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May 9, 2014

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FILED

May 9, 2014

NEW JERSEY STATE BOARD
OF MEDICAL EXAMINERS

Cheryl Ackerman, M.D.
C/o Scott B. Piekarsky, Esq.
Piekarsky & Associates, LLC
191 Godwin Avenue
Wyckoff, New Jersey 07481

RE: IMO Cheryl Ackerman, M.D.
License No. 25MA06096100

Dear Dr. Ackerman:

On April, 2014 at its regularly scheduled monthly full Board meeting the New Jersey State Board of Medical Examiners (the "Board") considered on the papers Dr. Ackerman's (Respondent's) most recent of multiple Petitions for Reconsideration and Reinstatement.

After consideration of all of the materials submitted the Board determined and announced orally on the record in the presence of Dr. Ackerman the following statement. The petition for reinstatement is denied. Respondent has exhausted her administrative remedies. The Board will not consider any further petitions for reinstatement until such time as the Professional Assistance Program of New Jersey (PAP) Jonathan Mack, Psy.D. and Sonia Grey, M.D. find Dr. Ackerman capable of safely discharging the functions of a licensee and recommend reinstatement of her medical license.

The Board, after a careful review of the lengthy record in this matter, has reaffirmed its determination that Respondent has a medical condition which prevents her from safely discharging the functions of a licensee. Further she is in denial regarding her condition and nothing she presented from any medical or mental health professional is sufficient to overcome the significant findings of the neutral experts, Dr. Grey and Dr. Mack or the PAP.

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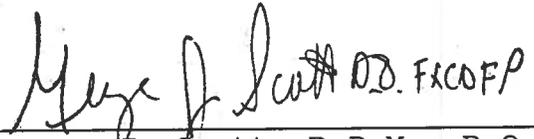
We are keenly aware of the significant resources Respondent and the Board have expended over many months and multiple Petitions for Reconsideration and Reinstatement and find that the Board will not entertain any further petitions from Respondent unless she has satisfied the terms included herein.

The Board's original rationale for suspension of license and refusal to reinstate previously is fully articulated in the Board's Orders of April 9, 2013 and July 11, 2013 attached and made a part hereof.

Very truly yours,

NEW JERSEY STATE BOARD OF MEDICAL EXAMINERS

By:


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

Cc: Debra Levine, DAG, Asst. Section Chief
Consumer Affairs Counseling
Meaghan Goulding, DAG
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FILED

April 9, 2013

**NEW JERSEY STATE BOARD
OF MEDICAL EXAMINERS**

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

IN THE MATTER OF THE LICENSE OF :
: ADMINISTRATIVE ACTION
CHERYL ACKERMAN, M.D. :
: LICENSE NO. 25MA06096100 : ORDER DENYING
: REINSTATEMENT OF LICENSE
TO PRACTICE MEDICINE AND SURGERY : AND RECONSIDERATION
IN THE STATE OF NEW JERSEY :

This matter was most recently opened to the Board for oral argument on a motion for reinstatement/reconsideration of the Board's September 2012 denial of reinstatement. The denial was predicated in part on Respondent's inability to demonstrate that she could safely discharge the responsibilities of a license due to a progressive neurologic condition resulting in dementia and her lack of insight as to her condition.

On February 21, 2012, the license of Dr. Cheryl Ackerman, M.D. ("Respondent") had been automatically suspended by the Board of Medical Examiners ("Board") upon receipt of information that Respondent; a Board certified internist/dermatologist practicing in New Jersey for more than 20 years, had violated the terms of a Private Letter Agreement ("Agreement") dated

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October 24, 2011 which required her to fully comply with all recommendations of the Professional Assistance Program (PAP) including engaging in regular psychotherapy with reports to the PAP and submitting to a full independent psychiatric evaluation. Respondent petitioned the Board for reinstatement of her license, which the Board denied on September 12, 2012 based upon Respondent's failure to satisfy the requirements set forth for reinstatement. The Board also considered neuropsychological evaluations of Respondent indicating the onset of a behavioral variant of Frontotemporal Dementia (hereinafter bvFTD).¹ Given that Respondent has exhibited a decline in intellectual function, impaired social behavior and judgment, and impaired executive function, characteristic features of bvFTD, and that Dr. Ackerman denied any illness impacting her ability to practice, the Board was concerned that Respondent's condition presented a significant impediment to her ability to practice medicine in a manner consistent with the public health and safety.

Procedural History and Findings of Fact

The record in this matter reveals that Respondent, first represented by Joseph M. Gorrell, Esq. of Brach Eichler, LLC, entered into the 2011 Agreement with the Board after an

¹Due to the sensitive nature of medical records and Respondent's expectation of privacy the reports of evaluations and medical records that comprise the record in this matter shall be sealed and not made available to the public.

investigation premised upon multiple consumer complaints and a referral of Respondent to the PAP by Mountainside Hospital. The investigation raised serious concerns regarding Respondent's mental health, her professional conduct and her denial of diagnoses by multiple therapists of mental health disorders. The Agreement required Respondent in part to continue enrollment in the PAP, meet with a pre-approved therapist no less than once per week for a minimum of three months, and follow all recommendations of the PAP and her therapist. Respondent also agreed to the automatic suspension of her license upon the Board's receipt of reliable information of any failure to comply with the terms of the Agreement.

On February 14, 2012, Dr. Louis Baxter, the Executive Medical Director of the PAP, informed the Board that Respondent had been noncompliant with the Agreement and the recommendations of PAP. Specifically, Respondent had failed to provide requested psychiatric reports to the PAP and refused to undergo an independent psychiatric evaluation recommended by PAP. Respondent's noncompliance resulted in the active suspension of her medical license by way of an Order of Automatic Suspension of License ("Order") entered on February 21, 2012. The Order provided that Respondent could apply for removal of the automatic suspension on five days' notice, but would be limited

to showing that the information received regarding her violation of the Agreement was materially false.

On March 14, 2012, Respondent and Arthur J. Timins, Esq. of Shiriak & Timins, the second attorney representing Respondent in this matter, appeared before the full Board to challenge the automatic suspension.² After the hearing, at which Respondent availed herself of an opportunity to be heard and present information, but before any determination by the Board, Respondent through her counsel withdrew the objection to the Order and agreed to appear at an upcoming meeting of the Preliminary Evaluation Committee of the Board ("Committee") to petition for reinstatement. Respondent was advised she would be required to demonstrate compliance with the requirements of the PAP, fitness to practice, and compliance with the recommendations of Board-certified and PAP-approved psychiatrist, Sonja Gray, M.D.

Respondent had previously seen Dr. Gray for an independent psychiatric evaluation on February 28, 2012. Although Dr. Gray recommended that Respondent undergo testing with William Barr, Ph.D., a neuropsychologist practicing and certified in New York, Respondent instead selected and saw Dr. Jonathan Wall on March

² Respondent continued to be represented by Mr. Gorrell until sometime after the automatic suspension of her license on February 21, 2012.

20, 2012 without seeking pre-approval from the Board.³ Dr. Wall, a Board-certified psychologist, reported Respondent "performed poorly on Attention, Executive, Visual Spatial and Memory tasks," and concluded that her "severe cognitive impairment is suggestive of early onset dementia." His recommendations included a thorough neurological consultation and workup, and outreach to family and/or community services "to help her oversee household and business finances." Dr. Wall, an evaluator chosen by Dr. Ackerman, had not been provided with any background documentation for the evaluation but did have collateral contact with Dr. Gray.

Respondent and Mr. Timins appeared before the Committee on March 28, 2012 to petition for reinstatement. In addition to the reports of Dr. Gray and Dr. Wall, the Board reviewed the report of Mark Faber, M.D., a Board-certified psychiatrist who examined Respondent on February 22, 2012. He recommended medication and referred her to Board-certified psychiatrist Charles Martinson, M.D., J.D. At the time of the Committee meeting, Respondent had neither sought medication nor seen Dr. Martinson.⁴ In addition to

³ Respondent later testified during her appearance before the Committee on March 28, 2012 that Dr. Barr would not be available to evaluate her until the summer. However her attorney had indicated that Dr. Barr could not see Respondent until April.

⁴ When asked by the Committee why she had not seen Dr. Martinson, Respondent testified that, among other reasons, he had not been available to meet with her. Dr. Faber noted in his report however that he had spoken with Dr. Martinson, who indicated he

her failure to follow the recommendations of her treating doctors, Respondent appeared to lack insight and was unable to focus on questions during her appearance. As a result, the Committee recommended and the Board determined that before the Board would consider an application for reinstatement she must obtain reports from a Board-certified psychiatrist and neurologist indicating she is fit to practice medicine. Both evaluators must also be pre-approved by the Board and the PAP, and Respondent must provide them with all past evaluations and testing results as well as any other information they request. Those reports would then be forwarded to the PAP for its input and approval.

Following her appearance before the Committee on March 28th, Respondent sought several other evaluations by practitioners who did not have the benefit of her past reports and history and for whom Respondent did not seek the Board's pre-approval. Respondent submitted the following documents in relation to those evaluations:

- Letter dated March 29, 2012 from David Blady, M.D., a Board-certified neurologist and associate of her past neurologist, Dr. John Vaccaro, indicating that Respondent had been vague regarding her disciplinary history and the Board's charges, and that more information was needed before any further comment could be made.

would be available to conduct an evaluation "within the next one to two weeks" and encouraged Respondent to call for an appointment.

- Letter dated April 9, 2012 from Joseph S. Sobelman, M.D., a Board-certified neurologist, briefly stating Respondent had a "normal neurologic examination" and was able to work as a physician.
- Letter dated April 20, 2012 from Larry M. Westreich, M.D., a Board-certified psychiatrist, suggesting Respondent's memory was within normal limits and her abstract thinking and judgment were intact. Dr. Westreich remarked that no documentation had been reviewed other than Respondent's *curriculum vitae*, and made no recommendation as to her fitness to practice.
- Letter dated June 22, 2012 from John E. Robinton, M.D., a Board-certified neurologist, stating that Respondent had a "normal neurologic exam for [her] age" and, based on a single examination, was considered fit to practice medicine.

In May 2012, Respondent (who was then represented by a third attorney in this matter, Susan Fruchtman, Esq. of DeCotiis, FitzPatrick & Cole, LLP) again requested reinstatement of her license. The matter was considered by a Committee of the Board as a discussion item on June 27, 2012. Respondent and her attorney had submitted a report by Dr. Barr, whom Respondent saw on June 4, 2012.⁵ Dr. Barr administered several neuropsychological tests and found Respondent's results to be "consistent with the effects of an early stage of progressive dementing disorder," specifically a behavioral variant of Frontotemporal Dementia. He also reported that Respondent "lack[ed] insight into her condition and [was] making active

⁵ Dr. Barr was provided with and reviewed at least some of Respondent's documentation and history, including Respondent's disciplinary history with the Board and the reports of Dr. Faber, Dr. Gray, and Dr. Wall.

attempts to conceal or deny the existence of any difficulty." Dr. Barr concluded unequivocally that Respondent was unfit to return to practice. He also noted in his report that immediately after completing the self-report questionnaires, Respondent demanded to review the test forms and was told this was not possible since the scoring was incomplete. She refused to leave the office and was escorted from the premises by staff. Respondent then returned to Dr. Barr's office the next morning and again demanded to see her test results.

