

# **NJ STATE BOARD OF MEDICAL EXAMINERS**

## **OPEN DISCIPLINARY MINUTES**

**- JANUARY 10, 2001**

A meeting of the New Jersey State Board of Medical Examiners was held on Wednesday, January 10, 2001 at the Richard J. Hughes Justice Complex, 25 Market Street, 4th Floor, Conference Center, Trenton, New Jersey for OPEN DISCIPLINARY MINUTES, open to the public. The meeting was called to order by William V. Harrer, M.D., B.L.D., Chairperson for Open Disciplinary Matters.

### **PRESENT**

Present were Board Members Bradley, Chen, Danser, DiFerdinando, Farrell, Fernandez, Haddad, Harrer, Lucas, Perry, Ricketti, Robins, Rokosz, Trayner, Walsh and Wallace.

### **EXCUSED**

Board Members Desmond, Huston, Reid and Weiss.

### **ALSO PRESENT**

Deputy Attorneys General Bey-Lawson, Dick, Gelber, Joyce, Kenny, Levine and Warhaftig; Executive Director Roeder and Medical Director Gluck, New Jersey State Board of Medical Examiners.

### **RATIFICATION OF MINUTES**

The Minutes from the December 13, 2000 Board meeting were approved as submitted.

### **HEARINGS, PLEAS, RETURN DATES, APPEARANCES**

**CARIDEO, Ida M., M.D. (Counseling Deputy: LEVINE)**

**LaBUE, Anthony F., Esq., and FRUCHTMAN, Susan, Esq., (Proceedings Recorded Attorneys for Respondent by Marie Shea, SILVER**

**BEY-LAWSON, Hakima, D.A.G., For Complainant REPORTING AGENCY)**

Motion for Summary Decision filed by the Attorney General on November 22, 2000 urging the Board to grant summary decision and impose discipline. Enclosed for Board consideration were the Notice of Motion for Summary Decision, Certification of Hakima Bey-Lawson, letter brief in support of the Attorney General's Motion for Summary Decision, with attached exhibit A through F, Respondent's Answer to the Complaint filed July 20, 2000, and Mr. LaBue's March 27, 2000 letter addressed to D.A.G. Bey-Lawson, which Mr. LaBue requested that the Board consider as Dr. Carideo's response to the Motion for Summary Decision.

In her opening remarks, D.A.G. Bey-Lawson raised an objection on the record concerning Mr. LaBue's letter dated March 27, 2000, which she stated purported to describe events that led to Dr. Carideo's conviction and contains non-admissible hearsay statements, along with facts not on the record or sworn to by affidavit or certification. The Attorney General contended that this document was irrelevant and improper for submission in opposition to the Motion for Summary Decision. D.A.G. Bey-Lawson, however, stated that if Respondent would bring forth those witnesses and individuals identified in the March letter and establish the facts, the Attorney General would have no objection. Similarly, D.A.G. Bey-

Lawson stated that if Dr. Carideo testified to the facts of which she had personal knowledge, the Attorney General would not object. D.A.G. Bey-Lawson asked the Board to disregard Respondent's March response.

In his opening remarks, Mr. LaBue stated that had he received prior notice of a certain date when the application was going to be made, he would have taken steps to satisfy the Attorney General's Office so that the Board would not have been faced with spending time addressing those issues at the beginning of the hearing. Mr. LaBue stated that the motion pending before the Board was for Summary decision with respect to a Judgment of Conviction. Mr. LaBue moved to amend the Answer to include a plea of nolo contendere to the Complaint. He stated that Dr. Carideo was the source for the information in the letter of March 27, 2000 and was fully prepared to testify with respect to all of the information in that letter which attributed to her. Mr. LaBue did not believe that testimony would be necessary at this stage, but stated he would abide by the Board's judgment.

The Chair accepted the letter and stated that the Board would award it the appropriate weight for its review. The Chair also noted that counsel for Respondent indicated Dr. Carideo may or may not testify later on in the proceeding and the Board made the following motion:

**SINCE THERE WAS NO CONTEST TO THE COMPLAINT AND THE SUMMARY DISPOSITION, THE BOARD, UPON MOTION MADE AND SECONDED, VOTED THAT IN THE MATTER OF IDA M. CARIDEO M.D., THE ATTORNEY GENERAL MET THE BURDEN OF THE MOTION FOR SUMMARY DECISION AND FOUND THAT THERE WERE NO GENUINE ISSUES OF MATERIAL FACTS. THIS MOTION WILL BE MORE DETAILED IN A WRITTEN ORDER TO FOLLOW.**

The Board voted to go into executive session. Deputies, other than counseling staff, left the room, along with all other members of the public present.

The Board returned to Open Session, with all parties present, and the Chair asked D.A.G. Bey-Lawson whether she had any comments on the amended answer.

D.A.G. Bey-Lawson stated that she had no comments to the amended answer. She asked that the Board understand that the Attorney General's position was to enter certain exhibits to assist the Board in imposing discipline.

Mr. LaBue believed the Attorney General's Office planned to offer evidence dealing with the fact of the conviction. Nonetheless, Mr. LaBue stated that if the State decided to refer to those documents by way of seeking a particular sanction, he had no objection.

**IN THE MATTER OF IDA M. CARIDEO, M.D., THE BOARD RESTATED THE MOTION THAT THE ATTORNEY GENERAL HAS MET THE BURDEN FOR SUMMARY DECISION, AND THAT THERE IS NO GENUINE ISSUE OF MATERIAL FACTS IN THIS MATTER. THE DECISION WILL BE WRITTEN IN A MORE FORMAL ORDER TO FOLLOW.**

The matter moved into the mitigation phase. The Chair stated that it will allow the parties 15 minutes each. He asked that they not go behind the conviction and guilty pleas which are already a part of the record.

D.A.G. Bey-Lawson identified the exhibits the Attorney General intended to offer, P-1 - certified copy of the Indictment filed in the United States District Court, Eastern District of New York, on April 30, 1998; P-2 - certified copy of Judgment of Conviction filed in United States District Court, Eastern District of New York, on March 29, 1999; P-3 - certified copy of the plea transcript dated October 22, 1998; P-4 - certified copy of Administrative Complaint filed with the Board August 30, 1999; P-5 - Answer to the Administrative Complaint filed July 20, 2000; P-6 - Notice of Motion for Summary Decision filed November 22, 2000; P-7 - Certification of Hakima Bey-Lawson filed November 22, 2000; P-8 - letter brief filed November 22, 2000 by D.A.G. Bey-Lawson; and P-9 - Surrender Order from the State of New York.

After entering the exhibits into evidence, D.A.G. Bey-Lawson requested that the Board fashion an

appropriate penalty in accordance with its role and responsibility to protect the public's safety and to discipline its licensees for any misconduct. She argued that because many people in society today rely on health care insurance, the Board cannot tolerate practitioners who defraud the system and thereby deplete the available funds for society's healthcare needs. While she recognized that Dr. Carideo would argue that she should be given some leniency based on behavior of other physicians previously disciplined by this Board, the Board should not be persuaded. She stated that the victims are Blue Cross/Blue Shield and the Department of Health and Human Services. D.A.G. Bey-Lawson referred the Board to P-2, the Judgement of Conviction. As noted, the sentencing Court found these agencies as the two victims, awarding \$28,390.60 restitution to the Department of Health and Human Services and \$8,390.00 in restitution to Blue Cross/Blue Shield. She further noted that the sentencing Judge in this matter must have felt this case was serious because Dr. Carideo was sentenced to a 50-month custodial sentence in a halfway house. D.A.G. Bey-Lawson stated that New York anticipated disciplinary action to be taken against Dr. Carideo's license. However, Dr. Carideo surrendered her license in that matter. D.A.G. Bey-Lawson asked the Board to look at the documents concerning mail fraud and the receipt of Medicare money which Dr. Carideo admitted in an amended answer and which charges she did not contest. Because of the severity of this matter, D.A.G. Bey-Lawson urged the Board to impose severe sanctions to punish Dr. Carideo for her action, to deter other licensees from this conduct and restore confidence and trustworthiness of the Board to the public.

