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FILED
December 19, 2013

**NEW JERSEY STATE BOARD
OF MEDICAL EXAMINERS**

By: Labinot A. Berlajolli
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STATE OF NEW JERSEY
DEPARTMENT OF LAW AND PUBLIC SAFETY
DIVISION OF CONSUMER AFFAIRS
STATE BOARD OF MEDICAL EXAMINERS
DOCKET NO. BDSME 02945-2009S

IN THE MATTER OF THE SUSPENSION : Administrative Action
OR REVOCATION OF THE LICENSE OF :
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 :
 STEVEN R. SCOTT, M.D. :
 LICENSE NO. 25MA08535800 : **CONSENT ORDER**
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 TO PRACTICE MEDICINE AND SURGERY :
 IN THE STATE OF NEW JERSEY :
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This matter was opened to the New Jersey State Board of Medical Examiners (hereinafter "the Board") upon receipt of complaints regarding the statutorily insufficient medical malpractice insurance of two physicians under contract with Phoenix Physicians, LLC ("Phoenix"). Steven R. Scott, M.D. ("Dr. Scott") is the CEO of Phoenix.

Under N.J.S.A. 45:9-19.17(a), physicians providing patient care in the State of New Jersey must maintain medical malpractice insurance with limits of \$1,000,000 per occurrence and \$3,000,000

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aggregate coverage per year. In the course of its investigation, the Board discovered that physicians under contract with of Phoenix maintained insurance which provided \$1,000,000 per occurrence for all physicians under contract. When applied to the suit then under way, this meant that instead of each physician having \$1,000,000 of coverage per occurrence, the two physicians had only \$1,000,000 of coverage in total because they were working on the same patient. Additionally, it was subsequently revealed that the aggregate of \$3,000,000 applied to all physicians under contract with of Phoenix in New Jersey, creating a significant deviation from the statutorily required coverage under N.J.S.A. 45:9:19.17(a).

Dr. Scott appeared before a committee of Board members on August 28, 2013 for a Preliminary Evaluation Conference ("PEC") to discuss the aforementioned issue, and what steps had been taken by Phoenix in the interim to remedy it. Dr. Scott stated that the policies had been in place for some time, and despite the contracts and policies having been reviewed numerous times, the first time he learned of the deficiency was during the previously mentioned malpractice action. Upon learning of the deficiency, Dr. Scott stated that Phoenix immediately sought the advice of counsel. The first deficiency revealed was the per occurrence in the case of two Phoenix Physicians sharing the per occurrence limit. It was later revealed that the aggregate limit would be shared not only by the physicians in the current suit, but all physicians under contract

with Phoenix as well. Upon finding about the aggregate issue Dr. Scott testified that Phoenix immediately contacted an insurance broker to secure coverage that would retroactively bring Phoenix, and all of its contracted physicians, up to compliance with the statutory requirements. Phoenix was able to secure coverage that complied with all requirements going forward, and additionally, covered any and all physicians ever under contract with Phoenix going back to 2004 when Phoenix began in New Jersey, regardless of whether they were still under contract with Phoenix.

The physicians involved in the malpractice suit which exposed the deficiencies were indemnified in full by Phoenix, in excess of \$2,000,000. Dr. Scott further testified that because of this incident, Phoenix examined all of its policies for physicians in other states, not only for statutory compliance, but to ensure they comply with their physician contracts and expectations.

In full resolution of this Administrative Complaint, Dr. Scott and the Board enter into a settlement memorialized in this Consent Order. The Board having determined that the within disposition is adequately protective of the public health, safety and welfare, and for good cause shown,

IT IS ON THIS 19 **DAY OF DECEMBER 2013** _____

ORDERED:

1. The license of Respondent Steven R. Scott, M.D. to practice medicine and surgery in the State of New Jersey shall remain and continue to be unrestricted.

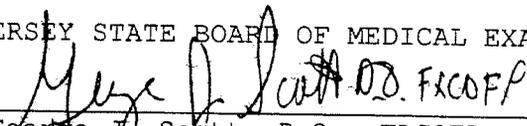
2. Respondent is assessed costs in the amount of \$23,128.64 including complainant's investigative costs, costs of investigative inquiries (including transcripts) and all attorney fees incurred by the State, as provided by N.J.S.A. 45:1-25(d). Said payment of costs shall be submitted by certified check or money order made payable to the State of New Jersey and forwarded to the Board of Medical Examiners, c/o William Roeder, Executive Director, State Board of Medical Examiners, 140 East Front Street, P.O. Box 183, Trenton, New Jersey 08625.

3. This Consent Order shall be a full and final disposition of this matter. The Board shall retain jurisdiction to enforce the terms of this Order.

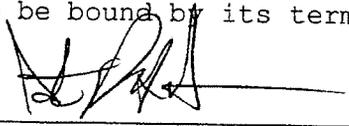
4. The entry of this Order shall not limit the authority of the Attorney General, the Director of the Division of Consumer Affairs, the Drug Control Unit, or of any other person to initiate any further action permitted by law, whether administrative, civil or criminal, in any court or other forum of competent jurisdiction in connection with any matters coming within that jurisdiction. Respondent does not waive and reserves any and all rights and defenses that he may have in law or in equity with regard to any action or claims that may be brought against him.

5. It is intended by the parties and the Board that this Order shall resolve all medical license issues with Respondent, with regard to Respondent's responsibility to the State Board of Medical Examiners, all and solely in connection with Professional Board statutes and regulations.

6. This Order is effective upon entry.

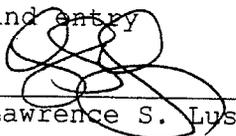
NEW JERSEY STATE BOARD OF MEDICAL EXAMINERS
By: 
George J. Scott, D.O., FACOFP
President

I have read and understood the within Order and I agree to be bound by its terms.


Steven R. Scott, M.D.

Dated: 12-13-13

Consented to as to form and entry


Lawrence S. Lustberg, Esq.
Attorney for Respondent

Dated: 12/16/13