

**State Board of Medical Examiners
Disciplinary Matters Pending Conclusion
February 9, 2005**

A meeting of the New Jersey State Board of Medical Examiners was held on Wednesday, February 09, 2005 at the Richard J. Hughes Justice Complex, 25 Market Street, 4th Floor, Conference Center, Trenton, New Jersey for Disciplinary Matters Pending Conclusion, open to the public. The meeting was called to order by Mr. Glenn Farrell, Chairperson for Open Disciplinary Matters.

PRESENT

Board Members Chen, Criss, Farrell, Haddad, Harrer, Huston, Patel, Paul, Ricketti, Robins, Rokosz, and Walsh.

EXCUSED

Board Members Lucas, Moussa, Perry, Trayner, and Weiss.

ABSENT

Board Members Desmond and Wallace.

ALSO PRESENT

Assistant Attorney General Joyce, Deputy Attorneys General Bey, Dick, Ehrenkrantz, Kenny, Levine, Executive Director Roeder and Medical Director Gluck .

RATIFICATION OF BOARD MINUTES

THE BOARD, UPON MOTION MADE AND SECONDED, VOTED TO APPROVE THE DECEMBER 08, 2004 AND JANUARY 12, 2005 OPEN DISCIPLINARY BOARD MINUTES AS SUBMITTED.

HEARINGS, PLEAS, RETURN DATES, APPEARANCES

10:00 a.m. - COHEN, Wendy M.D. (License #MA 32189)
(Counseling D.A.G.: DICK, SANDRA)
KERN, Steven I., Esq., for Respondent
BEY, Hakima D.A.G. for Complainant

This matter was set down before the Board on December 8, 2004 and was adjourned until January 12, 2005. It was again adjourned and was before the Board based on the filing of a Notice of Motion for a Summary Decision with an accompanying Letter Brief Certification and Exhibits. Respondent, however, had denied all allegations set forth in the Complaint. All pertinent materials regarding this matter were enclosed for the Board's review.

Chairman Glenn Farrell asked both parties to place their appearances on the record and noted for the record that neither the State nor the defense had any preliminary matters that needed to be considered.

D.A.G. Hakima Bey in her opening argument reminded the Board that this hearing was based on a Summary Decision Motion filed on behalf of the Attorney General. The applicable rule for Summary Decision, she argued, was to be found in the administrative procedure rule, particularly rule N.J.S.A. 1:1-12.5 and in that rule, it provides that a party may move for Summary Decision when there are no dispute of material facts. That same rule, she continued, states that the decision sought may be rendered if the papers and discovery which have been filed together with the affidavit show that there is no genuine issue of material fact challenged and that the moving party is entitled to prevail as a matter of law. The state added that the purpose of the Summary Decision proceeding is to avoid protracted litigation to avoid the expenses of trial when the issues are not in dispute and

because the moving party is specifically looking for a decision as a matter of law based upon the undisputed facts. D.A.G. Bey further stated that the evidence would show that the facts of this case are not in dispute. Prosecution then introduced documents into evidence for the Board to consider in support of the Attorney General's motion for Summary Decision.

Respondent's counsel, Steven Kern, objected and stated that this was a motion, and evidence cannot be introduced at a motion. The Chair's determination was to consider the papers that were annexed to the State's pleadings as typically done at a Motion for Summary Decision and a Motion for Summary Judgment and so there was no need to mark them into evidence. The Chair asked the State to indicate for the record the documents.

D.A.G. Bey directed the Board's attention to the documents that were submitted in support of the Attorney General's motion, namely, the complaint, an answer, a transcript of a PEC inquiry from June 25, 2002, three bills, one submitted as a bill from Dr. Cohen's office, and the other two are the HCFA forms submitted for Dr. Cohen's treatment of the patient. Also attached were the remitted advice from Oxford Insurance Company, as well as a letter from Judge Gallipoli, a letter from the patient and a copy of the canceled check from the patient, and the report of the state's expert, Patricia Ross, along with her CV.