Mr. LaBue had the following documents marked into evidence; R-1 - Dr. Carideo's curriculum vitae; R-2 - Mr. LaBue's January 8, 2001 letter to D.A.G. Bey- Lawson which included a letter from the U.S. District Court Probation Office dated

January 4, 2001; and R-3 which consists of 15 pages of various letters that Mr. LaBue asked the Board to review from people who have known Dr. Carideo. He asked that those letters be considered in mitigation. Mr. LaBue circulated the letters to the Board. D.A.G. Bey-Lawson noticed that the letters were not provided with an affidavit or certification. She asked that the Board give them the appropriate weight. She further noted that the Board cannot rely on the statements offered on Dr. Carideo's behalf. The Chair accepted the documents, noting that the Board will give them the appropriate weight.

In mitigation, Mr. LaBue stated that Dr. Carideo appears before the Board today acknowledging the fact of a conviction, and the documents the Board has before it reflect that fact. He cautioned the Board to be aware that the documents do not provide the context in which the transgression occurred. Mr. LaBue asked the Board to consider the following: As noted in the curriculum vitae which he circulated, in June 1981, Dr. Carideo received her Associates Degree from Brookdale College, married young, worked as a secretary and earned her degree. In June 1983, she earned her degree of Bachelor of Science, then went to medical school, graduated from Ross University and began her PGY education from February 1988 to 1989 and a sub-internship which enabled her to qualify and pass the ECFMG examination. In 1991-1992 she completed her residency in internal medicine and passed the FLEX exam. From 1992 -1994 she finished a fellowship at UMDNJ. At that time, she was 37 years old and then began the activity that was her goal from the outset. She was going to practice medicine in private practice. On or about July 1 1994, she began her practice. She had no experience in running an office. She did not become employed by a practice group or another physician to learn the business aspects of medicine. She believed she could start office practice and hire people to take care of that aspect. She hired an Office Manager.

Mr. LaBue argued that the transgression allegedly occurred based on documents the State placed in evidence. He stated that when Dr. Carideo was advised by authorities, she resisted, went to trial on 12 counts of the indictment, was found guilty of one and pled guilty to an additional count. Mr. LaBue stated that there was no question there was a transgression and that there was a victim. In addition to Blue Cross/Blue Shield and the Department of Health and Human Services, Mr. LaBue stated that Dr. Carideo was also the victim because of her failure to monitor every piece of paper leaving her office. After working for fifteen years to earn the title of physician, within a few short months into her practice, she found herself in the circumstances currently before the Board.

Mr. LaBue asked the Board to consider the Board's decisions in comparable matters, noting that of 5

matters reviewed, 3 resulted in reprimands, and 2 were more serious sanctions. Mr. LaBue argued that the State was saying there were a range of sanctions that the Board could order, and the result in each case should be based upon the Board's considered judgment with respect to how the person got before it and that person's involvement that led them to the conviction that got them here. He referred to the case of Darren James, who engaged in a scheme for years involving hundreds of thousands of dollars, and the Board said he could reapply after 2 years. Mr. LaBue urged the Board to consider what Dr. Carideo did was wrong. He stated that she did not supervise an employee and assumes full responsibility for that. He stated that Dr. Carideo has not practiced since June 3, 1999 and wants to return to the practice of medicine and care for patients she has yearned to care for. He urged the Board to ask Dr. Carideo any questions it may have.

D.A.G. Bey-Lawson countered by agreeing that the Respondent has not practiced since June 1999, but what counsel forgot to mention was that Dr. Carideo has been in a halfway house since September 1999. She argued it was not that Dr. Carideo took herself out of practice, but because she was ordered to do so and serve a one year sentence.

Dr. Carideo was sworn and questioned by Mr. LaBue. Dr. Carideo testified that her sentence to the halfway house was served. She was required to work at the halfway house and could not practice medicine. She was permitted to go outside of the perimeters during the day, but was required to stay within the halfway house during all evenings. During the day, she worked at a medical office in Ocean County which was one to one-and-a-half hours away from the halfway house.

Regarding the March 27, 2000 letter which was sent to the Attorney General concerning the matter before the Board, Dr. Carideo testified that she read that letter and worked on that letter. She testified that she was familiar with that letter and provided the information concerning the statements attributed to her and verified that the statements are accurate and truthful.

Dr. Carideo went on to explain that she practiced medicine about 6 months before the Federal authorities came in. She had no experience in running a business. The office manager she hired came with references, but no experience. She hired her because she was willing to learn and appeared trustworthy.

Questions were posed by Members of the Board to Dr. Carideo. She was questioned about a letter submitted by her Probation Officer where it mentioned in the fourth paragraph "some remorse". Dr. Carideo did not know what that meant. She stated that she went over this with her Probation Officer and told him she was sorry for being so naive in trusting her office manager. Dr. Carideo stated that she relives this entire incident every day of her life. Concerning her testimony when she pled guilty in Federal Court, Dr. Carideo stated that her Attorneys advised her to plead guilty to this. She did not receive the money but pled guilty to end this ongoing Federal matter. She stated financially and emotionally she could not go on. If she had said no, the battle would have continued. She was also questioned by the Board concerning her office practice and the receptionist's training in billing; Dr. Carideo stated that she did not know there were courses at the time. The Board also questioned her concerning her Grave's Disease, as to whether it affected her behavior with a patient in any way that would be due to her condition. Dr. Carideo stated that during the time, she was struggling to keep her practice, she had pressure from the investigation, but felt she practiced medicine well and tried to do the best she could under the circumstances she was living. Concerning whether her condition affected her judgment, she stated that it did not, and that she was not partaking in fraudulent activities. She was practicing medicine and was not checking her office manager's work. She had Grave's Disease during those months which was not being treated properly, which she learned later from a second doctor. Dr. Carideo testified that the manager in her office was expected to do the billing, answer the phone and make appointments, noting that the office manager was the only employee and she had no previous experiences, but that she was willing and eager to learn and was very convincing. Dr. Carideo stated the billing was done through the computer and she did not check. She stated that the office manager had a friend in a doctor's office, and the office manager went to that doctor's office and learned the billing. Concerning her fees, the office manager helped her based on what the office manager learned from the other practice for her community and the area. Because Dr. Carideo was on staff at Jersey Shore, they gave her a list of insurance companies to participate with if she wanted to be on staff.

Dr. Carideo stated that this experience has taught her never to put her entire trust in one person, and in the future, she would have to review everything, because ultimately she is responsible. She stated everything leaving her office must be checked, and she knew that now. Concerning what she could have done differently, she wished she was not as naive, and she wished she did not trust the office manager as much as she did. Even if it meant seeing fewer patients, Dr. Carideo stated she would have to check everything done under her name and make sure it was done appropriately before it went into the mail.

Regarding whether Dr. Carideo attended any courses on billing or CME, she stated that she wanted to, but while at the halfway house, she was told she could not do it, so she reads journals as much as possible. She testified that she read journals concerning musculo skeletal diseases, JAMA, and brochures on osteoporosis. The last time she read was probably yesterday. Concerning her medical license in New Jersey, it is effective until June 30, 2001. She is not practicing right now because during the time she spent at the halfway house, she was told not to practice. She did not think it was proper to see patients during the day because she would not be able to have access to them at night.