The Board then considered the Motion for Reconsideration/Reinstatement on the papers at its September 2012 Board meeting. The record included submissions by counsel, the reports of all of the evaluators submitted to the Board, Respondent's CME certificates, curriculum vitae and letters of support. The Board also considered Respondent's multiple submissions via email, fax, mail and hand delivery in which she referred to herself in the third person, repeated her credentials and repeatedly asserted she was "brilliant" had perfect memory and denied any illness impacting her ability to practice medicine.

Based on the information before it, and the PAP's position that it could not support Respondent's reinstatement at the time, the Board denied Respondent's petition for reinstatement on or about September 12, 2012. The Board found Respondent had

failed to satisfy the requirements for reinstatement, as Respondent had not followed the Board's directions with regard to the evaluations. The Board was also concerned as to Dr. Barr and Dr. Wall's findings of cognitive impairment, dementia, and unfitness to practice coupled with Respondent's denial of any illness that impaired her ability to practice. In considering other reports submitted by Respondent, the Board found, using its own medical expertise, that little weight could be placed on those reports as they appeared cursory and inconclusive, and Respondent had neither provided the evaluators with background information nor sought the Board's pre-approval [which customarily includes among other things, review of an evaluator's credentials, impartiality and assurance that background materials are provided] as directed. Respondent's attorney, Ms. Fruchtman, requested that the Board's denial not be memorialized in an order pending a motion for reconsideration of the denial. This request was granted out of both compassion for Respondent's condition and most importantly inasmuch as Respondent was not practicing pursuant to the 2012 Order and therefore no issue of public safety was present. Thus the Board, applying its own expertise in evaluating the record including medical and psychological reports and Respondent's correspondence, denied reinstatement based on the findings of cognitive impairment, dementia, impaired social behaviors and

memory loss, exacerbated by Respondent's denial that her condition impacted her ability to safely practice medicine.

Respondent's Petition for Reconsideration was subsequently considered on the papers as a discussion item by a Committee of the Board on November 7, 2012. In addition to prior reports, the Committee reviewed an MRI performed on July 7, 2012 at Saint Barnabas Medical Center. Respondent had provided only the first page of a two-page consultative report dated July 13, 2012, which indicated possible white matter disease.⁶ The Board also reviewed a report from Dr. Gray dated August 6, 2012. Respondent had presented at Dr. Gray's office on June 21 and August 2, 2012 requesting a letter to clear her for return to practice. After assessing the most recent reports (including the report of Dr. Barr and other evaluations sought by Respondent) and based upon her own impressions, Dr. Gray wrote that she did not feel Respondent was fit to return to practice "without further assessment of her white matter disease and initiation of a treatment plan to clarify and address her medical problem."

In addition, Respondent had again sought evaluations by other neurologists without seeking the Board's pre-approval, and submitted the following related documentation:

- Letter dated July 10, 2012 from Gregory D. Anselmi, M.D. recommending a full and complete workup for white matter

⁶White matter disease may result in the degeneration of white matter, which creates a large portion of the brain and can interfere with cognitive functions.

disease based on an assessment of the MRI. Dr. Anselmi reported he saw nothing based on one office visit that would impede Respondent's ability to practice medicine.

- Letter dated October 1, 2012 from Mukesh Solanky, M.D., indicating Respondent had been under his care since July 13, 2012 for possible demyelinating disease. Dr. Solansky stated that Respondent's MRI showed bihemispheric white matter changes but deemed Respondent "neurologically stable to work."

Neither of these reports indicated the evaluator had reviewed any documentation concerning Respondent's background or prior cognitive testing.

Having considered the available information, the Committee recommended to the Board denying Respondent's Petition for Reconsideration, as Respondent had still not satisfied the Board's requirements for reinstatement. Although Respondent submitted letters from some evaluators which appeared favorable to her position, she had not obtained reports from a psychiatrist pre-approved by the Board or a neurologist pre-approved by the Board which found her fit to return to the practice of medicine, nor had she provided her evaluators with all her background documentation. The Committee was also concerned that Respondent was expending considerable resources to seek evaluations which clearly did not comply with the Board's criteria for reinstatement. In addition, although the Committee's consideration of the matter on November 7th was "on the papers" and Respondent was represented by an attorney, Respondent appeared in the lobby that day without counsel and

approached many individuals entering the building seeking to appear before the Committee. Her counsel was advised and she was ultimately escorted from the premises by New Jersey State Police.

At the January 9, 2013 Board meeting the full Board considered the Committee's recommendation in conjunction with the December 5, 2012 PAP position statement recommending new independent evaluations. Based upon the recommendation of the PAP, and in order to make a definitive assessment of Respondent's fitness to practice, the Board required Respondent to complete an independent psychiatric evaluation by Dr. Harvey Hammer, M.D. and a comprehensive neurocognitive evaluation by Dr. Jonathan Mack, Psy.D. prior to any reconsideration of the Board's denial of reinstatement. Respondent was also directed to sign an authorization allowing the evaluators access to all available information and permitting the release of the reports to the PAP and the Board. In consideration of Respondent's repeated contention that she is undergoing severe financial hardship, the Board granted Respondent's motion to have the Board assume the costs of evaluation by Dr. Hammer and Dr. Mack, as it did not wish to set a threshold for reinstatement which Respondent could not financially afford to meet. Respondent complied with the Board's requirements and was seen by Dr. Hammer on January 24, 2013 and by Dr. Mack between January 29

and February 7, 2013.⁷ The evaluators also reviewed all of Respondent's disciplinary and pertinent medical history, including the results of prior testing.

Dr. Hammer submitted an evaluation report dated January 24, 2013, in which he found Respondent's presentation to be "consistent with findings of early Frontal Lobe Dementia," resulting in impairment of her "executive function, abstract reasoning, insight, and judgment." He was significantly concerned by Respondent's "inability to focus, difficulty concentrating, [and] tangential and circumstantial thinking." Dr. Hammer also noted that Respondent repeatedly insisted there was nothing wrong with her cognitive abilities and denied she has any psychiatric, neurological, or psychological disorder. He reported that such denial "precludes her seeking proper diagnosis and treatment which is badly needed." He observed on mental examination that she lacked insight and judgment and perseveration was present. He reported Respondent's associations were loosely formed and statements like "I am a great doctor" were frequently interspersed. He also found that although she

⁷ Respondent had also sought an evaluation by Board-certified psychiatrist William T. Richardson, M.D. on December 11, 2012. Respondent did not seek the approval of the Board prior to seeing him. In a letter, Dr. Richardson stated Respondent did not require further psychiatric treatment or neurocognitive testing. He made no diagnosis and recommended that Respondent's license be reinstated. The letter contains no indication Dr. Richardson had reviewed any of Respondent's documentation or prior testing.

was oriented for time and place and there were no hallucinations, selective memory deficits were evident and cognitive defects were strongly suspected. His diagnoses included - Adjustment Disorder with mixed disturbance of emotions and conduct, a need to rule out Bipolar Disorder, Personality Disorder, and Dementia was suspected, requiring further evaluation. He recommended neurological and neurocognitive testing and appropriate cognitive therapies in conjunction with any psychiatric intervention. He also regretfully concluded that Respondent's "overall mental health status reflects a decline since she was last seen by me on February 9, 2011."

Dr. Mack conducted a comprehensive neuropsychological evaluation of Respondent consisting of 34 tests over the course of six days. He then provided the Board and the PAP on February 21, 2013 with a 55-page report in which he stated Respondent was "one of the most difficult patients ever evaluated by [his] office."⁸ For example, at the outset, he and his post-doctoral fellow spent approximately fifteen hours trying to convince Respondent to sign the HIPAA releases before she finally agreed to do so. Dr. Mack also reported that on several occasions

⁸The initial consultation and the selection of the battery of tests were performed by Dr. Mack. The administration of the testing and the scoring was performed by a post-doctoral fellow working under Dr. Mack's direct supervision, Dr. Mona Krishna. The results were interpreted by Dr. Mack in consultation with Dr. Krishna.

Respondent came to his office for her appointments at the wrong time or on the wrong day.

Dr. Mack explained in his report that:

"Behavioral Frontotemporal Dementia is marked by early changes in personality and behavior with relatively intact memory. Impaired social behaviors can include poor social judgment, silliness, jocularity, impulsivity, dis-inhibition, and decreased hygiene and/or persistence. There is a lack of empathy and reduced regard for others. There is inevitably extremely poor insight."

He unequivocally found within a reasonable degree of neuropsychological and psychological scientific certainty that Respondent's presentation during the evaluation process and test results is consistent with the diagnosis of bvFTD.

The neuro behavioral markers of bvFTD were observed in Respondent including but not limited to socially impaired behavior, loss of manners and deficits in executive function with limited impact on memory. He reported that she consistently appeared to be chewing something,⁹ was occasionally disheveled, her purse was disorganized, she was restless and agitated. She vacillated between being "tearful to agitation to laughter in a short period of time." She was "extremely perseverative and sticky throughout the examination and interview process." She was in complete denial that she had a medical condition impacting her ability to practice. He concluded:

⁹Hyperorality is a marker for bvFTD.

"Dr. Ackerman is NOT fit to practice medicine now or in the foreseeable future. To recapitulate based on Dr. Ackerman's extreme neurobehavioral changes, including extreme perseveration and stickiness, decreased social judgment, decreased organization, decreased executive functioning on testing, a marked drop in intellectual and other neurocognitive functions from estimated premorbid level, she is not fit to practice medicine."

Further "one of the treatment obstacles with Dr. Ackerman is her complete lack of awareness of, and insight into, her deficits."

Respondent again appeared before a Committee of the Board on March 6, 2013 for oral argument on a Motion for Reconsideration of the Board's September 2012 denial of reinstatement. Respondent was now represented by a fourth attorney; Peter Till, Esq. Deputy Attorney General ("DAG") Kim D. Ringler appeared on behalf of the Attorney General of New Jersey. During oral argument, Mr. Till expressed concern that, among other things, Dr. Hammer and Dr. Mack referred to or relied on reports by past evaluators (i.e. the reports of Dr. Wall and Dr. Barr) and that some cognitive testing had been performed by students rather than by Dr. Mack.¹⁰ Mr. Till argued that therefore both evaluators should be cross-examined by the Board with regard to their examinations. He also proposed that

¹⁰ Testing had partially been administered by the aforementioned post-doctoral fellow working under Dr. Mack's supervision, who also provided Respondent with preliminary information regarding the tests.

the Board consider an intermediate solution, such as having Respondent work with a chaperone who would supply reports to the Board on a regular basis. Such a solution, he argued, would at least permit Respondent to proceed with her academic pursuits.

