

**State Board of Medical Examiners  
Open Disciplinary Minutes  
March 14, 2007**

A meeting of the New Jersey State Board of Medical Examiners was held on Wednesday, March 14, 2007 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 Ms. Karen Criss, Chairperson for Open Disciplinary matters.

**PRESENT**

Board Members Cheema, Ciechanowski, Criscito, Criss, DeGregorio, Haddad, Jordan, Lambert, Lomazow, Mendelowitz, Nussbaum, Paul, Reichman, Strand, Walsh and Wheeler.

**EXCUSED**

Board Members, Clemency-Kohler, Salas-Lopez, Scott, Stanley, and Weiss.

**ALSO PRESENT**

Assistant Attorney General Joyce, Senior Deputy Attorney General Dick, Deputy Attorneys General Flanzman, Jespersen, and Warhaftig; Executive Director Roeder and Interim Medical Director Robins.

**RATIFICATION OF MINUTES**

THE BOARD, UPON MOTION MADE AND SECONDED, VOTED TO APPROVE THE MINUTES FROM THE FEBRUARY 14, 2007 BOARD MEETING AS SUBMITTED.

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

PARIKH, Nikhil S., MD  
CONROY, Robert J., ESQ.  
FLANZMAN, Steven, DAG (Prosecutor)

By way of background, this matter originally came before the Board upon receipt of information that Dr. Parikh had been charged on July 19, 2002 with Criminal Sexual Assault. Dr. Parikh entered into an Interim Consent Order on or about September 22, 2003 whereby he agreed to, inter alia, have a chaperone present any time he rendered medical services to female patients. The criminal trial was conducted in Superior Court and Dr. Parikh was acquitted of the criminal charges against him. The Attorney General filed an Administrative Complaint alleging sexual misconduct, gross malpractice, professional misconduct and a lack of good moral character on February 22, 2006. Dr. Parikh filed his Answer denying the allegations on or about March 17, 2006. On or about January 26, 2007, the Attorney General filed a Motion for Summary Decision on the allegations set forth in the Administrative Complaint filed on or about February 22, 2006. On or about February 26, 2007, Respondent filed his papers in opposition to the Summary Decision Motion.

THE BOARD, UPON MOTION MADE AND SECONDED, VOTED TO MOVE INTO CLOSED SESSION FOR ADVICE OF COUNSEL AND DELIBERATIONS.

All parties, except counseling and administrative staff, left the room. Returning to Open Session, the Board announced the following motion:

THE BOARD, UPON MOTION MADE AND SECONDED, VOTED TO ACCEPT A SETTLEMENT ORDER AGREED TO BY THE PARTIES, AND PRELIMINARILY APPROVED BY BOARD PRESIDENT PAUL, WHICH INCLUDED A FINDING THAT DR. PARIKH ENGAGED IN SEXUAL CONTACT AND

HARASSMENT OF A PATIENT IN VIOLATION OF THE BOARD'S REGULATIONS AND A PENALTY, WHICH INCLUDED A ONE YEAR SUSPENSION, THE ENTIRETY OF WHICH IS STAYED AND SERVED AS A PERIOD OF PROBATION. HE SHALL CONTINUE TO MAINTAIN A LICENSED HEALTH CARE PROFESSIONAL CHAPERONE WHENEVER HE IS EXAMINING OR TREATING A FEMALE PATIENT WITH QUARTERLY REPORTS TO THE BOARD FOR A MINIMUM PERIOD OF FOUR YEARS. DR. PARIKH IS ALSO REQUIRED TO UNDERGO AN EVALUATION AT THE DIRECTION OF THE PAP AND THAT HE AGREE TO THE RECOMMENDATIONS, IF ANY, OF PROPOSED FOLLOW UP. IN THE EVENT FOLLOW UP TREATMENT IS REQUIRED, DR. PARIKH WILL AUTHORIZE QUARTERLY REPORTS. HE WILL ALSO SUCCESSFULLY COMPLETE BOARD APPROVED ETHICS AND BOUNDARY VIOLATIONS COURSES. HE WAS ASSESSED A PENALTY IN THE AMOUNT OF \$5,000 AND COSTS IN THE AMOUNT OF \$12, 000. PRIOR TO RESUMING PRACTICE, HE MUST APPEAR BEFORE A COMMITTEE OF THE BOARD.