She also testified that she was prescribing a pump for certain patients and the office manager was taking the prescriptions off and sending them to her friend who was supposed to be a doctor, who turned out not to be a doctor and was the one who supplied the pump. Dr. Carideo did not recall how many times this happened. She did not recall the cost of the pump, but believed it was approximately \$1,000. She felt it was necessary for the patient because she had a pump in the office and patients were responding to the pump, and for some of them this was the only thing to help them. Many of the patients did not want to have surgery and this seemed to be an alternative and helped tremendously. In Dr. Carideo's 6 months of practice, she had between 500 and 600 patients. She believed she prescribed a total of 30 to 40 pumps. Concerning whether she had any training on the pumps during her residency, she stated she worked closely with physical therapists and she was familiar with it. Dr. Carideo stated she was not sure what the reference of "mail fraud" quote was, noting that her lawyers were not even sure. She testified that it was very confusing. She did not understand until the jury found her guilty, because they found that since she was the doctor, she must have known because it was her office. Regarding the Indictment, Mr. LaBue stated that there were a total of 12 counts, the first count and the eleventh count dealt with the fraud from the Department of Health and Senior Services regarding durable medical services, he believed. He stated that the choice was either plea of guilty or retry on the eleventh for which the jury could not reach a verdict.

The Board continued to question Dr. Carideo, noting that 5-7% of her patients were on the pump. Dr. Carideo was asked whether she had any training or certifications that would qualify her as a specialist in lymphedema. It was noted that not all the patients had lymphedema. Dr. Carideo stated that she did a residency in internal medicine and was certified in muscular diseases to know how the pump is applied. Dr. Carideo testified that she knew it was used in physical therapy, by orthopedic surgeons and vascular surgeons. It was noted that Dr. Carideo wrote 30-40 prescriptions for patients concerning the pump and the prescriptions were intercepted by the office manager. She was asked whether there were any other devices, and she responded that she only knew the prescriptions for which she wrote. She testified that none of the patients came to her and said they did not receive the device, and every one of them received the device. Dr. Carideo testified that she had no knowledge that this was going on and she was not aware of patients being referred to her for these pumps. She stated that she did not receive people coming back for the pump. She testified that she learned later that the pumps were not FDA approved for lymphedema. She still believes the pump is very beneficial. Even if it is not FDA approved, she would try to order it, even if she needed to send a letter to FDA and would try to help her patients.

Dr. Carideo was questioned by D.A.G. Bey-Lawson, who referred Dr. Carideo to P-3, line 4, wherein the court asked her whether she took any medication that day. Dr. Carideo's answer was that she took Synthroid and said it would not interfere with the proceeding that day. Dr. Carideo acknowledged that she told the truth on that day under oath. D.A.G. Bey-Lawson continued, stating that when Dr. Carideo told the court, referring to page 18 of her plea colloquy, the court asked her if she understood if she went to trial, the Government would have to prove she received \$1,000 directly or indirectly from Ahmad Sadigh for furnishing prescriptions or identifying patients so that Mr. Sadigh could go to the Department of Health and

Human Resources and obtain lymphedema pumps, and whether she understood when she received the \$1,000 she got it from Mr. Sadigh because he fraudulently went to the Department of Health and Human Resources and received a reimbursement for pumps that he said he purchased for a patient of hers. In response to whether she understood that, she replied yes. When the Court asked Dr. Carideo whether any promises or representations of any kind, aside from those made in the plea agreement, had been made to her by her lawyer, the United States Attorney, the Court or anyone else to induce her to plead guilty to count 2 of the indictment, Dr. Carideo answered No. D.A.G. Bey-Lawson asked Dr. Carideo if she was saying she lied to the Court when she agreed to tell the truth. Dr. Carideo stated that she answered the way her attorney advised her. She testified that she did not file malpractice or ethics charges, and took her attorney's advice. She did not testify that she lied to the Court on that day. Concerning her conviction for conspiracy to commit mail fraud, Dr. Carideo stated she did not and could not appeal because it was part of the agreement. The Court did say she had the right to contest, but she chose not to do so on the advice of her attorney.

In closing, D.A.G. Bey-Lawson stated that the evidence was clear and the Board Board should not go behind its findings. She noted Dr. Carideo just testified on the day of her plea colloquy she swore to tell the truth. D.A.G. Bey-Lawson questioned whether Dr. Carideo was now telling the truth. D.A.G. Bey-Lawson continued by stating that the evidence was clear that Dr. Carideo was convicted of two offenses which are very serious. She reminded the Board that \$28,000 was defrauded to Blue Cross/Blue Shield, and this was taken away from people who rely on this for continued help. She asked the Board to impose sanctions which should include a revocation of Dr. Carideo's license, impose civil penalties and costs. She urged the Board to do this to deter other practitioners from engaging in similar conduct and restore the public's trust.

In closing, Mr. LaBue stated that no one asserted that the charges being considered by this Board were not serious. He acknowledge they are serious and grave charges. He stated the issue was not whether the Board should go behind the conviction, noting the conviction is a fact, but the issue before the Board today was, given the factors, what the result should be. Mr. LaBue stated that there was no question that Dr. Carideo's practice of medicine was being charged, but it was whether or not, under the circumstances what the appropriate sanction should be. Mr. LaBue noted that he asked Dr. Carideo to testify and the Board asked her questions. Mr. LaBue stated that he and his client submitted material in mitigation, the conviction occurred, and he and his client respected the Board's right to judge, but urged the Board to seek a sense of balance. Mr. LaBue stated that if the Board decided to fashion a result for Dr. Carideo to resume practice, justice would be served and the public would continue to have confidence in this Board and the physicians that it regulates.

The Board voted to go into executive session for deliberation and advice of counsel. Deputies, other than counseling staff, left the room, along with all other members of the public present.

The Board returned to open session with all parties present.

**THE BOARD, UPON MOTION MADE AND SECONDED, VOTED THAT RESPONDENT'S LICENSE TO PRACTICE MEDICINE AND SURGERY IN THE STATE OF NEW JERSEY IS HEREBY REVOKED EFFECTIVE IMMEDIATELY. THE BOARD WILL NOT CONSIDER AN APPLICATION FOR REINSTATEMENT BEFORE OCTOBER 1, 2003. PRIOR TO ANY CONSIDERATION OF AN APPLICATION FOR REINSTATEMENT, RESPONDENT MUST DEMONSTRATE TO THE BOARD:**

- 1. SATISFACTORY COMPLETION OF AN ETHIC'S COURSE APPROVED BY THE BOARD;**
- 2. SATISFACTORY COMPLETION OF A COURSE, INCLUDING A BILLING AND CODING COMPONENT APPROVED BY THE BOARD;**
- 3. PAYMENT OF A \$2,500 PENALTY TO INCLUDE COSTS TO BE CERTIFIED BY THE ATTORNEY GENERAL BY WAY OF AN AFFIDAVIT OF COSTS;**
- 4. AND DEMONSTRATION OF CLINICAL COMPETENCY. A WRITTEN DETAILED ORDER WILL**

FOLLOW.

**LERNER, Marvin, M.D., Pro se (Counseling Deputy: JOYCE)  
GELBER, Joan D., D.A.G., for Complainant (Without Appearance by Respondent)**

The matter was scheduled for oral argument, based upon the Board's receipt of a December 11, 2000 motion, with Exhibits A through D, filed by D.A.G. Gelber. D.A.G. Gelber sought the return of this matter to the Board from the Office of Administrative Law for Board adjudication concerning Dr. Lerner's alleged violation of the multiple Board Orders. Also enclosed was a December 29, 2000 letter from former counsel, Mr. Farley. In addition, the Board received as a handout Dr. Lerner's January 8, 2001 reply to D.A.G. Gelber's motion to transfer Dr. Lerner's matter from the Office of Administrative Law where a hearing is scheduled for June 18, 2001.

The Chair noted that Dr. Lerner was not present and a diligent search of the premises was made and no one was present purporting to be Dr. Lerner or a person representing him on his behalf. The Chair noted that he received no correspondence or telephone calls that Dr. Lerner was not going to be present today.

