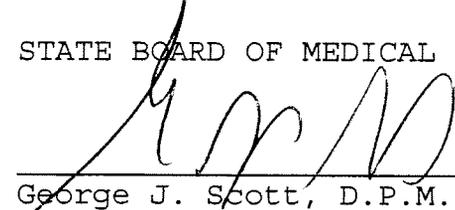
4. Pursuant to N.J.S.A. 45:9-19.16a, the Board hereby provides Respondent an opportunity to submit to the Board relevant evidence in mitigation of the ultimate discipline to be imposed. At Respondent's request and upon a Board determination he has shown good cause, the Board shall provide Respondent an opportunity for oral argument, only as to the ultimate discipline to be imposed by the Board. Oral argument may be conducted before the Board or a Committee to which it has delegated authority to hear argument and make a recommendation to the Board.

5. The Board shall make a final determination as to discipline within sixty (60) days of the date this Order is mailed to or personally served upon Respondent. Any and all requests by Respondent, including a request for oral argument and/or a proffer

of mitigating evidence, shall be submitted not later than twenty-one
(21) days of the date hereof, unless otherwise provided by the Board.

STATE BOARD OF MEDICAL EXAMINERS

By:



George J. Scott, D.P.M., D.O.
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.

EXHIBIT A

FILED OF RECORD

APR 19 2012

K.B.M.L.

COMMONWEALTH OF KENTUCKY
BOARD OF MEDICAL LICENSURE
CASE NO. 1383

IN RE: THE LICENSE TO PRACTICE MEDICINE IN THE COMMONWEALTH OF KENTUCKY HELD BY MURRAY SCHWARTZ, D.O., LICENSE NO. 02710, 5 AUTUMN COURT, CHERRY HILL, NEW JERSEY 08003

AGREED ORDER OF SURRENDER

Come now the Kentucky Board of Medical Licensure ("the Board"), acting by and through its Inquiry Panel B, and Murray Schwartz, D.O. ("the licensee"), and, based upon their mutual desire to fully and finally resolve this pending grievance without an evidentiary hearing, hereby ENTER INTO the following **AGREED ORDER OF SURRENDER:**

STIPULATIONS OF FACT

The parties stipulate the following facts, which serve as the factual bases for this Agreed Order of Surrender:

1. At all relevant times, Murray Schwartz, D.O., was licensed by the Board to practice osteopathy within the Commonwealth of Kentucky.
2. The licensee's specialty is diagnostic radiology.
3. In August 2011, Mark E. Johnson, R.Ph., Division of Audits & Investigations of the Office of the Inspector General at the Cabinet for Health Services ("the Cabinet"), informed the Board that the Cabinet had received a complaint regarding the licensee's prescribing practices. After reviewing KASPER records, dated August 3, 2009 through August 3, 2011, related to the licensee's prescribing records, it was noted that the licensee had been writing controlled substance prescriptions for an individual (the licensee's coworker) but using the name of the

individual's spouse and that there was a concern that the licensee had been writing prescriptions outside the scope of his professional practice.

4. In September 2011, M. Elizabeth Oates, M.D., Professor and Chair of the Radiology Department in the College of Medicine at the University of Kentucky ("the Department"), informed the Board that she had received reports of conduct of the licensee that may constitute "dishonorable, unethical or unprofessional conduct." According to Dr. Oates,

- a. The licensee had been employed as a part time locum tenens radiologist in the Department between April 14, 2008 and September 5, 2011.
- b. The licensee's delineated clinical privileges in the Department did not support the licensee's issuance of prescriptions for narcotic pain medication or amphetamines.
- c. In December 2010, the Department received a telephone call from a Walgreen's pharmacist who reported that a person had presented a prescription for oxycodone that could not be filled as written. The prescription was written by the licensee to the name of a Department employee's spouse. When questioned about the prescription, the licensee acknowledged that he had written the prescription for Patient A, but in her husband's name, and that he had not established a documented diagnosis through the use of accepted medical practices. (The licensee denies making such statements to the Department.)
- d. In the summer of 2011, the Department received a telephone call from a Kroger pharmacist who reported that a person had presented a prescription

that could not be filled as written. The prescription was written by the licensee.