DAG Ringler explained that the Attorney General's position was to urge the Board to decline reconsideration in light of Dr. Mack and Dr. Hammer's significant findings of a cognitive disorder as well as the record over a thirteen-month period. DAG Ringler argued that Respondent's objections to both Dr. Mack and Dr. Hammer's conclusions have no merit as the evaluators independently, using comprehensive scientific/medical testing, arrived at the same diagnoses and the conclusion that her health does not allow her to resume the practice of medicine. However, the DAG indicated the Attorney General would defer to the Board with regard to any intermediate solution.

Respondent was also given an opportunity to address the Committee. She asserted that she has been compliant with the PAP and continues to see a psychologist for therapy on a weekly basis.¹¹ On multiple occasions, she expressed to the Committee her belief that her memory is "perfect," the results of Dr.

¹¹ Respondent had provided the Board with several reports from her treating therapist, Dr. Ben J. Susswein, indicating she had participated in an initial consultation on July 15, 2011 and had been seeing Dr. Susswein on a regular basis. These reports include, for example, the letters from Dr. Susswein dated May 4, 2012; July 14, 2012; and August 21, 2012 and more recent letters.

Mack's testing are inaccurate, and Dr. Hammer and Dr. Mack's conclusions are wrong. She also asserted that the MRI performed at Saint Barnabus (finding "white matter disease") reflects a scar from the flu she had 25 years ago. She completely denied any illness that might impact her ability to safely practice medicine and again verbalized a list of her credentials.

Although Respondent was continuously represented by counsel over the course of her several applications for reinstatement and reconsideration, Respondent on numerous occasions directly sent submissions often with extensive attachments to the Board and Deputy Attorneys General ("DAsG") requesting reinstatement. Respondent's counsel was informed numerous times of Respondent's efforts to directly contact the Board and its representatives. Nonetheless, the inappropriate conduct did not stop. In a multitude of repetitive correspondence including letters, emails and faxes submitted over the pendency of this matter, Respondent referred to herself in the third person and asserted she had complied with the Board's requirements for reinstatement. She consistently maintained that neurocognitive testing was not required for the practice of medicine and emphasized the favorable reports she obtained. Respondent referred to herself as a "brilliant" doctor with "perfect memory," and denied any problem or difficulty with regard to her ability to practice.

For example, leading up to and following the Committee's consideration of oral argument on March 6, 2013, Respondent continued to directly send submissions to the Board and DAsG requesting reinstatement. These included, but were not limited to, correspondence received via facsimile or email on March 4th, March 6th, March 10th, March 11th, and March 14th. In these submissions, Respondent continued to reiterate her credentials, her financial hardship,¹² her assertion that Dr. Mack and Dr. Hammer were in error or biased and that their reports are inaccurate, and/or her belief that her memory is perfect. Respondent also repeatedly referred to letters of recommendation and continuing education credits which she had submitted multiple times to the Board in support of her petition for reinstatement and which acknowledged her talent and competency as a doctor. Respondent had provided approximately eight letters in total which were dated between August 22, 2012 and January 8, 2013. These included letters from other practitioners who have known or worked with Respondent for various lengths of time and which commended her skills as a physician; a letter from a

¹² Specifically, Respondent stated that she has two children whom she supports for food and education. As indicated in Dr. Mack's recent report, her children are presently attending college and graduate school, and Respondent and her husband are divorced. Dr. Mack's report also indicated that Respondent informed him she only has six dollars each day for food to eat.

patient whose family member had been treated by Respondent over a decade ago; and a letter from Respondent's mother.¹³

Respondent's submissions to the Board were repeatedly accompanied by various attachments, which consisted of the same documentation of Respondent's continuing medical education, the aforementioned letters of recommendation, the reports sought by Respondent from various evaluators who had not been pre-approved by the Board, documentation of her recertification by the American Board of Dermatology, and/or some combination thereof. Counsel for Respondent was informed that the conduct continued and often Respondent's communications were forwarded to her counsel by Board representatives.

Respondent also attempted several times to speak personally to the DAG serving as counsel to the Board and Board members, despite being told numerous times that because Respondent was represented by an attorney, the Board representative were ethically precluded from speaking to her.

Analysis and Determination

The Board must now determine whether Respondent has demonstrated she is fit and competent to return to the practice

¹³ The letters from Respondent's peers and former patient do not reflect any knowledge of the basis for Respondent's suspension, or that Respondent's reinstatement is predicated upon demonstrating the absence of any medical impairment which would render her unfit to practice.

of medicine in light of the reports of Dr. Hammer and Dr. Mack and the record over the past thirteen months.

The comprehensive reports of Dr. Hammer and Dr. Mack conclude that Respondent manifests a serious progressive illness which is evidenced by impairment of her executive function, reasoning, insight, and judgment. Respondent was also found to demonstrate extreme perseveration and stickiness, which are hallmark symptoms of bvFTD. The record made in the context of Respondent's application for reinstatement, which includes Respondent's numerous inappropriate submissions to and contact with the Board and her appearances before both the full Board and committees of the Board, also unequivocally reflects perseveration and a lack of insight into her deteriorating condition. The Board, applying its own medical expertise in evaluating the various reports submitted, and upon consideration of all available information, is not persuaded that Respondent has demonstrated fitness and competence to return to the practice of medicine. The Board must therefore deny Respondent's petition for reconsideration. The denial of Respondent's petition for reinstatement on September 12, 2012 will also be reflected in our determination herein.¹⁴

¹⁴ Although the Board is denying Respondent's reinstatement based on her failure to demonstrate she is medically competent to practice, the Board notes that it also has independent authority to take initial action against Respondent's license under N.J.S.A. 45:1-21(i), which provides that the Board may suspend

The Board acknowledges Respondent's efforts to comply with certain conditions of reinstatement imposed by the Board and the PAP, such as her continuing attendance in therapy sessions with Dr. Susswein. However, Respondent has also provided the Board with various reports that all plainly fail to meet the Board's criteria for reinstatement. The evaluations sought by Respondent were not provided by psychiatrists or neurologists, who had been pre-approved by the Board, and moreover, the evaluators selected by Respondent did not have the benefit of any or all of her pertinent documentation and history; these evaluators also apparently did not conduct any in-depth evaluations or testing. Although Respondent would like the Board to consider those reports - many of which are only a single page - in her favor, they appear cursory and contain very little information with which to make an adequate assessment. Consequently, the Board remains of the opinion that those evaluations should be afforded little weight.

The Board considered that Dr. Hammer and Dr. Mack were neutral evaluators recommended by the PAP and approved by the Board to independently evaluate Respondent's condition; Dr. Mack, in fact, had never provided an evaluation for the Board

or revoke any license upon proof that the holder of such license is "incapable, for medical or any other good cause, of discharging the functions of a licensee in a manner consistent with the public's health, safety and welfare."

prior to his examination of Respondent. Dr. Hammer and Dr. Mack also thoroughly reviewed all of Respondent's pertinent documentation and history in conducting a complete psychiatric and neurocognitive evaluation, as required by the Board as a condition of reinstatement. Although Respondent objects to Dr. Mack not administering all of the many tests personally during the evaluation, the Board notes that the administration of neuropsychological tests is a typical and standard responsibility given to post-doctoral fellows in the pertinent field. Furthermore, both Dr. Mack and Dr. Hammer, after careful review, reached the same and definitive conclusion that Respondent is medically unfit to practice.¹⁵

The record of the past thirteen months also compellingly demonstrates Respondent's perseveration and complete denial of any condition which impacts on her ability to practice medicine. Respondent's behavior is so extreme that she continues contacting the Board or its representatives on a frequent basis sometimes multiple times a day, requesting reinstatement of her license. In these submissions, Respondent repeatedly expresses her belief that she is competent, asserts that her memory is good and she does not have a neuropsychological or psychiatric problem, despite comprehensive reports clearly indicating

¹⁵The Board relying on its own medical expertise considered the reports and their clear amply supported findings, and declined to afford Respondent the opportunity to cross examine the evaluations in the context of a motion for reinstatement.

otherwise. Rather than being able to acknowledge her condition or seek treatment, Respondent maintains that Dr. Hammer and Dr. Mack are in error and/or biased and that their results are inaccurate.

Furthermore, Respondent repetitively states the same information and thoughts in nearly every submission to and appearance before the Board,¹⁶ such as her credentials, continuing medical education, purported compliance with the PAP and the Board, and letters of recommendation. While the Board does not doubt the recommendation letters accurately reflect her past achievements and the respect she earned from her peers, these recommendations shed no light on Respondent's present ability to practice medicine in view of a serious and progressive illness. From her submissions, it is evident that Respondent believes her credentials and medical knowledge preclude the possibility of any impairment that would render her medically unfit to practice.

Respondent's impairment is also demonstrated by her tendency to refer to herself in the third person in her repeated submissions, and by her presentations at medical offices and the office of the Division of Law when she was neither required nor expected. On at least two of those occasions, staff or security

¹⁶ In addition to Respondent's formal appearances, she also appeared twice before the full Board and spoke during a public comment period reiterating her credentials and her request to be reinstated.

was required to escort her from the premises. In considering the extensive record before it, including instances of inappropriate conduct that reflect the breadth of Respondent's deteriorating condition, the Board cannot arrive at any other conclusion except that Respondent is unequivocally incapable of performing her duties as a licensee in a manner consistent with the public health, safety, and welfare.

The Board is also concerned about the number of attorneys Respondent has sought to represent her in relation to this matter, particularly in light of her financial distress and the recommendation by Dr. Wall that someone be responsible for her finances and decision making. Respondent is currently being represented by her sixth attorney,¹⁷ and persists in making efforts to seek reinstatement rather than focus on the treatment recommendations of her doctors.

After consideration of the extensive record in this matter the Board hereby determines that until such time as Respondent is able to demonstrate she has received proper treatment for her condition (or can otherwise produce thorough and complete evaluations which indisputably find her medically competent and fit to practice) Respondent's license will remain suspended. By

¹⁷ In addition to Mr. Gorrell, Mr. Timins, Ms. Fruchtman, and Mr. Till, Respondent was also represented by Pamela Mandel, Esq. in relation to a Sister State action, and was accompanied at a Board meeting by another at the meeting at which she spoke during public comment period.

way of this Order we are reaffirming the automatic suspension of February 2012. However, we note that N.J.S.A. 45:1-22(e) provides that the Board may, in addition to suspending any license issued by it and after affording an opportunity to be heard, "[o]rder any person, as a condition for continued, reinstated or renewed licensure, to secure medical or such other professional treatment as may be necessary to properly discharge licensee functions."

The Board is aware of the difficult and sympathetic nature of Respondent's present circumstances; we also do not doubt that Respondent has been a well-respected and accomplished internist and dermatologist during her twenty-five years of practice. However, the Board's foremost obligation is to protect the safety, health, and welfare of the public. It is with this obligation in mind that the Board must balance Respondent's need for a livelihood, the respect she has earned within the medical community, and her pride in her work against any danger to the public should Respondent resume practice in her present condition. Accordingly, we find applying our own medical expertise that the serious and unequivocal findings of Dr. Mack and Dr. Hammer, in addition to Respondent's extreme lack of insight and perseverance as demonstrated in the record, necessitate the continued suspension of Respondent's medical license.

