

FILED

August 4, 2014

**NEW JERSEY STATE BOARD
OF MEDICAL EXAMINERS**

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

By: Jeri L. Warhaftig
Deputy Attorney General
(973) 648-7457

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

IN THE MATTER OF THE SUSPENSION	:	
OR REVOCATION OF THE LICENSE OF	:	
	:	ADMINISTRATIVE ACTION
	:	
TIMOTHY JAMES KINTZEL, M.D.	:	CONSENT ORDER
License No. 25MA07413100	:	
	:	
TO PRACTICE MEDICINE AND SURGERY	:	
IN THE STATE OF NEW JERSEY	:	
	:	

This matter was opened to the New Jersey State Board of Medical Examiners, (the "Board") upon receipt of an Adverse Action Report from Englewood Hospital and Medical Center. That report advised the Board that the staff privileges accorded to Dr. Kintzel had been summarily suspended on July 23, 2013 based on "professional misconduct which relates adversely to patient care or safety." Thereafter, on July 29, 2013 Dr. Kintzel resigned his privileges while his conduct was under review by the hospital. In his letter of resignation, Dr. Kintzel maintained that he did not engage in professional misconduct.

CERTIFIED TRUE COPY

The Board has now received and reviewed the investigative materials developed by Englewood Hospital and Dr. Kintzel's sworn testimony before a Preliminary Evaluation Committee of the Board.

Dr. Kintzel is currently licensed in both New York and New Jersey and is Board certified in emergency medicine. The investigation in this matter reveals that he was employed at Englewood Hospital until the events reflected herein. The summary suspension of his privileges was based on conduct evidenced by Dr. Kintzel's active participation in his Twitter account. The account was opened in 2009 using the handle "@erstories" and later, when the doctor grew concerned that his identity was known to his co-workers and Englewood Hospital, under the new handle of "@talesfromtheer" and nicknamed "Dr.Killpatient"¹. At the time of his suspension, Dr. Kintzel had approximately 2600 followers, at least one of whom was a coworker at Englewood Hospital². Dr. Kintzel offered testimony before the committee that he was confident that there were no other followers aware of his true identity but testified that he could not be certain that that was the case.

The Board notes that the hospital's investigative file reflects that in 2011 Dr. Kintzel met with hospital

¹ This was a satirical twist on a name featured in a particular episode of the "bugs bunny" cartoon series, a pun of "Dr. Kildare" according to the physician. .

² Adam Avitabile, PAAC, is also the subject of Board action.

administrators who expressed concern that his blog posts pertained to hospital employment in the Emergency Department. He was counseled that his role as a physician in the Emergency Department should not be a topic of his internet posts. The potential risks of his conduct (not further explicated in the file) were discussed.

Dr. Kintzel testified that he tweeted a couple of thousand times under his two most recent handles. Approximately forty to sixty percent of his tweets were related to his job at the hospital and they covered a wide range of topics such as academic discussions, medical findings, the politics of medicine and healthcare, dark humorous stories related to unidentified patients' chief complaints, and venting frustrations. During the same time frame as his Twitter activity, Dr. Kintzel also operated two websites, www.erstories.net, which was active for a short period of time and www.talesfromtheer.com, which he regularly maintained. According to Dr. Kintzel, Englewood Hospital was aware of his social media activity and he admitted that he had been instructed by the hospital to "be careful" about the website. Dr. Kintzel testified he was appropriately mindful of the risk of disclosing patient information in an identifiable manner and to that end took precautions to purposely mislead his followers as to the hospital's true

location or identity. He testified that his website biography did not reveal any of his personal information.

The problem at Englewood Hospital arose when a nurse who was Dr. Kintzel's co-worker sought treatment in the emergency department of the hospital and later was recognized by an unknown co-worker in certain tweets posted by the doctor. Dr. Kintzel admitted that he had tweeted about the nurse/patient and her alleged repeated requests for narcotics. Dr. Kintzel did not identify her by name or place of employment. He also testified that he voluntarily deleted the tweets before meeting with hospital administration because he felt they were "out of character" and "too harsh". Nonetheless, he agreed that responses to his nurse related tweets were posted from co-worker Avitabile.