D.A.G. Gelber stated that last Friday she telephoned former Counsel, Mr. Farley, to be certain that Dr. Lerner was informed of these proceedings. Mr. Farley did, indeed, inform Dr. Lerner and has been aware of the pendency of this motion for a long time. The Board Office and the Attorney General's office received a letter from Dr. Lerner dated January 8, 2001, which lists his residence address in New York City. D.A.G. Gelber requested that she be able to make a presentation or oral argument. The Attorney General began by pointing out that the Complaint in this case was filed in February 1999, and asked the Board to take this case back from OAL minimally for the purpose of this motion, and preferably to deal with the entire case. D.A.G. Gelber outlined the history of this matter. She stated that in May 2000, the Board issued an Order recognizing that after Dr. Lerner participated in the Colorado Program, serious concerns were raised about his abilities. After receipt of the evaluation, the Board conducted a special hearing at which Dr. Lerner personally testified and the Board issued an Order of May 12, 2000 pointing out the Board's own concerns raised by the Colorado assessment, indicating it was important for Dr. Lerner to undergo a neuropsychological examination. When he failed to do so, the Attorney General's Office filed a motion last summer and asked the Board to compel Dr. Lerner to follow through on the Board's May Order to undergo an examination. She stated that Dr. Lerner responded and asked the Board to not entertain the Attorney General's motion for the temporary suspension of his license, because he promised he would go for that examination before September 7, 2000. She noted that the Board relied upon that promise by Dr. Lerner on that ground and adjourned that motion, not dismissing it. D.A.G. Gelber further noted that September 7, 2000 has passed, and Dr. Lerner never had that examination performed.

D.A.G. Gelber again asked that the Board to take this case back at least for the purpose of this motion. She noted the Board may ask why, because it had transmitted this case to the Office of Administrative Law for trial. D.A.G. Gelber reported to the Board that the OAL matter is not scheduled until mid to late June, and it may take close to a month for the trial, which will deal with many patients and two experts. D.A.G. Gelber stated that to leave the matter in the present status, when Dr. Lerner is in clear violation of the Order, was not in the public interest. Under the Administrative Procedure Act, D.A.G. Gelber noted that the matter was referred to OAL, not because the Board could not deal with it, but because it would be administratively more convenient for the Administrative Law Judge to go through the evidence and do the analysis. But, in this instance, an Order was issued in May and again in November that Dr. Lerner take that examination. D.A.G. Gelber believed it was appropriate for the Board to retain jurisdiction of that aspect of the matter and to bring this case back to the Board for the purpose of dealing with that Order. She further believed it was important for public policy and patient protection that the Board deal with this Order violation.

D.A.G. Gelber argued that this was not the first time Dr. Lerner failed to comply with the Board Order. She stated that Dr. Lerner has been before the Board initially by the Attorney General seeking a temporary suspension; then seeking to compel Dr. Lerner to undergo the Colorado Program, because he delayed 6

months and went only because the Board ordered him to do so; then Dr. Lerner delayed issuance of that report for 3 months; and then when the Board requested the neuropsychological exam and the Board ordered it, he failed to do so. D.A.G. Gelber argued that if Dr. Lerner never obtains the examination, he will remain in this limbo status, where he may practice in another State; he may apply for a license in another state; and he may engage in any other activity and without having had that essential examination that would show whether he is really incompetent to be practicing, separate and apart from the allegation of dishonesty. D.A.G. Gelber stated that this Order does not adequately resolve the matters, and since the report is to come to this Board, the Board needed to address it.

D.A.G. Gelber asked that the Board take back this case from OAL at least for the limited purpose of the violation of the Order, assessing penalty for that violation, assess costs for this particular violation which would be the cost of the transcript, and to issue a disciplinary sanction for this violation, suggesting revocation. D.A.G. Gelber stated that beyond that, an attempt would be made to try to expedite the case. She noted that large costs have been incurred in the case and the Attorney General would like to keep the costs down. She asked that the Board first address the violation, and then address whether it will be taking the matter back from OAL.

The Board voted to go into executive session. Deputies, other than counseling staff, left the room, along with all other members of the public present.

The Board returned to Open session and voted as follows:

UPON HEARING THE ARGUMENT OF COUNSEL AND NOTING THAT DR. LERNER, ALTHOUGH APPRISED OF THE PROCEEDING, IS NOT HERE TODAY AND NOT REPRESENTED BY A LAWYER, THE BOARD, UPON MOTION MADE AND SECONDED, VOTED TO DENY THE STATE'S MOTION TO RETURN THE MATTER TO THE BOARD FROM OAL FOR THE CONDUCTING OF THE FULL PLENARY HEARING BECAUSE THE CURRENT APPLICATION IS FOR THE TOTAL CASE AND THE REASONS WHY THIS MATTER WAS SENT TO OAL INITIALLY STILL EXIST. CONCERNING THE STATE'S MOTION TO IMPOSE SANCTIONS FOR VIOLATION OF ITS PRIOR ORDERS, THE BOARD CONCLUDED THAT BECAUSE DR. LERNER IS NOT IN PRACTICE IN NEW JERSEY, HE IS PRECLUDED FROM PRACTICING BY BOARD ORDER, AND THERE MAY BE AMBIGUITY IN THE WORDING OF THE BOARD'S LAST ORDER, THE BOARD VOTED NOT TO IMPOSE THE SANCTIONS AS REQUESTED BY THE STATE AT THIS TIME.

## **OLD BUSINESS**

### **1. BLOCK, Michael G., M.D. (Without Appearance) LEWIS, Brenda Talbot, D.A.G.**

Enclosed for Board consideration were D.A.G. Lewis' January 3, 2001 memo to the Board, Dr. Block's letter of December 14, 2000, D.A.G. Lewis' June 27, 2000 letter to Dr. Block concerning the restoration of license, and the Board Order filed February 22, 1999. As noted in D.A.G. Lewis' January 3, 2001 memo, Dr. Block was advised that before the Board could consider the reinstatement of his license, he would be required to pay the penalty and costs and to successfully take the ProBE course, which he retook and successfully passed. Dr. Block requested reinstatement and asked that he be able to pay the penalty and costs in increasing monthly payments over 18 months, with an immediate initial payment of \$250.00. It was noted that Dr. Block has not renewed his New Jersey licence since 1985, and it therefore lapsed in 1987. D.A.G. Lewis noted in her memo that the January 15, 2000 amendment to the Uniform Enforcement Act would not apply here. However, Dr. Block could be required to pay any past renewal fees applicable as well as the penalty and costs in total before his license would be reinstated. Board direction was requested.

THE BOARD, UPON MOTION MADE AND SECONDED, VOTED THAT DR. BLOCK BE REQUIRED TO PAY THE PENALTY AND COSTS ASSESSED IN FULL ALONG WITH ALL PAST

RENEWAL FEES PRIOR TO THE BOARD CONSIDERING THE REINSTATEMENT OF HIS LICENSE.

**2. FANELLI, Andrew, D.O. (Without Appearance)**  
**CHEIKEN, Stanley B., Esq., For Respondent**  
**LEWIS, Brenda Talbot, D.A.G., For Complainant**

A Provisional Order of Discipline (POD) was filed October 3, 2000 which would revoke the above physician's license. Enclosed for Board consideration were D.A.G. Lewis' November 28, 2000 letter to the Board; Dr. Fanelli's response through counsel dated November 13, 2000 which includes docket entries as Exhibit 1 and 47 letters submitted concerning Dr. Fanelli's character; and the POD filed October 3, 2000 with attachments.

In reviewing the response from Dr. Fanelli's counsel, the Board did not find the response in mitigation sufficient to change its decision based upon the Board's belief that ignorance of law is no excuse; it appeared Dr. Fanelli showed no remorse; the fact that the Board was not told what the purpose of the actual money was used for; that many people were hurt by Dr. Fanelli's actions; and the Board found the actions to be despicable.

THE BOARD, UPON MOTION MADE AND SECONDED, VOTED TO FINALIZE THE PROVISIONAL ORDER OF DISCIPLINE WITH A FINAL ORDER OF REVOCATION.

