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FILED
September 11, 2013
NEW JERSEY STATE BOARD
OF MEDICAL EXAMINERS

STATE OF NEW JERSEY
DEP'T OF LAW & PUBLIC SAFETY
DIVISION OF CONSUMER AFFAIRS
BOARD OF MEDICAL EXAMINERS

IN THE MATTER OF _____ :

ADMINISTRATIVE ACTION

HENRY NOTARDONATO, M.D.
LICENSE NO. 25MA06445700

FINAL ORDER OF REPRIMAND

PRACTICING MEDICINE AND SURGERY
IN THE STATE OF NEW JERSEY _____ :

This matter was presented to the State Board of Medical Examiners by the Attorney General of New Jersey, by Joan D. Gelber, Sr. Deputy Attorney General, by way of inquiry into the professional practice of Henry Notardonato, M.D., who maintains an office of record at Somerset Radiology, P.C., of Somerset, New Jersey 08873. Dr. Notardonato is represented by Andrew J. Karcich, Esq.

This matter came to Board attention when a physician (referred to herein as "Doctor A"), employed by a medical group, discovered that a patient had proffered the interpretation report of a nerve conduction test which had been performed elsewhere. The test report, dated March 11, 2011 was on letterhead of an entity ("Myron Medical Imaging, LLC") which was unknown to Doctor A, and the test report falsely used the name

CERTIFIED TRUE COPY

of Doctor A as the interpreting physician, although the test had not been ordered or performed or interpreted by Dr. A. Subsequent investigation revealed dozens of electrodiagnostic test reports issued on letterhead of an entity calling itself "Diagnostic Mobile Imaging" (hereinafter "DMI"), which also falsely listed Doctor A as the performing or interpreting physician; those services were billed to and paid by an insurance carrier. Many DMI letterhead reports of other types of diagnostic testing were also found, which falsely listed the names of still other physicians as interpreters of those tests.

However, despite insurance carrier request to DMI for patient records supporting the claimed performance of the diagnostic testing, DMI provided only a few documents, and almost all of those "reports" were issued in the names of physicians not licensed in this State.

The Board notes that DMI, incorporated in 2005, maintained an internet website, indicating an office address at 400 State St., Perth Amboy, NJ 08861.¹ DMI offered "Professional Cardiology, Gynecology & Ultrasounds," traveling to doctor's offices, nursing homes, and senior citizen residential facilities, bringing testing equipment, "so you can avoid the headache of a doctor's appointment." The "Featured Medical Services" listed prostate, bladder, pelvic exams, obstetrics, nerve conduction, cardiology, gynecology, mobile and stationary ultrasounds, disfibular [sic] testing, orthopedic & vertigo testing, and podiatry. "Equipment" was listed as "vascular, ob/gyn, general, atrial Dopplers, Venus [sic] Dopplers, and Echo Cardiographs." The website claimed to have "registered

¹ That address was formerly shared with Myron Medical Imaging, LLC, with which there were apparent multiple connections.

technicians and a staff of board-certified doctors. Our staff also includes a board-certified radiologist." The website offered a coupon for "free diagnostic testing from DMI." As of June 2013, the website was still up.

It appears that the ultrasound studies and other imaging tests were performed by DMI employees using portable imaging equipment at the various locations. The tests were promoted as "free" but then, after insurance and personal medical information was obtained from the individuals, DMI billed their insurance carriers, listing the name of the patient's regular physician as having "referred" for the test - unbeknownst to the patient or the patient's regular physician.

Also discovered in the course of investigation were some DMI reports and insurance claims for ultrasounds listing the interpreting physician as radiologist Dr. Henry Notardonato: e.g., a July 2, 2009 transvaginal study for patient Ms. L.C.; an undated pelvic study for patient Ms. K.S.; a July 7, 2010 retroperitoneal study for patient Ms. M.X., and for Mrs. L.J., reports of a carotid ultrasound, a thyroid ultrasound and an aorta ultrasound, all on July 15, 2011.

Dr. Notardonato appeared, with counsel, before a Committee of the Board of Medical Examiners in connection with the investigation. Dr. Notardonato is board-certified in radiology and in nuclear medicine. He currently works as a part-time independent contractor for several radiology practices. The Board is aware of no current complaint regarding his competency in radiology or nuclear medicine.

