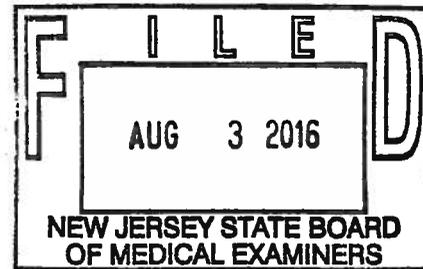


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STATE OF NEW JERSEY
DEPARTMENT OF LAW AND PUBLIC SAFETY
DIVISION OF LAW
BOARD OF MEDICAL EXAMINERS

IN THE MATTER OF THE SUSPENSION OR
REVOCATION OF THE LICENSE OF

JOHN R. MCGEE, M.D.
License No. 25MA05503000

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 ("Board") upon the filing of a Verified Complaint and Order to Show Cause on August 4, 2015, with a return date of August 12, 2015 seeking the entry of an Order temporarily suspending the license of Respondent, John J. McGee, M.D., to practice medicine and surgery in the State of New Jersey pending completion of plenary proceedings.

The Verified Complaint alleged that Respondent's acts constituted violations of N.J.S.A. 45:1-21 (c) and (d) (gross negligence, malpractice or incompetence, and/or repeated acts of

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negligence, malpractice or incompetence); 45:1-21(e) (professional misconduct); 45:1-21(h) (violation of Board regulations); 45:1-21(m) (indiscriminate prescribing); and 45:1-22 (clear and imminent danger to the public warranting a temporary suspension of his license to practice medicine).

On or about August 31, 2015, Respondent entered into an Interim Consent Order to cease and desist from prescribing any Controlled Dangerous Substances (“CDS”) (all schedules) and Human Growth Hormones (“HGH”) and/or anabolic steroids, undergo a full evaluation and assessment of his general medical knowledge and skills, including but not limited to the prescribing of CDS, HGH and/or anabolic steroids by Upstate New York Clinical Competency Center for Albany Medical College (“Assessment Center”), and retain a board approved practice monitor. The matter was transmitted to the Office of Administrative Law for a plenary hearing.

On or about December 1, 2015, Respondent completed an evaluation at the Assessment Center. Based on the evaluation and results, the Assessment Center concluded that Respondent did not meet acceptable standards for a practicing internal medicine physician. To remediate his shortcomings and assure an acceptable standard of care, they recommended that Respondent:

1. Respondent should be mandated to take a course in assessing the medical literature. This course should be done in person rather than on-line to permit the most professional interaction possible.
2. Respondent should be required to take a course in medical record keeping. Again, this should be done in person to enhance his interactions with other professionals to learn best practices. A practice monitor will need to be established to assure optimal record keeping practices are adopted and maintained.
3. Respondent should be required to outline protocols and pathways for care. These should include recommendations from expert panels specifically regarding hormone replacement therapy and management of chronic diseases (including but not limited to obesity, hypertension, COPD, and diabetes). These should include criteria for diagnosis, treatment monitoring, counseling

and documentation. These should be reviewed by a monitoring physician with expertise in outpatient internal medicine practice. Ongoing chart review should directly assess whether these evaluation, treatment and monitoring algorithms are being followed. Protocols should include informing the patient when significant deviations are made from nationally published guidelines and recommendations for hormone and vitamin therapies.

4. Respondent should have an ongoing monitor. The current evaluation has been limited by his poor documentation practices. Ongoing monitoring will be necessary to assure quality of care once his documentation improves.
5. Respondent should complete a course in medical ethics. Again, this should be done in person and not on-line.
6. Respondent should continue his participation in ABIM re-certification and MOC programs.
7. Ongoing CME should be continued, at least fifty credits annually of category 1 credits. A minimum of half of these credits should be taken in person, not on-line. This will increase Respondent's interaction with other practicing physicians in his area of expertise.

The parties being desirous of entering into a final resolution in lieu of a plenary hearing, acknowledging that Respondent retains all rights pursuant to N.J.A.C. 1:1-1.3(a), and it appearing that Respondent has read the terms of the within Order and understands their meaning and effect and consents to be bound by same, and the Board finds that the within disposition is adequately protective of the public health, safety and welfare, and for good cause shown,

IT IS, therefore, on this 3rd day of AUGUST, 2016,

ORDERED THAT:

1. Respondent's license to practice medicine and surgery in New Jersey is hereby suspended for five (5) years, with three hundred and sixty-four (364) days to be served as an active period of suspension and the remainder to be served as probation. The period of active

suspension will begin on September 6, 2016. Respondent's period of active suspension will be tolled for any length of time that Respondent practices medicine in another jurisdiction. No day in which Respondent practices medicine in any jurisdiction will count towards the period of active suspension. During the period of time between the date of this filed Consent Order and the close of business on September 5, 2016, Respondent shall accept no new patients and shall make every effort to ensure the orderly transfer of his current patients to other treatment providers. Respondent may issue prescriptions or renewals for medication to existing patients only as needed to provide treatment continuity between himself and the patient's new treatment provider.