- e. In August 2011, a Department employee (Patient A) underwent a fitness-for-duty evaluation and tested positive for amphetamine, oxycodone and oxymorphone. When Patient A provided prescriptions for these drugs to the Department, it was noted that the prescription for the amphetamine (Adderall) was written by the licensee. This was the same Department employee whose spouse was named on the questioned prescription in December 2010.
5. In or about August 2011, the licensee was interviewed by Drug Enforcement investigators from the Cabinet. During the interview, the licensee acknowledged that, while practicing at the University of Kentucky Medical Center, he developed a close personal relationship with an x-ray technician, Patient A, at the same medical center; that during their relationship, the licensee paid for Patient A's breast augmentation, covered her expenses on a diet program, made mortgage payments on her behalf, gave her cash, purchased furniture and appliances for her, attended her sons' athletic events, and paid for Patient A and her family to vacation in Florida; that he wrote controlled substance prescriptions for the use of Patient A, in Patient A's name; that he wrote controlled substance prescriptions for the use of Patient A, in the name of Patient A's husband; that he wrote controlled substance prescriptions for the use of Patient A, in the name of Patient A's cousin; that he first prescribed for Patient A sometime in 2009 when she asked him to prescribe her phentermine for weight loss and pain medication for

migraine headaches; that he also prescribed for Patient A after she complained to him of untreated back pain and after he performed a physical exam related to her complaints of back pain; that he signed out a blank controlled substance prescription pad from the University of Kentucky hospital pharmacy for the purpose of writing prescriptions for Patient A's use; that he did not monitor Patient A's prescriptions through use of KASPER or other monitoring system; and that sometimes Patient A would tell him that she lost her prescription and he would write her another one.

6. After being interviewed by Drug Enforcement investigators from the Cabinet, the licensee produced a one-page handwritten document which he attested to be the complete medical records created by him for his treatment of Patient A. The one-page record indicates that, on January 10, 2009, a physical examination was performed and the licensee prescribed Lortabs 5-500, #100, and 3 refills; that, on February 18, 2011, the licensee sent Patient A for a CT of her chest, abdomen and pelvis for pains and all came back negative; that, on March 16, 2011, the licensee noted an MRI of the lower lumbar spine. At the bottom of the record it was noted "Roxicodone tabs - pain" and "Adderall XR - for lack of attention to details, hx of ADHD also for weight loss" and "no dates for prescriptions." The licensee did not maintain a patient record on Patient A in the University of Kentucky Medical Center recordkeeping system.
7. On or about March 27, 2012, the licensee was interviewed by Doug Wilson, Medical Investigator of the Kentucky Board of Medical Licensure. During the interview, the licensee substantially confirmed his previous statements made to

the Drug Enforcement investigators in August 2011. In addition, the licensee acknowledged that he and Patient A kissed each other on occasion and that, at least once, she exposed her breasts to him and he felt them.

8. Prescription records show and the licensee acknowledges that, on or about March 5, 2009, the licensee prescribed Phentermine 37.5mg, #90, for Patient A's use and in Patient A's name.
9. Prescription records show and the licensee acknowledges that, on or about May 22, 2009, the licensee prescribed Phentermine 37.5mg, #90, for Patient A's use and in Patient A's name.
10. Prescription records show and the licensee acknowledges that, on or about October 5, 2009, the licensee phoned to a Kroger Pharmacy a prescription for Tylenol 3, #20, for Patient A's use and in Patient A's name.
11. Prescription records show and the licensee acknowledges that, on or about February 25, 2010, the licensee prescribed Lortab 10/500, #30, for Patient A's use and in Patient A's name.
12. Prescription records show and the licensee acknowledges that, on or about March 8, 2010, the licensee prescribed Lortab 10/500, #60, for Patient A's use but in the name of Patient A's husband.
13. Prescription records show and the licensee acknowledges that, on or about April 5, 2010, the licensee prescribed Lortab 10/500, #40, for Patient A's use but in the name of Patient A's husband.

