

**NJ STATE BOARD OF MEDICAL EXAMINERS
OPEN DISCIPLINARY MINUTES**

- FEBRUARY 14, 2001

A meeting of the New Jersey State Board of Medical Examiners was held on Wednesday, February 14, 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 Gregory J. Rokosz, D.O., J.D., FACOEP, Chairperson for Open Disciplinary Matters.

PRESENT

Present were Board Members Chen, Danser, Desmond, DiFerdinando, Farrell, Fernandez, Haddad, Huston, Perry, Ricketti, Reid, Robins, Rokosz, Trayner, Walsh, Wallace, and Weiss.

EXCUSED

Board Members Bradley, Harrer and Lucas.

ALSO PRESENT

Deputy Attorneys General Dick, Flanzman, Gelber, Joyce, Kenny, Levine, and Rubin; Executive Director Roeder and Medical Director Gluck, New Jersey State Board of Medical Examiners.

RATIFICATION OF MINUTES

The Minutes from the January 10, 2001 Board meeting were approved with clerical changes.

HEARINGS, PLEAS, RETURN DATES, APPEARANCES

THELMO, Franklin L., M.D. (Counseling Deputy: FLANZMAN)

LaBUE, Anthony F., Esq., for Respondent

BERNSTEIN, Eleanor G., D.A.G., for Complainant (Without Appearance)

Matter set down for final hearing in the matter of Franklin L. Thelmo, M.D. Enclosed for Board review was the December 6, 2000 Initial Decision of ALJ Ken R. Springer. The matter was initiated based upon a Complaint filed July 11, 1997 accusing Dr. Thelmo of grossly inappropriate behavior, including sexual abuse of a young male patient, and alleging that the conduct constitutes gross negligence, gross malpractice or gross incompetence; repeated acts of negligence, malpractice or incompetence; and professional or occupational misconduct. Also enclosed for Board review were the Complaint filed July 11, 1997; Respondent's Answer filed July 18, 1997; and the January 23, 2001 appearance letter. In addition, enclosed were Mr. LaBue's January 25, 2001 response to the Board's January 23, 2001 letter, with attachments, noting that Respondent accepted the Initial Decision of ALJ Springer in full and would file no exceptions to Judge Springer's decision; and D.A.G. Bernstein's January 25, 2001 letter to Executive Director Roeder stating that she would not be filing any exceptions in this matter and that oral arguments were not necessary. The Board also received a February 7, 2001 letter from counseling Deputy Attorney General Flanzman concerning this matter being decided on the papers.

D.A.G. Flanzman explained that there was no hearing scheduled and the Board had before it the initial decision of the ALJ in the matter of Dr. Thelmo. Within that opinion, the ALJ found that none of the charges that had been brought against Dr. Thelmo were sustained by a preponderance of evidence and,

therefore, recommended the charges be dismissed. The initial time for response would have expired in January, but there was a request acceded to by counsel for Dr. Thelmo that an Order be entered extending the time for exceptions. The State advised the Board that it will not file exceptions. Notwithstanding that letter, it was still the Board's obligation to review and consider the decision of the ALJ and determine whether to accept, reject, or modify, based on the record of the case which was available to the Board. If the Board were to modify or reject the decision and find that any and all of the charges by Dr. Thelmo were sustained by a preponderance of evidence, then the Board would need a hearing on mitigation. Both parties were advised that if that happened, the mitigation proceeding would commence at 1:00 today. D.A.G. Flanzman noted that if the Board needed further advice of counsel, it should be done in executive session.

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 announced its decision as follows:

THE BOARD, UPON MOTION MADE AND SECONDED, VOTED THAT THE INITIAL DECISION ENTERED BY ADMINISTRATIVE LAW JUDGE KEN R. SPRINGER DATED DECEMBER 6, 2000, IS HEREBY ADOPTED IN ITS ENTIRETY WITHOUT MODIFICATION. ALL CHARGES AGAINST RESPONDENT ARE DISMISSED. THE MATTER IS NOW RESOLVED.

CARAGINE, Paul, M.D. (Counseling Deputy: DICK)

KOZYRA, Barry A., Esq., for Respondent

HARPER, Douglas J., D.A.G., for Complainant (Without Appearance)

Matter was set down for final hearing in the matter of Paul Caragine, M.D. Enclosed for Board review was the December 4, 2000 Initial Decision of ALJ Mumtaz Bari-Brown. The matter was initiated based upon a Verified Complaint filed November 18, 1998, and the following Complaints filed with the Office of Administrative Law which were a Verified Complaint (Amended) dated September 21, 1999 and Verified Complaint (Second Amended) filed January 14, 2000 charging Respondent with 12 counts of gross and repeated malpractice, negligence or incompetence in the performance of orthopedic examinations on 11 female patients. The Verified Complaint (Second Amended) was attached to D.A.G. Harper's response to Respondent's Exceptions. This Verified Complaint (Second Amended) includes all the allegations the Judge ruled on and, therefore, the Verified Complaint and Verified Complaint (Amended) were not provided to the Board, but were available at the meeting.