**3. FAZIL, Mohammad, M.D. (Counseling Deputy: LEVINE)**  
**LEWIS, Brenda Talbot, D.A.G. (Without Appearance)**

A Provisional Order of Discipline (POD) which would revoke the above physician's license was entered by the Board on July 18, 2000. The Board, at its December 13, 2000 meeting, reviewed D.A.G. Lewis' December 1, 2000 correspondence to the Board; Executive Director Roeder's November 28, 2000 Affidavit with attachments; and the July 18, 2000 POD. At the time of the meeting, Dr. Fazil did not respond to the Provisional Order of Discipline, and the Board voted to finalize this matter with the entry of a Final Order. This matter was resubmitted to the Board at this time for reconsideration based upon a response received from Dr. Fazil the day before the meeting. Enclosed for Board consideration was the packet of information the Board received at its December meeting, along with Dr. Fazil's response dated December 12, 2000

THE BOARD, UPON MOTION MADE AND SECONDED, VOTED TO FINALIZE THE PROVISIONAL ORDER OF DISCIPLINE WITH A FINAL ORDER OF DISCIPLINE.

**4. JAMES, Darren, D.P.M. (Without Appearance)**  
**KENNY, Paul R., D.A.G.**

Ms. Bradley recused herself from discussion and vote in this matter.

A Final Order of Revocation was filed in the matter of Dr. James on May 18, 2000. Enclosed for Board review were a November 21, 2000 letter from Dr. James requesting reconsideration of the revocation of his license; D.A.G. Kenny's November 5, 2000 response to Dr. James' application for reconsideration; and Dr. James' December 7, 2000 letter of response to D.A.G. Kenny's December 5th letter. Also enclosed was the May 18, 2000 Final Order of Revocation which was effective nunc pro tunc April 26, 2000.

The Board voted to go into closed session to discuss an open investigation. Deputies, other than counseling staff, left the room, along with all other members of the public present.

The Board returned to open session and announced the following motion:

THE BOARD FOUND THAT NOTHING SUBMITTED CAUSED IT TO CHANGE ITS FINDINGS OF FACT OR CONCLUSIONS OF LAW. THE BOARD NOTED THAT AT THE TIME IT MADE ITS

DECISION, IT WAS AWARE OF THE EXTENT OF DR. JAMES' COOPERATION IN THE CRIMINAL INVESTIGATIONS. THE BOARD FOUND THE FACT THAT DR. JAMES COOPERATED IN A BOARD INVESTIGATION DID NOT CAUSE THE BOARD TO ALTER ITS DECISION. THEREFORE, THE BOARD, UPON MOTION MADE AND SECONDED, VOTED TO AFFIRM ITS FINAL ORDER OF REVOCATION FILED MAY 18, 2000.

**5. RODRIGUEZ-MORALES, Adulberto, M.D. (Without Appearance)  
LEWIS, Brenda Talbot, D.A.G., for Complainant**

A Provisional Order of Discipline (POD) which would suspend the above physician's license was entered by the Board on March 15, 2000. Enclosed for Board consideration were D.A.G. Lewis' December 11, 2000 correspondence to the Board; Executive Director Roeder's November 28, 2000 Affidavit with attachments; and the March 15, 2000 POD with attachments. Dr. Rodriguez-Morales did not respond to the Provisional Order of Discipline.

THE BOARD, UPON MOTION MADE AND SECONDED, VOTED TO FINALIZE THE PROVISIONAL ORDER OF DISCIPLINE WITH A FINAL ORDER OF DISCIPLINE.

**6. SINHA, Binod P., M.D. (Counseling Deputy: JOYCE)  
GORRELL, Joseph M., Esq., for Respondent  
GELBER, Joan D., D.A.G., for Complainant**

Dr. Robins recused himself from discussion and vote in this matter. D.A.G. Gelber left the room while the Board discussed this matter.

In accordance with the Final Decision and Order filed November 22, 2000 and effective November 11, 2000, the Board received counsel for Dr. Sinha's December 22, 2000 correspondence with attachments requesting Board approval that Dr. Sinha take the Clinical Assessment Program operated by the University of California, as well as the medical recordkeeping course offered at that University. Also enclosed were D.A.G. Gelber's December 28, 2000 response to the request; the Final Decision and Order filed December 22, 2000; a January 4, 2000 memo to Executive Roeder, along with a copy of the brochure relating to the PACE program.

D.A.G. Joyce pointed out that Dr. Sinha proposed a program at the University of California, San Diego, called the PACE program, and the Board also had a letter from D.A.G. Gelber questioning the suitability of that program for a number of reasons. D.A.G. Joyce stated that she followed up with the Administrator of the program because a concern was raised by D.A.G. Gelber that they are not provided with a comprehensive report of those performing the assessment. Lydia Gretch, Assistant to the Director, said that with the consent of the Respondent, they would produce a report, although it would not be the kind of assessment the Board is familiar with, D.A.G. Joyce explained to the Board that it is a 2-day program (1 day devoted to physical examination of the physician; and the second day devoted to assessment), while Colorado is 3-5 days. The assessment for the PACE program is conducted by 1 interviewer -- not by a panel such as that which is done by the Colorado Program. However, D.A.G. Joyce noted that a plus for the PACE program is that its site is a medical school and once they identify a deficiency, they may be in a position to recommend what is needed at the University. Regarding a recordkeeping course, PACE has a medical recordkeeping course, although it is not in any way tailored to anesthesia. A Board member pointed out that UMDNJ has an anesthesia-based recordkeeping course.

THE BOARD, UPON MOTION MADE AND SECONDED, VOTED TO APPROVE THE COURSE CONDITIONED ON RECEIVING A REPORT WITH EVALUATIVE CRITERIA TO BE ACCEPTABLE TO THE BOARD. ADDITIONALLY, DR. SINHA SHOULD BE INFORMED ABOUT THE COURSE AT UMDNJ WHICH MAY HAVE A PROGRAM WHICH IS MORE TAILORED IN THE AREA OF RECORDKEEPING FOR ANESTHESIOLOGY.

**7. EISENSTEIN, Bernard, M.D. (Counseling Deputy: DICK)**

**CONROY, Robert, Esq., for Respondent**  
**EHRENKRANTZ, Kay, D.A.G., for Complainant (Without Appearance)**

Dr. Trayner recused himself from discussion and vote in this matter.

Enclosed for Board review were a December 21, 2000 letter from Mr. Conroy concerning the Board's Order of December 13, 2000 and Dr. Rokosz' response of December 29, 2000. Also enclosed was the resume of Nicole M. Ortiz, whom, as noted in Dr. Rokosz' January 5, 2001 letter, was approved as a chaperone. Upon receipt of a copy of the Order signed by her agreeing to her responsibilities under the Order, Dr. Eisenstein is permitted to see patients under the limitations set forth in the Order. This action by Dr. Rokosz was submitted for Board ratification.

THE BOARD, UPON MOTION MADE AND SECONDED, VOTED TO APPROVE AND RATIFY BOARD PRESIDENT ROKOSZ - DECISION THAT THE TITLE OF THE ORDER ENTERED ON DECEMBER 20, 2000 IN THE MATTER OF DR. EISENSTEIN, BE LISTED AS "INTERIM ORDER OF TEMPORARY LIMITATION OF LICENSE". THE BOARD FURTHER VOTED TO APPROVE AND RATIFY BOARD PRESIDENT ROKOSZ' DECISION THAT NICOLE M. ORTIZ, LPN, BE APPROVED TO ACT AS DR. EISENSTEIN'S CHAPERONE, UPON THE BOARD'S RECEIPT OF A COPY OF THE ORDER SIGNED BY HER AGREEING TO HER RESPONSIBILITIES UNDER THE ORDER.

