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FILED

August 4, 2014

**NEW JERSEY STATE BOARD
OF MEDICAL EXAMINERS**

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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
:
ADAM AVITABILE, PA-C : CONSENT ORDER
License No. 25MP00203500 :
:
LICENSED AS PHYSICIAN ASSISTANT :
IN THE STATE OF NEW JERSEY :

This matter was opened to the New Jersey State Board of Medical Examiners, ("the Board") and the Physician Assistant Advisory Committee ("the Committee") upon receipt of an adverse action report from Englewood Hospital and Medical Center ("Englewood Hospital"), advising that it had summarily suspended the staff privileges accorded to Adam Avitabile, PA-C on July 23, 2013 based on "professional misconduct which relates

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adversely to patient care or safety." Thereafter, on July 29, 2013 Mr. Avitabile resigned his employment and privileges while his conduct was under review by the hospital. The Board has now received and reviewed the investigative materials developed by Englewood Hospital, Mr. Avitabile's sworn testimony before a Preliminary Evaluation Committee of the Board, and supplemental submissions.

Mr. Avitabile is a currently licensed New Jersey Physician Assistant. After successfully completing his PA program in May of 2008 he was employed as a physician assistant at JFK Medical Center. He began employment at Englewood Hospital in April 2012, where he worked in the Emergency Department ("ED"). Prior to July 2013 Mr. Avitabile had never been the subject of any complaint or any allegations of inappropriate behavior.

Mr. Avitabile's suspension by Englewood Hospital followed the hospital's discovery of a Twitter account that had been opened by Mr. Avitabile in late 2012. Mr. Avitabile opened the Twitter account at the suggestion of a physician in the ED, Dr. Timothy James Kintzel, M.D.,¹ who told him he would be able to learn from the responses to tweets Mr. Avitabile might post about interesting cases. To Mr. Avitabile's knowledge, many but

¹Dr. Kintzel is also the subject of Board Action.

not all, of his followers were members of the medical community. At least one follower was co-worker Dr. Kintzel.

During the seven month period that Mr. Avitabile used his Twitter account, he posted approximately 4,200 tweets. Some of his posts were about cases that came into the ED and included partially obscured record information of patients and photographs of patient injuries, photographs of radiological images, photographs of medical record documentation and other tweets that described patient encounters in a vulgar or mocking matter. Mr. Avitabile testified that he asked patients' permission before taking their photographs, but admitted that he misled the patients by telling them the photographs were for educational purposes. Although he occasionally used photographs during a course he taught at Seton Hall University, Mr. Avitabile acknowledged that posting the photographs on Twitter, and misleading the patients about how the photographs were going to be used, was wrong. Mr. Avitabile testified that he obscured the images he took so the patients could not be identified. The Committee and the Board have observed that the substance of many tweets posted by the P.A. appear to ridicule emergency department patients and make sexual comments about patients. Nevertheless, certain tweets contain information that seems to identify Mr. Avitabile's location in North Jersey.

Mr. Avitabile testified that he had never had a Twitter account before. He testified that, after he began using his account he found that he enjoyed getting followers and feedback from his tweets, and that he learned that the more outrageous his tweets were the more followers and responses he would receive. He testified that he did not engage in any of the inappropriate conduct that he described in his tweets. Finally, Mr. Avitabile testified that he was insecure and found gratification in the attention that he got from gaining followers and receiving responses to his tweets.

Mr. Avitabile's Twitter account came to the attention of Englewood Hospital after a nurse, who had sought treatment in the ED, later recognized herself in unflattering tweets that had been posted by Dr. Kintzel to which Mr. Avitabile had responded. The nurse complained to Human Resources, which conducted an investigation and discovered both Dr. Kintzel's and Mr. Avitabile's respective Twitter accounts. Mr. Avitabile was immediately suspended and he resigned his employment on July 29, 2013.

After his resignation, Mr. Avitabile self-reported to the Professional Assistance Program ("PAPNJ"). He expressed deep remorse and insight when he testified before the Committee. The Board believes his conduct will not be repeated.

After three months of unemployment, on November 4, 2013 Mr. Avitabile secured new employment as a physician assistant. His present employer is fully aware of the circumstances surrounding his resignation from Englewood Hospital, as well as the Board's investigation. Mr. Avitabile conducted his job search with the permission of Louis Baxter, M.D. the executive director of PAPNJ and with notice to the Board and Committee.

The Board is deeply concerned about Mr. Avitabile's behavior and in particular, his apparent disregard for the risk that the identity of his patients would be revealed through his posts. His intentional misleading of patients when he photographed portions of their body during treatment evidenced disregard for the nobility of the medical profession in which he is engaged as a physician assistant and the strict requirements of maintaining patient confidentiality.

The New Jersey State Board of Medical Examiners and the Physician Assistant Advisory Committee 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 matter did not arise from a single indiscriminate remark or post on the Internet. Rather, the investigation revealed that Mr. Avitabile engaged in a pattern

of conduct over several months that demonstrated a lack of insight into the impropriety of his behavior. He has, however, accepted full responsibility for his conduct, has cooperated with the Board and has rededicated himself to high professional standards.

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

It is on this 4 day of August, 2014,

Ordered:

1. Adam Avitabile, PA-C is hereby reprimanded for professional misconduct as described above;

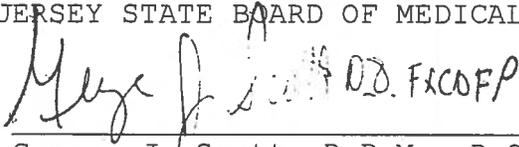
2. Mr. Avitabile shall enroll in, and successfully complete a continuing medical education course on HIPAA and confidentiality requirements pre-approved by the Board;

3. Mr. Avitabile shall continue to undergo therapy with a mental health provider pre-approved by the Medical Director of the Board at a frequency and duration to be determined by the provider with notice to the Board; and

4. Mr. Avitabile shall comply with the Board Directives attached hereto.

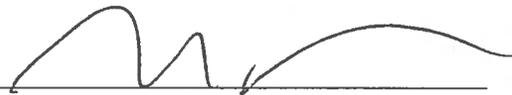
NEW JERSEY STATE BOARD OF MEDICAL EXAMINERS

By:

 D.D. FXCOFP

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

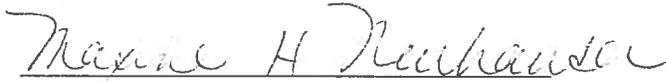
I have read and I understand this
Consent Order and agree to be
bound by its terms. I hereby consent
to the entry of this Order.



Adam Avitabile, PA-C

7-15-14
Date

I hereby consent to the form
and entry of this order.



Maxine Neuhauser, Esq.

7-15-14
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.