Also enclosed for the Board's review were the Orders of Temporary Limitation of License filed December 7, 1998 and December 29, 1998; Respondent's Verified Answer filed December 1, 1998; Answer to Amended Complaint filed at O.A.L. October 22, 1999; Respondent's letter memorandum in lieu of a more formal brief to serve as Dr. Caragine's Exceptions and Objections to the Decision of ALJ Bari-Brown; Respondent's Brief in Opposition to the Application for the Suspension or Revocation of Dr. Caragine's license with Findings of Fact and Conclusions of Law; and Counsel for Dr. Caragine's July 14, 2000 letter to Judge Bari-Brown in reply to the Complainant's Brief on which Respondent also relied. Also enclosed for Board information were letters dated December 21, 2000 and January 25, 2001 from Executive Director Roeder concerning the scheduled appearance. In addition, enclosed were D.A.G. Harper's January 30, 2001 letter; D.A.G. Harper's Certification concerning the costs in this matter; and the Attorney General's brief and appendix in opposition to Respondent's exceptions to the Initial Decision of ALJ Bari-Brown.

This matter was adjourned until the Board's March 14, 2001 meeting.

TABOTABO, Armando, M.D., Pro se (Without Appearance)

RUBIN, Michael, D.A.G., for Complainant (Counseling Deputy: LEVINE)

(Proceedings Recorded by Ed Silver, Silver Reporting Services)

Matter set down for hearing based upon the Attorney General's Motion for Emergency Relief and for Leave

to File a Second Amended Complaint. The motion sought the immediate temporary suspension of Dr. Tabotabo's license based upon his alleged failure to comply with the Board's September 3, 1999 Order requiring that he only treat patients in the presence of a Board-approved practice monitor. The motion also presented allegations of additional violations of Board statutes and regulations by Dr. Tabotabo, including his alleged failure to maintain professional malpractice insurance coverage. The Board received for consideration the Attorney General's Motion for Emergent Relief and Motion Seeking Leave to File a Second Amended Complaint, with Certifications and exhibits, along with D.A.G. Rubin's letter brief filed February 13, 2001.

D.A.G. Rubin noted that Dr. Tabotabo was not present and confirmed that he was served with the papers by overnight mail and by hand delivery at his home. The papers were given to his wife the day before this meeting. Additionally, D.A.G. Rubin represented that he called the doctor and left messages on his answering machine that this matter was to be heard at 3:00 p.m. D.A.G. Rubin also represented that he spoke to Dr. Tabotabo on the day of the Board meeting, and Dr. Tabotabo acknowledged that he did receive the Motion which was served at his home from his wife, and informed D.A.G. Rubin that he would not be attending the Board hearing. D.A.G. Rubin further pointed out that Edward C. Bertucio, Jr., Esq., was also served with the motion papers and informed D.A.G. Rubin that in all likelihood, Mr. Bertucio would not represent the doctor in this matter.

In response to the Chair, D.A.G. Rubin stated that he will provide the Board with an Affidavit of Service.

THE BOARD, UPON MOTION MADE AND SECONDED, VOTED TO FIND DR. TABOTABO IN DEFAULT SINCE HE WAS NOT PRESENT AND WAS GIVEN ADEQUATE NOTICE OF THE HEARING.

D.A.G. Rubin explained that the Attorney General filed a Notice of Motion, his own Certification, and provided notice to the witnesses from the First Choice Health Care Monitoring Group. Two witnesses were available in the event that the Board needed to obtain testimony from them if the Board had questions. D.A.G. Rubin briefly outlined the case.

He argued that this matter was before the Board based upon an application for a temporary suspension alleging that the doctor indiscriminately prescribed Controlled Dangerous Substances to patients that were undercover investigators. The Board referred the matter to OAL, but issued an Interim Order that required continuing monitoring of his practice by an approved entity. Based on a Certification of Patricia A. Boeglin, R.N. (Exhibit "A"), the Board concluded that without the protections afforded by the monitoring, there was a finding that Dr. Tabotabo's licensure status would palpably demonstrate a risk to the health, safety and welfare of the public.

D.A.G. Rubin continued by reminding the Board that this matter was scheduled before the Office of Administrative Law in March and the Attorney General asked that pending the resolution of that hearing at OAL before Judge Reiner that the doctor's license be suspended. The Judge had granted permission to amend the Complaint once before in this case. The Amendment was founded on a review of Dr. Tabotabo's transcribed office notes of the undercover investigators which demonstrated that the medical records were false. Therefore, the Complaint was amended to include charges of false keeping of medical records. That was challenged by Dr. Tabotabo's counsel, and the Judge granted permission for the amendment.

In light of the new evidence obtained which demonstrates that Dr. Tabotabo is acting outside the scope of the Board's prior Order insofar as he is treating patients without the presence of monitors, the Attorney General requested that the Board grant permission to amend the Complaint a second time, so that this matter can be fully addressed before the Office of Administrative Law. Again, he reminded the Board that the President of the First Choice Health Care and the nurse monitor were present to testify, and they both work there, have had direct contact with the monitor, and have first-hand knowledge of the allegations in the Complaint.

As to the remaining Count of the Motion dealing with malpractice insurance, D.A.G. Rubin was unclear as

to where the issue was since Dr. Tabotabo's prior counsel was no longer representing him. It was D.A.G. Rubin's understanding that the licensee's malpractice insurance coverage had lapsed, but without the doctor's response to the subpoena, the Attorney General's office did not know if coverage from another carrier was obtained.