Specifically, D.A.G. Bey asked for the Board's attention to Exhibit C to the State's motion which is the transcript of the June 25, 2002 PEC meeting. D.A.G. Bey referenced page 34 of the transcript, line 13, narrating questions asked of Dr. Cohen at her inquiry before the PEC. The State also directed the Board's attention to Exhibit E attached to the Attorney General's Motion for Summary Decision, which was a copy of the transcript of the Superior Court's proceedings in which Dr. Cohen filed a small claims action against the patient because she had not received payment for her services. The Deputy asked that the Board review page 52, starting with line 23. She pointed out that this section dealt with questions and answers from the Court, at which Judge Gallipoli presided. Both exhibits, continued D.A.G. Bey, the PEC testimony and the testimony before Judge Gallipoli prove that the facts are not in dispute and that the facts are, in fact, very simple. According to D.A.G. Bey, Dr. Cohen admitted during her PEC testimony that she overlapped her charges to Oxford because when she sent her bills the first two times, Oxford did not send back any type of payment. Dr. Cohen subsequently sent the final bill in which she overlapped the charges to \$4,000, although the original charges were only for \$800. The State continued to explain that Dr. Cohen would want the Board to think that because Judge Gallipoli told her to submit another bill to Oxford, she had to bill in this creative manner so that she could receive payment for the services that she rendered to the patient. As seen in the transcript before Judge Gallipoli, he told Dr. Cohen to bill as accurately as possible and never directed Dr. Cohen to overlap any charges or to submit some type of creative billing to the Insurance Carrier so as to draw attention to the bill so she could receive payment. D.A.G. Bey reiterated to the Board that the facts were simple and were not in dispute and the facts have not changed since the PEC or the Court testimony. The State requested that the Board marry the facts to the law referencing the Uniform Enforcement Act at N.J.S.A. 45:1-21 (b) for fraud, deception, dishonesty, misrepresentation, as well as section (e) for professional misconduct. D.A.G. Bey stated that the mere denial of the allegations does not render the facts to be disputed and she referenced the Appellate Court decision from 1995, Conte vs. School Board, 286 N.J. Super 106. This case stands for the proposition that the mere denial of the allegation does not translate into disputed facts. D.A.G. Bey asked the Board members to use their expertise in this matter, to look at the facts and to make a decision that they are not in dispute, therefore granting the Attorney General a Summary Decision in the matter of Wendy Cohen, M.D.

Mr. Kern, in rebuttal, argued that D.A.G. Bey argued that there were no facts in dispute, but at the same time admits that maybe there was a dispute as to "the reasoning for what she did." Mr. Kern continued that D.A.G. Bey was seeking to have the Board find Dr. Cohen guilty of fraud and that requires intent. Mr. Kern argued, if Dr. Cohen did not intend to deceive anyone, then she did not commit fraud and thus, the Board could not find her guilty of fraud or take any action against her license.

Mr. Kern continued to argue that one cannot look at Dr. Cohen's action in submitting the bill without putting into the context of what happens routinely in claims processing. Again the issue is intent. Mr. Kern asked the Board as to who routinely sets the rules and questioned when it comes to payment methodology, and posited that it was the insurance company who sets the rules and, thus with that fact, it is impossible to find that Dr. Cohen intended

to defraud Oxford Insurance Company. The insurance company, according to Mr. Kern, did what Dr. Cohen anticipated they would do. The Oxford Insurance Company put the bill through its "filters" and she was paid what the insurance company determined was the reasonable fee. Mr. Kern reiterated that there are no facts in this case to support the contention that Dr. Cohen intended to defraud Oxford Insurance Company.