## **INFORMATIONAL**

### **1. HITMAN, Alfred, (Unlicensed)** **BERGER, Susan C., D.A.G.**

Enclosed for Board information were a December 8, 2000 memo from D.A.G. Berger and an Order filed in Superior Court of New Jersey, Chancery Division, Essex County, which permanently enjoins Mr. Hitman from engaging in or holding himself out as engaging in the practice of medicine and surgery and from using the title or designation "doctor" or "ND" or "Naturopathic Physician" or any other title denoting licensure unless and until he is licensed by the Board of Medical Examiners. Mr. Hitman is permanently enjoined from engaging in any unconscionable commercial practice, fraud, deception, false promise, false pretense or misrepresentation, including but not limited to, falsely representing himself as a doctor or using any title implying that he is authorized to practice medicine, examine, diagnose or recommend supplements in violation of the Consumer Fraud Act. Mr. Hitman must also advise by mail each of the 76 patients that he treated that he is not licensed to practice medicine and surgery in the State of New Jersey. He was assessed civil penalties in the amount of \$10, 000 and costs in the amount of \$7,383.52.

## **REPORT OF INTERIM AND FINAL ORDERS FILED WITH THE BOARD**

### **1. BHOPALE, Vishwas Govind, M.D., License #24492 (Willistown, ND)**

**FINAL ORDER OF DISCIPLINE filed December 8, 2000.** The Board received information that Dr. Bhopale's license to practice medicine in the State of North Dakota had been placed on probation. The Complaint alleged he engaged in a continued pattern of inappropriate care. He was ordered not to perform any bowel surgery, parathyroid surgery, thyroid gland surgery or laparoscopic appendectomy except in the presence of an assisting surgeon approved by the Board. He was ordered to participate in an education assessment and successfully complete all recommended courses of study and complete a medical recordkeeping course. A Provisional Order was filed with this Board which allowed Dr. Bhopale thirty days to respond to the Findings of Fact. Dr. Bhopale responded. The Board considered his response and concluded that the admissions to the North Dakota Board which established grounds for their action had been reduced from four cases to three. The New Jersey Board concluded that the amended North Dakota action remained sufficient to sustain action by this Board. The Board ordered that Dr. Bhopale's license to practice medicine and surgery in the State of New Jersey is suspended for one year. He may not practice in

New Jersey until he has appeared before a Committee of the Board to demonstrate his fitness to do so and submit proof that he has complied with the terms imposed by the North Dakota Board. Any medical practice in New Jersey prior to said appearance shall constitute grounds for automatic suspension of his license. The Board reserves the right to place restrictions on his license should it be reinstated.

EFFECTIVE DATE: December 8, 2000

## **2. BRIGHAM, Steven Chase, M.D., License #51068 (Voorhees, NJ)**

**CONSENT ORDER filed December 7, 2000.** The Board office received information that Dr. Brigham had been convicted in New York State for failure to file corporate tax returns. The Board found that his conviction in New York supported a finding that he had been convicted of a crime or offense relating adversely to the activity regulated by this Board. The Board ordered that Dr. Brigham be reprimanded for violation of N.J.S.A. 45:1-21(f). He was ordered to pay costs in the amount of \$145.87. EFFECTIVE DATE: December 7, 2000

## **3. CHATTERJEE, Minakshi, M.D., License #41802 (Philadelphia, PA)**

**CONSENT ORDER filed December 6, 2000.** The Board received information from the Physicians' Health Program (PHP) concerning a relapse of Dr. Chatterjee's bipolar disorder, which is again under medical control and supervision. Dr. Chatterjee has had a long history of bipolar disorder. In October 1994, she entered into a Consent Order with this Board wherein she agreed to voluntarily surrender her license pending an appearance of the Board. Her license was reinstated in March of 1995 but lapsed in June 1995 when she failed to renew her license. Her license was then automatically suspended pursuant to N.J.S.A. 45:9-6.1 when she took no affirmative steps to place her license in the "inactive" status. Dr. Chatterjee lives and works in Pennsylvania. She has advised this Board she does not intend to seek renewal of her New Jersey license. The Board has granted her leave to surrender her license. Should she seek restoration of her license, she must appear before a Committee of the Board to demonstrate her fitness. EFFECTIVE DATE: December 6, 2000

## **4. DOLIN, Michael, M.D., License #27680 (Status 97/Z) (Rockville Center, NY)**

**FINAL ORDER OF DISCIPLINE filed December 19, 2000.** On or about November 14, 1994, by Stipulation and Order of the New York State Department of Health, it was found that on at least 45 occasions between January 1991 and November 1992, Dr. Dolin had prescribed over 8,000 Percocet tablets to one patient, an addict or habitual user, had failed to maintain appropriate patient records, and had failed to maintain safe and secure measures to assure against loss, destruction, theft or unauthorized use of official New York prescription forms. During this period, 43 official prescriptions forms, issued to Dr. Dolin, were forged to unlawfully obtain at least 7,250 Percocet tablets. In September 1995, he consented to entry of an order agreeing to four years of probation. The probation was stayed until such time as he practiced medicine in New York. In May 1998, he signed a Consent Order with the North Carolina Medical Board which reprimanded him for providing false statements in connection with his applications for a North Carolina license. In February, he returned to New York from North Carolina and engaged in the practice of medicine in violation of the terms of the 1994 New York Consent Order of probation. An Amended Statement of Charges was filed in New York and in May 1999, the New York Board for Professional Medical Conduct revoked Dr. Dolin's license to practice medicine in that State.

## **5. EMBRIANO, Peter James, M.D., License #37026 (93/Lapsed) (Somers, CT)**

**FINAL ORDER OF DISCIPLINE filed December 18, 2000.** The Board received information that charges were filed against Dr. Embriano in US District Court, District of Connecticut charging him with one count of mail fraud, one count of making a false claim and one count of filing a false tax return. In June 1998, he pled guilty to three counts of mail fraud, making false claims and submitting false tax returns. He was sentenced to six months in jail followed by three years of supervised release. He was to participate in substance abuse and mental health treatment programs, to complete 300 hours of community service and to pay restitution, fines and the monthly costs of incarceration for supervision. He agreed to pay

the United States \$700,000.00 and to be excluded from participation in Medicare, Medicaid and all other federal health care programs for five years. He surrendered his license to practice medicine in Connecticut and his Rhode Island license was suspended. A Provisional Order was filed with this Board on July 19, 2000 which required Dr. Embriano's response within thirty days. He submitted a request for modification of the Findings of Fact. He did not dispute the facts involving health care fraud and filing false tax returns. His submissions were reviewed by the Board which determined further proceedings were not necessary in that no material discrepancies had been raised. The Board that Dr. Embriano's license to practice medicine and surgery in the State of New Jersey be revoked. EFFECTIVE DATE: December 18, 2000

**6. GORDON, David Lee, M.D., (Unlicensed) (Great Neck, NY)**

**FINAL ORDER OF DENIAL OF LICENSURE filed December 8, 2000.** During the license application process, this Board reviewed documentation concerning Dr. Gordon's entering a guilty plea in New York Supreme Court for Queens County in October 1992 to grand larceny, second degree. He was sentenced to one to three years incarceration and to \$500,000 in restitution. He was excluded from participating in the Medicaid/Medicare programs for ten years. His New York license was revoked on February 13, 1995 based on his conviction. A Provisional Order of Discipline was filed with this Board which allowed Dr. Gordon thirty days to respond to the Findings of Fact. Dr. Gordon did respond. His submissions were reviewed by the Board which determined that further proceedings were not necessary in that no material discrepancies had been raised. In the eight years since his conviction, he has not satisfied any portion of his restitution obligation. The Board did not view his professed desire to satisfy his restitution obligation a basis for granting licensure. The Board ordered that Dr. Gordon's application for licensure to practice medicine and surgery in the State of New Jersey be denied. EFFECTIVE DATE: December 8, 2000

