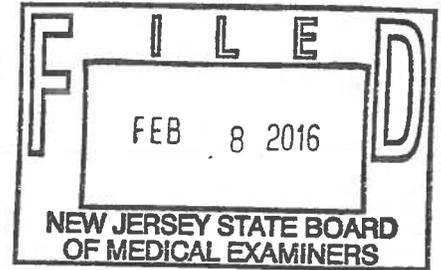


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STATE OF NEW JERSEY
DEP'T OF LAW & PUBLIC SAFETY
DIVISION OF CONSUMER AFFAIRS
STATE BOARD OF MEDICAL EXAMINERS

IN THE MATTER OF THE SUSPENSION : ADMINISTRATIVE ACTION
OR REVOCATION OF THE LICENSE OF

KWAKU BOAMAH, M.D.
License No. 25 MA06448200

CONSENT ORDER

TO PRACTICE MEDICINE & SURGERY
IN THE STATE OF NEW JERSEY :

This matter was presented to the State Board of Medical Examiners ("Board") by John J. Hoffman, Acting Attorney General of New Jersey, based on concerns regarding the medical practice of Respondent, Kwaku Boamah, M.D. and his compliance with regulations and accepted standards governing the practice of medicine and surgery in this State.

Initial concerns of the Board regarding Respondent's competence in interpretation of electronic fetal monitoring and in the management of a diabetic patient during pregnancy led to his Voluntary Interim Agreement of Temporary Cessation of Practice and Consent Order, in lieu of an imminent filing of disciplinary proceedings seeking suspension of license regarding

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delay of appropriate action in the face of an extended period of severely abnormal electronic fetal monitoring recording resulting in death of K.A.'s fetus, and discharge of diabetic patient N.A. from the Emergency Room despite the patient's report of cessation of fetal movement, and an extraordinarily high glucose reading, resulting in death of the mother and fetus.

The Consent Order was filed August 10, 2015, deemed effective *nunc pro tunc* July 10, 2015. Pursuant to the terms of the Order, Dr. Boamah agreed to transfer patients and to stop practice by August 12, 2015, and to undertake a Board-approved in-person program of instruction and evaluation by an organized and independent program. The Order noted that investigative costs had been incurred, set forth several requirements for the interim resolution, and cautioned that the Attorney General reserved the right to file formal disciplinary proceedings in the event of additional evidence of non-compliance or in the event that additional protections to the public were found to be warranted.

In accordance with the terms of the Interim Order, Dr. Boamah has now completed a six-week program sponsored by Drexel University College of Medicine, Office of Continuing Medical Education. The Drexel report describes a preceptorship and the administration of pre-and post- program testing via basic tests, including the Post-Licensure Assessment Systems (PLAS) test designed by the Federation of State Medical Boards for Standardized Patient History and Physicals. Dr. Boamah also voluntarily participated in an additional component of the Drexel program, by examining six standardized patients during two sessions for a variety of clinical issues which, he has

acknowledged, could be found in an office or hospital practice whether in male or female patients. While Drexel deemed his performance in the program to be overall successful, the Board notes that according to Drexel's own testing protocols, Dr. Boamah failed each of the three pre-program tests by significant amounts. The post-program tests were interpreted by Drexel as showing improvement in several components of practice, but two of the three tests of essential components reported scores deemed outside of the reasonable performance range (below 70%).

In multiple-choice tests relating to obstetrics and gynecology knowledge, he was reported to have areas of strength in knowledge relating to the third trimester (but no scores were stated). He had acceptable (greater than 70%) knowledge relating to patient safety and medical error, but less than the passing grade in knowledge relating to topics tested by the Accreditation Council for Graduate Medical Education and for knowledge relating to ethics topics applicable to various locations of care and patient ages. He scored less than the passing grade in general topics - primary care. The Drexel Report nevertheless deemed him improved.

Dr. Boamah appeared, with counsel, on December 2, 2015 for interview by a Committee of the Medical Board. He had been notified in advance that additional issues relating to his malpractice history had come to Board attention since the entry of the Interim Order. N.J.S.A. 45:9-22.22 requires that a Medical Board licensee must report to the Board all information required by N.J.S.A. 45:9-22.23(a)(10), including all medical malpractice settlements. Every Biennial Registration questionnaire, required by the Board for relicensure, implements

the statute by asking if there have been any malpractice judgments, awards or settlements.