The Board voted to go into executive session for advice of counsel and deliberations. 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 motions:

THE BOARD, UPON MOTION MADE AND SECONDED, VOTED TO GRANT THE ATTORNEY GENERAL'S MOTION TO AMEND THE COMPLAINT IN THIS MATTER TO INCLUDE ALLEGATIONS THAT DR. TABOTABO PRACTICED WITHOUT THE REQUIRED MONITOR AS REQUIRED BY BOARD ORDER AND PRACTICED WITHOUT THE MEDICAL MALPRACTICE INSURANCE, AS REQUIRED BY BOARD REGULATION AND STATUTE.

THE BOARD, UPON MOTION MADE AND SECONDED, FURTHER VOTED TO GRANT THE EMERGENT RELIEF SOUGHT BY THE ATTORNEY GENERAL AND SUSPENDED DR. TABOTABO'S LICENSE EFFECTIVE IMMEDIATELY PENDING FINAL DISPOSITION OF THIS MATTER. A WRITTEN ORDER WILL BE SERVED ON ALL PARTIES AND THE OFFICE OF ADMINISTRATIVE LAW.

The Board thanked the witnesses for being present and prepared to testify today.

OLD BUSINESS

1. ALMEIDA, Carlos A., D.O. (Without Appearance)

BENESCH, Katherine, Esq., for Respondent

MALONEY, Anne W., D.A.G., for Complainant (Counseling Deputy: DICK)

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. Maloney's February 5, 2001 letter to the Board; a chart which D.A.G. Maloney prepared concerning this matter; Dr. Almeida's response through counsel dated January 2, 2001 which included a "Request for Modification or Dismissal of Provisional Order of Discipline" with Exhibits A through F; and the POD with attachments filed October 3, 2000.

THE BOARD, UPON MOTION MADE AND SECONDED, VOTED TO FINALIZE THE PROVISIONAL ORDER OF DISCIPLINE WITH A FINAL ORDER OF DISCIPLINE SUSPENDING DR. ALMEIDA'S LICENSE FOR THREE YEARS ENTIRELY STAYED AND PLACING HIM ON THREE YEARS' PROBATION RETROACTIVE TO MAY 26, 1999, WHEN HE WAS FIRST PLACED ON MONITORING IN THE STATE OF MARYLAND. THE PROBATION IS SUBJECT TO THE SAME TERMS AND CONDITIONS PLACED UPON HIS LICENSE BY THE STATE OF MARYLAND.

Dr Robins voted in opposition.

2. BHOPALE, Vishwas G., M.D. (Without Appearance)

LEWIS, Brenda Talbot, D.A.G. (Counseling Deputy: LEVINE)

A Final Order of Discipline was filed December 8, 2000, suspending Dr. Bhopale's license for one year with the requirement that he shall not practice in New Jersey until he has appeared before a Committee of the Board to demonstrate his fitness to do so and the Board reserved the right to place restrictions on his practice should his license be reinstated. The Board's action was based on action taken in the State of North Dakota. Dr. Bhopale now requested that the suspension of his license be stayed without restrictions on his

practice. The Board was asked to consider Dr. Bhopale's request on the papers submitted and deny or grant the request, or require that Dr. Bhopale appear before a PEC before making a decision. Enclosed for Board consideration were the Final Order of Discipline filed December 8, 2000; and letters from Dr. Bhopale with attachments dated December 27, 2000, January 2, 2001, January 5, 2001, January 14, 2001 and January 16, 2001. Also enclosed were D.A.G. Lewis' January 5, 2001 letter to Dr. Bhopale and her memo to the Board dated January 29, 2001.

THE BOARD, UPON MOTION MADE AND SECONDED, VOTED TO REAFFIRM ITS FINAL ORDER OF DISCIPLINE FILED DECEMBER 8, 2000.

**3. BYRNE, Rodolfo, M.D., License #41381 (Without Appearance)
MALONEY, Anne W., D.A.G., for Complainant (Counseling Deputy: JOYCE)**

A Provisional Order of Discipline (POD) was filed October 4, 2000, which would suspend the above physician's license for five years. Enclosed for Board consideration were D.A.G. Maloney's February 5, 2001 letter to the Board; Executive Director Roeder's February 2, 2001 Affidavit with attachments; and the POD with attachments filed October 4, 2000. The Board also received as a handout Dr. Byrne's October 25, 2000 response with attachments and an amended letter from D.A.G. Maloney dated February 13, 2001.

D.A.G. Joyce clarified for the Board that the doctor did respond to the POD, but that his response was not transmitted to the deputy. She summarized the matter by explaining that the POD sought to have the physician suspended in New Jersey concurrently with the action in New York and that prior to practice in New Jersey, he must appear before a PEC.

THE BOARD, UPON MOTION MADE AND SECONDED, VOTED TO FINALIZE THE PROVISIONAL ORDER OF DISCIPLINE WITH A FINAL ORDER OF A FIVE-YEAR ACTIVE SUSPENSION, AND AFTER THE FIVE YEAR PERIOD, SHOULD DR. BYRNE WISH TO PRACTICE IN NEW JERSEY, HE MUST APPEAR BEFORE A COMMITTEE OF THE BOARD.