D.A.G. Bey responded that the Board only needs to focus on three main points. She argued that the rules provide that Summary Decision may be granted based upon all or any of the substantive issues and specifically, drew the Board's attention to the fact that the complaint alleged violation of 45-1-21 and was not solely based on fraud. D.A.G. Bey pointed out that the Attorney General's complaint alleged violation of sub-section (b) and under this sub-section, the charges include engaging in the use or employment of dishonesty, fraud, deception, misrepresentation, false promise or false pretense. Additionally, she argued, the Attorney General's complaint alleged a violation of sub-section (e) which provides that when the licensee engages in professional or occupational misconduct as may be determined by the Board, action against the license may be taken. The State cited sections of the complaint in support of the proposition that the Attorney General did not simply allege fraud, it alleged a violation of sub-section (b), which included dishonesty, fraud, misrepresentation, deception, false promise or false pretense. D.A.G. Bey indicated to the Board that if it finds that Dr. Cohen's actions, based upon her own words, demonstrate that the undisputed facts rise to the level of dishonesty, fraud, misrepresentation, deception, false promise or false pretense, then the Board could make a determination of liability. D.A.G. Bey informed the Board that it has the option of finding, based on the undisputed facts, that as a matter of law a violating of any one, or all, of the provision of the sub-section has occurred, the Board can grant the Attorney General's Motion for Summary Decision. D.A.G. Bey urged the Board members to use common sense, coupled with its expertise in billing matters and find that the facts were not in dispute and that Dr. Cohen's action demonstrates a violation of sub-section (b) and sub-section (c) of the Uniform Enforcement Act.

Mr. Kern again stressed that the case was not ripe for Summary Decision because the facts, namely, Dr. Cohen's intent ? an element needed to sustain a claim of whether it's fraud or dishonesty, remains unanswered and in dispute.

The Board, upon motion made and seconded, voted to go into executive session for deliberations and advice of counsel. All parties, except counseling staff, left the room. The Board returned to open session and announced the following motion.

THE BOARD, UPON MOTION MADE AND SECONDED, VOTED TO GRANT THE STATE'S MOTION FOR SUMMARY DECISION AS THERE ARE NO GENUINE ISSUES OF MATERIAL FACTS IN DISPUTE AND AS A MATTER OF LAW, THE BOARD FINDS THAT RESPONDENT ENGAGED IN VIOLATIONS OF N.J.S.A. 45:1-21 (b) BY ENGAGING IN THE USE OF MISREPRESENTATION AND A VIOLATION OF N.J.S.A. 45:1-21 (e), PROFESSIONAL MISCONDUCT. AN ORDER MORE FULLY DETAILING THE BOARD'S REASONING WILL BE ISSUED.

The Chair then asked Mr. Kern if he was prepared to proceed with a mitigation hearing. Mr. Kern responded that he was not and that the first notice that he received that the Board might consider hearing testimony in mitigation, was at 3:50 p.m. the previous day. The chair asked Mr. Kern why he was not aware of this matter proceeding by way of notice filed on October 27, 2004, which specifically sought action against the license of Dr. Cohen. Mr. Kern's response was that he was aware that the motion was going to be heard, and he responded to the motion and that he was present at the meeting in response to the motion. Chairman Farrell reiterated to Mr. Kern that he in fact was aware that the State was seeking an Order of Suspension and/or Revocation as set forth in the Notice of Motion and that necessarily implied that his client would be able to present mitigation testimony addressing the penalty phase. Mr. Kern responded that he did not understand the relevance of the Chair's question as to whether or not he was prepared for a hearing in mitigation when there was no notice concerning the potential for a hearing in mitigation until 3:50 p.m. the day before today's hearing. Chairman Farrell noted for the record, that as far as the Board was concerned, the Notice of Motion filed on October 27, 2004, clearly indicated that the State was seeking an Order of Suspension and/or Revocation, which would necessitate a mitigation hearing. Nonetheless, the Board granted Mr. Kern's request for an adjournment. Mr. Farrell, however, stressed that the mitigation hearing would be scheduled for the March 9, 2005 meeting, with no further adjournments. The matter

was concluded.

11:00 a.m. CHEN, Kuen H., M.D. (License # MA 30252)
a/k/a Chen, Kenneth H., M.D.
(Counseling D.A.G.: Flanzman, Steven)
KERN, Steven I., Esq., for Respondent
BEY, Hakima D.A.G. for Complainant

This matter was set down before the Board on a Notice of Motion for Default against Kenneth H. Chen M.D. filed on January 18, 2005 for failure to plead or otherwise defend, against the relief requested in the enclosed Verified Complaint. Also enclosed for the Board's review was the Certification of D.A.G. Hakima Bey along with exhibits A - H and other pertinent information regarding this matter.

