



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

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IN THE MATTER OF THE SUSPENSION  
OR REVOCATION OF THE LICENSE OF

FINAL DECISION AND ORDER

Anthony Deluca, M.D.  
LICENSE NO.: 25MA05663900

TO PRACTICE MEDICINE AND SURGERY  
IN THE STATE OF NEW JERSEY

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This matter was opened to the New Jersey State Board of Medical Examiners ("the Board") upon the filing of a Verified Complaint, before the State Board of Medical Examiners by John J. Hoffman, Acting Attorney General of New Jersey by Bindi Merchant, Deputy Attorney General on May 18, 2015. The Complaint alleged in one (1) count that Respondent Anthony Deluca, M.D., pled guilty and admitted to key facts related to a one-count Information charging him with using the mail and a facility in interstate commerce to facilitate the carrying on of commercial bribery by accepting bribes in connection with referrals of laboratory testing services to Biodiagnostic Laboratory Services, LLC ("BLS") in violation of the Travel Act, Title 18, United States Code, Section 1952(a)(3). The Complaint alleges that respondent's actions constituted the use or employment of dishonesty, deception, misrepresentation, false promise

or false pretense; professional misconduct; conviction of a crime involving moral turpitude and relating adversely to the practice of medicine; and a failure of the ongoing requirement of good moral character all in violation of N.J.S.A. 45:1-21 (b)(e) and (f), and N.J.S.A. 45:9-6.

Respondent filed an Answer on May 22, 2015 in which he admitted all of the factual allegations of the Verified Complaint, and neither admitted nor denied the legal conclusions, asserting that his violation of the cited laws or rules and accepted standards of practice was unintentional. He requested the opportunity to present written materials and oral testimony at a hearing in mitigation of the penalty or sanction that would otherwise be imposed.

#### **Determination of Liability**

A hearing was held before the Board on June 10, 2015. Deputy Attorney General Bindi Merchant appeared on behalf of the State. David Sokolow, Esq and Elizabeth Hampton, Esq. appeared on behalf of Respondent.

After confirming with counsel that Respondent admitted to all of the substantive factual allegations of the Complaint and that both parties agreed that the Board may consider liability without further need to present evidence or testimony, the Board deliberated in executive session, and voted on and announced its decision on the record in open session. The Board found that given that Respondent admitted to all factual allegations in the Complaint, there was

sufficient competent evidence to find that his conviction of one count of using the mail and a facility in interstate commerce to facilitate the carrying on of commercial bribery by accepting bribes in connection with referrals of laboratory testing services in violation of the Travel Act and the conduct underlying that conviction, as described in the Administrative Complaint, constitutes the use or employment of dishonesty, deception, misrepresentation, false promise and false pretense in violation of N.J.S.A. 45:1-21(b), constitutes professional misconduct in violation of N.J.S.A. 45:1-21(e) and constitutes a crime relating adversely to the practice of medicine in violation of N.J.S.A. 45:1-21(f).

#### PENALTY HEARING

Immediately following the Board's announcement of its determination that cause for discipline had been found, the Board proceeded to a hearing for determination of sanctions in this matter. Exhibits submitted by both counsel for Respondent and DAG Merchant were entered into evidence without objection.<sup>1</sup>

Mr. Sokolow began with an opening statement in which he argued that Respondent is different from the other doctors implicated in the BLS scheme in that he had no direct or personal involvement with BLS,

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<sup>1</sup> R-1 Information relating to the p.r.e.p program developed by Respondent  
R-2 through R-59Y Letters sent by patients directly to the Board  
R-60 through R-82 Correspondence sent by patients to Respondent's practice  
P-1 Certification of Costs  
P-2 Respondent's Criminal Plea Transcript  
P-3 Respondent's Criminal Sentencing Transcript  
P-4 Prior Board Orders involving conduct similar to that of Respondent in this matter.

and relied on his partner, Dr. Vitali, to orchestrate the hiring of BLS and handle other financial matters for their medical practice Partners in Freedom. Mr. Sokolow characterized Respondent as a caring physician and an ethical man who had a lapse in judgment and made a serious mistake.

