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FILED
DEC 3 2015
NEW JERSEY STATE BOARD OF MEDICAL EXAMINERS

STATE OF NEW JERSEY
DEPARTMENT OF LAW AND PUBLIC SAFETY
DIVISION OF CONSUMER AFFAIRS
STATE BOARD OF MEDICAL EXAMINERS
OAL DOCKET NO.: BDS 18448-2013 N

IN THE MATTER OF THE SUSPENSION OR REVOCATION OF THE LICENSE OF Frederick Weintraub, D.P.M. License No. 25MD00178500 TO PRACTICE PODIATRY IN THE STATE OF NEW JERSEY	ADMINISTRATIVE ACTION CONSENT ORDER

This matter was opened before the New Jersey State Board of Medical Examiners ("Board") on December 14, 2012, upon the filing of a two-count Verified Complaint by John J. Hoffman, Acting Attorney General of New Jersey, David M. Puteska and Christopher Salloum, Deputy Attorneys General, appearing. In his Verified Complaint, the Attorney General sought the immediate, temporary suspension of the license of podiatrist Frederick Weintraub, D.P.M., ("Respondent") due to Respondent's alleged sexual misconduct and other related inappropriate and lewd behavior.

CERTIFIED TRUE COPY

Specifically, Count One of the Complaint alleged that, during the course of an office visit on October 24, 2012, Respondent groped and fondled the breasts of patient L.S.C. Respondent's touching of L.S.C. resulted in his arrest the following day by the Northvale Police Department, which charged him with one count of criminal sexual contact in violation of N.J.S.A. 2C:14-3(b), a crime of the fourth degree.[1] Count Two of the Verified Complaint alleged that Respondent, on multiple occasions, engaged in inappropriate behaviors, including unwanted groping and making sexual references and innuendo, with female staff members of Spectrum for Living Development, Inc., ("Spectrum"), a nonprofit organization for which Respondent provided on-site podiatric services to developmentally disabled patients residing at Spectrum's facilities.

On December 20, 2012, Respondent, through his attorneys at the time, Brach Eichler, LLC, by Keith J. Roberts, Esq., appearing, filed an answer to the Attorney General's Verified Complaint, wherein he admitted to having "inadvertently" touched the breasts of patient L.S.C., and generally denied the remainder of the Verified Complaint's allegations.

Following a hearing before a Committee of the Board, on December 27, 2012, the Committee ordered the immediate, temporary, suspension of Respondent's license to practice podiatry in the State of New Jersey. Among other things, the Committee found that

[1] This charge was ultimately dismissed.

Respondent "engaged in abusive, inappropriate and sexually exploitative behavior with two podiatric patients" and "repeatedly made lewd and inappropriate comments to female employees at Spectrum, and that he did so in the presence of Spectrum residents who were [his patients] . . . necessarily creat[ing] a hostile working environment, which in turn could have engendered risks to patients." These findings, the Committee concluded, provided further support for its finding that Respondent's continued practice "present[s] clear and imminent danger to the public health, safety and welfare." On January 9, 2013, the Board unanimously adopted the Committee's Order of Temporary Suspension in its entirety and without modification.

Despite the Board's Order of Temporary Suspension, the Respondent nonetheless continued to provide podiatric services, including, but not limited to, the authorization of several prescriptions for controlled dangerous substances, and the in-person evaluation, diagnosis, and treatment of a condition affecting the lower extremities.[2] Accordingly, on March 24, 2015

[2] More than fourteen months after the Board ordered the immediate temporary suspension of Respondent's license, on May 4, 2014, Respondent was arrested for engaging in the unauthorized practice of podiatric medicine in violation of N.J.S.A. 2C:21-20, a crime of the third degree. Respondent's arrest followed an investigation in which law enforcement officials determined that Respondent had dispensed dozens of prescriptions for controlled dangerous substances, and, on at least one occasion, had treated a patient for a condition affecting the lower extremities. On October 28, 2014, Respondent was indicted on one count of the

the Acting Attorney General filed a motion to amend the Complaint to include a third count alleging the unlicensed practice of medicine and violation of the Board's Order of Temporary Suspension. The Honorable Jeffrey Gerson, Administrative Law Judge, granted the Acting Attorney General's motion on May 6, 2015. On August 31, 2015, Respondent, by and through his new attorney, Matt Mandel, Esq., filed an answer to the Amended Complaint generally denying the allegations raised in Count Three of the Amended Complaint.