Board records show that Dr. Boamah truthfully answered Yes to that question on his July 1, 2013 biennial registration application, but he inaccurately answered "No" on his July 1, 2005 and July 1, 2015 Registration questionnaires, although the reportable periods included three of seven settlements listed by the National Practitioners Data Bank. The statute and Registration Questionnaires demand information regarding "any" judgment or settlement, but Dr. Boamah told the Committee that he was not aware of some of the New York malpractice history until he received the notice from the Board, and also that he did not think he was required to report settlements in malpractice cases arising from his former New York practice. The Board rejects this misreading of the statute and questionnaire, and notes that malpractice history is relevant for Board consideration of a physician's need for retraining or other remedy to protect the public.

In addition, responses by Dr. Boamah to Committee questions regarding the functioning and assessment levels of his in-office glucose testing device raised concerns that he may not be sufficiently familiar with the calibration of this equipment to rely upon finger-stick analyses or to make an appropriate referral. Failure to take action in the face of a high glucose reading in a diabetic patient was one of the significant issues precipitating Board involvement with Dr. Boamah.

Dr. Boamah has conferred with his counsel, and has acknowledged the above concerns. He represents that he will not be performing finger-stick glucose analyses in his office, and that he has referred and will continue to refer patients with

suspected abnormal glucose levels to appropriate specialists. Respondent neither admits nor denies violation of N.J.S.A. 45:1-21(b), (c) and/or (d) and (h) which involve misrepresentation, gross and/or repeated negligence, and failure to comply with acts or regulations implemented by the Board, but in the interests of amicable resolution, he consents to the terms of this Order.

For sufficient cause shown, and contingent upon Respondent's compliance with all of the conditions set forth below,

IT IS on this 8th day of February 2016

ORDERED:

1. The license of Respondent, Kwaku Boamah, M.D. to practice medicine and surgery in the State of New Jersey is hereby suspended for two years, with the first six months to be an active suspension retroactive to August 12, 2015, the day he ceased practice, and the remaining period stayed as probation starting on February 12, 2016. Respondent shall assure orderly transfer of patients and availability to them of their patient records, pursuant to the requirements of N.J.A.C. 13:35-6.5(h).

2. Respondent is assessed (a) aggregate costs of \$3,697.00, and (b) penalty of \$200.00 for the offenses set forth above, pursuant to N.J.S.A. 45:1-25. The costs and penalty, totaling \$3,897.00, shall be paid in full to the State Board of Medical Examiners within 10 days of the entry of the Order, at the Board office, P.O. Box 183, Trenton, NJ 08625-0183. Failure to make payment in full within 10 days of the entry of this Order shall result in Board filing of a Certificate of Debt pursuant to N.J.S.A. 45:1-24 to protect the judgment.

3. In addition, but not in lieu of the filing stated above, Respondent may request, and the Board will allow the costs (but

not the penalty) to be paid in 24 equal monthly installments. Each payment shall be due on the first business day of each month, commencing March 1, 2016. Failure to make any payment timely shall result in the entire balance being due and owing. Respondent may prepay at any time. Interest on all unpaid financial assessments shall accrue in accordance with Rule of Court 4:42-11. All payments shall be made by certified bank check, certified check, money order, wire transfer or credit card payable to the State of New Jersey. Any other form of payment will be rejected and will be returned to the party making payment. In the event that a monthly payment is not received within five days of its due date, the entire balance of the civil penalty and costs shall become due and owing.

4. During a minimum of the first year of the probationary period, Respondent's office and hospital practice shall be monitored by a physician licensed to practice medicine in this State, who is board-certified by examination in obstetrics and gynecology, who is not a relative or present or former supervisor and who has not presently or formerly had a financial relationship with Respondent. The cost of the monitor's services shall be borne by Respondent and shall not be passed on to patients or third party payers.

