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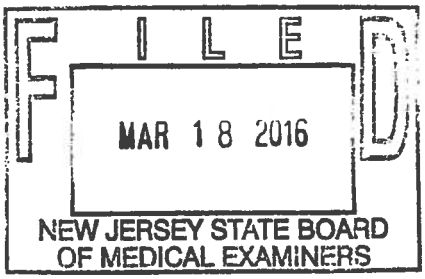

STATE OF NEW JERSEY
DEPARTMENT OF LAW & PUBLIC SAFETY
DIVISION OF CONSUMER AFFAIRS
STATE BOARD OF MEDICAL EXAMINERS

IN THE MATTER OF THE SUSPENSION OR REVOCATION OF THE LICENSE OF Albert Ades, M.D. LICENSE NO. 25MA04854500 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 an Administrative Complaint on December 1, 2015. The complaint is based upon the Acting Attorney General's receipt of information that in or about February, 2015, Respondent Ades was indicted on thirty-seven (37) federal charges of Health Care Fraud and False Statements relating to Health Care Matters. No Answer to the Administrative Complaint was ever filed.

CERTIFIED TRUE COPY

The Federal Indictment alleges that from 2005 through in or about June 2015, Respondent Ades executed a scheme in which he charged Medicare, Medicaid and private insurors for evaluation and management services for patients in connection with fictitious office visits. Essentially, it is alleged that Respondent charged for face-to-face physician office visits on dates when he had written or renewed prescriptions, or performed other tasks, without seeing the patient. It was also alleged that he and his employees destroyed and re-wrote or altered medical records to add notations that would be indicative of a physical exam on dates when patients were not actually seen in the office, in order to avoid detection. These false records were used to support billing for fictitious face-to-face visits.

As reflected in the Administrative Complaint, Respondent Ades and the United States Attorney entered into a plea agreement pursuant to which the U.S. Attorney accepted Respondent's guilty plea to a single count of the Indictment and agreed to refrain from pursuit of the remaining charges of the Indictment. On or about August 10, 2015, consistent with his plea agreement, Respondent Ades plead guilty to one count of the February 20, 2015 Federal Indictment.

Pursuant to the plea agreement, Respondent stipulated that:

a. From at least as early as 2005 through in or about June 2014, in Bergen and Passaic counties, New Jersey

and elsewhere, Respondent did knowingly and willfully defraud Medicare, Medicaid and various other private payors out of funds to which he was not entitled.

b. Respondent enriched himself by falsely and fraudulently representing to Medicare, Medicaid and various other private payors that he performed evaluation and management services for patients in connection with physician office visits, which he in fact had not provided.

c. Respondent also enriched himself by falsely and fraudulently representing to Medicare, Medicaid and various other private payors that he conducted face-to-face physician office visits with patients on specific dates, when he in fact had written prescriptions, authorized refills for patients, or performed other tasks, all without ever seeing his patients face-to-face, on those dates.

d. Respondent routinely approved, submitted and caused to be submitted claims for reimbursement to Medicare, Medicaid and various other private payors for services not provided, namely, for face-to-face physician visits that did not occur, while then knowing these claims were false and fraudulent.

e. Between January 2009 through in and including October 2013, Respondent, by his misrepresentations to Medicare, Medicaid and various other private payors, defrauded these insurers out of approximately $280,000.00.

f. Respondent abused his position of trust and use of a special skill as a physician to engage in his scheme to defraud Medicare, Medicaid and various other private payors.

The Board finds that Respondent's conduct, as admitted in his guilty plea constitutes the use or employment of dishonesty,

fraud, deception, misrepresentation, false promise or false pretense in violation of N.J.S.A. 45:1-21(b); professional misconduct in violation of N.J.S.A. 45:1-21(e); failure to adhere to the requirements of a Board regulation in violation of N.J.S.A. 45:1-21(h) and/or conviction of an offense involving moral turpitude in violation of N.J.S.A. 45:1-21(f).

Respondent has chosen to proceed without counsel and has expressed comprehension of the serious nature of the entry of this Order and its impact on his professional licensure.

The Board, finding the within disposition adequately protective of the public health, safety and welfare, and other good cause having been shown:

IT IS, on this 18th day of March, 2016,

ORDERED:

1. Respondent Albert Ades, M.D. hereby immediately surrenders his license to practice medicine and surgery in the State of New Jersey which surrender shall be deemed a revocation with prejudice to future reapplication.

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

3. Respondent shall return 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.

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

5. This Order shall be the full and final resolution of the Administrative Complaint filed by the Acting Attorney General on December 1, 2015. The Board shall retain jurisdiction to enforce the terms of this Order.

6. Respondent shall comply with the attached "Directives Applicable to Any Medical Board Licensee Who Is Disciplined or Whose Surrender of Licensure Has Been Accepted," which Directives are incorporated herein by reference.

7. Respondent has been specifically advised that he has a right to retain an attorney in this matter, as the entry of this Order affects his legal rights. Respondent has voluntarily chosen to enter into this Order without the advice of counsel.

NEW JERSEY STATE BOARD OF MEDICAL EXAMINERS

By: _____

Stewart A. Berkowitz, M.D.
Board President

I have read and understood the within Order and agree to be bound by its terms. Consent is hereby given to the Board to enter this Order.

Albert Ades M.D.

Albert Ades, M.D.
Respondent

3/16/2016.

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

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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.

incurred on a patient's behalf prior to the effective date of the Board order.

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.