Although the Board would prefer to resolve this matter in a remedial manner, Respondent's pronounced lack of insight as to her condition makes any such resolution unworkable. The suspension of a practitioner's license when the practitioner suffers from a medical condition is regarded by the Board as an option of last resort. For this reason the Board has considered possible intermediate measures, such as allowing Respondent to work under a supervising practitioner, limiting Respondent's practice to an institutional setting, or permitting Respondent to teach and pursue academia. However, we find that in light of Respondent's extreme denial and the severity and progression of her impairment, anything less than the continued suspension of Respondent's license would be inadequate to protect the public's safety and welfare.

IT IS THEREFORE on this 9th day of April, 2013,
ORDERED THAT:

1. Respondent's petition for reinstatement of her medical license is DENIED.
2. Respondent's petition for reconsideration of the Board's denial of reinstatement of her medical license on September 12, 2012 is DENIED.
3. Respondent's license to practice medicine and surgery in New Jersey shall continue to be suspended indefinitely.

4. In the event Respondent seeks reinstatement of her medical license in the future, and prior to the Board's consideration of any application for reinstatement, Respondent shall be required to submit written evaluations of a complete neuropsychological examination and a psychiatric examination which indicate that Respondent is fit and competent to return to the practice of medicine. Reports of any treatment should indicate awareness by the professional, and receipt of all prior evaluations and diagnoses. The examinations shall be conducted by neutral evaluators who are pre-approved by the Board and who must be provided with Respondent's full documentation and history, including the results of all prior testing. Respondent shall also provide any other information requested by the evaluators, and authorize the evaluators to share the results of the examinations with the PAP and the Board. Respondent must demonstrate to the Board's satisfaction that the significant findings of impairment made thus far in this matter and as reflected in the reports of Dr. Harvey Hammer and Dr. Jonathan Mack are sufficiently overcome by any subsequent evaluations and treatment which meet the requirements enumerated herein.

NEW JERSEY STATE BOARD OF MEDICAL EXAMINERS

By: George J. Scott, D.O., FRCOFP
George J. Scott, D.O., D.P.M.
Board 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.

JOHN J. HOFFMAN
ACTING ATTORNEY GENERAL OF NEW JERSEY
Division of Law
124 Halsey Street, 5th Floor
P.O. Box 45029
Newark, New Jersey 07101
Attorney for the Board
Of Medical Examiners

FILED

July 11, 2013

**NEW JERSEY STATE BOARD
OF MEDICAL EXAMINERS**

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

IN THE MATTER OF THE LICENSE OF :
: ADMINISTRATIVE ACTION
CHERYL ACKERMAN, M.D. :
: :
LICENSE NO. 25MA06096100 : ORDER
: :
TO PRACTICE MEDICINE AND SURGERY :
IN THE STATE OF NEW JERSEY :

This matter was most recently opened to the attention of the Board of Medical Examiners on a motion seeking: (1) Board approval of two evaluators; (2) reconsideration of the Board's April 9, 2013 Order denying reinstatement; and (3) a date certain for a plenary hearing on the fitness of Respondent to be reinstated. The Attorney General submitted a response and Respondent (now represented by Mr. William P. Isele of Archer & Greiner, P.C., her fifth attorney in this matter) thereafter submitted a reply. For the reasons below and for the reasons enumerated in our April 9, 2013 Order (attached hereto and incorporated herein) we deny this motion in its entirety.

CERTIFIED TRUE COPY

The record is clear that Respondent with advice of counsel consented to the entry of a Private Letter Agreement ("PLA") permitting her to continue to practice, but providing that the Board had the ability to automatically suspend her license without a prior hearing upon notice of non-compliance with the Agreement. The record of the past sixteen months also irrefutably illustrates Respondent's absolute denial of her medical condition and the severity and progression of her perseveration, which is symptomatic of the cognitive impairment diagnosed after she was brought to the attention of the Board due to multiple consumer complaints.

Respondent's medical license was suspended by way of an Order of Automatic Suspension of License entered on February 21, 2012. Respondent had previously, with advice of counsel, consented to the entry of a Private Letter Agreement on October 24, 2011, in resolution of eight consumer complaints received by the Board. A provision of that Agreement provides that if she did not comply with the PLA, the Professional Assistance Program ("PAP") or her therapist, her license would be automatically suspended and she would have an opportunity for a hearing to challenge the suspension within a short time thereafter. Respondent clearly consented to the suspension with a subsequent opportunity for a hearing at which Respondent had an opportunity to demonstrate she did not violate the PLA.

An opportunity for a hearing was afforded to Respondent (represented at the time by Mr. Arthur Timins, Esq. of Shiriak & Timins). The hearing was held before the full Board at its regularly scheduled monthly meeting on March 14, 2012 at which time Respondent was able to challenge the automatic suspension. Respondent availed herself of that opportunity for a hearing but, prior to the Board announcing a decision, withdrew her challenge to the Order of Automatic Suspension through counsel on the record. There is nothing in the record or the transcript of that proceeding to indicate that Respondent objected to the withdrawal of her challenge to the suspension.

Shortly thereafter, Respondent submitted the first of multiple and continuous applications for reinstatement. She was formally denied reinstatement in May and November 2012 and again in April 2013, based upon findings of continued lack of compliance with the PLA in that she was not cooperative with the PAP. The denial was also grounded on the Board's finding that Respondent has a medical condition which impacts her ability to safely practice medicine. Comprehensive evaluations by multiple evaluators have concluded that Respondent manifests a behavioral variant of Frontotemporal Dementia, a progressive neurological condition. A hallmark symptom of Respondent's illness is complete denial and lack of insight as to her condition. As indicated above, she is currently being represented by her fifth

attorney in this matter¹ and persists in making efforts to seek reinstatement through her successive attorneys rather than focusing on the treatment recommendations of the doctors who conducted the evaluations.

In our recent Order of April 9, 2013 we denied Respondent's request for reinstatement and determined that:

Until such time as Respondent is able to demonstrate she has received proper treatment for her condition (or can otherwise produce thorough and complete evaluations which indisputably find her medically competent and fit to practice) Respondent's license will remain suspended.

As discussed at length in the April 9, 2013 Order, this decision was based on the entirety of the record including two new evaluations conducted by well-credentialed neutral practitioners chosen in early 2013 by the unbiased evaluation program, the PAP. The evaluators agreed that Respondent had a medical condition impacting on her ability to practice which is evidenced by impairment of her executive function, reasoning, insight and judgment. On April 29, 2013 - a mere 20 days after our April 9, 2013 Order denying reinstatement and reconsideration was issued - Respondent submitted the request

¹ As we noted in our prior Order, Respondent was also represented by two other attorneys (for a total of seven attorneys) in relation to a Sister State action and a Board meeting at which she spoke during the public comment period. In relation to the instant matter, Mr. Isele is Respondent's fifth attorney.

for reconsideration currently under review by the Board. She presented no new information, such as information pertaining to any treatment for her condition, to refute the findings of cognitive impairment, dementia, impaired social behaviors and memory loss, exacerbated by Respondent's denial that her condition impacts her ability to safely practice medicine. Accordingly, we find that Respondent has not presented sufficient reason to reconsider our April 9, 2013 Order and deny her request as premature.

Respondent also requests that the Board approve Charles Ciolino, M.D. and Victoria Rivamonte, Psy.D. to evaluate her.² Over the past sixteen months, Dr. Ackerman has been through numerous evaluations, approximately ten in all. With the exception of four evaluators, who conducted cursory evaluations with limited history, prior reports or benefit of background information, all were solidly in agreement that Respondent suffers from cognitive impairment and/or dementia.³ As noted in

²We also are mindful that repeated administration within a short time frame of the battery of relevant tests dilutes the value of the results as subjects learn the correct responses through repetition.

³The Board used its own medical expertise to evaluate and, as memorialized in the April 9, 2013 Order, found that little weight could be placed on these four evaluations as they appeared brief and inconclusive, and Respondent had neither

our April 9, 2013 Order, "[t]he suspension of a practitioner's license when the practitioner suffers from a medical condition is regarded by the Board as an option of last resort." However, we found that:

In light of Respondent's extreme denial and the severity and progression of her impairment, anything less than the continued suspension of her license would be inadequate to protect the public's safety and welfare.

Nonetheless, we afforded Respondent the opportunity to seek reinstatement upon demonstration to the Board's satisfaction that the significant findings of impairment made thus far in this matter and as reflected in the reports of Dr. Harvey Hammer and Dr. Jonathan Mack are sufficiently overcome by subsequent treatment followed by new evaluations.

The curriculum vitae of Victoria Rivamonte reflects that she graduated from Nova Southwestern University in Florida with a Psy.D. in Clinical Psychology. Following an internship in rehabilitation psychology at the Rusk Institute at NYU Medical Center she completed a Fellowship in Neuropsychology at Beth Israel Medical Center in New York. She has been in private practice since completing her Fellowship in 1986 with a focus on clinical psychology and neuropsychology. She has also been a

provided evaluators with sufficient information nor sought the Board's pre-approval.

Clinical Instructor in Psychiatry at NYU Medical Center and spent 4 years as an attending neuropsychologist at the Attention Deficit Center at the NYU Hospital for Joint Diseases.

The curriculum vitae of Charles P. Ciolino, M.D., DFAPA reveals that he graduated from Georgetown University School of Medicine in 1981 and completed his internship and residency in the Department of Psychiatry at Georgetown University Medical Center. He has engaged in general adult psychiatry and psychopharmacology for approximately 25 years; he published various articles in the mid-1980's to early 1990's on topics such as chronic pain, substance abuse and stroke. He is on medical staff at Overlook Hospital in Summit, New Jersey, is a consulting psychiatrist at Fairleigh Dickinson University and the Counseling Centers for Human Development.

The Board does not question the general expertise of Doctors Ciolino and Rivamonte. However, their curriculum vitae, as presented, show no heightened expertise or training in dementia or white matter disease, nor are they recommended by a trustworthy and neutral third party, such as the Professional Assistance Program ("PAP")⁴ which recommended Dr. Hammer and Dr.

⁴ As Respondent's attorney, Mr. Isele, recognized in a submission to the Board dated June 14, 2013, the PAP is an advocacy program whose role involves assisting participating physicians in completing any recommended evaluations and treatment plans. We note that the PAP's reporting of a physician as non-compliant is

Mack. We find, pursuant to our April 9, 2013 Order and in our own medical expertise, that Dr. Rivamonte's and Dr. Ciolino's credentials as presented on their curriculum vitae simply do not reflect the specific expertise and training in dementia that we believe is essential to overcome the very serious findings of impairment made in this matter by Drs. Mack and Hammer just a few months ago, and earlier by others.