**4. COLLIER, Bert D., M.D. (Without Appearance)
GLYNN, Stephen M., Esq., for Respondent
MALONEY, Anne W., D.A.G., for Complainant (Counseling Deputy: LEVINE)**

A Provisional Order of Discipline (POD) was filed October 4, 2000, which would revoke the above physician's license. Enclosed for Board consideration were D.A.G. Maloney's February 5, 2001 letter to the Board; Dr. Collier's response through counsel dated November 9, 2000 which included a "Request for Modification" with Exhibits A through C; and the POD with attachments filed October 4, 2000.

The request for modification included a modification of the finding of fact in paragraph 3 of page 2 of the POD. The physician asked that the entire paragraph be deleted and suggested new language since the finding was not that the Respondent did not do the actual medical service. Respondent sought to amend paragraph 3 to reflect that "Although Respondent performed his own reviews and interpretations of nuclear medicine test results, he allowed his name to be signed to the reports of such results by another Board certified nuclear medicine physician who also reviewed the same results: this reviewing physician's visiting professor temporary license had lapsed, thereby rendering him unlicensed, although fully qualified to conduct such reviews. Respondent did not engage in this behavior to enrich himself financially and did, in fact, receive no money from this behavior."

THE BOARD, UPON MOTION MADE AND SECONDED, VOTED TO FINALIZE THE PROVISIONAL ORDER OF DISCIPLINE WITH A FINAL ORDER OF DISCIPLINE FOR REVOCATION WITH THE MODIFICATION TO REFLECT THE ACTUAL FINDINGS OF FACT AS PROPOSED BY DR. COLLIER'S ATTORNEY.

**5. DI MARIO, Carmen N., D.O. (Without Appearance)
RINGLER, Kim D., Esq., for Respondent**

LEWIS, Brenda Talbot, D.A.G., for Complainant (Counseling Deputy: DICK)

A Provisional Order of Discipline (POD) was filed July 18, 2000 seeking the revocation of Dr. Di Mario's license. Enclosed for Board consideration were D.A.G. Lewis' January 2, 2001 letter to the Board; former counsel for Respondent's letter dated July 28, 2000; Ms. Ringler's December 28, 2000 response with attachments submitted on behalf of Dr. Di Mario; and the POD filed July 18, 2000.

D.A.G. Dick explained that in this matter there was a conviction for mail fraud and tax evasion. The mail fraud conviction involved preauthorization letters representing patients with rhinoplasty for insurance, and the tax evasion conviction was based on an amount of \$100,000, which may be understated. The conviction included prison terms of which 5 months was served in in-home confinement. He practices in New Jersey and lives in Pennsylvania.

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

**6. FLEISHER, Paul, M.D., License #18684 (Without Appearance)
MALONEY, Anne W., D.A.G., for Complainant (Counseling Deputy: JOYCE)**

A Provisional Order of Discipline (POD) was filed October 4, 2000, which would revoke the above physician's license. Enclosed for Board consideration were D.A.G. Maloney's February 5, 2001 letter to the Board; Executive Director Roeder's February 2, 2001 Affidavit with attachments; and the POD with attachments filed October 4, 2000. Dr. Fleisher did not respond to the POD.

THE BOARD, UPON MOTION MADE AND SECONDED, VOTED TO REAFFIRM ITS PROVISIONAL ORDER OF DISCIPLINE AND FILE A FINAL ORDER OF DISCIPLINE.

**7. JASMIN, Frantz, M.D., License #48880 (Without Appearance)
MALONEY, Anne W., D.A.G., for Complainant (Counseling Deputy: JOYCE)**

A Provisional Order of Discipline (POD) was filed October 10, 2000 seeking the suspension of Dr. Jasmin's license. Enclosed for Board consideration were D.A.G. Maloney's February 5, 2001 letter to the Board; Dr. Jasmin's November 9, 2000 response; the POD with attachments filed October 10, 2000; and documents obtained by the Enforcement Bureau from the U.S. District Court, Southern District of New York which include an Indictment, Judgment in a Criminal Case, and an Order to Surrender involving Dr. Jasmin.

THE BOARD, UPON MOTION MADE AND SECONDED, VOTED TO REAFFIRM ITS PROVISIONAL ORDER OF DISCIPLINE AND FILE A FINAL ORDER OF DISCIPLINE.

**8. KESHISHIAN, Paul, D.O. (Without Appearance)
SARAVIA, Alma, Esq., for Respondent
GELBER, Joan D., D.A.G.**

Enclosed for Board consideration was a January 30, 2001 letter from counsel for Dr. Keshishian petitioning the Board to decrease the required monitoring of Dr. Keshishian to quarterly. Also enclosed was the December 15, 1999 Order of Reprimand and Reinstatement of License with Limitations in the matter of Dr. Keshishian.

It was noted that D.A.G. Gelber was the deputy and was taking no position. Executive Director Roeder noted for the Board that there is a provision in his March 1999 Order which states that if after one year of monitoring, no unremediated problems or concerns are raised by the Board, then the monitor reports shall be reduced to quarterly following notice to the Board. Under the terms of his Order, he was entitled to reduce the reports as of January 2000.

THE BOARD, UPON MOTION MADE AND SECONDED, VOTED TO APPROVE DECREASING THE REQUIRED MONITORING REPORTS TO QUARTERLY.