Respondent and six other witnesses testified on Respondent's behalf. Kathleen Rowe, a former practice manager for Partners in Freedom, worked with Respondent for eleven years and is currently a patient of the practice. She testified that Respondent was more involved with the clinical side of the practice and Dr. Vitali was more involved with the business end of the practice. Ms. Rowe spent several months negotiating with a lab to allow patients to have blood work drawn in the office. After she had worked out many of the technical details and after the lab had invested money in the project, Dr. Vitali told her that he had found another lab (BLS) and Ms. Rowe should "stay out of it." T at 29-30.<sup>2</sup> To Ms. Rowe's knowledge, Respondent had no contacts at BLS and was not involved in the decision to bring BLS into the practice. Ms. Rowe left the practice about two months after BLS started providing laboratory services, but testified that on at least two occasions Respondent asked her to contact the lab because bloodwork had been done that he did not order. Ms. Rowe testified that Respondent is a "phenomenal" doctor who will be "sorely missed" by his patients if he is unable to

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<sup>2</sup> The transcript of the June 10, 2015 hearing in this matter is referenced as "T."

practice for any period of time. In her opinion, Respondent is not the type of doctor who would knowingly accept a bribe.

Susan Losacco has worked in various capacities with Respondent over the last 21 years. She has been the office manager at Partners in Freedom for the past 3 years. She testified that Respondent has a "very high patient population" and expressed concern that without him there might not be enough primary care providers in the area. He has remained very patient focused and positive with staff and patients despite his recent legal troubles and the loss of his house in Hurricane Sandy. Upon hearing the news that Respondent was leaving the practice, patients "flooded in" to the office to see him, sent letters and e-mails and called the office to see if there was anything they could do to help Respondent. R-60 through R-82. She would like the Board to judge Respondent "solely on his own" and understand that Respondent is "not this person that would do something maliciously, and he cares so much about his patients." T at 48.

Marianne McCormick is a registered nurse employed by Partners in Freedom as a population care coordinator. She first met Respondent when she was employed by Blue Cross Blue Shield of New Jersey and was placed at Partners in Freedom as part of a pilot program called Horizons Healthcare Innovations ("HHI"). She testified that Respondent is "absolutely one of a kind. He's very progressive. He was very into these pilot programs." In 2012, Ms. McCormick was

hired permanently by Partners in Freedom. Respondent developed the successful p.r.e.p. program (R-1) to help patients lose weight and exercise. Ms. McCormick also testified that the Horizon HHI program has not dropped Respondent despite the criminal action. In closing, Ms. McCormick described Respondent as 100% patient focused, "He is not a malicious person. He is definitely not a greedy man. He is so giving to everyone." T at 59.

Janice Siciliano, D.O. is Board Certified in Internal Medicine. She first met Respondent during their residencies in 1988. She remembers him as competent and caring. She did not keep in touch after the residency until she began working for Partners in Freedom about 8 years ago. Dr. Siciliano described Respondent as a competent doctor who puts his patients first, no matter how difficult the patient or pressures in Respondent's personal life. Dr. Siciliano is concerned that the practice will not survive Respondent's and, potentially, Dr. Vitali's departure.

Respondent testified on his own behalf. He is married with two teenage daughters. He described himself as a clinical physician, "not as good at business." He described his work with the Blue Cross Blue Shield PCMH pilot program and the Medicare program as a "demanding job" and "an honor." T at 74.

Respondent explained that the practice always had a lab in the office for the patient convenience. During a period when they did not have a lab, Dr. Vitali came to him and suggested they contract

with his friend "Lenny" at BLS labs. Respondent agreed as long as BLS could interface with the electronic medical record system. Respondent testified that he had no discussions with anyone at BLS and did not change his practice in any way after BLS started providing lab services.