Furthermore, the tests which are typically administered for neuropsychological assessment, such as the Rey Complex Figure Test, are not intended to be administered repeatedly to the same individual within a short time frame. The Board is therefore concerned that as Respondent is a subject who has been repeatedly evaluated, her increasing familiarity with the tests after each administration would diminish the subsequent diagnostic value of the test particularly when no factors have been altered in the interim, such as the commencement of treatment. As discussed in great detail in our April 9, 2013 Order, Dr. Mack and Dr. Hammer prepared their reports only four months prior to that order, based on comprehensive evaluations.

that organization's option of last resort, as the PAP works with participants to bring them into compliance. The PAP's letter informing the Board of Respondent's non-compliance in February 2012 was necessitated by Respondent's atypical and exceptional situation, as well as by the PAP's role as an advocate to ensure that Respondent received the proper diagnosis and treatment and did not cause any patient harm.

Respondent has not presented any documentation which demonstrates she has undergone or is presently undergoing any form of treatment for a condition that we again stress has been found to be progressive.

The Board remains mindful of Respondent's claims of extreme financial hardship; it was in consideration of those claims that, upon Respondent's prior motion, the Board took the unusual step of assuming the cost of those two previous evaluations so as not to preclude Respondent from the opportunity to demonstrate the ability to safely practice medicine. We are also mindful that Respondent, by continuing to seek additional evaluations, is further depleting her limited resources. Although Dr. Rivamonte and Dr. Ciolino are duly licensed practitioners, the Board does not approve them as evaluators for purposes of reconsideration or reinstatement of Dr. Ackerman's medical license at this time.

Finally, Respondent requests that the Board fix a date certain for a plenary hearing on the fitness of Respondent to be reinstated to the practice of medicine. In support of her motion, Respondent relies on a provision of the Administrative Procedure Act ("APA"), N.J.S.A. 52:14B-11, which provides:

No agency shall revoke or refuse to renew any license until it has first afforded the licensee an opportunity for a hearing in conformity with the provisions of this act applicable to contested cases ... Any agency

that has authority to suspend a license without first holding a hearing shall promptly upon exercising such authority afford the licensee an opportunity for hearing in conformity with the provisions of this act. (emphasis added).

The right to an administrative hearing is generally found outside the APA in another statute or constitutional provision. However, pursuant to N.J.S.A. 52:14B-11 the APA itself creates a right to a plenary hearing. Christ Hosp. v. Department of Health and Sr. Services, 330 N.J. Super. 55, 61 (App. Div. 2000). Respondent asserts that this provision obligated the Board to grant her a hearing prior to the suspension of her license. However, by its terms the statute only requires a hearing when the action taken by the Board is revocation or refusal to renew a license. The right to a hearing is therefore inapplicable to Respondent since her license was suspended rather than revoked. Furthermore, the APA clearly allows for the suspension of a license without a prior hearing, so long as the licensee is granted an opportunity to be heard promptly after the suspension. As discussed below, the Board afforded Respondent an opportunity to a prompt post-suspension hearing of which Respondent fully availed herself.

Most importantly, Respondent consented to the procedure of a post suspension hearing. By way of the PLA dated October 24, 2011, Respondent specifically agreed to the automatic suspension

of her license "upon reliable information of any failure to comply with any terms of this private agreement or failure to follow any recommendation of the PAP or your therapist." Both the PLA and Order of Automatic Suspension afforded Respondent the right to apply for removal of the automatic suspension on five (5) days' notice. Respondent exercised that right and the Board promptly granted a hearing on March 14, 2012.

The APA requires that the parties to a hearing must be afforded "reasonable notice" and an opportunity "to respond, appear and present evidence and argument on all issues involved." N.J.S.A. 52:14B-9(a)-(c).⁵ As Respondent's brief acknowledges, she had the opportunity at a hearing on March 14, 2013 with representation by counsel, to question witnesses and present oral argument. She also introduced evidence in support of her challenge to the entry of the Order of Automatic Suspension, presented her own testimony and was able to cross-examine Dr. Baxter of the PAP in relation to her non-compliance and any concerns regarding her fitness to practice. The post-suspension hearing of March 14, 2013, in sum, afforded Respondent the opportunity to offer any arguments and evidence

⁵ With regard to notice, the Order of Automatic Suspension informed Respondent of the basis of her non-compliance and suspension and incorporates Dr. Baxter's letter to the Board dated February 14, 2012.

to dispute the basis of her suspension, thereby duly satisfying her statutory right to a hearing.

Respondent contends that even if the post-suspension hearing satisfied the requirements of due process, her right to a fair hearing was vitiated when her attorney, Mr. Timins, Esq. withdrew the challenge to the Order over her objections. Upon review of the record, we find it to be completely devoid of any indication that Respondent objected to Mr. Timins' withdrawal on her behalf. The record instead reflects that Respondent fully exercised her right to a post-suspension hearing and, prior to a determination by the Board, withdrew her challenge to the Order with the advice of counsel. We are not persuaded that such an opportunity was "illusory," and Respondent has offered no evidence to support her assertion that the withdrawal of the challenge was in any way improper.⁶

Although the suspension of Respondent's license satisfied the requirements of the APA and procedural due process, Respondent argues that she has a continuing right to a hearing on each of her applications for reinstatement. No statute

⁶ The only support offered by Respondent for her contention that Mr. Timins withdrew the challenge over her objections is a portion of her March 14, 2013 testimony wherein she expressed her belief that she had been compliant with the PAP. However, this does not demonstrate that Respondent, after consulting with counsel, subsequently objected to the withdrawal, nor can Respondent point to any portion of the hearing transcript whereby she objected in any way to the withdrawal of the challenge.

requires that a hearing be granted following the denial of a medical license, nor does any statute entitle a licensee to a hearing in relation to an application for reinstatement. N.J.S.A. 45:9-1 et. seq; N.J.S.A. 45:1-1 et. seq. Furthermore, the Supreme Court of New Jersey has affirmed the principle that "constitutional due process protects against only the improper suspension or revocation of a license; it does not protect against a licensing board's summary refusal to reinstate a license that has been revoked." Limongelli v. New Jersey State Bd. of Dentistry, 137 N.J. 317, 326 (1993).

Despite the absence of an obligation to provide Respondent with a hearing on reinstatement and/or reconsideration, the Board has repeatedly entertained Respondent's requests for reinstatement and afforded Respondent multiple additional opportunities to be heard. Respondent and her attorney appeared before a Committee of the Board on March 28, 2012 to petition for reinstatement, at which time Respondent testified under oath and submitted supporting documentation. The Board also considered Respondent's further requests for reinstatement/reconsideration in May and November of 2012. Most recently, Respondent was afforded a hearing on March 6, 2013 on her Motion for Reconsideration of the Board's September 2012 denial of reinstatement. At the March 6, 2013 hearing before a Committee of the Board whose recommendation was subsequently

ratified by the full Board, counsel for Respondent had the opportunity to present oral argument and dispute the reports of Dr. Mack and Dr. Hammer, and Respondent was also given the opportunity to testify before the Committee and provide submissions.

We note again that over the course of Respondent's numerous applications for reinstatement, Respondent had been fully informed of the Board's requirements for reinstatement yet repeatedly disregarded those requirements. The Order of Automatic Suspension provides:

In the event Respondent wishes to petition the Board for reinstatement of her license to practice medicine in the State of New Jersey, she shall appear personally before the Board or a Committee of the Board and demonstrate to the satisfaction of the Board that she is capable of discharging the functions of a licensee in a manner consistent with the public's health, safety, and welfare ... Following its review of all the relevant documents and submissions, the Board, in its sole discretion, will determine whether the Respondent is physically and psychologically fit to practice medicine and surgery in the State of New Jersey.

Additionally, the Board repeatedly considered the testimony; reports and letters submitted independently by Respondent and separately through her counsel in support of her applications and afforded them the appropriate weight using our own medical expertise. Respondent also had numerous

opportunities to submit reports which demonstrate her fitness to practice or refute the findings of an organic brain disorder and to respond to the Board's denial of reinstatement. Throughout the Board's consideration of this matter, Respondent continually submitted information and contacted the Deputy Attorneys General ("DASG") and the Executive Director of the Board by email, written correspondence and telephone, and in person on many occasions, despite being told each time that because she is represented by counsel, the DASG and Executive Director were precluded from communicating with her directly.

As Respondent did not have the right to a pre-suspension hearing pursuant to the APA (particularly in view of the fact that a suspension with an opportunity to subsequently challenge the action was agreed upon by Respondent, with the advice of counsel, upon entering into the PLA), we believe that any right of Respondent to a post-suspension hearing was satisfied by the hearing on March 14, 2012. The suspension of Respondent's license was therefore not improper and Respondent is not entitled to a further hearing on this matter. Additionally, Respondent has had multiple opportunities to be heard both by personal appearances before Committees of the Board and/or on the papers regarding her continuous motions for reinstatement.

For all the reasons stated in the Board's April 2013 Order, we reaffirm our finding that in light of Respondent's complete

denial of the severity and progression of her medical condition anything less than the continued suspension of Respondent's license would be inadequate to protect the public safety and welfare.

IT IS THEREFORE on this 11th day of July, 2013,

ORDERED THAT:

1. Respondent's motion for the approval of Charles Ciolino, M.D. and Victoria Rivamonte, Psy.D. to evaluate Respondent is DENIED.

2. Respondent's motion for reconsideration and rescission of the Board's Order Denying Reinstatement of License and Reconsideration filed April 9, 2013 is DENIED.

3. Respondent's motion for a plenary hearing on the fitness of Respondent to be reinstated to the practice of medicine in the State of New Jersey is DENIED.

NEW JERSEY STATE BOARD OF MEDICAL EXAMINERS

By: 
George J. Scott, D.O., D.P.M.
Board President



CHRIS CHRISTIE
Governor

KIM GUADAGNO
Lt. Governor

New Jersey Office of the Attorney General

Division of Consumer Affairs
State Board of Medical Examiners
P.O. Box 183, Trenton, NJ 08625-0183

April 10, 2013



JEFFREY S. CHIESA
Attorney General

ERIC T. KANEFSKY
Acting Director

E-MAIL AND CERTIFIED RETURN RECEIPT

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(609) 984-3930 FAX

Dear Mr. Till:

Enclosed is a certified true copy of the Administrative Action ORDER DENYING REINSTATEMENT OF LICENSE AND RECONSIDERATION filed on April 9, 2013 by the New Jersey State Board of Medical Examiners.

Should you have any questions, please do not hesitate to contact this office.