The Board finds that Respondent's conduct, as described above, provides a basis to suspend or revoke Respondent's license to practice podiatric medicine pursuant to N.J.S.A. 45:1-21(b), (c), (d), (e), (f), and (h).

Respondent, on the advice of counsel, now agreeing to the terms of this Consent Order, and the Board now finding the within disposition adequately protective of the public health, safety and welfare, and other good cause having been shown,

THEREFORE, IT IS on this 3 day of December 2015,

ORDERED and AGREED that:

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unauthorized practice of podiatric medicine. On February 17, 2015, Respondent entered the pre-trial intervention program for a period of one year.

1. Respondent shall immediately and permanently surrender his license to practice podiatry in the State of New Jersey, to be deemed a permanent revocation with prejudice.

2. Respondent shall not reapply for licensure.

3. Respondent shall comply with all terms of the Board's "Directives Applicable to Any Medical Board Licensee Who is Disciplined or Whose Surrender of Licensure Has Been Accepted," which is attached hereto and whose terms are incorporated by reference into this Order.

STATE BOARD OF MEDICAL EXAMINERS

Stewart Berkowitz, M.D.
Board President

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

Frederick M. Weintraub, D.P.M.

Consented as to form and entry:

Matt Mandel, Esq.
Attorney for Respondent

DIRECTIVES APPLICABLE TO ANY MEDICAL BOARD LICENSEE WHO IS DISCIPLINED OR WHOSE SURRENDER OF LICENSURE OR CESSATION OF PRACTICE HAS BEEN ORDERED OR AGREED UPON

APPROVED BY THE BOARD ON AUGUST 12, 2015

All licensees who are the subject of a disciplinary order or surrender or cessation order (herein after, "Order") of the Board shall provide the information required on the addendum to these directives. 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 licensee is suspended, revoked, has surrendered his or her license, or entered into an agreement to cease practice, with or without prejudice, whether on an interim or final basis. Paragraph 5 applies to licensees who are the subject of an order which, while permitting continued practice, contains probationary terms 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. Prior to the resumption of any prescribing of controlled dangerous substances, the licensee shall petition the Director of Consumer Affairs for a return of the CDS registration if the basis for discipline involved CDS misconduct. 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, surrender or cessation, the licensee must truthfully disclose his/her licensure status in response to inquiry.) The licensee subject to the order

is also prohibited from occupying, sharing or using office space in which another licensee provides health care services. The licensee subject to the order may contract for, accept payment from another licensee for rent at fair market value for office premises and/or equipment. In no case may the licensee subject to the order 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 subject to the order 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), subject to the order for the payment of salaries for office staff employed at the time of the Board action.

A licensee whose license has been revoked, suspended or subject to a surrender or cessation order for one (1) year or more must immediately take steps to 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 subject to the order 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.[1] 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 order.

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[1] This bar on the receipt of any fee for professional services is not applicable to cease and desist orders where there are no findings that would be a basis for Board action, such as those entered adjourning a hearing.

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 or who is ordered to cease practice 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 disqualified licensee who is a member of a limited liability company organized pursuant to N.J.S.A. 42:1-44, shall also divest him/herself of all financial interest. Such divestiture of the licensee's interest in the limited liability company or professional service corporation shall occur within 90 days following 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 Division of Revenue and Enterprise Services demonstrating that the interest has been terminated. If the licensee is the sole shareholder in a professional service corporation or sole member of the limited liability company, the corporation must be dissolved within 90 days of the licensee's disqualification unless it is lawfully transferred to another licensee and documentation of the valuation process and consideration paid is also provided to the Board.

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) immediately 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. If the licensee has a website, a notice shall be posted on the website as well.

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.

6. Payment of Civil and Criminal Penalties and Costs.

With respect to any licensee who is the subject of any order imposing a civil penalty and/or costs, the licensee shall satisfy the payment obligations within the time period ordered by the Board or be subject to collection efforts or the filing of a certificate of debt. The Board shall not consider any application for reinstatement nor shall any appearance before a committee of the Board seeking reinstatement be scheduled until such time as the Board ordered payments are satisfied in full. (The Board at its discretion may grant installment payments for not more than a 24 months period.)

As to the satisfaction of criminal penalties and civil forfeitures, the Board will consider a reinstatement application so long as the licensee is current in his or her payment plans.

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.