Dr. Notardonato has acknowledged that, starting in late 2006, he agreed to hold the title of "Medical Director" of DMI, at the request of the owners of the entity, and he was unaware

whether either of the owners or the entity held any form of State license. He states that he received no salary for that titled position, had no written contract, and had no business cards listing his title. He acknowledges that he performed no duties as a Medical Director; he did not credential or employ or supervise any of the technicians who performed any of the various diagnostic tests offered by DMI, including the ultrasound studies; he had no hiring or firing authority; he did not credential or supervise any other New Jersey physicians or any of the non-State-licensed physicians who may have provided any medical service under the DMI name.

Indeed, Dr. Notardonato acknowledges that he provided no service to DMI for his Medical Director title. Rather, he simply received delivery of the ultrasound studies obtained by DMI on portable ultrasound machines at various sites and interpreted such studies as they were delivered to him, dictated a report to his transcriptionist, and then electronically transmitted the reports directly to DMI. He did not review the dictated reports for accuracy, did not sign the reports manually or electronically with a permanent personal identifier, and did not preserve a record of the studies he reviewed or a copy of his reports (each of which duties is required by N.J.A.C. 13:35-6.5).² He could not recall any specific instance where he notified a patient's treating physician if the ultrasound revealed an abnormality, but he said it was his practice to notify or call the treating physician if he did detect an abnormality in a study. He deemed himself an independent contractor, with a verbal understanding that DMI was to pay him

\$25.00 for each study report. But nevertheless, he was aware that he was being held out to one or more government agencies and to insurance carriers as DMI's Medical Director. Dr. Notardonato has denied awareness of DMI's advertising and business methods.

Dr. Notardonato has represented to the Board that he received and read portable ultrasound studies for DMI from late 2006 or the beginning of 2007, through mid-2009, when he claims he ceased doing so. In a later interview, he suggested that he may have terminated in mid-2008. However, he has no documentation to support either date. He acknowledges that the reason he terminated his relationship with DMI was that the DMI payment checks were late or were being returned for insufficient funds, and because he said Ernest Williams was often difficult to reach and was acting unprofessionally.³

Dr. Notardonato has denied knowing that the DMI owners had continued to affix Notardonato's name on imaging reports after he (verbally) terminated the relationship. He denied knowing that one of DMI's owners, Mr. Ernest Williams, had submitted a copy of the doctor's State licensure/registration documents to a government agency, seeking assignment of a National Practitioner Identifier number. He denied knowing that a copy of his State medical license, federal DEA registration and his State

²In response to the Medical Board's request for a copy of his records, Dr. Notardonato claimed inability to provide them, stating that his typist's computer had "crashed."

³He has produced a copy of his two Memoranda to Ernest Williams, one of the DMI owners, each dated February 20, 2008. One refers to a list of 108 patients (without name or date or type of service) for whom radiological interpretations were rendered for \$25 each = \$2,700.00. The second memo requested \$1,00.00 as a previous balance due. DMI thereafter issued two checks to "Somerset

CDS registrations had been submitted by DMI to an insurance carrier, and he denied having received insurance company checks in 2009 and 2010 listing his name or DMI as payee for his medical services.

Dr. Notardonato was shown a DMI packet of imaging services dated October 13, 2010 for patient Ms. S.M., which listed Dr. Notardonato's typed name in the "Physician's Statement" section: "Last updated on 16th Jan 2010." The packet includes a "Myron Medical Imaging" nerve conduction study report originally dated June 30, 2010 and re-dated by hand as "10/13/10", purportedly issued by [Doctor A]. Dr. Notardonato denied knowing anything about it, denied knowing [Doctor A], and reiterated that he had already ceased contact with Williams and DMI. He denied having knowingly performed services for Myron Medical. He similarly denied knowing "Dr. Collins," who was reportedly the performer of the several "free" ultrasound tests on Mrs. L.J. on July 15, 2011 at a senior citizen residence, each reported on DMI letterhead as interpreted by "H. Notardonato, MD."

Dr. Notardonato has denied knowing where DMI got its patients, and reiterates that he had already terminated his contact with DMI after mid-2009.

The Medical Board is willing, at this time, to accept Dr. Notardonato's representation that he was unaware of the continued use of his name by DMI as provider of ultrasound studies after he ceased providing reports, and that he was unaware that DMI was continuing to claim that he was the Medical Director. The Board also takes into account the fact that no

Radiology": one for \$2,000.00 on February 22, 2008, and the other for \$1,700.00 on March 12, 2008.

current complaint has been made regarding his professional competence in the practice of radiology or nuclear medicine.

The Board finds, however, that Dr. Notardonato engaged in violation of several Board rules, each of which directly facilitated the DMI scam:

1. Dr. Notardonato accepted employment as an independent contractor with DMI, which held itself out as a diagnostic testing company but which did not have licensed-physician ownership nor was it licensed by the Department of Health as an ambulatory diagnostic entity. Said conduct constituted violation of N.J.A.C. 13:35-6.16(f), N.J.S.A. 45:1-21(e) and (h).