Sincerely,

NEW JERSEY STATE BOARD
OF MEDICAL EXAMINERS

Charles Rush
Investigator

CMR
Enclosure

cc: Debra W. Levine, D.A.G. (sent by e-mail)
Cheryl Ackerman, M.D.
Sandra Dick, Sr. D.A.G. (sent by e-mail)
Joanne Magrath, DOL (sent by e-mail)
Ed Tumminello, EB (sent by e-mail)

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of Medical Examiners

FILED

April 9, 2013

**NEW JERSEY STATE BOARD
OF MEDICAL EXAMINERS**

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

<u>IN THE MATTER OF THE LICENSE OF</u>	:	
	:	ADMINISTRATIVE ACTION
CHERYL ACKERMAN, M.D.	:	
LICENSE NO. 25MA06096100	:	ORDER DENYING
	:	REINSTATEMENT OF LICENSE
TO PRACTICE MEDICINE AND SURGERY	:	AND RECONSIDERATION
<u>IN THE STATE OF NEW JERSEY</u>	:	

This matter was most recently opened to the Board for oral argument on a motion for reinstatement/reconsideration of the Board's September 2012 denial of reinstatement. The denial was predicated in part on Respondent's inability to demonstrate that she could safely discharge the responsibilities of a license due to a progressive neurologic condition resulting in dementia and her lack of insight as to her condition.

On February 21, 2012, the license of Dr. Cheryl Ackerman, M.D. ("Respondent") had been automatically suspended by the Board of Medical Examiners ("Board") upon receipt of information that Respondent; a Board certified internist/dermatologist practicing in New Jersey for more than 20 years, had violated the terms of a Private Letter Agreement ("Agreement") dated

CERTIFIED TRUE COPY

October 24, 2011 which required her to fully comply with all recommendations of the Professional Assistance Program (PAP) including engaging in regular psychotherapy with reports to the PAP and submitting to a full independent psychiatric evaluation. Respondent petitioned the Board for reinstatement of her license, which the Board denied on September 12, 2012 based upon Respondent's failure to satisfy the requirements set forth for reinstatement. The Board also considered neuropsychological evaluations of Respondent indicating the onset of a behavioral variant of Frontotemporal Dementia (hereinafter bvFTD).¹ Given that Respondent has exhibited a decline in intellectual function, impaired social behavior and judgment, and impaired executive function, characteristic features of bvFTD, and that Dr. Ackerman denied any illness impacting her ability to practice, the Board was concerned that Respondent's condition presented a significant impediment to her ability to practice medicine in a manner consistent with the public health and safety.

Procedural History and Findings of Fact

The record in this matter reveals that Respondent, first represented by Joseph M. Gorrell, Esq. of Brach Eichler, LLC, entered into the 2011 Agreement with the Board after an

¹Due to the sensitive nature of medical records and Respondent's expectation of privacy the reports of evaluations and medical records that comprise the record in this matter shall be sealed and not made available to the public.

investigation premised upon multiple consumer complaints and a referral of Respondent to the PAP by Mountainside Hospital. The investigation raised serious concerns regarding Respondent's mental health, her professional conduct and her denial of diagnoses by multiple therapists of mental health disorders. The Agreement required Respondent in part to continue enrollment in the PAP, meet with a pre-approved therapist no less than once per week for a minimum of three months, and follow all recommendations of the PAP and her therapist. Respondent also agreed to the automatic suspension of her license upon the Board's receipt of reliable information of any failure to comply with the terms of the Agreement.

On February 14, 2012, Dr. Louis Baxter, the Executive Medical Director of the PAP, informed the Board that Respondent had been noncompliant with the Agreement and the recommendations of PAP. Specifically, Respondent had failed to provide requested psychiatric reports to the PAP and refused to undergo an independent psychiatric evaluation recommended by PAP. Respondent's noncompliance resulted in the active suspension of her medical license by way of an Order of Automatic Suspension of License ("Order") entered on February 21, 2012. The Order provided that Respondent could apply for removal of the automatic suspension on five days' notice, but would be limited

to showing that the information received regarding her violation of the Agreement was materially false.

On March 14, 2012, Respondent and Arthur J. Timins, Esq. of Shiriak & Timins, the second attorney representing Respondent in this matter, appeared before the full Board to challenge the automatic suspension.² After the hearing, at which Respondent availed herself of an opportunity to be heard and present information, but before any determination by the Board, Respondent through her counsel withdrew the objection to the Order and agreed to appear at an upcoming meeting of the Preliminary Evaluation Committee of the Board ("Committee") to petition for reinstatement. Respondent was advised she would be required to demonstrate compliance with the requirements of the PAP, fitness to practice, and compliance with the recommendations of Board-certified and PAP-approved psychiatrist, Sonja Gray, M.D.

Respondent had previously seen Dr. Gray for an independent psychiatric evaluation on February 28, 2012. Although Dr. Gray recommended that Respondent undergo testing with William Barr, Ph.D., a neuropsychologist practicing and certified in New York, Respondent instead selected and saw Dr. Jonathan Wall on March

² Respondent continued to be represented by Mr. Gorrell until sometime after the automatic suspension of her license on February 21, 2012.

20, 2012 without seeking pre-approval from the Board.³ Dr. Wall, a Board-certified psychologist, reported Respondent "performed poorly on Attention, Executive, Visual Spatial and Memory tasks," and concluded that her "severe cognitive impairment is suggestive of early onset dementia." His recommendations included a thorough neurological consultation and workup, and outreach to family and/or community services "to help her oversee household and business finances." Dr. Wall, an evaluator chosen by Dr. Ackerman, had not been provided with any background documentation for the evaluation but did have collateral contact with Dr. Gray.

Respondent and Mr. Timins appeared before the Committee on March 28, 2012 to petition for reinstatement. In addition to the reports of Dr. Gray and Dr. Wall, the Board reviewed the report of Mark Faber, M.D., a Board-certified psychiatrist who examined Respondent on February 22, 2012. He recommended medication and referred her to Board-certified psychiatrist Charles Martinson, M.D., J.D. At the time of the Committee meeting, Respondent had neither sought medication nor seen Dr. Martinson.⁴ In addition to

³ Respondent later testified during her appearance before the Committee on March 28, 2012 that Dr. Barr would not be available to evaluate her until the summer. However her attorney had indicated that Dr. Barr could not see Respondent until April.

⁴ When asked by the Committee why she had not seen Dr. Martinson, Respondent testified that, among other reasons, he had not been available to meet with her. Dr. Faber noted in his report however that he had spoken with Dr. Martinson, who indicated he

her failure to follow the recommendations of her treating doctors, Respondent appeared to lack insight and was unable to focus on questions during her appearance. As a result, the Committee recommended and the Board determined that before the Board would consider an application for reinstatement she must obtain reports from a Board-certified psychiatrist and neurologist indicating she is fit to practice medicine. Both evaluators must also be pre-approved by the Board and the PAP, and Respondent must provide them with all past evaluations and testing results as well as any other information they request. Those reports would then be forwarded to the PAP for its input and approval.

Following her appearance before the Committee on March 28th, Respondent sought several other evaluations by practitioners who did not have the benefit of her past reports and history and for whom Respondent did not seek the Board's pre-approval. Respondent submitted the following documents in relation to those evaluations:

- Letter dated March 29, 2012 from David Blady, M.D., a Board-certified neurologist and associate of her past neurologist, Dr. John Vaccaro, indicating that Respondent had been vague regarding her disciplinary history and the Board's charges, and that more information was needed before any further comment could be made.

would be available to conduct an evaluation "within the next one to two weeks" and encouraged Respondent to call for an appointment.

- Letter dated April 9, 2012 from Joseph S. Sobelman, M.D., a Board-certified neurologist, briefly stating Respondent had a "normal neurologic examination" and was able to work as a physician.
- Letter dated April 20, 2012 from Larry M. Westreich, M.D., a Board-certified psychiatrist, suggesting Respondent's memory was within normal limits and her abstract thinking and judgment were intact. Dr. Westreich remarked that no documentation had been reviewed other than Respondent's *curriculum vitae*, and made no recommendation as to her fitness to practice.
- Letter dated June 22, 2012 from John E. Robinton, M.D., a Board-certified neurologist, stating that Respondent had a "normal neurologic exam for [her] age" and, based on a single examination, was considered fit to practice medicine.

In May 2012, Respondent (who was then represented by a third attorney in this matter, Susan Fruchtman, Esq. of DeCotiis, FitzPatrick & Cole, LLP) again requested reinstatement of her license. The matter was considered by a Committee of the Board as a discussion item on June 27, 2012. Respondent and her attorney had submitted a report by Dr. Barr, whom Respondent saw on June 4, 2012.⁵ Dr. Barr administered several neuropsychological tests and found Respondent's results to be "consistent with the effects of an early stage of progressive dementing disorder," specifically a behavioral variant of Frontotemporal Dementia. He also reported that Respondent "lack[ed] insight into her condition and [was] making active

⁵ Dr. Barr was provided with and reviewed at least some of Respondent's documentation and history, including Respondent's disciplinary history with the Board and the reports of Dr. Faber, Dr. Gray, and Dr. Wall.

attempts to conceal or deny the existence of any difficulty." Dr. Barr concluded unequivocally that Respondent was unfit to return to practice. He also noted in his report that immediately after completing the self-report questionnaires, Respondent demanded to review the test forms and was told this was not possible since the scoring was incomplete. She refused to leave the office and was escorted from the premises by staff. Respondent then returned to Dr. Barr's office the next morning and again demanded to see her test results.

The Board then considered the Motion for Reconsideration/Reinstatement on the papers at its September 2012 Board meeting. The record included submissions by counsel, the reports of all of the evaluators submitted to the Board, Respondent's CME certificates, curriculum vitae and letters of support. The Board also considered Respondent's multiple submissions via email, fax, mail and hand delivery in which she referred to herself in the third person, repeated her credentials and repeatedly asserted she was "brilliant" had perfect memory and denied any illness impacting her ability to practice medicine.

Based on the information before it, and the PAP's position that it could not support Respondent's reinstatement at the time, the Board denied Respondent's petition for reinstatement on or about September 12, 2012. The Board found Respondent had

failed to satisfy the requirements for reinstatement, as Respondent had not followed the Board's directions with regard to the evaluations. The Board was also concerned as to Dr. Barr and Dr. Wall's findings of cognitive impairment, dementia, and unfitness to practice coupled with Respondent's denial of any illness that impaired her ability to practice. In considering other reports submitted by Respondent, the Board found, using its own medical expertise, that little weight could be placed on those reports as they appeared cursory and inconclusive, and Respondent had neither provided the evaluators with background information nor sought the Board's pre-approval [which customarily includes among other things, review of an evaluator's credentials, impartiality and assurance that background materials are provided] as directed. Respondent's attorney, Ms. Fruchtman, requested that the Board's denial not be memorialized in an order pending a motion for reconsideration of the denial. This request was granted out of both compassion for Respondent's condition and most importantly inasmuch as Respondent was not practicing pursuant to the 2012 Order and therefore no issue of public safety was present. Thus the Board, applying its own expertise in evaluating the record including medical and psychological reports and Respondent's correspondence, denied reinstatement based on the findings of cognitive impairment, dementia, impaired social behaviors and

memory loss, exacerbated by Respondent's denial that her condition impacted her ability to safely practice medicine.