**9. KRONEN, Michael R., M.D. (Without Appearance)
MALONEY, Anne W., D.A.G. (Counseling Deputy: DICK)**

A Provisional Order of Discipline (POD) was filed October 5, 2000, which would suspend the above physician's license. Enclosed for Board consideration were D.A.G. Maloney's February 5, 2001 letter to the Board; Dr. Kronen's response dated November 6, 2000; and the POD with attachments filed October 5, 2000.

THE BOARD, UPON MOTION MADE AND SECONDED, VOTED TO SUSPEND RESPONDENT'S LICENSE FOR SIX MONTHS, FIVE MONTHS ACTIVE WHICH HAVE ALREADY BEEN SERVED IN THE MARYLAND ACTION, ONE MONTH STAYED, FIVE YEARS PROBATION AND BEFORE HE RESUMES PRACTICE IN NEW JERSEY, HE MUST APPEAR BEFORE A COMMITTEE OF THE BOARD TO DEMONSTRATE HIS FITNESS TO PRACTICE.

**10. KATZ, Michael M., M.D. (Without Appearance)
FRUCHTMAN, Susan, Esq., for Respondent
GELBER, Joan D., D.A.G.**

The Board announced for the record that it decided to grant the adjournment in the matter of Michael M. Katz, M.D., to the April 20, 2001 Board meeting.

REPORT OF INTERIM AND FINAL ORDERS FILED WITH THE BOARD

1. ALEXANDER, Edward J., M.D., License #49804 (Philadelphia, PA)

CONSENT ORDER filed January 11, 2001. The Board investigated allegations of Dr. Alexander's involvement with unlicensed facilities dedicated to the developmentally disabled and allegations of his prescribing of controlled dangerous substances. When he failed to appear before a Committee of the Board on December 29, 1999, an Order to Show Cause and Verified Complaint were filed by the Attorney General which required Dr. Alexander to show why his failure to appear at a Board inquiry should not necessitate the temporary suspension of his license pending cooperation. Dr. Alexander consented to an Interim Order which required him to cease and desist from engaging in any practice of medicine and surgery in the State of New Jersey until further Order of the Board. Based on his appearance before a Committee of the Board on May 3, 2000, the Board found no cause for action regarding the allegations of indiscriminate prescribing of controlled dangerous substances and the operation of residential facilities. The Board further found that he had violated New Jersey Statutes and Regulations by his failure to cooperate with the Board in not appearing for his December 29, 1999 scheduled appearance; he failed to provide the Board with a change of address prohibiting communication; he left confidential patient medical records unsecured and unprotected at a gas station for an investigator from the Division of Consumer Affairs Enforcement Bureau to subsequently pick up; and he provided patient records to the Board which fell below appropriate standards. The Board ordered that Dr. Alexander's license to practice medicine and surgery in the State of New Jersey be suspended for two years, the first eight months to be served as an active suspension retroactive to the Interim Board Order of April 25, 2000, and the remainder to be stayed and served as probation during which time he must comply with the conditions of this Order. Dr. Alexander must meet with the Medical Director of the Board every three months for the first year of probation and then at a frequency to be determined by the Medical Director for the remainder of the stayed suspension. He must also take and successfully pass the next scheduled SPEX exam. Should he not pass this exam, the Board reserves the right to require he take and successfully complete the appropriate CME courses and/or retake the SPEX exam or another equivalent exam and/or whatever other remedial action deemed necessary to ensure the health, safety and welfare of the public. He must take and successfully complete the PRIME or PROBE ethics course or an equivalent course acceptable to the Board and provide

the Board verification of successful completion. Assessed \$2,500.00 penalty and \$1,792.40 costs.
EFFECTIVE DATE: January 11, 2001

2. BATES, Nancy, D.O., License #42669 (Elmwood Park, NJ)

ORDER ACCEPTING RETIREMENT OF LICENSE filed January 10, 2001. Information was presented to the Board as a result of Dr. Bates' non-compliance with the terms of the Board Order filed May 11, 2000. Dr Bates, by her signature on this Order, has represented that she has not been engaged in the practice of medicine and that she has determined to voluntarily surrender her license to practice medicine and surgery in the State of New Jersey. The Board has accepted her surrender of license. She may not engage in any form of the practice of medicine and surgery in this State unless and until she applies and is relicensed pursuant to an Order of the Board. EFFECTIVE DATE: January 10, 2001.

3. DELUCA, Matthew J., M.D., License #44133 (Bloomfield, NJ)

CONSENT ORDER filed January 16, 2001. The Board investigated a patient complaint regarding billing for a visit but not providing any services. He appeared before a Committee of the Board where he was asked whether he recalled receiving a letter from the Board in 1990 regarding his need for proper documentation and communication with patients. He testified regarding his care of five patients. The full Board considered this matter and found Dr. DeLuca's conduct reprehensible as he had received prior notice from the Board regarding his inadequate clinical notes and his need to better communicate with his patients. Dr. DeLuca wished to resolve the matter without further proceedings and entered into a Consent Agreement wherein he was reprimanded by the Board for failure to comply with the Board's earlier directives. He agreed to satisfactorily complete a Board-approved record-keeping course. He was assessed a \$2,500.00 penalty and costs of \$999.51. EFFECTIVE DATE: January 16, 2001