A few months after BLS began providing services at Partners in Freedom, Dr. Vitali gave Respondent an envelope with money in it as a "thank you" from his friend "Lenny". When questioned, Dr. Vitali assured Respondent it was ok to accept the money. A month later, Dr. Vitali gave Respondent another envelope with money. Respondent accepted it and did not question Dr. Vitali further. Respondent described his behavior as "out of character,"

a total mistake on my part, a total, total lapse of judgment on my part, not to have challenged this more. . . I didn't feel like I was getting paid for anything because I didn't change anything that I did. I didn't add any lab work.

T at 81.

Respondent testified that, although he wanted to fight the criminal charges, he pled guilty at his attorney's recommendation. He believes his criminal sentencing (1 year and 1 day in prison) was one of the lesser penalties that have been handed out by the Judge in this case. Respondent cooperated with the government and, at the request of the FBI, wore a wire to interview an individual associated with a lab that was later indicted for Medicare fraud. Respondent testified that he understands and accepts the mistake that he made

and his lapse in judgment. His reputation has been tarnished and he, his family and friends have been devastated.

Respondent's brother-in-law, Nelson Rodriguez, also testified on Respondent's behalf:

Candidly I cannot understand the decision that led him to take that envelope. It is so far removed from the man that I know, the person who despite having lost his home in Sandy cooked meals in my kitchen every Sunday for those less fortunate who were residing in tents in a nearby town.

T at 90.

He opined that Respondent has never done anything to jeopardize the care of his patients and that a lengthy punishment would do "far more harm to the greater community, the 5,000 plus patients that he serves, than anything." T at 91.

Robert Cooper has been Respondent's patient since 2005. Cooper testified that, in October 2013, his wife (who was not initially Respondent's patient) was diagnosed with leiomyosarcoma. Respondent visited with the family, recommended specialists, routinely checked in with her treating physicians, and eventually became her primary care physician. About a year and a half later, Cooper's wife developed nodules in her lungs and was placed on hospice. Respondent came to Cooper's house to visit his wife and spend time with his family. On the night Cooper's wife died, Respondent called the funeral home and refused to leave the house until hospice said the funeral director was around the corner. When Cooper had a heart

attack several months later, Respondent again came to the hospital, recommended a specialist and sat with Respondent's daughters in the waiting room. Mr. Cooper requested that the Board:

. . . please consider the man. Clearly, a mistake was made. Clearly. But this is not a man driven by greed. This is not a man that's dishonest and deceptive. This man is a loving, caring and talented doctor.

T at 102.

In addition to witness testimony described above, Respondent submitted approximately 83 letters (R-2 to R-82) from patients and colleagues sent directly to either Respondent's medical practice or the Board office expressing surprise and dismay at learning that Respondent may no longer be able to be their medical provider. The letters consistently described Respondent as highly competent and recounted many instances of Respondent going above and beyond to assist his patients and their loved ones. Those patients who were aware of the criminal charges lodged against Respondent expressed disbelief that he would have knowingly accepted bribes and urged the Board to be compassionate when determining a penalty.

Ms. Hampton and Mr. Sokolow each gave a brief closing statement on behalf of Respondent. They argued that Respondent, unlike the bulk of physicians implicated in the BLS scheme, did not engage directly in conduct and behavior or conversations with BLS representatives. In their opinion the Board, like the criminal prosecutor and judge, should recognize that Respondent's situation

and circumstances were "fundamentally unique from all or virtually all of the other BLS physician cases before the court."<sup>3</sup> They argued Respondent should be given lesser discipline than that imposed in the consent orders entered into evidence at P-4.

In a brief opening statement DAG Merchant reminded the Board that Respondent was convicted of commercial bribery relative to his acceptance of bribes in the amount of \$1500 per month from May 2012 to March 2013 for referring blood specimens to BLS. The Board notes the following regarding the documents entered into evidence by the Attorney General.

The core facts of this case are well developed in Respondent's admissions, as found in the transcript of his guilty plea. P-2 at 18-20. Specifically, Respondent admitted that from in or about May 2012 through in or about March of 2013 he was offered and accepted cash bribes in monthly installments of about \$1500 from a person in his medical office knowing that the money had come from BLS in return for referrals of patient blood specimens to BLS. He further admitted that referrals were made to BLS as opposed to another blood lab because of those bribe payments rather than for any medical reason and that BLS continued to pay him bribes over time because BLS was being paid various amounts on claims made to Medicare and private insurance companies.