Respondent's Petition for Reconsideration was subsequently considered on the papers as a discussion item by a Committee of the Board on November 7, 2012. In addition to prior reports, the Committee reviewed an MRI performed on July 7, 2012 at Saint Barnabas Medical Center. Respondent had provided only the first page of a two-page consultative report dated July 13, 2012, which indicated possible white matter disease.⁶ The Board also reviewed a report from Dr. Gray dated August 6, 2012. Respondent had presented at Dr. Gray's office on June 21 and August 2, 2012 requesting a letter to clear her for return to practice. After assessing the most recent reports (including the report of Dr. Barr and other evaluations sought by Respondent) and based upon her own impressions, Dr. Gray wrote that she did not feel Respondent was fit to return to practice "without further assessment of her white matter disease and initiation of a treatment plan to clarify and address her medical problem."

In addition, Respondent had again sought evaluations by other neurologists without seeking the Board's pre-approval, and submitted the following related documentation:

- Letter dated July 10, 2012 from Gregory D. Anselmi, M.D. recommending a full and complete workup for white matter

⁶White matter disease may result in the degeneration of white matter, which creates a large portion of the brain and can interfere with cognitive functions.

disease based on an assessment of the MRI. Dr. Anselmi reported he saw nothing based on one office visit that would impede Respondent's ability to practice medicine.

- Letter dated October 1, 2012 from Mukesh Solanky, M.D., indicating Respondent had been under his care since July 13, 2012 for possible demyelinating disease. Dr. Solansky stated that Respondent's MRI showed bihemispheric white matter changes but deemed Respondent "neurologically stable to work."

Neither of these reports indicated the evaluator had reviewed any documentation concerning Respondent's background or prior cognitive testing.

Having considered the available information, the Committee recommended to the Board denying Respondent's Petition for Reconsideration, as Respondent had still not satisfied the Board's requirements for reinstatement. Although Respondent submitted letters from some evaluators which appeared favorable to her position, she had not obtained reports from a psychiatrist pre-approved by the Board or a neurologist pre-approved by the Board which found her fit to return to the practice of medicine, nor had she provided her evaluators with all her background documentation. The Committee was also concerned that Respondent was expending considerable resources to seek evaluations which clearly did not comply with the Board's criteria for reinstatement. In addition, although the Committee's consideration of the matter on November 7th was "on the papers" and Respondent was represented by an attorney, Respondent appeared in the lobby that day without counsel and

approached many individuals entering the building seeking to appear before the Committee. Her counsel was advised and she was ultimately escorted from the premises by New Jersey State Police.

At the January 9, 2013 Board meeting the full Board considered the Committee's recommendation in conjunction with the December 5, 2012 PAP position statement recommending new independent evaluations. Based upon the recommendation of the PAP, and in order to make a definitive assessment of Respondent's fitness to practice, the Board required Respondent to complete an independent psychiatric evaluation by Dr. Harvey Hammer, M.D. and a comprehensive neurocognitive evaluation by Dr. Jonathan Mack, Psy.D. prior to any reconsideration of the Board's denial of reinstatement. Respondent was also directed to sign an authorization allowing the evaluators access to all available information and permitting the release of the reports to the PAP and the Board. In consideration of Respondent's repeated contention that she is undergoing severe financial hardship, the Board granted Respondent's motion to have the Board assume the costs of evaluation by Dr. Hammer and Dr. Mack, as it did not wish to set a threshold for reinstatement which Respondent could not financially afford to meet. Respondent complied with the Board's requirements and was seen by Dr. Hammer on January 24, 2013 and by Dr. Mack between January 29

and February 7, 2013.⁷ The evaluators also reviewed all of Respondent's disciplinary and pertinent medical history, including the results of prior testing.

Dr. Hammer submitted an evaluation report dated January 24, 2013, in which he found Respondent's presentation to be "consistent with findings of early Frontal Lobe Dementia," resulting in impairment of her "executive function, abstract reasoning, insight, and judgment." He was significantly concerned by Respondent's "inability to focus, difficulty concentrating, [and] tangential and circumstantial thinking." Dr. Hammer also noted that Respondent repeatedly insisted there was nothing wrong with her cognitive abilities and denied she has any psychiatric, neurological, or psychological disorder. He reported that such denial "precludes her seeking proper diagnosis and treatment which is badly needed." He observed on mental examination that she lacked insight and judgment and perseveration was present. He reported Respondent's associations were loosely formed and statements like "I am a great doctor" were frequently interspersed. He also found that although she

⁷ Respondent had also sought an evaluation by Board-certified psychiatrist William T. Richardson, M.D. on December 11, 2012. Respondent did not seek the approval of the Board prior to seeing him. In a letter, Dr. Richardson stated Respondent did not require further psychiatric treatment or neurocognitive testing. He made no diagnosis and recommended that Respondent's license be reinstated. The letter contains no indication Dr. Richardson had reviewed any of Respondent's documentation or prior testing.

was oriented for time and place and there were no hallucinations, selective memory deficits were evident and cognitive defects were strongly suspected. His diagnoses included - Adjustment Disorder with mixed disturbance of emotions and conduct, a need to rule out Bipolar Disorder, Personality Disorder, and Dementia was suspected, requiring further evaluation. He recommended neurological and neurocognitive testing and appropriate cognitive therapies in conjunction with any psychiatric intervention. He also regretfully concluded that Respondent's "overall mental health status reflects a decline since she was last seen by me on February 9, 2011."

Dr. Mack conducted a comprehensive neuropsychological evaluation of Respondent consisting of 34 tests over the course of six days. He then provided the Board and the PAP on February 21, 2013 with a 55-page report in which he stated Respondent was "one of the most difficult patients ever evaluated by [his] office."⁸ For example, at the outset, he and his post-doctoral fellow spent approximately fifteen hours trying to convince Respondent to sign the HIPAA releases before she finally agreed to do so. Dr. Mack also reported that on several occasions

⁸The initial consultation and the selection of the battery of tests were performed by Dr. Mack. The administration of the testing and the scoring was performed by a post-doctoral fellow working under Dr. Mack's direct supervision, Dr. Mona Krishna. The results were interpreted by Dr. Mack in consultation with Dr. Krishna.

Respondent came to his office for her appointments at the wrong time or on the wrong day.

Dr. Mack explained in his report that:

"Behavioral Frontotemporal Dementia is marked by early changes in personality and behavior with relatively intact memory. Impaired social behaviors can include poor social judgment, silliness, jocularity, impulsivity, dis-inhibition, and decreased hygiene and/or persistence. There is a lack of empathy and reduced regard for others. There is inevitably extremely poor insight."

He unequivocally found within a reasonable degree of neuropsychological and psychological scientific certainty that Respondent's presentation during the evaluation process and test results is consistent with the diagnosis of bvFTD.

The neuro behavioral markers of bvFTD were observed in Respondent including but not limited to socially impaired behavior, loss of manners and deficits in executive function with limited impact on memory. He reported that she consistently appeared to be chewing something,⁹ was occasionally disheveled, her purse was disorganized, she was restless and agitated. She vacillated between being "tearful to agitation to laughter in a short period of time." She was "extremely perseverative and sticky throughout the examination and interview process." She was in complete denial that she had a medical condition impacting her ability to practice. He concluded:

⁹Hyperorality is a marker for bvFTD.

"Dr. Ackerman is NOT fit to practice medicine now or in the foreseeable future. To recapitulate based on Dr. Ackerman's extreme neurobehavioral changes, including extreme perseveration and stickiness, decreased social judgment, decreased organization, decreased executive functioning on testing, a marked drop in intellectual and other neurocognitive functions from estimated premorbid level, she is not fit to practice medicine."

Further "one of the treatment obstacles with Dr. Ackerman is her complete lack of awareness of, and insight into, her deficits."

Respondent again appeared before a Committee of the Board on March 6, 2013 for oral argument on a Motion for Reconsideration of the Board's September 2012 denial of reinstatement. Respondent was now represented by a fourth attorney; Peter Till, Esq. Deputy Attorney General ("DAG") Kim D. Ringler appeared on behalf of the Attorney General of New Jersey. During oral argument, Mr. Till expressed concern that, among other things, Dr. Hammer and Dr. Mack referred to or relied on reports by past evaluators (i.e. the reports of Dr. Wall and Dr. Barr) and that some cognitive testing had been performed by students rather than by Dr. Mack.¹⁰ Mr. Till argued that therefore both evaluators should be cross-examined by the Board with regard to their examinations. He also proposed that

¹⁰ Testing had partially been administered by the aforementioned post-doctoral fellow working under Dr. Mack's supervision, who also provided Respondent with preliminary information regarding the tests.

the Board consider an intermediate solution, such as having Respondent work with a chaperone who would supply reports to the Board on a regular basis. Such a solution, he argued, would at least permit Respondent to proceed with her academic pursuits.

DAG Ringler explained that the Attorney General's position was to urge the Board to decline reconsideration in light of Dr. Mack and Dr. Hammer's significant findings of a cognitive disorder as well as the record over a thirteen-month period. DAG Ringler argued that Respondent's objections to both Dr. Mack and Dr. Hammer's conclusions have no merit as the evaluators independently, using comprehensive scientific/medical testing, arrived at the same diagnoses and the conclusion that her health does not allow her to resume the practice of medicine. However, the DAG indicated the Attorney General would defer to the Board with regard to any intermediate solution.

Respondent was also given an opportunity to address the Committee. She asserted that she has been compliant with the PAP and continues to see a psychologist for therapy on a weekly basis.¹¹ On multiple occasions, she expressed to the Committee her belief that her memory is "perfect," the results of Dr.

¹¹ Respondent had provided the Board with several reports from her treating therapist, Dr. Ben J. Susswein, indicating she had participated in an initial consultation on July 15, 2011 and had been seeing Dr. Susswein on a regular basis. These reports include, for example, the letters from Dr. Susswein dated May 4, 2012; July 14, 2012; and August 21, 2012 and more recent letters.

Mack's testing are inaccurate, and Dr. Hammer and Dr. Mack's conclusions are wrong. She also asserted that the MRI performed at Saint Barnabus (finding "white matter disease") reflects a scar from the flu she had 25 years ago. She completely denied any illness that might impact her ability to safely practice medicine and again verbalized a list of her credentials.

Although Respondent was continuously represented by counsel over the course of her several applications for reinstatement and reconsideration, Respondent on numerous occasions directly sent submissions often with extensive attachments to the Board and Deputy Attorneys General ("DASG") requesting reinstatement. Respondent's counsel was informed numerous times of Respondent's efforts to directly contact the Board and its representatives. Nonetheless, the inappropriate conduct did not stop. In a multitude of repetitive correspondence including letters, emails and faxes submitted over the pendency of this matter, Respondent referred to herself in the third person and asserted she had complied with the Board's requirements for reinstatement. She consistently maintained that neurocognitive testing was not required for the practice of medicine and emphasized the favorable reports she obtained. Respondent referred to herself as a "brilliant" doctor with "perfect memory," and denied any problem or difficulty with regard to her ability to practice.