The Committee and the Board have observed that the substance of many tweets posted by the doctor appear to ridicule emergency department patients chief complaints or reference the stressful environment. These tweets were typically responded to by Dr. Kintzel's followers. He testified that he did not know for certain whether the followers were aware of his true identity or if any of his followers were co-workers at Englewood Hospital; however he made efforts to maintain his anonymity. Dr. Kintzel's website contained a blog with categories such as "idiotic ER visits, doctors being assholes, downer, drug

addicts, dumb people, unintelligible, fantastic, humorous, lessons and such, painful, surprising encounter, uncategorized." Dr. Kintzel does not know the true identities of the commenters on his blog posts nor can he tell whether they were aware of his true identity

In discussing with a Board Committee some of the material on his blog, Dr. Kintzel testified that patient descriptions in his posts were partial fabrications or compilations of anecdotes from more than one patient. He felt that he was venting on his blog in an innocent and anonymous manner in order to release frustrations. Dr. Kintzel testified that despite his complaints on-line, he had respect for all his patients. Although he did not feel burned out by his position at Englewood Hospital he has decided to accept a position that was more convenient to his home in order to maintain a better work and home life balance.

Dr. Kintzel denied that he had ever revealed patient medical records in his on-line posts, and there are no accusations to the contrary, but admitted that on occasion he posted photos of patients' unidentified body parts. When he took the photos, patients were informed only that they were shared with other physicians consulting in their care, but Dr. Kintzel also utilized the photos in his on-line posts. He took precautions to eliminate any identifying aspects of the images before posting them. In most instances, when he posted

what he claimed were bonafide images of patients they were actually images he obtained from Google of patients with symptoms that appeared similar to his actual patients.

Dr. Kintzel has now refocused his leisure time away from any activity on social media. His blog and Twitter account were closed in July 2013. His present employer is aware of Englewood Hospital's investigation and he enjoys unrestricted privileges at his new hospital. Dr. Kintzel does not believe that his conduct violated HIPAA or that his patient care was impacted in any way by his social media conduct.

The Board is deeply concerned about Dr. Kintzel's behavior and in particular, his lack of full appreciation for the risk that his patient's identity could be discovered. His misleading of patients when he photographed portions of their body during treatment and his failure to realize that some of his blog and twitter followers might discover his true identity evidence a lack of full understanding of the strict constraints of confidentiality within the medical profession. The New Jersey State Board of Medical Examiners will not tolerate inappropriate social media behavior especially when it puts the privacy and dignity of patients and healthcare workers alike at risk. Notably, this was not a single indiscriminate remark or post on the internet. Rather, the Board is satisfied that Dr. Kintzel engaged in a pattern of conduct over time that continued even

after the hospital expressed concerns and that demonstrated his lack of insight into the impropriety of his behavior.

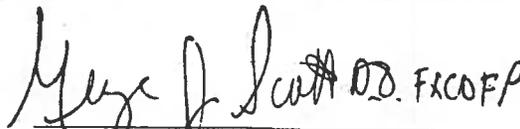
For the reasons expressed herein and good cause having been shown:

It is on this 4 day of August, 2014,

Ordered:

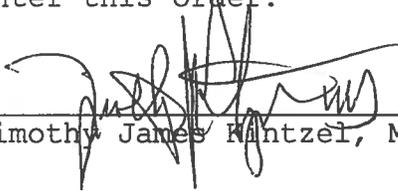
1. Timothy James Kintzel, M.D. is hereby reprimanded for professional misconduct as more fully set forth above.
2. Respondent Kintzel shall enroll in and successfully complete a refresher course pertaining to HIPAA. (The Board notes that this requirement has been satisfied).
3. Respondent Kintzel shall pay \$500 which corresponds to the costs of the investigation.
4. Respondent shall comply with the Board Directives attached hereto.

STATE BOARD OF MEDICAL EXAMINERS



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

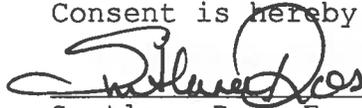
I have read and understood this Consent Order and agree to be bound by its terms. I hereby give my consent to the Board to enter this Order.



Timothy James Kintzel, M.D.

7/10/14
Date

Consent is hereby given as to the form of this order.



Svetlana Ros, Esq.

7/14/14
Date

**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.