4. DANKE, Peter J., Physician Assistant, #MP00269 (Staten Island)

CONSENT ORDER OF VOLUNTARY SURRENDER filed January 25, 2001. The Physicians' Health Program (PHP) notified the Board that a physician assistant, who had been a participant in the PHP, had relapsed in his use of mood altering chemicals. The PHP had been notified by the Vice President of Medical Affairs at Newark Beth Israel Hospital of an incident where a syringe of Fentanyl was reported missing from the medication cart. A drug screen urine test was immediately conducted on Peter Danke which was positive for Diprivan. Mr. Danke then resigned his position at Newark Beth Israel and relinquished his original license and current registration. The Board ordered that Mr. Danke's license to practice as a physician assistant in the State of New Jersey be immediately surrendered and that he immediately cease and desist any practice as a physician assistant in this State. He shall comply with the Directives applicable to disciplined licensees. He shall not be permitted to enter the premises of a medical facility for the purpose of providing any consultation to other licensees rendering medical services to patients or sign or submit insurance claim forms for treatment rendered during the period of voluntary surrender. He must submit to random urine monitoring under supervision of the Physicians' Health Program. The PHP must immediately report any positive result to the Board. Any failure to submit or provide a urine sample within 24 hours of a request will be deemed equivalent to a positive urine test. He must continue in counseling with quarterly reports to the Board. He must attend support groups, including AA/NA, as determined by the PHP Medical Director. He must provide releases to any/all parties participating in the monitoring program to ensure the Board's receipt of information in a timely manner. This includes advising the Board of any/all programs in which he engages which must submit quarterly reports to the Board. In the event he wishes to petition the Board for reinstatement of his license, he must appear before a Committee of the Board to demonstrate to the Board's satisfaction that he is capable of discharging the functions of a licensee, including provision of the documentation specified in the Consent Order. In the event the Board determines to reinstate his license in any form, he must provide a copy of this Order to any hospital to which he applies for privileges and to any physician with whom he practices. EFFECTIVE DATE: January 25, 2001

5. EISENSTEIN, Bernard, M.D., License#11388 (Englewood, NJ)

INTERIM ORDER OF TEMPORARY LIMITATION OF LICENSE filed December 20, 2000 with an effective date of December 13, 2000. A Verified Complaint was filed by the Attorney General alleging that Dr. Eisenstein had engaged in kissing, inappropriate sexually oriented touching of and comments to one patient, inappropriate sexually oriented touching of and comments to a second patient and sexual harassment consisting of touching and kissing of one employee. A hearing regarding an Application for Temporary Suspension of his license was scheduled on December 13, 2000. Dr. Eisenstein denied the allegations of the Verified Complaint, without any admissions, on the record, to the presence of a chaperon with him during all times he is in the presence of patients. The Board, over the objection of the Attorney General, determined that this Order adequately protects the public and that his agreement obviates the need for further hearing at this time. The Board has ordered that during all examinations of patients, Dr. Eisenstein must be chaperoned in the same room by a Board-approved licensed R.N. or L.P.N. The chaperon shall agree to immediately report any observations or reports that Dr. Eisenstein saw any patient without a chaperon present in the room or that verbal or physical impropriety of a sexual nature on the part of Dr. Eisenstein with either a patient or an employee occurred. Each chaperon shall also report bi-weekly to the Medical Director of the Board. EFFECTIVE DATE: December 13, 2000

6. FAZIL, Mohammad, M.D., License #MA31855 (Yorba Linda, CA)

FINAL ORDER OF DISCIPLINE filed January 29, 2001. A Provisional Order of Discipline was filed July 18, 2000 based upon the Board's receipt of information that the California Medical Board revoked Dr. Fazil's license after being convicted of insurance fraud in criminal court for falsely certifying that four investigators from the Orange County District Attorney's Office qualified for disability payments despite the fact that there was no physical basis for any claim of injury and for falsely billing for services rendered. He was also charged with professional misconduct for acts of dishonesty or corruption. His California revocation was stayed. He was suspended from practice for 90 days, placed on probation for five years and ordered to provide free non-medical community services for at least 160 hours a year for each year of probation; complete an ethics course, submit a plan of practice in which his billing would be monitored by another physician in his field, pay costs of the investigation and prosecution and monitoring. The Provisional Order allowed Dr. Fazil the opportunity to respond to the Findings of Fact. Dr. Fazil responded, but not in the allotted time. The Board reviewed his out-of-time response which asked for the imposition of a sanction equal to that imposed by California. The Board determined further proceedings were not necessary since no material discrepancies had been raised. The Board considered a recent Superior Court of New Jersey matter in which the court held that a New Jersey Board should not be bound by the penalty imposed by its counterpart in another state. The Board ordered that Dr. Fazil's license to practice medicine and surgery in the State of New Jersey be revoked. EFFECTIVE DATE: January 29, 2001