**7. HITMAN, Alfred, (Unlicensed) (Newark, NJ)**

**ORDER filed in Superior Court of New Jersey, Chancery Division, Essex County, Docket No. C-326-00.** An Order to Show Cause and Verified Complaint were filed by the Attorney General seeking temporary restraints and an inspection of the premises. After reviewing the Verified Complaint and supporting documents, the Court found good cause existed for entry of temporary restraints and inspection. Mr. Hitman admitted he had used the title "doctor" when he treated patients and that he is not licensed by the State of New Jersey to engage in the practice of medicine and surgery. The Court ordered that Mr. Hitman be permanently enjoined from engaging in or holding himself out as engaging in the practice of medicine and surgery and from using the title or designation "doctor" or "ND" or Naturopathic Physician' or any other title denoting licensure until he is duly licensed by the Board of Medical Examiners to do so. He is also permanently enjoined from engaging in any unconscionable commercial practice, fraud, deception, false promise, false pretense or misrepresentation including but not limited to falsely representing himself as a doctor or using any title implying he is authorized to practice medicine, examining, diagnosing or recommending supplements in violation of the Consumer Fraud Act. Within ten days of entry of this Order, he must prepare letters, to be approved by the Attorney General, to each of the seventy-six (76) consumers/patients whose records were obtained by the Division of Consumer Affairs. The letters will advise each person that he is not licensed to practice medicine and how to obtain their records. He was ordered to pay restitution of \$209.00 to patient V.S. Ordered to pay \$20,000.00 penalty in 36 monthly installments. In the event he pays \$10,000.00 of the penalty plus interest and complies with the terms of the Order, the remaining \$10,000.00 penalty plus interest shall be waived. He was assessed costs in the amount of \$7,383.52, also to be paid in 36 monthly installments. (See paragraph #7 of Order for payment schedule). This Order shall not preclude any other consumer from seeking restitution from Alfred Hitman. The Enforcement Bureau shall retain the 76 original records unless/until requested by the consumer, the appointment book, advertisements and supplements. These items shall be retained for one year and then destroyed. EFFECTIVE DATE: December 5, 2000

**8. IMPERIAL, Roland, M.D., License #22793 (Bethesda, MD)**

**FINAL ORDER OF DISCIPLINE filed December 21, 2000.** The Board received information that Dr.

Imperial's license to practice medicine and surgery in the State of Maryland had been suspended on September 22, 1999 for failure to meet appropriate standards of care and failure to maintain adequate patient medical records. The Maryland Board found his continued practice was found to pose a grave risk and imminent danger to the citizens of Maryland. The Maryland Board also found he was guilty of unprofessional conduct in that he failed to cooperate with a lawful investigation. On or about February 28, 2000, the New York Board took action against his NY license based on the Maryland action. A Provisional Order was filed with this Board on July 18, 2000 which allowed Dr. Imperial thirty days to respond to the Findings of Fact. No response was received from Dr. Imperial. The Board has ordered that Dr. Imperial's license to practice medicine and surgery in the State of New Jersey be suspended indefinitely. EFFECTIVE DATE: December 21, 2000

**9. JAVDAN, Parviz, M.D., License #39070 (Middletown, NY)**

**FINAL ORDER filed December 13, 2000.** A Provisional Order of Discipline was filed with the New Jersey Board of Medical Examiners based on its receipt of information that on or about April 13, 1999, Dr. Javdan entered into a Consent Agreement and Order in the State of New York wherein his license to practice medicine in New York was suspended for twenty-one (21) months, all stayed on condition that he pay a fine of \$2,500.00. He had admitted guilt to negligence on more than one occasion in that he failed to obtain an adequate history; failed to perform an adequate physical examination; failed to update the history and current complaint of a colonoscopy patient and failed to review appropriate medical records on that patient prior to undertaking the colonoscopy. Dr. Javdan's response to the Provisional Order was reviewed by the Board. The Board adopted all Findings of Fact and Conclusions of Law set out in the Provisional Order but have reconsidered the question of penalty to be imposed. The Board ordered that Dr. Javdan's license to practice medicine and surgery in the State of New Jersey be suspended for a period of twenty-one months. The entirety of the suspension to be stayed and served as probation. Prior to engaging in any further practice of medicine in the State of New Jersey, he must appear before a committee of the Board to demonstrate his compliance with all practice conditions imposed by the State of New York. In the event the stay of respondent's suspension in the State of New York is vacated and/or his New York license is actively suspended for failure to comply with their order, the stay of the twenty-one month suspension ordered herein will be rescinded and he will be required to serve a twenty-one month active period of suspension in the State of New Jersey. EFFECTIVE DATE: December 13, 2000

**10. LOCK, Abraham J., M.D., License #MA41457 (Brooklyn, NY)**

**FINAL ORDER OF DISCIPLINE filed December 28, 2000.** Dr. Lock's New Jersey license was automatically suspended in 1997 based on his failure to renew his license and an action taken against him in administrative court by New York Medicaid in 1993. He had been found guilty in an administrative law court of committing unacceptable practices, i.e. fraud or abuse, after a determination that his bookkeeping did not comport with applicable standards, constituting professional fraud and grossly negligent failure to comply with federal, state or local laws, rules or regulations. In April 1995, the New York Supreme Court convicted Dr. Lock, upon a guilty plea of grand larceny. He was sentenced to time served and restitution of \$200,000.00. In June 1999, he admitted guilt to both the administrative and criminal findings against him and his New York license was suspended for five years with the suspension stayed to be served as probation. His admission of guilt to administrative and criminal charges brought against him in New York as well as the five-year stayed suspension of his New York license provide grounds for the suspension of his New Jersey license. On October 24, 2000, a Provisional Order of Discipline was filed with this Board based upon the actions taken in the State of New York. Dr. Lock was given thirty days in which to submit a written response to the Findings of Fact contained in the Provisional Order. Dr. Lock's submissions were reviewed by the Board and the Board determined no further proceedings were necessary in that no material discrepancies had been raised. The Board noted Dr. Lock did not address the previous crime of which he was convicted but instead alleged he performed secret good acts for which he should be given credit. His admission of guilt to administrative and criminal charges brought against him in New York, as well as the five year suspension of his New York license, provided grounds for the suspension of his New Jersey license. The Board ordered that his license to practice medicine and surgery in the State of New Jersey be

suspended for five years. Prior to resuming active practice in this State, he must appear before a committee of the Board to demonstrate his fitness to practice. Any practice in this State prior to such appearance shall constitute grounds for the charge of unlicensed practice. The Board reserves the right to place restrictions on his license should it be reinstated. EFFECTIVE DATE: December 28, 2000.

**11. MCKINNEY, Laurence Timothy, M.D., License #40572 (Philadelphia, PA)**

**FINAL ORDER OF DISCIPLINE filed December 4, 2000.** The Board received information that Dr. McKinney had been indicted in US District Court for the District of Hawaii for 16 counts of mail fraud for billing for the Hawaii State Medicaid Program, the Hawaii Medical Services Association and the Department of Defense, between 1991 and 1995 for services which had not been provided. He was further indicted for false claims to the State Medicaid Program, a false claim to the Department of Defense, and witness tampering. He was sentenced to 12 months and one day imprisonment, to be supervised for three years after his release, ordered to perform 300 hours of community service, participate in a mental health program and pay restitution of \$25,145.07. He also agreed in December 1998 that he would not renew, restore, reinstate or apply for license to practice medicine in Hawaii for three years. The Pennsylvania Board of Medicine suspended his license for four years, with nine months active suspension and the remainder served as probation. He was also ordered to pay \$500 investigative costs. Based on the actions taken in Hawaii and Pennsylvania, a Provisional Order of Discipline was filed July 19, 2000 with the New Jersey Board of Medical Examiners which required Dr. McKinney to respond to the Findings of Fact. The Board reviewed his submissions and determined that further proceedings were not necessary in that no material discrepancies had been raised. The Board ordered that Dr. McKinney's license to practice medicine and surgery in the State of New Jersey is suspended for three years. He may not practice in New Jersey until he has appeared before a committee of the Board to demonstrate his fitness to do so and submit proof that he has complied with the terms imposed by the Hawaii and Pennsylvania Boards. Any New Jersey practice prior to such appearance shall constitute grounds for automatic suspension of his license. EFFECTIVE DATE: December 4, 2000