For example, leading up to and following the Committee's consideration of oral argument on March 6, 2013, Respondent continued to directly send submissions to the Board and DASG requesting reinstatement. These included, but were not limited to, correspondence received via facsimile or email on March 4th, March 6th, March 10th, March 11th, and March 14th. In these submissions, Respondent continued to reiterate her credentials, her financial hardship,¹² her assertion that Dr. Mack and Dr. Hammer were in error or biased and that their reports are inaccurate, and/or her belief that her memory is perfect. Respondent also repeatedly referred to letters of recommendation and continuing education credits which she had submitted multiple times to the Board in support of her petition for reinstatement and which acknowledged her talent and competency as a doctor. Respondent had provided approximately eight letters in total which were dated between August 22, 2012 and January 8, 2013. These included letters from other practitioners who have known or worked with Respondent for various lengths of time and which commended her skills as a physician; a letter from a

¹² Specifically, Respondent stated that she has two children whom she supports for food and education. As indicated in Dr. Mack's recent report, her children are presently attending college and graduate school, and Respondent and her husband are divorced. Dr. Mack's report also indicated that Respondent informed him she only has six dollars each day for food to eat.

patient whose family member had been treated by Respondent over a decade ago; and a letter from Respondent's mother.¹³

Respondent's submissions to the Board were repeatedly accompanied by various attachments, which consisted of the same documentation of Respondent's continuing medical education, the aforementioned letters of recommendation, the reports sought by Respondent from various evaluators who had not been pre-approved by the Board, documentation of her recertification by the American Board of Dermatology, and/or some combination thereof. Counsel for Respondent was informed that the conduct continued and often Respondent's communications were forwarded to her counsel by Board representatives.

Respondent also attempted several times to speak personally to the DAG serving as counsel to the Board and Board members, despite being told numerous times that because Respondent was represented by an attorney, the Board representative were ethically precluded from speaking to her.

Analysis and Determination

The Board must now determine whether Respondent has demonstrated she is fit and competent to return to the practice

¹³ The letters from Respondent's peers and former patient do not reflect any knowledge of the basis for Respondent's suspension, or that Respondent's reinstatement is predicated upon demonstrating the absence of any medical impairment which would render her unfit to practice.

of medicine in light of the reports of Dr. Hammer and Dr. Mack and the record over the past thirteen months.

The comprehensive reports of Dr. Hammer and Dr. Mack conclude that Respondent manifests a serious progressive illness which is evidenced by impairment of her executive function, reasoning, insight, and judgment. Respondent was also found to demonstrate extreme perseveration and stickiness, which are hallmark symptoms of bvFTD. The record made in the context of Respondent's application for reinstatement, which includes Respondent's numerous inappropriate submissions to and contact with the Board and her appearances before both the full Board and committees of the Board, also unequivocally reflects perseveration and a lack of insight into her deteriorating condition. The Board, applying its own medical expertise in evaluating the various reports submitted, and upon consideration of all available information, is not persuaded that Respondent has demonstrated fitness and competence to return to the practice of medicine. The Board must therefore deny Respondent's petition for reconsideration. The denial of Respondent's petition for reinstatement on September 12, 2012 will also be reflected in our determination herein.¹⁴

¹⁴ Although the Board is denying Respondent's reinstatement based on her failure to demonstrate she is medically competent to practice, the Board notes that it also has independent authority to take initial action against Respondent's license under N.J.S.A. 45:1-21(i), which provides that the Board may suspend

The Board acknowledges Respondent's efforts to comply with certain conditions of reinstatement imposed by the Board and the PAP, such as her continuing attendance in therapy sessions with Dr. Susswein. However, Respondent has also provided the Board with various reports that all plainly fail to meet the Board's criteria for reinstatement. The evaluations sought by Respondent were not provided by psychiatrists or neurologists, who had been pre-approved by the Board, and moreover, the evaluators selected by Respondent did not have the benefit of any or all of her pertinent documentation and history; these evaluators also apparently did not conduct any in-depth evaluations or testing. Although Respondent would like the Board to consider those reports - many of which are only a single page - in her favor, they appear cursory and contain very little information with which to make an adequate assessment. Consequently, the Board remains of the opinion that those evaluations should be afforded little weight.

The Board considered that Dr. Hammer and Dr. Mack were neutral evaluators recommended by the PAP and approved by the Board to independently evaluate Respondent's condition; Dr. Mack, in fact, had never provided an evaluation for the Board

or revoke any license upon proof that the holder of such license is "incapable, for medical or any other good cause, of discharging the functions of a licensee in a manner consistent with the public's health, safety and welfare."

prior to his examination of Respondent. Dr. Hammer and Dr. Mack also thoroughly reviewed all of Respondent's pertinent documentation and history in conducting a complete psychiatric and neurocognitive evaluation, as required by the Board as a condition of reinstatement. Although Respondent objects to Dr. Mack not administering all of the many tests personally during the evaluation, the Board notes that the administration of neuropsychological tests is a typical and standard responsibility given to post-doctoral fellows in the pertinent field. Furthermore, both Dr. Mack and Dr. Hammer, after careful review, reached the same and definitive conclusion that Respondent is medically unfit to practice.¹⁵

The record of the past thirteen months also compellingly demonstrates Respondent's perseveration and complete denial of any condition which impacts on her ability to practice medicine. Respondent's behavior is so extreme that she continues contacting the Board or its representatives on a frequent basis sometimes multiple times a day, requesting reinstatement of her license. In these submissions, Respondent repeatedly expresses her belief that she is competent, asserts that her memory is good and she does not have a neuropsychological or psychiatric problem, despite comprehensive reports clearly indicating

¹⁵The Board relying on its own medical expertise considered the reports and their clear amply supported findings, and declined to afford Respondent the opportunity to cross examine the evaluations in the context of a motion for reinstatement.

otherwise. Rather than being able to acknowledge her condition or seek treatment, Respondent maintains that Dr. Hammer and Dr. Mack are in error and/or biased and that their results are inaccurate.

Furthermore, Respondent repetitively states the same information and thoughts in nearly every submission to and appearance before the Board,¹⁶ such as her credentials, continuing medical education, purported compliance with the PAP and the Board, and letters of recommendation. While the Board does not doubt the recommendation letters accurately reflect her past achievements and the respect she earned from her peers, these recommendations shed no light on Respondent's present ability to practice medicine in view of a serious and progressive illness. From her submissions, it is evident that Respondent believes her credentials and medical knowledge preclude the possibility of any impairment that would render her medically unfit to practice.

Respondent's impairment is also demonstrated by her tendency to refer to herself in the third person in her repeated submissions, and by her presentations at medical offices and the office of the Division of Law when she was neither required nor expected. On at least two of those occasions, staff or security

¹⁶ In addition to Respondent's formal appearances, she also appeared twice before the full Board and spoke during a public comment period reiterating her credentials and her request to be reinstated.

was required to escort her from the premises. In considering the extensive record before it, including instances of inappropriate conduct that reflect the breadth of Respondent's deteriorating condition, the Board cannot arrive at any other conclusion except that Respondent is unequivocally incapable of performing her duties as a licensee in a manner consistent with the public health, safety, and welfare.

The Board is also concerned about the number of attorneys Respondent has sought to represent her in relation to this matter, particularly in light of her financial distress and the recommendation by Dr. Wall that someone be responsible for her finances and decision making. Respondent is currently being represented by her sixth attorney,¹⁷ and persists in making efforts to seek reinstatement rather than focus on the treatment recommendations of her doctors.

After consideration of the extensive record in this matter the Board hereby determines that until such time as Respondent is able to demonstrate she has received proper treatment for her condition (or can otherwise produce thorough and complete evaluations which indisputably find her medically competent and fit to practice) Respondent's license will remain suspended. By

¹⁷ In addition to Mr. Gorrell, Mr. Timins, Ms. Fruchtman, and Mr. Till, Respondent was also represented by Pamela Mandel, Esq. in relation to a Sister State action, and was accompanied at a Board meeting by another at the meeting at which she spoke during public comment period.

way of this Order we are reaffirming the automatic suspension of February 2012. However, we note that N.J.S.A. 45:1-22(e) provides that the Board may, in addition to suspending any license issued by it and after affording an opportunity to be heard, "[o]rder any person, as a condition for continued, reinstated or renewed licensure, to secure medical or such other professional treatment as may be necessary to properly discharge licensee functions."

The Board is aware of the difficult and sympathetic nature of Respondent's present circumstances; we also do not doubt that Respondent has been a well-respected and accomplished internist and dermatologist during her twenty-five years of practice. However, the Board's foremost obligation is to protect the safety, health, and welfare of the public. It is with this obligation in mind that the Board must balance Respondent's need for a livelihood, the respect she has earned within the medical community, and her pride in her work against any danger to the public should Respondent resume practice in her present condition. Accordingly, we find applying our own medical expertise that the serious and unequivocal findings of Dr. Mack and Dr. Hammer, in addition to Respondent's extreme lack of insight and perseveration as demonstrated in the record, necessitate the continued suspension of Respondent's medical license.

Although the Board would prefer to resolve this matter in a remedial manner, Respondent's pronounced lack of insight as to her condition makes any such resolution unworkable. The suspension of a practitioner's license when the practitioner suffers from a medical condition is regarded by the Board as an option of last resort. For this reason the Board has considered possible intermediate measures, such as allowing Respondent to work under a supervising practitioner, limiting Respondent's practice to an institutional setting, or permitting Respondent to teach and pursue academia. However, we find that in light of Respondent's extreme denial and the severity and progression of her impairment, anything less than the continued suspension of Respondent's license would be inadequate to protect the public's safety and welfare.

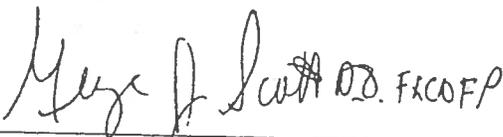
IT IS THEREFORE on this 9th day of April, 2013,
ORDERED THAT:

1. Respondent's petition for reinstatement of her medical license is DENIED.
2. Respondent's petition for reconsideration of the Board's denial of reinstatement of her medical license on September 12, 2012 is DENIED.
3. Respondent's license to practice medicine and surgery in New Jersey shall continue to be suspended indefinitely.

4. In the event Respondent seeks reinstatement of her medical license in the future, and prior to the Board's consideration of any application for reinstatement, Respondent shall be required to submit written evaluations of a complete neuropsychological examination and a psychiatric examination which indicate that Respondent is fit and competent to return to the practice of medicine. Reports of any treatment should indicate awareness by the professional, and receipt of all prior evaluations and diagnoses. The examinations shall be conducted by neutral evaluators who are pre-approved by the Board and who must be provided with Respondent's full documentation and history, including the results of all prior testing. Respondent shall also provide any other information requested by the evaluators, and authorize the evaluators to share the results of the examinations with the PAP and the Board. Respondent must demonstrate to the Board's satisfaction that the significant findings of impairment made thus far in this matter and as reflected in the reports of Dr. Harvey Hammer and Dr. Jonathan Mack are sufficiently overcome by any subsequent evaluations and treatment which meet the requirements enumerated herein.

NEW JERSEY STATE BOARD OF MEDICAL EXAMINERS

By:

 D.O. FRCOFP

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