14. Prescription records show and the licensee acknowledges that, on or about April 12, 2010, the licensee prescribed Lortab 10/500, #80, for Patient A's use but in the name of Patient A's husband.
15. Prescription records show and the licensee acknowledges that, on or about April 12, 2010, the licensee prescribed Ambien CR 12.5mg, #40, for Patient A's use but in the name of Patient A's husband.
16. Prescription records show and the licensee acknowledges that, on or about April 21, 2010, the licensee prescribed Lortab 10/500, #160, for Patient A's use but in the name of Patient A's husband.
17. Prescription records show and the licensee acknowledges that, on or about June 10, 2010, the licensee prescribed Lortab 10/325, #60, for Patient A's use but in the name of Patient A's husband.
18. Prescription records show and the licensee acknowledges that, on or about July 7, 2010, the licensee prescribed Lortab 10/325, #50, for Patient A's use but in the name of Patient A's husband.
19. Prescription records show and the licensee acknowledges that, on or about July 23, 2010, the licensee prescribed Lortab 10/500, #180, for Patient A's use and in Patient A's name.
20. Prescription records show and the licensee acknowledges that, on or about August 2, 2010, the licensee prescribed Lortab 10/500, #150, for Patient A's use and in Patient A's name.

21. Prescription records show and the licensee acknowledges that, on or about August 3, 2010, the licensee prescribed Lortab 10/325, #150, for Patient A's use but in the name of Patient A's husband.
22. Prescription records show and the licensee acknowledges that, on or about September 10, 2010, the licensee prescribed Lortab 10/500, #150, for Patient A's use but in the name of Patient A's husband.
23. Prescription records show and the licensee acknowledges that, on or about October 31, 2010, the licensee prescribed Lortab 10/325, #150, for Patient A's use but in the name of Patient A's husband.
24. Prescription records show and the licensee acknowledges that, on or about November 10, 2010, the licensee prescribed Lortab 10/500, #50, for Patient A's use but in the name of Patient A's cousin. The licensee did not have a physician-patient relationship with Patient A's cousin.
25. Prescription records show and the licensee acknowledges that, on or about December 14, 2010, the licensee prescribed Phentermine 37.5mg, #90, for Patient A's use and in Patient A's name.
26. Prescription records show and the licensee acknowledges that, on or about February or March 5, 2011, the licensee prescribed Oxycodone 10/325, #150, for Patient A's use but in the name of Patient A's husband.
27. Prescription records show and the licensee acknowledges that, on or about March 17, 2011, the licensee prescribed Roxicodone 30mg, #100, for Patient A's use but in the name of Patient A's husband.

28. Prescription records show and the licensee acknowledges that, on or about March 23, 2011, the licensee prescribed Roxycodone 30mg, #100, for Patient A's use but in the name of Patient A's husband.
29. Prescription records show and the licensee acknowledges that, on or about April 14, 2011, the licensee prescribed Roxycodone 30mg, #100, for Patient A's use but in the name of Patient A's husband.
30. Prescription records show and the licensee acknowledges that, on or about April 21, 2011, the licensee prescribed Roxycodone 30mg, #100, for Patient A's use but in the name of Patient A's husband.
31. Prescription records show and the licensee acknowledges that, on or about May 11, 2011, the licensee prescribed Roxycodone 30mg, #100, for Patient A's use but in the name of Patient A's husband.
32. Prescription records show and the licensee acknowledges that, on or about May 11, 2011, the licensee prescribed Xanax .25mg, #60, for Patient A's use and in Patient A's name.
33. Prescription records show and the licensee acknowledges that, on or about June 4, 2011, the licensee prescribed Phentermine 37.5mg, #90, for Patient A's use but in the name of Patient A's husband.
34. Prescription records show and the licensee acknowledges that, on or about June 16, 2011, the licensee prescribed Roxycodone 30mg, #100, for Patient A's use but in the name of Patient A's husband.