DiSPALTRO, Franklin L., MD

LABUE, Anthony, Esq.

WARHAFTIG, Jerri D.A.G.

By way of background, Dr. DiSpaltro pled guilty in March 2006 to a Federal charge of attempt to evade or defeat taxes. In his plea, he acknowledged that for about three years he had patients writing checks to him personally rather than to the practice which respondent deposited into his personal account so that the income was not reported for income tax purposes. . He was sentenced to a five month term of imprisonment with a recommendation to the Bureau of Prisons that he be confined in a community center. He performed three hundred (300) hours of community service without pay. An Administrative Complaint was filed on or about January 16, 2007. Respondent filed his answer on or about February 20, 2007.

Drs. Criscito and Nussbaum recused from discussion and vote in this matter and left the room. Mr. Wheeler left the meeting and was not present for this section of the meeting. Dr. Strand hired Mr. LaBue's firm in the past and noted for the record that he did not believe that this would hamper his ability to remain objective in this matter. Dr. Cheema also noted for the record that he and Dr. DiSpalto performed surgery in the same area and they met one another in the locker room. There is not a social relationship between the two and he did not believe that this would effect his ability to remain impartial in the matter.

It was noted on the record that the day before the meeting Mr. LaBue requested an adjournment in the matter because his client had not been able to seek permission from the Correctional Institute to leave. The parties were reminded that Dr. Paul denied that request in light of the agreement of the parties that a prior extension to file an Answer was conditioned on the matter being scheduled for the March meeting. Additionally, the Board office provided adequate notice as of February 21, 2007 that the matter was being scheduled for the March meeting and that no further adjournments would be granted.

Mr. LaBue brought a motion before the Board seeking an adjournment because his client is being confined to a federal correctional facility. In order to leave, he must obtain permission. He presently has permission to go to work as part of the work release function. In order to deviate from the schedule, Mr. LaBue continued, he must seek specific permission. Dr. Di Spaltro asked his Case Manager and did not receive an answer because she was away on vacation. According to Mr. LaBue, Dr. DiSpaltro also contacted his case manager's supervisor and unfortunately, she also did not respond to his request. This hearing significantly impacts Dr. DiSpaltro's personal life and he should be given the opportunity to appear. Recounting the various attempts to discuss settlement, Mr. LaBue believed there was an expectation that the case would settle and he advised his client only ten days ago that it would not settle. At that time, Mr. LaBue advised his client to obtain permission and to arrange for the mitigation witnesses to appear. Mr. LaBue assured the Board that Dr. DiSpaltro has not practiced since July 2006 except for some volunteer work two days a week for a couple of months at Newark Beth Israel. This occurred after he decided to stop private practice on July 1, 2006. He concluded by asking the Board to adjourn the matter because to deny the adjournment would be prejudicial to his client.

DAG Warhaftig informed the Board that it is generally the position of the Attorney General to work with opposing

counsel in agreeing to such requests. In this instance, the Attorney General was not able to consent to the request because of correspondence from the Board office in February which already stated that no further adjournments would be granted. The Attorney General left it to the Board's discretion to decide whether the adjournment might be appropriate.

**THE BOARD, UPON MOTION, MADE AND SECONDED, VOTED TO MOVE INTO CLOSED SESSION FOR DELIBERATIONS AND ADVICE OF COUNSEL.**

All parties, except counseling and administrative staff, left the room. Returning to Open Session, the Board announced the following motion:

**THE BOARD UPON MOTION MADE AND SECONDED, VOTED TO GRANT THE ADJOURNMENT CONDITIONED ON THE PARTIES' AGREEMENT TO PROVIDE COPIES OF THE DOCUMENTS THAT HAVE BEEN STIPULATED TO BY THE PARTIES SO THAT THE DOCUMENTS COULD BE PROVIDED TO THE BOARD MEMBERS IN ADVANCE. IN THE EVENT THAT THIS WAS NOT AGREEABLE TO THE PARTIES, THE BOARD WOULD DENY THE ADJOURNMENT AND MOVE INTO THE LIABILITY PHASE AND RESCHEDULE THE MITIGATION HEARING FOR NEXT MONTH.**

