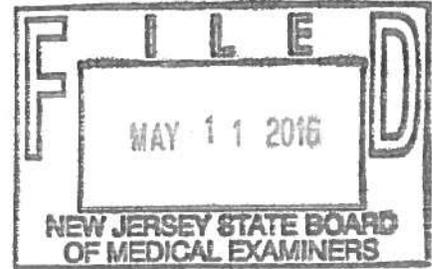


ROBERT LOUGY
Acting Attorney General of New Jersey
Division of Law
124 Halsey Street
P.O. Box 45029
Newark, New Jersey 07101



By: Steven N. Flanzman
Senior Deputy Attorney General
Phone: (973)-648-2972

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

In the Matter of:

PHILLIP MACH, M.D.

CONSENT ORDER REINSTATING
LICENSURE WITH RESTRICTIONS
AND CONDITIONS

This matter was reopened before the New Jersey State Board of Medical Examiners (the "Board") upon the Board's receipt of a petition from respondent Phillip Mach, M.D., requesting that the Board consider reinstating his medical license. Respondent appeared before a Preliminary Evaluation Committee ("PEC") of the Board on February 24, 2016, represented by Nan Gallagher, Esq., Kern Augustine Conroy & Schoppmann, P.C. Louis E. Baxter, M.D., Executive Medical Director of the Professional Assistance Program of New Jersey (the "PAP"), also appeared and offered testimony on behalf of the PAP in support of respondent's petition.

By way of background, Dr. Mach surrendered his New Jersey medical license in a Consent Order filed on March 13, 2007. The surrender was deemed to be the equivalent of a revocation of license. The New Jersey action was predicated upon Dr. Mach's criminal conviction, following his entry of a guilty plea, to federal criminal charges of Conspiracy to distribute and dispense controlled substances, in violation of 21 U.S.C. §841(a)(1), 841(b)(1)(d) and 21 C.F.R. §1306.04; Unlawful distribution and dispensing of controlled substances in violation of 21 U.S.C. §841(a)(1), 841(b)(1)(d), 18 U.S.C. §21 and 21 C.F.R. §1306.04, and Conspiracy to distribute and dispense controlled substances in violation of 21 U.S.C. §846. The criminal charges were related to Dr. Mach's involvement in writing CDS prescriptions for multiple internet pharmacies, between January 2003 and May 2005. When entering his plea, Dr. Mach admitted that all of the prescriptions written were issued other than for a legitimate medical purpose, that none of the prescriptions were issued in the usual course of professional practice, and that the purported prescriptions were in fact "sham prescriptions." Dr. Mach was sentenced to a custodial term of fifteen months in federal prison. When appearing before the PEC, Dr. Mach testified that the prescriptions were written for drugs including Percocet and Oxycodone.

Dr. Mach initially petitioned for reinstatement of his New Jersey license in June 2012. The Board then concluded that the petition for reinstatement was premature, and that Dr. Mach would need, among other items, to first take and pass the SPEX examination in order to demonstrate proficiency to resume the practice of medicine.

Dr. Mach renewed his petition for reinstatement in May 2015, at which time he provided documentation evidencing that he had completed and passed the SPEX, scoring an 81 on an examination administered on March 9, 2015. Dr. Mach has also presented documentation, satisfactory to the Board, demonstrating that he has completed over 500 hours of Category 1 CME since January 1, 2010, to include 196 hours of Category 1 CME completed in calendar years 2014 and 2015.

When appearing before the PEC on February 24, 2016, Dr. Mach offered testimony regarding his medical practice prior to his arrest in 2006, his involvement writing prescriptions for internet pharmacies, the terms of his criminal sentence, and his activities since being released from federal prison. Dr. Mach served twelve months of his fifteen month sentence, and then was discharged early from probation in September 2010. He presently works for a family lumber business and officiates youth sporting events. Dr. Mach also offered testimony concerning his participation with the PAP, to include testimony concerning the psychiatric care and counseling

which he has secured since initially enrolling in the PAP in 2006. Dr. Mach admitted to making errors in judgment, conceded that he embarrassed himself and his profession through his actions, and accepted full responsibility for his misconduct. He conceded that he knew, at the time he was writing prescriptions for the internet pharmacies, that the prescriptions were not for any legitimate medical purpose.