It was noted that no answer had been received.

Chairman Farrell opened the meeting in the matter of Dr. Kuen Chen and asked publicly whether Dr. Kuen Chen was at the meeting and to please identify himself and, if not, the meeting would proceed. Mr. Farrell announced that he was advised that it was 10 minutes after 1:00 p.m. and approximately 2 hours had passed from the scheduled appearance time. Mr. Farrell asked that D.A.G. Bey place her appearance on the record.

D.A.G. Bey in her opening argument reminded the Board that this hearing was based on the Attorney General's Motion for Default against Dr. Chen for failing to file an answer to the Attorney General's Verified Complaint that was filed in this matter. D.A.G. Bey continued to identify the documents that the Attorney General intended to offer into evidence to support its application for a Default against Dr. Chen. The exhibits were pre-marked as follows:

P-1 - Copy of the Verified Complaint filed on May 19, 2004

P-2 - Interim Consent Order entered by the Board on May 27, 2003 against Dr. Chen

P-3 - Order to Show Cause and Notice of Hearing and Notice of Filed Answer filed on May 19, 2004.

P-4 - Interim Consent Order entered by the Board against Dr. Chen filed on May 25, 2004

P-5 - Consent Order of Temporary Suspension of license filed by the Board on June 11, 2004

P-6 - Partial Summary Decision and Order entered by the Board against Dr. Chen on April 13, 1984

P-7 - Consent Order entered by the Board against Dr. Chen filed on February 25, 1985

P-8 - Interim Consent Order entered by the Board by Dr. Chen filed by the Board on January 22, 1997

P-9 - Order imposing Temporary Suspension of Licensure against Dr. Chen and entered by the Board on May 20, 1997

P-10- Consent Order entered by the Board against Dr. Chen filed on August 21, 1997

P-11- Interim Consent Order filed by the Board against Dr. Chen filed on May 27, 2003

P-12- Letter from Nicolas Reuter from the Center of Substance Abuse Treatment dated May 18, 2004

P-13 - Affidavit from Enforcement Bureau Investigator Cecilia Dominguez

P-14- Certified copy of a medical record of Cecelia Miraldo

P-15 - Affidavit from investigator Heather Hollandor from Enforcement Bureau

P-16 - Certified copy of a medical record of patient Heather Moore

P-17 - Affidavit from Enforcement Bureau Investigator Derrick Whitfield

P-18 - Certified copy of a medical record for Derrick Watson

P-19 - Affidavit from Enforcement Bureau Investigator Joseph Trogani

P-20 - Certified copy of a medical chart for patient Jill Padilla

P-21 - Affidavit from Enforcement Bureau Investigator Cecilia Dominguez

P-22- Patient sign-in sheet from Dr. Chen's office

P-23 - Affidavit from Enforcement Bureau Investigator Charles Harris

P-24 - Certification of costs from supervising investigator Michael Westenberger from the Enforcement Bureau

P-25 - Division of Law time keeping sheet for the hour billed by the Division of Law for its investigation and prosecution of Dr. Kenneth Chen and

P-26 - Directive from former Division of Law Director Jeffery J. Miller concerning the schedule of Attorney Fees hourly rate of compensation for legal staff

D.A.G. Bey offered exhibits P-1 through P-26 into evidence. The Chair clarified for the record that exhibits P-6 and P-12 were also entered into evidence. The Attorney General rested her case with regard to its submission of the evidence and offered to proceed with her closing statement.

D.A.G. Bey indicated that the documents before the Board contained a complaint had been filed against Dr. Chen in 2004 and that Dr. Chen failed to file any answer to the Attorney General's Verified Complaint. In addition, the Board had an Interim Consent Order of Temporary Suspension of Licensure entered into on June 11, 2004 which embodied Dr. Chen agreeing to the temporary suspension of his license pending a plenary hearing before the OAL and in addition he also agreed to file an answer within a date certain and he also failed to file an answer to the Verified Complaint as of the date of this hearing. Additionally, the Board had documents supporting the Attorney General's underlying allegations essentially alleging that Dr. Chen violated an Interim Consent Order with the Board that was entered in 2003, wherein Dr. Chen agreed to cease and desist prescribing any forms of Buprenorphine until such time as he was granted a waiver by the FDA and the Board approved his use of these medications.