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<sup>3</sup> The Board notes that the judge in the criminal matter found Respondent's situation to be "virtually identical" to that of all the other doctors implicated in the BLS scheme. P-3 at 13.

The transcript from Respondent's criminal sentencing (P-3) reflects that Respondent submitted mitigation to the Criminal Court very similar to that presented to this Board including: the testimony of Respondent showing his remorse, testimony from Mr. Rodriguez regarding Respondent's good character, letters from patients and legal argument that Respondent should be treated differently because he did not seek out the opportunity with BLS. The Court's analysis of Respondent's actions and the mitigation presented resonates with the Board:

The Court, however, has to candidly say that precisely virtually identical types of situations have been presented by all of the other doctors who were embroiled in this situation.

There have been occasions where this courtroom has been filled with patients on behalf of their doctor. There have been occasions where the courtroom overflowed and there were complaints that we can't supply additional courtroom space for people who wished to attend. Every one of these situations is heartbreaking for both the defendant, the family members, the friends and patients and, quite frankly, to this Court.

But this Court has an obligation to, in fact, impose a sentence which complies with the guidelines and concerns that are set forth in the statute. So, I accept the fact that, doctor, you're a good person, but good people do bad things, and there are consequences, and there are consequences not only for themselves but for their loved ones and their families, and that cannot be avoided.

I have absolutely no doubt that if you could go back in time, this would never happen, but you can't. And doctor, I appreciate that you did not

initiate this but, you know something doctor, you knew when you did it that it was wrong.

Given your position, the fact that somebody else walked up to you and offered you that money is no more of an excuse or an explanation than if somebody walked up to me and offered me \$1500 a month to change my decisions. I would know that would be wrong. You knew it was wrong.

And this court has an obligation to make sure that other doctors who are presented with that temptation understand that it's wrong, understand that it's not some technical violation, that it is bribe receiving and its bribe receiving which, if it becomes endemic, has the potential for undermining the entire health care system in this country.

P-3 at 13-14.

The Honorable Stanley R. Chesler, USDJ went on to sentence Respondent to 12 months and 1 day in federal prison followed by one year of supervised release, a fine of \$5000, a special assessment of \$100 and forfeiture in the amount of \$16,500.

The subject of four of the five Consent Orders entered into evidence at P-4 are doctors who, like Respondent, pled guilty to a one count Information charging them with using the mail and a facility in interstate commerce to facilitate the carrying on of commercial bribery by accepting bribes from BLS in connection with referrals of laboratory testing services in violation of the U.S. Code. Each of these cases was negotiated by counsel and each includes a revocation of medical license with no right to apply for reinstatement until 3 years have elapsed. Where settlement was not

reached prior to the filing of an Administrative Complaint a \$10,000 fine was also imposed. The money these doctors received in bribes ranged from \$43,000 to \$224,000. The fifth consent order involves a doctor who pled guilty to a two count Information charging him with commercial bribery (in excess of \$700,000) and filing a false tax return in connection with the BLS scheme. In this case, the doctor agreed to a revocation of his medical license with no right to apply for reinstatement until 5 years have elapsed.

DAG Merchant gave a brief closing statement in which she emphasized that this Board has always maintained that it is the conduct of accepting the bribe rather than the dollar amount of the bribe that is the basis for penalty. Respondent knew he was accepting bribes, and he knew that it was wrong. She reminded the Board that the amount of prison time imposed in a criminal matter should not necessarily correlate to the amount of discipline imposed by the Board.

#### **DISCUSSION ON PENALTY**

The fundamental issue we have considered in determining penalty is not whether Respondent is a competent practitioner or whether he contributes to his community, but rather what sanction is necessary to redress his criminal conduct as it relates to his practice of medicine. The Board has also taken into account the need for disciplinary proceedings to balance the factors of punishment of this

licensee, the potential for his rehabilitation, and the need for deterrence of others from similar conduct.