Dr. Baxter, on behalf of the PAP, testified generally regarding Dr. Mach's involvement with the PAP. Dr. Mach's initially sought assistance from the PAP at the time of his arrest in 2006. Dr. Mach was referred to Dr. Ricardo Fernandez for a comprehensive evaluation, and diagnosed with untreated bipolar illness. Dr. Baxter suggested in his testimony, and in the PAP's written position statement dated June 22, 2015, that Dr. Mach's untreated illness may have affected his behavior and judgment during the time that he was writing prescriptions for internet pharmacies, and that his criminal behavior was characteristic of the manic phase of the disease.

Dr. Baxter further recounted that following his imprisonment, Dr. Mach immediately re-engaged with the PAP, and has since participated in both individual and group therapy with his psychiatrist, Laurie Deerfield, D.O., and in individual therapy with his therapist, Daniel Zietchick, L.C.S.W. Dr. Baxter testified that, based in part on Dr. Mach's full compliance with

his treatment and monitoring plan, the PAP supported Dr. Mach's petition for reinstatement, with the caveat that any resumption of practice should initially be on a limited basis (25-30 hours per week), with a gradual increase of hours thereafter, and that any reinstatement should be with conditions to include continued requirements for participation in therapy, follow-up with a psychiatrist for medication management, and continued participation in the PAP. The PEC was provided with a written statement from Mr. Zietchick, dated February 5, 2016, wherein Mr. Zietchick offered support for Dr. Mach's reinstatement of license and opined that Dr. Mach has continued to demonstrate consistent psychiatric stability. The PEC also reviewed a report from Laurie Deerfield, D.O., dated February 17, 2016, wherein Dr. Deerfield stated that, "in light of the considerable progress [Dr. Mach] has made, I support Dr. Mach in his application for license reinstatement."¹

When appearing before the PEC, Dr. Mach advised that he has secured an offer of employment from Carlos Remolina, M.D. Dr.

¹ All documentation supplied by the PAP, as well as all testimony offered before the PEC, addressing Dr. Mach's psychiatric evaluations, diagnosis and treatment, as well as his general participation with the PAP and/or involvement in psychiatric treatment and counseling, is considered confidential, both as a matter of federal law and based on the individual expectation of privacy. The limited citations herein to diagnoses that have been made, treatment received and opinions of treatment providers are deemed necessary to detail the basis for the Board's conclusions and actions herein, and are set forth herein without objection by respondent or the PAP. Other than to the limited extent cited herein, all documents offered in support of respondent's petition for reinstatement concerning his medical or psychiatric care, and/or his involvement with the PAP, and all testimony offered in support thereof, remain expressly confidential.

Remolina, in turn, has stated in writing that, upon restoration of license, Dr. Mach would be employed to work with him in his practice of internal medicine, pulmonary and sleep medicine. In a letter dated February 29, 2016, Dr. Remolina also expressed a willingness to review and monitor Dr. Mach's cases and his prescriptions, and to submit quarterly progress reports.

Upon consideration of all available information and balancing the misconduct which led to Dr. Mach's license revocation against the showings made in support of the petition, we are satisfied that Dr. Mach has demonstrated good cause to support reinstatement of his license at this time. Dr. Mach completed all terms of his federal criminal sentence, receiving early release both from prison and from probation. He has accepted responsibility for his actions and is remorseful. The evidence before the Board (to include Dr. Mach's successful completion of the SPEX examination and his documentation of efforts to secure substantial hours of continuing medical education) suggests that he is qualified to re-enter medical practice at this time, and he has presented a plan for resumption of medical practice which will allow for monitoring of his practice.