2. Dr. Notardonato was aware of and had consented to the use of his name as the "Medical Director" for DMI, yet he had no hiring or firing authority; he failed to take measures to check the training or credentials of the technicians who performed the ultrasounds, electrodiagnostic testing or cardiac testing, or to assure the quality of their service, or to assure that interpretation of the tests was done only by licensed practitioners acting within the scope of their New Jersey State licensure and providing competent quality service, all in violation of N.J.A.C. 13:35-2.6, 13:35-6.5, and 13:35-6.16.

3. Dr. Notardonato, in his role as Medical Director, failed to take reasonable measures to assure that the provider of each professional service was truthfully identified in patient records, interpretation reports and bills/insurance forms. Said failure facilitated the issuance of reports in the names of physicians who had long since ceased any affiliation with DMI, all in violation of N.J.A.C. 13:35-6.5, and of 13:35-6.16(b), (d) and (e).

4. Dr. Notardonato failed to assure that he was familiar with Board rules governing responsible medical practice, including but not limited to N.J.A.C. 13:35-6.16(g).

5. In addition to the above, Dr. Notardonato failed to maintain a record of and to submit to the Board proof that he completed a substantial amount of the required Continuing Medical Education credits for the prior registration cycle; he also provided an untruthful certification to completion thereof on his registration for the July 1, 2011 licensure cycle, in violation of N.J.A.C. 13:35-6.15 and N.J.S.A. 45:1-21(b) and(h).

Respondent has consulted with his attorney, and has determined to waive his right to await the filing of a formal Administrative Complaint and to have a plenary hearing completed before the State Board of Medical Examiners. In the interests of amicable settlement, the Attorney General and Dr. Notardonato have agreed to propose to the Board the following resolution of the matter.

Respondent hereby acknowledges the violations set forth above, and consents to the entry of a Reprimand and financial penalty as set forth below. He represents that he shall henceforth assure compliance with Board rules and law.

The Board has considered the circumstances, and finds that the entry of this Order will adequately protect the public interest.

For good cause shown,

IT IS, ON THIS 11th DAY OF SEPTEMBER 2013

ORDERED:

1. Respondent is hereby reprimanded for the conduct set forth above.
2. Dr. Notardonato is assessed a financial penalty of

\$2,433.00 for the CME violations;

3. The penalty shall be paid by certified bank check or United States Postal Money Order, payable to the "State of New Jersey" within ten days of the entry of this Order, and sent to the State Board of Medical Examiners, at 140 E. Front Street, P.O. Box 183, Trenton, NJ 08625-0183. Failure to make payment in full within the ten days shall result in the filing of a Certificate of Debt, pursuant to N.J.S.A. 45:1-24.

4. Respondent shall assure full compliance with Board law and rules.

5. The Notice provisions attached hereto are incorporated herein.

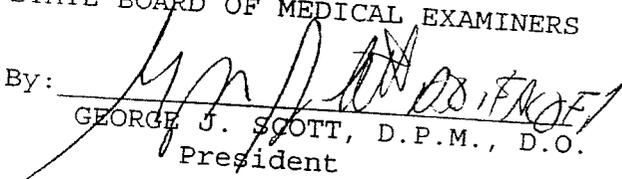
6. It is intended by the parties that this Order shall resolve all administrative and license issues with Respondent, which were specifically alleged as violations by the Attorney General in the present matter.

7. The parties hereby stipulate that the entry of this Order shall not limit the authority of the Attorney General, the Drug Control Unit or the Director of the Division of Consumer Affairs, nor shall the Order limit any other person or other agency to initiate any further action permitted by law in any court or other forum of competent jurisdiction in connection with any matters coming within that jurisdiction.

THIS ORDER IS EFFECTIVE UPON ENTRY.

STATE BOARD OF MEDICAL EXAMINERS

By: _____


GEORGE J. SCOTT, D.P.M., D.O.
President

FROM :

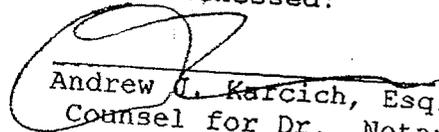
FAX NO. :

Sep. 10 2013 01:41PM P10

I have read and understood the within
Order and agree to be bound by its terms.
I consent to the form and entry of the
Order by the Board of Medical Examiners.


HENRY NOTARDONATO, M.D.

Witnessed:


Andrew J. Karcich, Esq.
Counsel for Dr. Notardonato

**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.