**12. PRAVETZ, Michael J., M.D., License #50364 (Louisville, KY)**

**FINAL ORDER OF DISCIPLINE filed December 28, 2000.** On or about November 13, 1998, Dr. Pravetz signed an Agreed Order of Surrender in lieu of revocation of his license to practice medicine in the State of Kentucky. He did so in response to an Emergency Order of Suspension filed by the Kentucky Medical Board. He was charged with engaging in inappropriate sexual contact with four patients and inappropriately prescribing controlled substances to four other patients. A Provisional Order was filed which allowed Dr. Pravetz thirty days to respond to the Findings of Fact. Dr. Pravetz did not respond to the Provisional Order. The Board ordered that his license to practice medicine and surgery in the State of New Jersey be revoked. EFFECTIVE DATE: December 28, 2000

**13. RIOS, Jose, M.D., License #22627 (Elizabeth, NJ)**

**ORDER GRANTING MOTION TO AMEND COMPLAINT AND TO ENTER SUMMARY DECISION ON COUNT IV OF AMENDED COMPLAINT AND REVOKING LICENSURE filed December 13, 2000.** The matter was reopened by the Board upon the filing of a motion by the Attorney General seeking to amend the complaint previously filed to add a new Count (Count IV) to the complaint predicated solely upon Dr. Rios' criminal conviction, on September 23, 1999, on charges of racketeering and Medicaid fraud. The Attorney General also moved for entry of an Order granting summary decision on Count IV, and in the event summary decision was granted, for the Board to impose disciplinary sanctions against Dr. Rios based on the conduct set out within Count IV. The Board ordered that the license of Jose Rios, M.D. to practice medicine in the State of New Jersey be revoked. The Board will not entertain or consider any application for reinstatement of licensure for a minimum of five years from the date of entry of this Order. In the event he files an application for reinstatement, he must appear before a Committee of the Board to demonstrate he has complied with all terms of this Order and all terms of his criminal probation, and also to demonstrate his fitness to resume the practice of medicine. He was assessed a \$5,000

penalty and costs to be determined. EFFECTIVE DATE: December 13, 2000

**14. SAFIER, Gary, D.O., License #MB 23932 (Randolph, NJ)**

**CONSENT ORDER filed December 22, 2000.** A Verified Complaint had been filed by the Attorney General seeking the temporary suspension of licensure based upon the allegation that Dr. Safier had improperly prescribed controlled dangerous substances to a patient, based on an alleged verbal agreement between this patient and Dr. Safier by which the patient would lend Dr. Safier money and he would write CDS prescriptions for the patient. The Verified Complaint referenced an October 1997 indictment based upon these allegations in Morris County, New Jersey. In May 2000, Dr. Safier was admitted to the Morris County Pre-Trial Intervention Project, upon successful completion of which, the Indictment against him will be dismissed. On July 25, 2000 he moved before the Board for dismissal of the Complaint and submitted evidence that this patient had consistently lied about Dr. Safier's conduct, had forged his own prescriptions and had materially altered prescriptions. This application for dismissal was opposed by the Attorney General and then withdrawn by Dr. Safier's counsel. The Board recognized his good faith efforts to treat this patient, his substantial compliance with an Interim Order of the Board and his attendance at a CDS prescribing course. The Board ordered that Dr. Safier be reprimanded for conduct contrary to Board regulation in improperly monitoring this patient's consumption prior to this patient's admission into a drug rehabilitation program. Assessed \$1,500.00 penalties and \$9,003.00 costs. The Board also ordered that the conditions of licensure agreed to by Dr. Safier in the Interim Order are vacated and his license to practice medicine and surgery in the State of New Jersey shall be unrestricted. EFFECTIVE DATE: December 22, 2000

**15. TONG, Yeow Ching, M.D., License #31074 (Piscataway, NJ)**

**CONSENT ORDER filed December 11, 2000.** The Board office received information that Dr. Tong had aided and abetted the unlicensed practice of chiropractic and acupuncture. Specifically, it was alleged that Dr. Tong allowed Dr. Rong Sheng Lin to perform the unlicensed practice of chiropractic and acupuncture in his office. The Board found he engaged in professional misconduct and he failed to secure confidential patient records in violation of Board regulations. The Board ordered that Dr. Tong be reprimanded for aiding and abetting the unlicensed practice of chiropractic and acupuncture and for failing to secure patient treatment records. He must cease and desist immediately from permitting such unlicensed practice to continue in his office and immediately secure his patient charts. Dr. Tong was assessed a penalty of \$5,000.00 and investigative costs of \$2,211.49. EFFECTIVE DATE: December 11, 2000

**LICENSURE MATTERS**

**1. CALLE, Stuart C., M.D., (Unlicensed) (Montclair, NJ)**

**CONSENT ORDER GRANTING RESIDENCY TRAINING PERMIT WITH CONDITIONS filed December 24, 2000.** Dr. Calle submitted an application for a plenary medical license and a training permit to participate in a Pediatrics Residency Training Program at the University of Medicine and Dentistry of New Jersey (UMDNJ). Documentation from Dr. Calle's prior training position in general surgery contained derogatory information in that there were serious irregularities of documentation, staff or patient complaints and that he had been placed on probation. However, there have been no documented incidents of inappropriate conduct since November 1999. Dr. Calle appeared before the Credentials Committee of the Board and asked the Board to grant him a residency permit allowing him to complete his training in New Jersey. He also provided a notarized document withdrawing with prejudice his application for a plenary license to practice medicine and surgery in the State of New Jersey. The Board balanced his residency training history and his recent improvements as a 3rd year pediatric resident and found that, in the supervised environment of an accredited training program, with required reporting to the Board, his continued practice does not present a risk to the public. The Board has ordered that Dr. Calle be granted a residency permit to practice solely within the context of a pediatric residency program at UMDNJ, with monthly evaluation reports from the chairman of the pediatrics residency program of UMDNJ to the

Medical Director of the Board. Dr. Calle's application for a plenary license to practice medicine and surgery in the State of New Jersey is withdrawn with prejudice, precluding him from making reapplication in this State at any time in the future. EFFECTIVE DATE: December 24, 2000

**2. PHILIPONIS, Vincent William, M.D., Unlicensed (Philadelphia, PA)**

**FINAL ORDER OF DENIAL OF LICENSURE filed December 18, 2000.** On September 5, 2000, a Provisional Order of Denial of Licensure was filed with the Board. Dr. Philiponis submitted a response to the Findings of Fact contained in the Provisional Order. The Board considered his response to the multiple issues which formed the basis for the Provisional Order. The Board viewed his conduct as a continuing demonstration of his dishonest dealings with multiple entities responsible for credentialing medical practitioners. The Board found that he has demonstrated a pattern of completely failing to realize that integrity and honesty are essential characteristics for a medical practitioner. The Board is aware of its charge to ensure the public's protection. Rarely has the Board been presented with an applicant who so blatantly disregards his responsibility to truthfully report information and then minimizes and attempts to explain away his conduct. The Board, based on Dr. Philiponis' history and pattern of misrepresentations compounded by his persistent denial of culpability, does not find he is capable of fulfilling the obligation of trustworthiness incumbent upon a licensee. The Board has determined further proceedings were not necessary and that no material discrepancies had been raised. The Board has ordered that the application of Vincent William Philiponis, M.D. for licensure to practice medicine and surgery in the State of New Jersey be denied. EFFECTIVE DATE: December 18, 2000

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Additional matters which are not considered public reports were filed with the Board Office.

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Respectfully submitted,

William V. Harrer, M.D., B.L.D., Chairperson for Open Disciplinary Matters