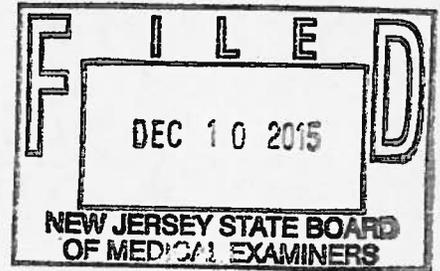


JOHN J. HOFFMAN
ACTING ATTORNEY GENERAL OF NEW JERSEY
Division of Law
124 Halsey Street
P.O. Box 45029
Newark, New Jersey 07101



By: Jeri L. Warhaftig
Sr. Deputy Attorney General
Tel. (973) 648-7457
Jeri.warhaftig@dol.lps.state.nj.us
Attorney ID#021441981

STATE OF NEW JERSEY
DEPARTMENT OF LAW AND PUBLIC SAFETY
DIVISION OF CONSUMER AFFAIRS
STATE BOARD OF MEDICAL EXAMINERS
OAL DOCKET #BDS10926-2015S

IN THE MATTER OF THE SUSPENSION OR
REVOCAION OF THE LICENSE OF

THOMAS P. McMAHON, Jr., M.D.
License No. 25MA02486400

TO PRACTICE MEDICINE AND SURGERY
IN THE STATE OF NEW JERSEY

Administrative Action

CONSENT ORDER

This matter was opened to the New Jersey State Board of Medical Examiners upon the filing of a Verified Complaint and Order to Show Cause by the Acting Attorney General ("Attorney General") on November 24, 2014. That application sought the immediate temporary suspension of Respondent's license to practice medicine in the State of New Jersey. Hearing on the Order to Show Cause was initially scheduled for December 10, 2014. That scheduled hearing was adjourned to January 7, 2015 subject to a series of conditions consented to by the parties

CERTIFIED TRUE COPY

which conditions included the doctor's agreement to immediately refrain from prescribing any controlled dangerous substances to any of his patients and his agreement to perform drug screens on certain patients seen in the interval between Board meetings. Subsequent to the adjournment of the December hearing date, represented by counsel Nan Gallagher, Esq. and R. Bruce Crelin, Esq. of Kern, Augustine, Conroy and Schoppmann, Respondent filed an Answer denying the allegations.

The Attorney General's application for temporary suspension of licensure was heard by the Board on January 7, 2015. Senior Deputy Attorney General Jeri L. Warhaftig and Deputy Attorney General Christopher Salloum appeared for complainant Acting Attorney General John J. Hoffman. The hearing consumed approximately ten hours. At the conclusion of the hearing and deliberations thereon, the Board issued an immediate order of temporary suspension. A written order was filed by the Board on January 12, 2015. A subsequent application for interlocutory review was unsuccessful. The matter was then transferred to the Office of Administrative Law for hearing and is pending before the Honorable Joseph F. Martone, A.L.J.

The Verified Complaint filed by the Attorney General is predicated upon medical care provided by Respondent to eleven patients, six of whom are members of one family. All of these patients have been treated by Respondent for an extended period of time. With

regard to each patient, the Verified Complaint alleges that Respondent indiscriminately prescribed controlled dangerous substances and provided grossly negligent medical care. The Board's order of temporary suspension reflects its conclusion that:

It is apparent that Dr. McMahon has prescribed each and every patient identified in the administrative complaint shockingly excessive amounts of controlled dangerous substances, to include massive quantities of opioids. He has caused his patients (presuming that they are taking the medication as prescribed) to become addicted to and totally dependent upon narcotics. Further, it is apparent that he has done so, for periods spanning many years, with little to no documentary or objective support for many of the diagnoses that he has recorded in his patients' charts. [Order of Temporary Suspension, pages 3-4.]