35. Prescription records show and the licensee acknowledges that, on or about June 28, 2011, the licensee prescribed Adderall XR 20mg, #30, for Patient A's use and in Patient A's name.
36. Prescription records show and the licensee acknowledges that, on or about July 20, 2011, the licensee prescribed Adderall XR 30mg, #30, for Patient A's use and in Patient A's name. The prescription was not filled.
37. Ronda Taylor, R. Ph., of the Kentucky Clinic Pharmacy at the University of Kentucky Medical Center, attested that on or about May 12, 2011, Patient A presented a prescription for Xanax to the pharmacy drop-off window. The prescription was written for a strength that does not exist. When Ms. Taylor told Patient A that she would have to contact the prescriber to clarify the prescription, Patient A informed Ms. Taylor that the prescriber was in the pharmacy lobby with her and called the licensee over to the drop off window. The licensee showed personal identification which confirmed that he was the licensee and then stated that he meant the prescription to be for a .25mg strength. The licensee corrected the prescription in his own handwriting and Ms. Taylor made a note of the incident on the prescription.
38. Patient A's husband, Patient B, was interviewed and he attested that the licensee examined him at his house for complaints related to shoulder and ankle pain and that, as a result, the licensee prescribed him Lortab and Percocet approximately seven (7) or eight (8) times. According to Patient B, he received the first two (2) prescriptions in person from the licensee, with the second being given to him when the licensee met Patient A and Patient B at a Wal-Mart pharmacy and wrote

out prescriptions to them in the store. All other prescriptions were delivered to him through his wife, Patient A. Patient B denied that he had ever received a prescription for Ambien from the licensee. Patient B denied knowledge of his wife receiving prescriptions from the licensee in his name. Patient B referred to the licensee as his wife's "sugar daddy," because of the licensee's frequent and extravagant gifts to her.

39. At the close of the Board's investigation, the licensee offered to resolve this matter by entering into this Agreed Order of Surrender.

STIPULATED CONCLUSIONS OF LAW

The parties stipulate the following Conclusions of Law, which serve as the legal bases for this Agreed Order of Surrender:

1. The licensee's osteopathic license is subject to regulation and discipline by the Board.
2. Based upon the Stipulations of Fact, the licensee has engaged in conduct which violates the provisions of KRS 311.595(5) and (9) [as illustrated by KRS 311.597(1)(a), (c) and (d), (3) and (4)] and KRS 311.595(10). Accordingly, there are legal grounds for the parties to enter into this Agreed Order of Surrender.
3. Pursuant to KRS 311.591(6) and 201 KAR 9:082, the parties may fully and finally resolve this pending grievance without an evidentiary hearing by entering into an informal resolution such as this Agreed Order of Surrender.
4. For the purposes of KRS 311.607, this Agreed Order of Surrender is the legal equivalent of an order of revocation.

AGREED ORDER OF SURRENDER

Based upon the foregoing Stipulations of Fact and Stipulated Conclusions of Law, and, based upon their mutual desire to fully and finally resolve this pending grievance without an evidentiary hearing, the parties hereby ENTER INTO the following **AGREED ORDER OF SURRENDER:**

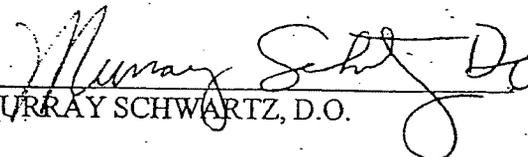
1. The licensee, Murray Schwartz, D.O., SHALL SURRENDER his license to practice osteopathy within the Commonwealth of Kentucky, with that surrender to become effective immediately upon the date of filing of this Agreed Order of Surrender.
2. During the effective period of this Agreed Order of Surrender, the licensee SHALL NOT perform any act within the Commonwealth of Kentucky which would constitute the "practice of medicine or osteopathy," as that term is defined by KRS 311.550(10) – the diagnosis, treatment, or correction of any and all human conditions, ailments, diseases, injuries, or infirmities by any and all means, methods, devices, or instrumentalities," unless and until approved to do so by the Panel, in response to a properly filed Petition for Reinstatement.
3. The provisions of KRS 311.607, as they exist at the time of filing of the Petition for Reinstatement, SHALL apply to any Petition for Reinstatement filed by the licensee.
4. The licensee SHALL NOT violate any provisions of KRS 311.595 and/or 311.597.
5. The licensee expressly agrees that if he should violate any term or condition of this Agreed Order of Surrender, the licensee's practice will constitute an