Respondent admitted under oath at his criminal plea that he accepted \$1500 a month for approximately 10 months from a person in his medical office, knowing that money came from BLS and was meant to induce Respondent to refer patient blood specimens to that lab. The transcript of his guilty plea in the criminal matter reflects his acknowledgement that he made the referrals for the bribe payments, not for any medical reason, and he knew the lab would be submitting claims to Medicare and private insurance companies.

The evidence before us does not support a conclusion that Respondent was the architect of the BLS scheme to defraud. However, Respondent's endorsement of the scheme by accepting monthly bribes allowed the fraudulent activities to continue to flourish. It strains credulity to assume that Respondent did not intend to accept the money or that he did not question the supposed generosity of "Lenny." Each month, when he accepted an envelope with money in it, he knew something was wrong. Yet, there has been no testimony or other evidence that Respondent in any way tried to refuse the money, investigate the source of the funds or report or stop the bribery scheme. This is not a case of a one-time indiscretion or mistake. Respondent may have been confused or uncertain the first time he accepted an envelope of cash. However, his repeated taking of the

cash over almost a year demonstrates his obvious knowledge of the impropriety involved in this matter.

The acceptance of bribes in connection with the practice of medicine eviscerates the trust the public places in licensed physicians, undermines the entire health care system and can severely impact patient care. It cannot be disputed that the finances of a physician's practice are directly related to patient care. Doctors, especially those in private practice, cannot divorce themselves from the business aspect of the practice of medicine. Medical referrals should be based on what is best for the patient - not on how much money the doctor will get for the referral.

The presentation made in mitigation by Respondent, while heartfelt, sincere and extremely favorable to him, in no way dissuades us from the fundamental proposition that the misconduct involved in this matter is serious and warrants a severe sanction. The Board does not doubt that Respondent has the interactive skills and compassion to be a good physician. This does not excuse his pattern of conscious dishonesty in knowingly accepting bribes in connection with his medical practice over a period of approximately 10 months.

We are not convinced that Respondent's behavior and choices in this matter were very different from other BLS cases<sup>4</sup> recently

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<sup>4</sup> We agree with much of Judge Chessler's analysis at Respondent's sentencing hearing and note he came to a similar conclusion regarding the seriousness of Respondent's

reviewed by the Board that it warrants a lesser sanction than imposed in those cases. Respondent may not have communicated directly with BLS, but he repeatedly accepted the bribe money of \$1500.00 per month without question or investigation. The total dollar amount of the bribes accepted by Respondent may be less than other doctors accepted, but there is nothing in the record to suggest that Respondent would not have continued to accept monthly cash payments ad infinitum.

For these reasons, we find that the Respondent's medical license should be revoked immediately and that a \$10,000 civil penalty should be imposed. However, factoring in the testimony offered by character and other witnesses on respondent's behalf, and that he acknowledged the conduct making a contested hearing unnecessary, we will offer respondent an opportunity to restore his career, by permitting an application for reinstatement after three (3) years subject to certain conditions.

As to the imposition of costs in this matter, we have reviewed the costs sought by the State and find the application sufficiently detailed and the amount reasonable, given the length of time expended and complexity of the prosecution of this matter. Costs are traditionally imposed pursuant to N.J.S.A. 45:1-25 so as not to pass the cost of the proceedings onto licensees who support Board activities through licensing fees. Our analysis follows.

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actions and the similarity of his actions to those of other doctors implicated in the BLS scheme.

The Attorney General's certification in this matter documented the time the attorney expended in these proceedings, detailing costs which reflected a total of attorney fees in the amount of \$1906.28. The rate charged by the Division of Law of \$155.00 per hour for a Deputy Attorney General with 5-10 years of experience has been approved in prior litigated matters and appears to be well below the community standard. We find the overall application to be sufficiently detailed to permit our conclusion that the amount of time spent, and the overall fees sought are objectively reasonable as well. (See, Poritz v. Stang, 288 N.J. Super. 217 (App. Div. 1996)). We find that the Attorney General has adequately documented the legal work necessary to advance the prosecution of this case. We are thus satisfied that the Attorney General's claims are reasonable.