Dr. Mach has also fully participated with the PAP since his release from prison. While in no way excusing Dr. Mach's criminal conduct, the PAP has suggested that his misconduct may have been the product of undiagnosed and untreated bipolar illness,

and we find it significant that Dr. Mach has, since his release from prison, continuously sought and secured treatment from both Dr. Deerfield and Mr. Zietchick. In sum, although we continue to be mindful that Dr. Mach egregiously abused the trust placed in him as a physician when he wrote multiple sham prescriptions for internet pharmacies, we are persuaded by the substantial showings that he has made in support of his petition for reinstatement that cause exists to provide him one final chance to re-enter the practice of medicine, subject to all conditions and requirements set forth below.²

The Board finding that good cause presently exists for the entry of an Order reinstating respondent's medical license, subject to all conditions and requirements set forth below, and

² We have also given careful consideration to the question whether Dr. Mach should be afforded the right to prescribe medications. We are aware that the written plea agreement Dr. Mach entered with the United States Attorney, which he and his criminal attorney signed on August 31, 2006, included a specific provision memorializing Dr. Mach's agreement to "permanently cease and desist from prescribing or dispensing any medications, including Controlled Dangerous Substances, to any individual, including himself, his family members, or his patients." Dr. Mach's counsel maintains that the condition of the plea agreement is not legally binding upon Dr. Mach, because it was not explicitly made a condition of his criminal sentence.

Accepting respondent's counsel's argument, we are nonetheless persuaded that Dr. Mach's prior abuses of the privilege to prescribe militate against allowing him to presently secure authorization to write prescriptions for CDS. Nonetheless, recognizing that Dr. Mach's ability to engage in basic medical practice might be compromised were he unable to write prescriptions for any medications, we have concluded that Dr. Mach may presently secure authorization to write prescriptions for medications which are not classified as CDS, but will require that any such prescriptions be written only following a face-to-face encounter with any patient for whom a prescription is written.

respondent herein expressly agreeing to comply with all terms and conditions of the within Order,

IT IS on this 11th day of May, 2016

ORDERED and AGREED:

1. The license of Philip Mach, M.D., to practice medicine and surgery in the State of New Jersey is hereby conditionally reinstated, subject to his compliance with all terms and conditions set forth below.

2. Dr. Mach may practice medicine only as an employee of a Board approved employer, who shall be a licensed New Jersey physician(s), and may practice only at a Board approved office setting. Dr. Mach shall be limited to working a maximum of twenty-five (25) hours in any week for the first nine months following his resumption of medical practice, and he shall not, during that time period, engage in any medical practice other than an the approved office setting, to include without limitation practice at any hospital. In order to secure Board approval, any physician(s) employer shall be required to agree in writing to review Dr. Mach's medical records to assure appropriateness of management and care, to include review of the appropriateness of any prescriptions written (see ¶3 below), and to agree to submit written quarterly

reports to the Board³ commenting on the review of Dr. Mach's medical practice and attesting that Dr. Mach has complied with all conditions of this Order, to specifically include compliance with the hour and setting limitations imposed herein, as well as with the express limitations on writing prescriptions set forth in ¶3 below. The Board expressly approves Carlos Remolina, M.D., whose office is located at 812 North Wood Avenue, Linden, New Jersey, to serve as Dr. Mach's supervising employer.

3. Dr. Mach is expressly prohibited from writing prescriptions for any and all CDS (all schedules). Dr. Mach may only write prescriptions for non-CDS medications for patients seen for a face-to-face visit, at the Board approved office setting, and is specifically prohibited from writing any prescription(s) in all other circumstances. Dr. Mach shall be required to maintain a log of all prescriptions written, which log shall be reviewed weekly by his approved employer, and shall make the log available to the Board for review on request.

4. Dr. Mach shall continue to fully participate with the PAP. The PAP shall provide quarterly status reports to the Board generally outlining the scope of Dr. Mach's participation with the program, and attesting that Dr. Mach has fully complied with any and all recommendations that may be made to him by the PAP. The

³ All reports required herein to be submitted to the Board (whether from the approved employer or the PAP) shall be transmitted to the attention of the Board's Executive Director.