7. HOPFAN, Job, M.D., License #45951 (New York, NY)

CONSENT ORDER REINSTATING LICENSURE filed January 3, 2001. Pursuant to a Consent Order filed March 27, 2000 with this Board, Dr. Hopfan voluntarily surrendered his license after suffering a substance abuse relapse and entering an intensive out-patient treatment program. The Consent Order required that his license be surrendered for a minimum of six months before the Board would consider restoring licensure. Dr. Hopfan petitioned the Board for reinstatement of his license. He appeared before a Committee of the Board, accompanied by a representative of the Physicians' Health Program, and testified concerning the treatment he had received since surrendering his license. The PHP representative testified that Dr. Hopfan had been completely compliant with the Physicians' Health Program and presented evidence that the twice-weekly urine monitoring test results had all been negative. The Board reviewed all information and ordered that Dr. Hopfan's license to practice medicine and surgery in this State be reinstated, contingent upon his compliance with all terms and conditions set forth in the Order. He must maintain absolute abstinence from all psychoactive substances unless prescribed by a treating physician for a documented medical condition. He must continue therapy. He must continue participation with the PHP and submit to twice-weekly random urine screens conducted by the PHP for the first six months following

entry of this Order and weekly urine screens thereafter for a period of not less than a year. PHP to report quarterly to the Board concerning his participation and report immediately should Dr. Hopfan fail to comply with PHP requirements, relapses or otherwise engages in the use of psychoactive substances. Prior to resuming practice, he must inform the New Jersey licensed nurse who works with him of his prior substance abuse problems and obtain written acknowledgment she will make an immediate report to the Board and PHP of any evidence of impairment or substance abuse by Dr. Hopfan. Any reporting by the PHP of non-compliance or relapse shall provide cause for entry of an immediate Order by the Board suspending his license. EFFECTIVE DATE: January 3, 2001

8. KUDRYK, Alexander B., M.D., License #53469 (Bridgewater, NJ)

CONSENT ORDER filed January 16, 2001. The Board received information that Dr. Kudryk had failed to properly monitor the collection of urine samples from another physician on behalf of the Physicians' Health Program (PHP) of the Medical Society of New Jersey. The Board subsequently received information that Dr. Kudryk had failed to inform the PHP about his consumption of alcohol on May 30, 1999 and his arrest and conviction for Driving Under the Influence of Alcohol/Drugs. He also omitted any reference to the DUI arrest and conviction and thus falsely certified on his Controlled Dangerous Substances Renewal application dated April 13, 2000 that he had not been convicted of any crime. Dr. Kudryk has a prior history of abuse of alcohol and involvement with the Physicians' Health Program. During an appearance before a Committee of the Board, Dr. Kudryk admitted his failure to properly monitor the other physician and his failure to advise the PHP of his own DUI conviction. With respect to the Controlled Dangerous Substance Renewal application, he testified he did not believe either a DUI conviction or motor vehicle violation was a "crime" which had to be disclosed. The Board ordered that Dr. Kudryk's license to practice medicine and surgery in the State of New Jersey be suspended for three months. The suspension was stayed to be served as a period of probation. Dr. Kudryk was reprimanded for dishonesty in failing to reveal to the PHP his arrest and conviction for driving under the influence of alcohol/drugs. He was also reprimanded for professional misconduct in his failure to properly monitor the collection of urine samples on behalf of the PHP. He must submit to weekly, random, unannounced, direct-witness urine monitoring for the life of his license to practice medicine and surgery in the State of New Jersey. Any failure to submit or provide a urine sample within 24 hours of a request, shall be deemed equivalent to a confirmed positive urine test. He must attend a support group program for chemically dependent people no fewer than three times each week. The PHP must report quarterly to the Board. Any treating physician or dentist who prescribes medication which is a controlled substance must provide a written report to the PHP documenting Dr. Kudryk's need for such medication. Dr. Kudryk is permanently barred from acting as a urine monitor or collector on behalf of the PHP. He must submit an updated CDS renewal form and an updated Medical Board biennial renewal form which discloses his conviction for DUI on October 14, 1999. Assessed \$2,500.00 penalty and \$359.88 costs. Dr. Kudryk agreed to the entry of an Order of automatic suspension of license without notice, upon the Board's receipt of information which reliably demonstrates his failure to comply with any of the conditions of this Order. EFFECTIVE DATE: January 16, 2001

9. PHILLIPS, Ronald B., D.O., License #MB25908 (Wallingford, PA)

CONSENT ORDER FOR REINSTATEMENT OF LICENSE filed January 10, 2001. Dr. Phillips' license to practice medicine and surgery in the State of New Jersey had been suspended in 1998 based upon an action taken against his licensure privileges in the State of Pennsylvania where he pled guilty to federal charges of obtaining controlled substances by fraud, misrepresentation and deception for his own personal use. In June 2000, Dr. Phillips petitioned the Board for reinstatement of his license. A representative of the Physicians@ Health Program appeared with Dr. Phillips to support his reinstatement petition. In December 2000, Dr. Phillips petitioned the Board for consent to resume practice in New Jersey conducting medical exams for insurance purposes on behalf of Examination Management Services, Inc. of Howell, New Jersey. The Board, believing he has shown he is serious about his rehabilitation and is now fit to practice, has ordered that his license to practice medicine and surgery be reinstated with conditions. Those conditions are: 1) random quarterly urine testing administered through the Physicians' Health program; 2) continued face-to-face meetings with a member of the PHP of the Foundation of the Pennsylvania Medical Society's

staff at no less of a frequency than on a quarterly basis; 3) continued attendance at Alcoholics Anonymous at no less of a frequency than twice weekly; 4) immediate reporting to the Board of any sign or evidence of relapse or other change of status relating to this Order; 5) He is specifically granted permission to work doing insurance physicals on behalf of Examination Management Services, Inc. of Howell, New Jersey. Should he seek employment in any other setting, his practice shall be limited to primary care and addiction in a medical facility or a group practice, with his supervisors made aware of this Order and permission must be sought from the Board prior to any future changes in employment. EFFECTIVE DATE: January 10, 2001