2. Respondent shall permanently cease and desist from prescribing (including administering and/or dispensing) all HGH and CDS, with the exception of Schedule V CDS, to any and all patients for any reason(s) or purpose(s). While Respondent is on probation for four (4) years and one (1) day, Respondent shall provide proof of compliance with his CDS restrictions. Proof of compliance shall include submitting quarterly Prescription Monitoring Program ("PMP") reports to the Board's Medical Director reflecting all CDS/HGH or steroid prescribing by Respondent during the previous quarter.

3. Respondent shall fully and satisfactorily follow and complete all of the recommendations made by Upstate New York Clinical Competency Center for Albany Medical College ("Assessment Center").

4. Prior to the reactivation of Respondent's medical license, Respondent shall demonstrate to the Board his fitness to resume practice, at a minimum demonstrating his compliance of all the terms contained herein or subsequently ordered as a condition of his reactivation. This shall include proof of successful completion of a board approved course in

assessing medical literature, board approved course in medical record keeping, and board approved course in medical ethics. Successful completion shall mean that all sessions were attended, all assignments were properly and appropriately completed and a passing grade was achieved which was unconditional and without reservation. Respondent shall also retain a board approved monitor to outline office protocols and pathways for care, specifically regarding hormone replacement therapy (testosterone) and management of chronic diseases.

5. While Respondent is on probation for four (4) years and one (1) day, Respondent shall have a Board approved monitor review 25 randomly selected charts per quarter. The Board approved monitor shall provide the Board's Medical Director with quarterly reports regarding Respondent's practice, specifically his practice of hormone replacement therapy and management of chronic diseases. Respondent expressly waives any claim to privilege or confidentiality that he may have concerning reports and disclosures to the Board, and use by the Board of that information in any license proceedings, including any information obtained or discovered by the Board approved monitor or any other person. All costs associated with the supervision outlined above shall be the responsibility of the Respondent and paid directly by the Respondent, including the entirety of the cost of the Board approved monitor's assistance.

6. Respondent is assessed costs of the investigation, totaling \$25,000 and a civil penalty, totaling \$50,000. Respondent shall pay \$25,000 of the total civil penalty and the remainder of the penalty to be stayed for five years. If during the next five years, Respondent is found liable for any other violation, then the Board shall require him to pay the remaining \$25,000 plus and costs or associated with the new violation. Alternatively, if Respondent does not commit any other violation during the five year period, then the remaining \$25,000 shall be discharged. Respondent shall pay the total amount of \$50,000, equaling the penalty and costs of

investigating and prosecuting this matter by money order or other certified funds payable to the State of New Jersey, and forwarded to William Roeder, Executive Director, New Jersey Board of Medical Examiners, P.O. Box 183, Trenton, NJ 08625-0183 within ten (10) days of the entry of this Order. For any costs or penalty payments not paid in full within ten (10) days of the entry of this Order, a Certificate of Debt shall be filed pursuant to N.J.S.A. 45:1-24 to protect the judgment. In addition but not in lieu of the filing of the Certificate of Debt, Respondent may request, and the Board will allow the penalty to be paid in forty-eight (48) equal monthly installments of \$1041.67. Each payment shall be due on the first business day of each month, commencing on September 6, 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 financial assessments shall accrue in accordance with Rule of Court 45:42-11. All payments shall be made by money order or certified funds payable to State of New Jersey, and forwarded to William Roeder, Executive Director, New Jersey Board of Medical Examiners, P.O. Box 183, Trenton, NJ 08625-018. 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 (5) days of its due date, the entire balance of the civil penalty and costs shall become due and owing.

7. The parties hereby stipulate that entry of this Order is without prejudice to further action, investigation, and prosecution by this Board, the Attorney General, the Drug Control Unit, the Director of the Division of Consumer Affairs or other law enforcement entities resulting from Respondent's conduct prior to the entry of this Order. The Board shall retain jurisdiction to enforce the terms of this Order. Upon receipt of any reliable information indicating that Respondent has violated any term of this Order, the Board reserves the right to bring further disciplinary action.

NEW JERSEY STATE
BOARD OF MEDICAL EXAMINERS

By: George J. Scott, D.P.M., D.O. FRCOFP
George J. Scott, D.P.M., D.O.
Board President

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

John R. McGee, M.D.
John R. McGee, M.D.

Dated: 8/3/16

Consent is hereby given
as to the form and entry of
this Order.

Frank P. Arico
Frank P. Arico, Esq.
Attorney for the Respondent

Dated: 8/3/16

**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

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.