The basis for the Attorney General's complaint was due to Dr. Chen's failure to comply with the Interim Consent Order and the affidavits from the five different investigators from the Enforcement Bureau. As demonstrated by the papers, the Enforcement Bureau went into Dr. Chen's office on several occasions in 2004 under the guise that they were heroin addicts and that they needed treatment. She continued to argue that at the time of the undercover, the investigators did not indicate that they were in any type of pain, rather they indicated that they needed treatment for their underlying drug addiction to Heroin. The investigation demonstrated that Dr. Chen prescribed Buprenex for the investigators on several occasions and the affidavits show that Dr. Chen did not perform any type of physical examination of the patients, but simply gave the investigators the Buprenex when they indicated they were Heroin addicts. D.A.G. Bey continued to explain that the affidavits submitted from the Enforcement Bureau Investigators, fictitious patient records, sign-in sheet and finally, the certification of the Enforcement Bureau Costs of their investigation as well as the Division of Law's Costs for Attorney Fees, all support the Attorney General's Motion for Default on the Complaint.

The Board, upon motion made and seconded, voted to go into executive session for deliberations and advice of counsel. All parties, except counseling staff, left the room.

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

THE BOARD, UPON MOTION MADE AND SECONDED, VOTED TO GRANT THE ATTORNEY GENERAL'S MOTION FOR DEFAULT AGAINST DR. CHEN AND ORDERED THE REVOCATION OF HIS LICENSE AND AWARDED ATTORNEY FEES AND COSTS BASED EXHIBITS 1 THROUGH 26 WHICH WERE ACCEPTED INTO EVIDENCE. ADDITIONALLY, IT IMPOSED COSTS TO BE ASSESSED AGAINST DR. CHEN IN THE AMOUNT OF \$13,380.41 AND INVESTIGATIVE COSTS INCURRED BY THE ENFORCEMENT BUREAU; AND \$15,912.50 IN ATTORNEY FEES BY THE DIVISION OF LAW; ADDITIONALLY, A CIVIL PENALTY IN THE AMOUNT OF \$120,000 SHALL BE ASSESSED AGAINST DR. CHEN.

1:00 p.m. THOMPSON, Flavius M., M.D. (License # MA 46830)
Counseling D.A.G.: (FLANZMAN, STEVEN N.)
TARTER, Robert Esq., for Respondent
RAGONE, Tara Adams D.A.G. for Complainant

This matter was set down before the Board by the Attorney General on D.A.G. Ragone's enclosed Letter Brief filed on January 28, 2005 and an Order to Show Cause filed on January 26, 2005 requesting Dr. Flavius Thompson to demonstrate why his license should not be temporarily suspended pursuant to N.J.S.A. 45:1-22 pending a plenary hearing on the charges that were embodied in the enclosed Verified Complaint filed on January 26, 2005 with the Administrative Board office. All other pertinent materials were enclosed for the Board's review.

By way of background, this matter was opened to the State Board of Medical Examiners ("the Board") upon notification that Dr. Flavius Thompson had been charged with certain third and fourth degree offenses arising from conditions allegedly existent at his medical practice located in Lakewood, New Jersey. Dr. Thompson had entered into an Interim Consent Order filed on January 24, 2005 agreeing to cease and desist from practice in accordance with the terms of this Order pending the outcome of a hearing before the State Board of Medical Examiners.

This matter was originally adjourned based on Dr. Thompson's representation that he would voluntarily cease practice until the February 9, 2005 meeting embodied in a second Interim Consent Order.

D.A.G. Paul Kenny summarized to the Board of a settlement of Temporary Suspension application embodied in the form of a Consent Order that was tentatively approved and signed by Board President, Dr. Bernard Robins and to which Dr. Thompson and his counsel affixed their signatures as well. D.A.G. Kenny further informed the Board that he had faxed copies in hand and they would be replaced by an original should the Board give approval.