10. REA, Michael, M.D., License #23709 (Haddonfield, NJ)

CONSENT ORDER OF VOLUNTARY SURRENDER OF LICENSURE filed January 10, 2001. In or about March 2000, Dr. Rea notified the Board that he had temporarily ceased the practice of medicine. He had voluntarily undergone a neuropsychological evaluation in cooperation with the Physicians' Health Program (PHP). With Dr. Rea's consent, the PHP provided the Board with the results of that evaluation. Dr. Rea sought permission to voluntarily surrender his license to practice medicine without prejudice. The Board granted Dr. Rea permission to immediately surrender his license to practice medicine and surgery in the State of New Jersey. Prior to any restoration of his license, he must appear before a Committee of the Board to discuss his readiness to reenter the practice of medicine and his practice plans. He must also provide proof that he is capable of discharging the functions of a licensee in a manner consistent with public health and that he is not then suffering from any impairment or limitation resulting from his medical condition or the use of controlled substances which could affect his practice. EFFECTIVE DATE: January 10, 2001

11. RIENZO, Francis G., M.D., License #MA56451 (Sea Girt, NJ)

CONSENT ORDER OF VOLUNTARY SURRENDER filed January 16, 2001. The Board received information Dr. Rienzo had been arrested and criminally charged with possession of controlled dangerous substances (cocaine and marijuana) and possession of drug paraphernalia. His attorney advised the Board of his pending application for resolution of these charges by entry into the Pretrial Intervention Program. The Board received additional information from the Physicians' Health Program that he had admitted a substance abuse problem and had been referred to inpatient treatment. Dr. Rienzo sought permission to voluntarily surrender his license without prejudice. The Board ordered that Dr. Rienzo be granted leave to immediately surrender his license to practice medicine and surgery in the State of New Jersey for a minimum of six months from entry of this Order. Prior to any restoration of license, he must appear before the Board to discuss his readiness to re-enter the practice of medicine and provide evidence he is not a habitual user of controlled substances that are not part of a treatment plan. He must also provide reports from each and every mental health professional who participates in his care/treatment. Entry of this Order is without prejudice to further action by this Board or other law enforcement entities resulting from Dr. Rienzo's conduct prior to entry into treatment. He consented to the use of information derived from his entry into, and participation in, the Pretrial Intervention Program and agrees that any expungement of a criminal offense at issue in this matter shall not be a bar to Board action. EFFECTIVE DATE: January 16, 2001

12. RODRIGUEZ-MORALES, Adulberto, M.D., License #53372 (Wayne, NJ)

FINAL ORDER OF DISCIPLINE filed January 24, 2001. A Provisional Order of Discipline was filed based upon the Board's receipt of information that Dr. Rodriguez-Morales had pled guilty in the United States District court, District of New Jersey, to one count of failure to file an individual income tax return. He admitted that during calendar year 1991 he had and received a gross income of about \$340,337 but had knowingly and willfully failed to make an income tax return to the Internal Revenue Service. The Provisional Order was forwarded to Dr. Rodriguez-Morales at his last known addresses on file with the Board. Although the certified mail to his last known addresses were returned by the Post Office marked 'forwarding order expired', the copies sent by regular mail to the same addresses were not returned. The

Board deemed service effected. The Board has ordered that Dr. Rodriguez-Morales' license to practice medicine and surgery in the State of New Jersey be suspended for six months. Prior to resuming any active practice in this State, he must appear before a Committee of the Board to demonstrate his fitness to do so. Any medical practice in this State prior to said appearance shall constitute grounds for further disciplinary action. EFFECTIVE DATE: January 24, 2001

13. ROSENBERG, Paul Howard., M.D., License #58683 (Fort Lee, NJ)

CONSENT ORDER REINSTATING LICENSURE filed January 29, 2001. Dr. Rosenberg petitioned the Board for reinstatement of his license to practice medicine. Pursuant to a Consent Order filed on August 28, 2000, Dr. Rosenberg surrendered his license based upon his relapse into the use of Dilaudid. That Consent Order required his appearance before a Committee of the Board prior to any reinstatement of license. On November 1, 2000, he appeared before the Preliminary Evaluation Committee accompanied by a representative of the Physicians' Health Program (PHP). He testified concerning treatment received since surrendering his license. Upon review of the information presented, the Board was satisfied that he had demonstrated fitness to return to practice with conditions. The Board ordered that Dr. Rosenberg's license to practice medicine and surgery in the State of New Jersey be reinstated contingent upon his compliance with the terms set forth in this Order. He may not prescribe, administer or dispense any controlled dangerous substances in his medical practice. He must maintain absolute abstinence from all psychoactive substances, unless prescribed by a treating physician for a documented medical condition and written notification provided to the Physicians' Health Program. He must continue participation in individual and group counseling until such time as both his counselor and the PHP recommend discontinuance. His counselor and the PHP must report quarterly to the Board and immediately notify the Board of any non-compliance or relapse. He consents to the immediate suspension of his license upon receipt of information concerning non-compliance or relapse. EFFECTIVE DATE: January 29, 2001

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

The meeting adjourned at 5:20 p.m.

Respectfully submitted,

Gregory J. Rokosz, D.O., J.D., FACOEP, Chairperson for Open Disciplinary Matters