We take notice that investigative costs, approved many times in the past, are based on salaries, overhead and costs of state employees. Considering the important state interest to be vindicated, protection of the public by assuring physicians practice within the standard of care, the investigative costs sought of \$694.00 are certainly reasonable.

We are thus satisfied that the total fees of \$2600.78 that we are awarding are reasonable especially when viewed in the context of the seriousness of the action maintained against Respondent.

For all the reasons set forth, and in consideration of the egregious nature of the violations in this matter;

IT IS THEREFORE ON THIS 17 DAY OF AUGUST, 2015

AS ORALLY ORDERED ON THE RECORD ON JUNE 10, 2015:

1. Respondent's license to practice medicine and surgery in the State of New Jersey is hereby revoked, effective June 10, 2015. Respondent shall immediately cease and desist the practice of medicine and surgery.<sup>5</sup>

2. Respondent shall immediately return his original New Jersey medical license and CDS registration to the New Jersey State Board of Medical Examiners, P.O. Box 183, Trenton, NJ 08625-0183.

3. Respondent shall pay all assessed civil penalties and costs (\$12,600.78) within 30 days<sup>6</sup> of the date of this Order unless installment payments are sought from and approved by the Board prior to the date due. Payment shall be made by bank check, money order, wire transfer or credit card made payable to the State of New Jersey and forwarded to the attention of William Roeder, Executive Director, Board of Medical Examiners, 140 East Front Street, 2<sup>nd</sup> Floor, Trenton, New Jersey, 08608. Any other form of payment will be rejected and will be returned to the party making the payment. In the event that respondent fails to make timely payment, interest shall begin to accrue at the annual court rule rate, a Certification of Debt shall

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<sup>5</sup> We have been advised that Respondent is to surrender for incarceration on June 11, 2015 and thus transfer of patients or other arrangements are not an issue in this case.

<sup>6</sup> At the June 10, 2015 hearing, the Board orally ordered Respondent to pay the civil penalty and costs on or before August 15, 2015. This written order was not issued until August 17, 2015, and in the interest of fairness, we have given Respondent additional time to pay and/or request a payment plan.

be issued, and the Board may institute such other proceedings as are authorized by law.

4. Respondent may not apply for reinstatement of his license until June 10, 2018, 3 years from the effective date of revocation of his license. Notwithstanding the term of ineligibility set forth herein, in no instance shall Respondent be granted a license during any period of incarceration or any period that Respondent is under the conditions of a criminal sentence such as probation, supervised release, and/or a fine payment plan. Additionally, the period of ineligibility will be tolled for any length of time that Respondent practices in another jurisdiction.

5. Prior to Board consideration of any application for reinstatement, Respondent shall:

a. Take and successfully complete, at his own expense, the ProBe or PrimE ethics course, or another ethics course approved in advance by the Board. Successful completion means that all sessions were attended, all assignments were properly and appropriately completed, and a passing grade was achieved which was unconditional and without reservations.

b. Pay in full all civil penalties and costs imposed pursuant to this Order.

c. Provide documentation showing full compliance with all criminal sentencing terms including but not limited to successful completion of any period of probation or supervised release and payment of all fines, fees or forfeiture ordered by the Court.

d. Appear before the Board or a committee thereof to discuss his readiness to reenter the practice of medicine. At that time, Respondent shall be prepared to propose his plans for future practice in New Jersey and demonstrate

evidence of rehabilitation to the Board's satisfaction. At any appearance for reinstatement the burden shall be on Respondent to demonstrate fitness and competency. The Board reserves the right to impose such conditions and restrictions as it deems appropriate should any application by Respondent for reinstatement be granted.

6. The Directives regarding future activities of a Board licensee who has been disciplined are incorporated into this Order whether or not attached hereto.

NEW JERSEY STATE BOARD OF  
MEDICAL EXAMINERS

By:   
Stewart Berkowitz, M.D.  
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.