PAP further expressly agrees that it shall provide immediate written notification to the Board in the event Dr. Mach discontinues his participation with the PAP and/or fails to comply with any recommendation(s) made by the PAP, and/or upon the PAP's receipt of any information that Dr. Mach has violated any of the express requirements of this Order.

5. Dr. Mach shall remain under the care of a Board approved psychiatrist, until such time as the psychiatrist, in consultation with the Executive Medical Director of the PAP, determine that psychiatric follow-up is no longer required, notice of the determination that care is no longer required is provided to the Board in writing, and written approval for discontinuation of care is secured from the Board. The frequency of Dr. Mach's psychiatric care shall be determined by the treating psychiatrist, in consultation with the PAP. For purposes of this Order, the Board approves Laurie Deerfield, D.O., to continue to serve as Dr. Mach's psychiatrist. Any successor psychiatrist would need to be approved by both the PAP and the Board.

6. Dr. Mach shall continue to participate in individual psychotherapy, with a Board approved therapist, until such time as the therapist, in consultation with the PAP, determine that individual psychotherapy is no longer required, notice of the determination that care is no longer required is provided to the Board in writing, and written approval for discontinuation of care

is secured from the Board. The frequency of psychotherapy sessions shall be determined by the treating therapist, in consultation with the PAP. For purposes of this Order, the Board approves Daniel Zietchick, LCSW, to continue to serve as Dr. Mach's therapist. Any successor therapist would need to be approved by both the PAP and the Board.

7. Dr. Mach may petition the Board for an increase in the number of hours that he is allowed to practice, for the right to seek to secure hospital privileges, and/or for modification of any other terms and conditions of the Order, after a minimum period of nine months. Any such petition should be accompanied, at a minimum, by a written position statement from the PAP.

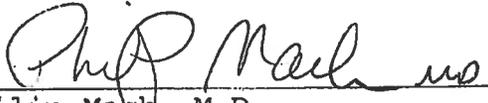
8. The Board expressly reserves the right to summarily enter an Order of immediate suspension of license, upon receipt of evidence that respondent has violated any of the terms or conditions of this Order.

NEW JERSEY STATE BOARD
OF MEDICAL EXAMINERS

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

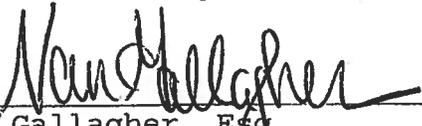
I acknowledge that I have reviewed this Order, and agree to abide with all terms and conditions set forth herein. I am aware that the Board may summarily

suspend my license in the event I fail to comply with any of the terms and conditions set forth above. I agree to the entry of this Order by the Board.


Philip Mach, M.D.

Dated: 4/29/16

Consent to form and entry of Order.


Nan Gallagher, Esq.
Counsel for Respondent

Dated: 5/10/16

Consent on behalf of the PAP to perform all functions detailed above, to include provision of reports to the Board.

Louis E. Baxter, M.D.
Executive Medical Director
Professional Assistance Program
Of New Jersey

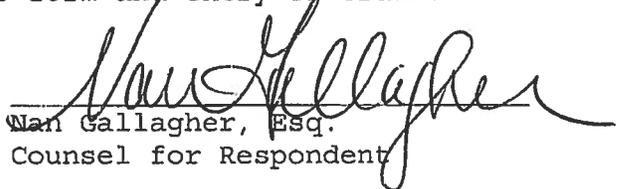
Dated: _____

suspend my license in the event I fail to comply with any of the terms and conditions set forth above. I agree to the entry of this Order by the Board.

Philip Mach, M.D.

Dated: _____

Consent to form and entry of Order.


Nan Gallagher, Esq.
Counsel for Respondent

Dated: 5/10/16

Consent on behalf of the PAP to perform all functions detailed above, to include provision of reports to the Board.


Louis E. Baxter, M.D.
Executive Medical Director
Professional Assistance Program
Of New Jersey

Dated: 5/2/16