### **OLD BUSINESS**

1. LEVINE, Benjamin, M.D.  
JESPERSEN, Kevin, D.A.G. (Prosecutor)  
JOYCE, Sharon, A.A.G. (Counseling)

Mr. Wheeler was not present for discussion and vote in this matter. Mr. Walsh recused from discussion and vote in this matter and left the table.

This matter most recently was before the Board upon the receipt of a renewal application submitted by Dr. Levine. Preliminarily, the Board determined that notwithstanding the suspension of his license for failure to properly renew that was imposed on or about July 30, 2003, Dr. Levine continued to practice medicine and did so without the required medical malpractice insurance. Additionally, on or about December 8, 2005, Dr. Levine was charged with criminal complaint for engaging in the criminal unlicensed practice of medicine and having obtained by deception more than \$75,000. The Board determined that this misconduct provided a basis for the denial of his reinstatement request. By way of Provisional Order of Discipline (the "Provisional Order") filed on or about October 12, 2006, the Board sought the continued suspension of his license. Dr. Levine filed multiple answers to the Provisional Order and requested a hearing before the Board. The hearing was held before a Committee of the Board (the "Hearing Committee") on January 24, 2007. The Board was asked to determine whether to accept, reject or modify the Hearing Committee's report.

**THE BOARD, UPON MOTION MADE AND SECONDED, VOTED TO MOVE INTO CLOSED SESSION FOR ADVICE OF COUNSEL AND DELIBERATIONS.**

All parties, except counseling and administrative staff, left the room. The Board returned to Open Session and announced the following motion:

**THE BOARD, UPON MOTION MADE AND SECONDED, VOTED TO ACCEPT THE HEARING COMMITTEE'S REPORT ADOPTING IN ITS ENTIRETY THE FINDINGS OF FACT AND ACCEPTED AS ITS OWN ITS RECOMMENDATIONS TO DENY DR. LEVINE'S APPLICATION FOR REINSTATEMENT. HIS LICENSE WILL CONTINUE TO BE SUSPENDED UNTIL FURTHER ORDER OF THE BOARD. HE MAY NOT SEEK TO REAPPLY FOR REINSTATEMENT FOR A MINIMUM PERIOD OF TWO YEARS. PRIOR TO RESUMING PRACTICE, HE MUST COMPLY WITH CME REQUIREMENTS, OBTAIN MEDICAL MALPRACTICE INSURANCE, PAY HIS OUTSTANDING DEBTS TO THE BOARD, AND DEMONSTRATE HIS FITNESS TO PRACTICE MEDICINE AND SURGERY.**

### **NEW BUSINESS**

## SISTER STATE MATTERS

### 1. BASBUS, Victor M., M.D.

#### DAG HOROWITZ

The Attorney General requested that the Board finalize the September 14, 2006 POD which was sent to Alan C. Trachtman, Esq., counsel for the Respondent on October 4, 2006 via regular and certified mail, with a Final Order of Discipline outlined in a memorandum dated February 16, 2007 from DAG Horowitz. To date, no response to the POD has been received..

THE BOARD, UPON MOTION MADE AND SECONDED, VOTED TO ACCEPT THE ATTORNEY GENERAL'S RECOMMENDATION.

### 2. MULANGI, Kumar R., M.D.

#### DAG RODRIGUEZ

On December 15, 2006 a POD was issued with respect to Dr. Mulangi. As indicated in the POD, the matter was subject to finalization 30 days after issuance. No response was received to date. The Attorney General moved to seek the entry of the FOD on the papers without modification.

THE BOARD, UPON MOTION MADE AND SECONDED, VOTED TO ACCEPT THE ATTORNEY GENERAL'S RECOMMENDATION.

Respectfully submitted,

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Karen Criss, R.N., C.N.M.  
Vice-President

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