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FILED

June 27, 2013

**NEW JERSEY STATE BOARD
OF MEDICAL EXAMINERS**

Nunc Pro Tunc
February 20, 2013

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

IN THE MATTER OF

Dale Struble, M.D.
License No.: 25MA03387500

TO PRACTICE MEDICINE AND SURGERY
IN THE STATE OF NEW JERSEY

Administrative Action

ORDER OF
SUSPENSION

This matter was opened to the New Jersey State Board of Medical Examiners ("the Board") upon notification from the Professional Assistance Program ("PAP") that Dr. Struble had not been compliant with the PAP's requirements, specifically complete abstinence from alcohol and drugs.

Dr. Struble maintained years of sobriety following his enrollment in the Alternative Resolution Program in 1995 until 2002 when he suffered a relapse into the abuse of prescription medication. He was treated in-patient and upon his release from the program, he entered into a Private Letter Agreement with the Board. He maintained three and a half years of sobriety before

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relapsing again when he moved to Arizona in 2005. He moved back to New Jersey and entered into a Consent Order with the Board on November 29, 2006 where he agreed to participate with the PAP and follow its recommendations.

In July of 2008, the PAP received a report that Dr. Struble had the odor of alcohol on his breath while at work. Dr. Struble admitted to the PAP that he had experienced a relapse. He testified before a Committee of the Board and explained that he now had increased family support and was participating in his treatment plan. The Board was satisfied that he was following an adequate recovery program and as there were no concerns over his fitness to practice, the Board and Dr. Struble entered into a Consent Order on November 24, 2008, where Dr. Struble agreed that his non-compliance with the PAP was a violation of the prior Board Order. As a result, his license to practice medicine was suspended for one year, with four months of active suspension. Dr. Struble agreed, among other things, to participate with the PAP and comply with its recommendations. He also agreed to abstain from drugs and alcohol with the exception of medication prescribed by a treating physician for a documented medical condition.

The PAP reported to the Board in February 2013 that Dr. Struble tested positive for Tramadol, which he had obtained from a colleague. After being informed that he would be subject to a

drug test by the PAP, he asked another physician to write him a prescription. The physician declined to do so and his employer, AtlantiCare Mission Health Care, was notified. Dr. Struble resigned on February 20 2013 during its investigation into his professional conduct.

Dr. Struble appeared before a Committee of the Board on April 24, 2013. He testified about his recent relapse and his current treatment plan, including his participation with the PAP and a psychiatrist. Dr. Struble has not tested positive again for any illicit substances since February 2013. Dr. Struble also advised the Committee that he has voluntarily refrained from practice since he resigned on February 20, 2013. Dr. Struble acknowledged that there had been stressors in his life but that he is currently engaged in his treatment plan. The PAP also expressed its support of Dr. Struble.

The Board finds that Dr. Struble's non-compliance with the program dictated by the PAP was not only indicative of a relapse but also a violation of a Board order pursuant to N.J.S.A. 45:1-21(h). The Board also finds that Dr. Struble's actions of ~~asking a colleague for Tramadol and then subsequently asking~~ another physician to write him a prescription once he learned that he was to undergo a drug test constituted dishonesty and professional misconduct in violation of N.J.S.A. 45:1-21(b) and N.J.S.A. 45:1-21(e).

In order to avoid the immediate filing of an action seeking public sanction for Dr. Struble's violation of a prior Board Order and his recent conduct, the Board has determined that the within disposition is adequate to protect the public health, safety and welfare at this time. For such reasons and other good cause shown, IT IS ON THIS 27th DAY OF June, 2013,

HEREBY ORDERED AND AGREED THAT:

1. Dr. Struble's license to practice medicine and surgery in the State of New Jersey is hereby suspended for a period of eighteen (18) months, with four months of active suspension, effective retroactively from February 20, 2013.
2. Dr. Struble shall continue to participate in the PAP monitoring program and comply with all of its requirements for his continued treatment and recovery. Such monitoring at a minimum shall include:
 - a. Complete abstinence from all psychoactive substances including alcohol unless prescribed by a treating physician for a documented medical condition, with notification from the treating physician to the Executive Medical Director of the PAP of the diagnosis, treatment plan and medications prescribed;
 - b. Attendance of a minimum of three meetings a week of the support group of Alcoholics Anonymous and provide documentation of this attendance to the PAP;

c. Participation in psychiatric follow-up with Dr. Jay O'Neil (or another psychiatrist approved by the Executive Medical Director of the PAP with notification to the Board) until such time as Dr. O'Neil and the Executive Medical Director of the PAP agree that it is no longer required;

d. Random, twice-weekly urine monitoring until he has attained a full year off negative urine drug screens. For the next twelve months, Dr. Struble's screens are to be collected on a random, weekly basis. Thereafter, screens are to be at a frequency determined by the Executive Medical Director of the PAP consistent with Dr. Struble's duration in recovery;

e. Routine face to face follow-up on a monthly basis for the next twelve months. Thereafter, the frequency of follow-up appointments can be determined by the Executive Medical Director of the PAP with notification to the Board;

3. Any positive test result for drugs or alcohol shall be provided to the PAP and reported by the PAP to the Board. Any failure by Dr. Struble to submit to or provide a urine sample within twenty-four (24) hours of a request will be deemed an act of non-compliance with the terms of this order absent an excuse ~~satisfactory to the PAP.~~

4. Upon the Board's receipt of any information which the Board in its sole discretion deems reliable that Dr. Struble has materially failed to comply with any of the conditions set forth above, or any report of a confirmed positive urine, Dr. Struble

consents to the entry of an Administrative Order on forty-eight (48) hours' notice, resulting in the renewed immediate suspension of his license. Dr. Struble may petition the Board within five (5) days of his receipt of notice of the Administrative Order for a hearing limited to the sole issue of the validity of the finding that he materially violated the terms of this Order.

5. Dr. Struble may resume the practice of medicine after a period of four months active suspension of his license beginning February 20, 2013 and ending on June 20, 2013 conditioned upon his ongoing compliance with the terms of this Order.

6. Dr. Struble is responsible for all monitoring costs arising from compliance with this Order.

7. Dr. Struble shall also take the PROBE ethics course as a result of his conduct, specifically seeking Tramadol from his colleague and attempting to secure a prescription for it once notified that he was to undergo a urine test by the PAP.

8. The parties hereby stipulate that entry of this Order is without prejudice to further action, by this Board, the ~~Attorney General, the Drug Control Unit, the Director of the~~ Division of Consumer Affairs or other law enforcement entities resulting from Respondent's conduct prior to the entry of this Order.

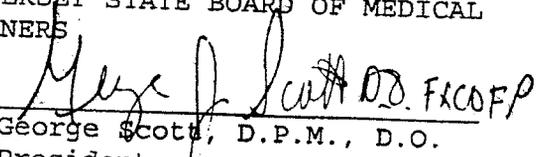
9. Dr. Struble has been specifically informed of his right

to retain an attorney to represent him in this matter.
Respondent acknowledges that he has been advised of his right to
counsel, has waived that right and voluntarily enters into this
Consent Order.

10. Dr. Struble shall comply with the Directives of the
Board which are attached hereto and made a part hereof.

NEW JERSEY STATE BOARD OF MEDICAL
EXAMINERS

By:


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

I have read the above Order,
understand its terms, and
agree to be bound by them.
I consent to the entry
of this Order by the
Board of Medical Examiners.


Dale Struble, M.D.

Dated:

6-17-13

Consented to
on behalf of the PAP


Louis E. Baxter, Sr., M.D.

Dated:

6/24/13

**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.

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**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.