THE BOARD, UPON MOTION MADE AND SECONDED, VOTED TO RATIFY THE INTERIM CONSENT ORDER IN WHICH DR. THOMPSON AGREED TO IMMEDIATELY SURRENDER HIS LICENSE TO PRACTICE MEDICINE PENDING RESOLUTION OF THE CRIMINAL CHARGES AGAINST HIM. ADDITIONALLY, EVEN WHEN THE CRIMINAL CHARGES ARE RESOLVED AND IF THEY ARE RESOLVED PRIOR TO PLENARY HEARING, HE MAY NOT RETURN TO PRACTICE UNTIL FURTHER ORDER OF THIS BOARD. SHOULD THOSE CHARGES BE RESOLVED RESPONDENT MUST APPLY FOR REINSTATEMENT. DR. THOMPSON WOULD NEED TO APPEAR BEFORE A COMMITTEE OF THIS BOARD FOR THE SOLE PURPOSE OF ADVISING THE BOARD OF THE STEPS HE'S UNDERTAKING TO ENSURE THE CONTINUING SAFETY OF HIS MEDICAL PRACTICE. DR. THOMPSON HAS AGREED TO FILE AN ANSWER TO THE VERIFIED COMPLAINT BY FEBRUARY 22, 2005 AND THAT THE MATTER SHOULD BE SENT TO THE OAL FOR FURTHER HEARINGS, IF NECESSARY. THE PARTIES STIPULATED THAT THE ENTRY OF THE ORDER IS WITHOUT ANY ADMISSION OF WRONG DOING ON THE PART OF THE RESPONDENT.

OLD BUSINESS

1. GOLIN, Mark M.D. (License # MA 42147)
KEATING, Michael J., Esq. for Respondent
GELBER, Joan D.A.G. for Complainant

Enclosed was D.A.G. Gelber's January 27, 2005 letter to the Board requesting consideration of Dr. Mark Golin's request for reinstatement of his license, which was revoked, with his consent, by Final Order on September 17, 2002.

By way of background, Dr. Golin had been treating patients for a variety of conditions primarily in his private office and also in a hospital setting prior to his entry of his September 17, 2002 Order of Revocation. Dr. Golin's initial public record contact with the Board was in the disciplinary proceedings filed in 1996 against Dr. Manjit Singh when he submitted an endorsement letter expressing his "firm belief" that Dr. Singh should be permitted to continue in practice (with monitoring) and that a suspension of Dr. Singh's license would have an "absolutely detrimental effect on his chance for recovery." The Board later learned that Dr. Golin's own practice was under investigation by insurance carriers for suspected fraudulent billing. In the Board's own investigation, quality of care issues were identified as well. In the Attorney General's Administrative Complaint, filed on January 15, 2002, alleged various forms of professional improprieties as detailed in D.A.G. Gelber's attached letter. In the Final Order, Dr. Golin, represented by counsel, neither admitted nor denied any of the allegations of the Administrative Complaint filed January 15, 2002.

Dr. Golin reported that he has been offered a position as a staff psychiatrist at Bergen Regional Medical Center, a teaching hospital where he had previously been employed and represents that he will be able to provide needed services to a largely indigent patient population.

D.A.G. Gelber noted that Dr. Golin's petition for reinstatement did not state whether he has undertaken any continuing medical education since the revocation since Dr. Golin had elected to accept the revocation of license in 2002, it was unnecessary at the time to specify the need for that re-education. In light of the circumstances of the case, however, D.A.G. Gelber feels that the Board may find all of those training components such as better recordkeeping with adequate clinical history and examination pertinent to the nature of the practice he hopes to resume; remedial training in selection, prescribing and monitoring of medication (not limited to Controlled Drugs); adequate documentation of symptoms and findings sufficient to support a diagnosis (whether medical or psychiatric), and appropriate follow-up, along with a coding course and an ethics course be required of Dr. Golin.

All pertinent information regarding this matter was enclosed for the Board's review.