5. Respondent shall promptly submit to the Board, with copy to the prosecuting Deputy Attorney General, a curriculum vitae of the proposed monitor, along with that person's signed acknowledgment that he/she has read the expert reports supporting the Board's concerns and recognizes the responsibilities incumbent upon the monitor as set forth below and agrees to accept same, and submits a proposed plan of monitoring. The Board shall expedite consideration of the proposed monitor and plan.

Approval of the monitor is at the sole discretion of the Board, and shall not be unreasonably withheld.

6. The monitor shall review medical records of the patients, as selected by the monitor from Respondent's appointment book. The records shall include, but are not necessarily limited to, intake documents, examination findings, diagnostic tests ordered and results thereof, treatment rendered, both as to office patients and as to labor and delivery and/or other hospital patients. The records shall include those of patients needing glucose monitoring, and patients needing fetal heart monitoring. The monitor shall verify that diabetic patients were appropriately referred to a specialist. At least twelve records shall be reviewed at least monthly, and the monitor shall be expressly authorized by Respondent to personally examine patients as the monitor deems necessary. Such examination shall be at no cost to the patient.

7. The monitor shall submit quarterly reports, summarizing the nature of Respondent's treatment and providing observations regarding whether the documentation and care meets accepted standards of practice. Such reports shall also specifically identify any observed deviations from the standard of care or questionable practices. The comments may also contain recommendations. A list of the patient charts reviewed, with date of review and redacted names, shall be appended to the reports and initialed by the monitor, which initials shall be understood to represent that the monitor has personally reviewed each of the charts listed. These quarterly reports shall be sent to the Medical Director of the Board, with a copy to counsel for both parties.

8. Respondent shall authorize the monitor to make immediate report to the Board of work which, in the opinion of the monitor, fails to meet accepted standards of practice, and also shall report any individual matter believed to present an imminent peril to the patient or to the public.

9. Respondent shall provide appropriate releases to any and all persons who are participating in the monitoring program as outlined herein as may be required in order that all reports, records and other pertinent information shall be provided to the Board in a timely manner. Respondent agrees that the person proposed and approved as monitor shall not have or incur any liability to Respondent as a result of his/her good faith performance of their service.

10. Upon completion of at least one year of the monitoring program, submission by the monitor of the required reports, and completion of payment of the assessed costs or compliance with such installment plan as the Board may have allowed, Respondent may submit a petition to appear, on notice, before a designated Committee of the Board and shall be prepared to demonstrate compliance with this Consent Order and readiness to practice medicine and surgery in a manner consistent with the public health, safety and welfare. Removal of the monitoring requirement shall be at the sole discretion of the Board.

11. All costs of the probation and monitoring shall be borne by Respondent, and shall not be passed on to patients.

12. Respondent shall comply with the attached Disciplinary Directives incorporated herein during the period of active suspension.

13. It is hereby stipulated that the entry of this Consent Order shall not limit the authority of the Acting Attorney

General, the Drug Control Unit or the Director of the Division of Consumer affairs, or any other jurisdiction, nor shall the Order limit any other person or other agency to initiate any further action permitted by law in any court or other forum of competent jurisdiction in connection with any matters coming within that jurisdiction.

14. This Consent Order is intended to be a full and final disposition of the Administrative investigation of Respondent's practice. The Board shall retain jurisdiction to enforce the terms of this Order.

15. Upon receipt, however, of any reliable information indicating that Respondent has violated any term of this Consent Order, the Attorney General reserves the right to bring further disciplinary proceedings, including seeking activation of the suspension period or any other remedy available at law, and including the initiation of additional proceedings regarding any matter not already known and addressed in these proceedings.

THIS ORDER SHALL BE EFFECTIVE UPON ENTRY, EXCEPT THAT THE PERIOD OF ACTIVE SUSPENSION IS DEEMED TO HAVE COMMENCED ON AUGUST 12, 2015.

STATE BOARD OF MEDICAL EXAMINERS

By: _____


Stewart A. Berkowitz,
President

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

Kwaku Boamah, M.D.

Kwaku Boamah, M.D.

Approved as to form and
entry by the Board.

Svetlana Ros

Svetlana Ros, Esq.
Counsel to Dr. Boamah

**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.