immediate danger to the public health, safety, or welfare, as provided in KRS 311.592 and 13B.125. The parties further agree that if the Board should receive information that he has violated any term or condition of this Agreed Order of Surrender, the Panel Chair is authorized by law to enter an Emergency Order of Suspension or Restriction immediately upon a finding of probable cause that a violation has occurred, after an *ex parte* presentation of the relevant facts by the Board's General Counsel or Assistant General Counsel. If the Panel Chair should issue such an Emergency Order, the parties agree and stipulate that a violation of any term or condition of this Order would render the licensee's practice an immediate danger to the health, welfare and safety of patients and the general public, pursuant to KRS 311.592 and 13B.125; accordingly, the only relevant question for any emergency hearing conducted pursuant to KRS 13B.125 would be whether the licensee violated a term or condition of this Agreed Order of Surrender.

6. The licensee understands and agrees that any violation of the terms of this Agreed Order of Surrender would provide a legal basis for additional disciplinary action, including revocation, pursuant to KRS 311.595(13) and may provide a legal basis for criminal prosecution for practicing osteopathy without a license.

SO AGREED on this 27th day of March, 2012.

FOR THE LICENSEE:


MURRAY SCHWARTZ, D.O.

COUNSEL FOR THE LICENSEE
(IF APPLICABLE)

FOR THE BOARD:



RANDEL C. GIBSON, D.O.
CHAIR, INQUIRY PANEL B



LEANNE K. DIAKOV
Assistant General Counsel
Kentucky Board of Medical Licensure
310 Whittington Parkway, Suite 1B
Louisville, Kentucky 40222
(502) 429-7150

EXHIBIT B



New Jersey Prescription Monitoring & Reporting System
 P.O. Box 47014, Newark, NJ 07101
 Phone: 1-866-683-2476 Email: njrxreport@otech.com Fax: 1-866-282-7076
Prescriber Rx History Report

Search Criteria: Last Name Contains schwartz And First Name Contains murray And Request Period '09/01/2011' To '10/09/2012' Date: 10-09-201

Page: 1 of 1

Patient	DOB	Fill Date	Product, Str, Form	Quantity	Days	PIID	Prescriber	Written	Rx #	N/R	Pharm	Pay
S [REDACTED]	[REDACTED]	10/28/2011	BUTALBITAL, ASPRIN, AND CAFFEINE,	40.00	13	3908	SC M	10/28/2011	00406909	N	1487746962	04
S [REDACTED]	[REDACTED]	10/28/2011	PHENTERMINE 30 MG BLUE/CLEAR	30.00	30	3906	SC M	10/28/2011	00406910	N	1487746962	04
S [REDACTED]	[REDACTED]	09/28/2011	LUNESTA, 3 MG, TABLET, COATED	30.00	30	3908	SC M	09/28/2011	00397192	N	1487746962	04
S [REDACTED]	[REDACTED]	05/25/2012	DELATESTRYL, 200 MG/ML INJECTION,	5.00	30	1967	SC M	05/20/2012	00474127	N	1487746962	03
S [REDACTED]	[REDACTED]	11/30/2011	TESTOSTERONE ENANTHATE, 200 MG/ML, INJECTION, SOLUTION	5.00	30	833	SC M	11/30/2011	00452177	N	1306941638	01

N/R: N=New R=Refill
 Pay: 01=Private Pay 02=Medicaid 03=Medicare 04=Commercial Ins. 05=Military Inst. and VA 06=Workers Comp 07=Indian Nations 99=Other
Pharmacies that dispensed prescriptions listed Total Prescriptions:

1306941638 CVS Pharmacy Dept. #5984, 1000 Kresson Rd. Voorhees NJ 00000
 1487746962 CVS PHARMACY # 1146, 101 SPRINGDALE ROAD CHERRY HILL NJ 00000