THE BOARD, UPON MOTION MADE AND SECONDED, VOTED TO NOTIFY DR. GOLIN THAT HIS REQUEST FOR REINSTATEMENT IS PREMATURE AT THIS TIME.

2. NENNA, David M. D. (License # MA35385)
Pro se
BAUDRY, Adriana E., D. A. G. for Complainant

Dr. Perry was recused from discussion and vote in this matter.

The Board received for discussion in Closed Session D.A.G. Baudry's January 25, 2005 memo to the Board in the matter of Dr. David Nenna as to whether the Board would approve dismissal of the Complaint filed January 27, 2003. The Board announced the following motion in Open Session.

THE BOARD, UPON MOTION MADE AND SECONDED, VOTED TO DISMISS THE COMPLAINT FILED JANUARY 27, 2003 WITH AN ORDER TO BE FILED WITHDRAWING THE COMPLAINT IN THE MATTER OF DR. DAVID NENNA.

NEW BUSINESS

1. SISTER-STATE MATTERS - PROPOSED FINALIZATION OF PROVISIONAL ORDER OF DISCIPLINE

GOODIN, Richard M.D.
BROWN, Joyce D.A.G. for Complainant

Enclosed for consideration was D.A.G. Brown's January 28, 2005 letter to the Board seeking finalization of Provisional Order of Discipline entered on January

13, 2005 seeking suspension of Dr. Richard Goodin's license to practice medicine in New Jersey until such time as his New York medical license has been restored.

By way of procedural background, Dr. Goodin pled guilty in the Supreme Court of the State of New York, King County to two (2) counts of the crime of Criminal sale of a prescription for a controlled substance, in violation of New York Penal Law §220.65, a class C felony. On or about August 21, 2003 he was convicted of these crimes, based on his plea of guilty, and was sentenced on October 28, 2003 to imprisonment for a period of five (5) to ten (10) years and a six (6) month period of license suspension. Dr. Goodin also entered into a Surrender Order with the State of New York, Department of Health, Board for Professional Medical Conduct whereby he agreed to surrender his medical license based on his plea of guilty to the two criminal counts referenced above.

By way of Dr. Goodin's January 20, 2005 letter to D.A.G. Brown, Respondent is requesting a ninety day delay of the filing of a Final Order of Discipline ("FOD"). He has indicated that in response to the POD he has filed a Motion to Vacate the Judgement for fraud and misconduct on the part of the prosecutor and to date there has been no opposition to the motion filed by the prosecutor. Dr. Goodin indicates that based on the fact that he believes the evidence in support of his motion is extremely strong and he expects to prevail. D.A.G. Brown indicates that there is ample basis to support the suspension of Respondent's license pursuant to N.J.S.A. 45:1-21 (f) and (g).

THE BOARD, UPON MOTION MADE AND SECONDED, VOTED TO APPROVE THE PROPOSED FINALIZATION OF PROVISIONAL ORDER OF DISCIPLINE IN THE MATTER OF DR. RICHARD GOODIN.

2. SISTER-STATE MATTERS - PROPOSED FINAL ORDER OF DISCIPLINE WITHOUT MODIFICATION
PEREZ, Mileidy D.A.G. for Complainant

Enclosed is D.A.G. Perez's January 25, 2005 memo to the Board seeking the entry of a Final Order of Discipline ("FOD") without modification for the doctor listed below. The matter was subject to finalization 30 days after issuance and no response has been received. Enclosed is Executive Director Roeder's Affidavit of Service with respect to the physician below. The Attorney General seeks the entry of Final Order of Discipline without Modification for the following physician:

1. SPENCER, Donna L., M. D. POD filed on October 18, 2004
(License # MA59869)

THE BOARD, UPON MOTION MADE AND SECONDED, VOTED TO APPROVE THE PROPOSED FINAL ORDER OF DISCIPLINE WITHOUT MODIFICATION IN THE MATTER OF DR. DONNA SPENCER.

The meeting ended at 3:05 p.m.

Respectfully Submitted,

Glenn Farrell, Esq.
Chairperson for Open
Disciplinary Matters

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