In additional findings, the Board concluded that Respondent failed to attempt to treat his patients with alternative or non-narcotic therapies before commencing narcotic prescriptions; that he repeatedly turned a blind eye to "red flags" that are indicative of patient misuse and/or addiction; and that his "myopic focus" on prescribing certain opiates placed his patients at grave risk of harm.

The Board concluded that the concerns expressed by the State's expert Dr. Laura Picciano, in both her written report and her sworn testimony, provided compelling support for the temporary suspension and offered "valid if not understated" concerns. The Board described

the volume of opiates prescribed by Respondent as "staggering" and deemed his continued practice to present a "very real threat".

The Board has determined that Respondent's conduct constitutes repeated violations of N.J.S.A. 45:1-21 (b) (c) (d) (e) (h) and (m).

Respondent, being desirous of resolving this matter without the need for further formal proceedings, and the Board finding the within resolution adequately protective of the public health, safety and welfare,

IT IS, on this 10 day of December, 2015

Ordered:

1. The license to practice medicine and surgery in the State of New Jersey issued to Respondent Thomas P. McMahon, Jr., M.D., is hereby permanently retired to be deemed a revocation of licensure effective immediately.

2. Respondent McMahon shall pay costs in this matter to the State Board of Medical Examiners in the amount of \$64,812.50. This figure represents both attorney's fees and investigative costs. Payment shall be in an "approved form" made payable to the "State of New Jersey" and delivered to State Board of Medical Examiners, Attn: Executive Director William Roeder, PO Box 183, Trenton, NJ 08608-0183. "Approved form" of payment is limited to payment by bank check, money order, certified check, wire transfer or credit card.

3. Respondent McMahon shall be subject to a penalty of \$100,000.00 which penalty is hereby stayed in its entirety. The parties agree that in the event that Respondent fails to comply with any term of this order subsequent to notice and an opportunity to be heard, the Board upon motion of the Attorney General, may activate the entirety of this penalty which will then be immediately due and owing.

4. Respondent McMahon shall return his New Jersey medical license, any biennial registration cards in his possession and his original State CDS registration to the New Jersey State Board of Medical Examiners, Attn: Executive Director William Roeder, P.O. Box 183, Trenton, New Jersey 08625-0183.

5. Respondent McMahon shall notify the Drug Enforcement Administration ("DEA") of the entry of the within Order and provide proof of such notification to the Board.

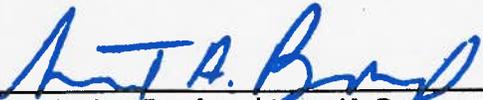
6. Respondent McMahon shall comply with the attached "Directives Application to Any Medical Board Licensee who is Disciplined or whose Surrender of Licensure or Cessation of Practice has been Ordered or Agreed Upon" which Directives are incorporated herein by reference.

7. This Consent Order shall be a full, complete and final resolution of the Administrative Action pending in the OAL and docketed as BDS10926-2015S, except that the Board shall retain

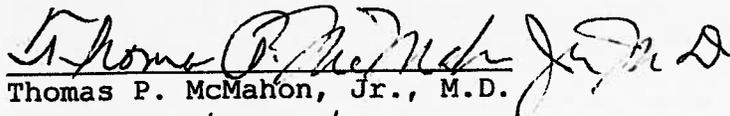
jurisdiction to enforce the terms of this Consent Order.

8. The parties hereby stipulate that entry of this Order is without prejudice to further action or investigation by this Board, the Acting Attorney General, the Director of the Division of Consumer Affairs, or any other law enforcement entities, resulting from Respondent's conduct prior or subsequent to the entry of this Order.

NEW JERSEY STATE BOARD OF MEDICAL EXAMINERS

By: 
Stewart A. Berkowitz, M.D.
President

I have read the within Order,
understand its terms and agree
to be bound by them. I consent
to entry of the Order by the
State Board of Medical Examiners.


Thomas P. McMahon, Jr., M.D.

12/7/15
Dated

I consent to form and entry of the Order.


Nan Gallagher, Esq.

12-10-15
Dated

**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.

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.