

State Board of Medical Examiners
Open Disciplinary Minutes
March 19, 2008

A meeting of the New Jersey State Board of Medical Examiners was held on Wednesday, March 19, 2008 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, Clemency-Kohler, Criscito, Criss, Haddad, Jordan, Lambert, Lomazow, Mendelowitz, Paul, Reichman, Scott, Stanley, and Walsh.

EXCUSED

Board Members DeGregorio, Nussbaum, Salas-Lopez, Strand, Weiss and Wheeler.

ALSO PRESENT

Deputy Attorneys General Dick, Ehrenkrantz, Gelber, Jespersen, Executive Director Roeder and Medical Education Director Blanks.

RATIFICATION OF MINUTES

THE BOARD, UPON MOTION MADE AND SECONDED, VOTED TO APPROVE THE MINUTES FROM THE FEBRUARY 13, 2008 BOARD MEETING AS SUBMITTED.

OLD BUSINESS

1. BENJAMIN LEVINE, M.D. 25MA02389700

Kevin Jespersen DAG Complainant
Steven Flanzman DAG Counseling

Mr. Walsh recused from discussion and vote in this matter and left the table.

By way of background, on March 14, 2007 Dr. Levine's medical license was suspended under the terms of a Final Order because Dr. Levine practiced medicine for years without a license and the required malpractice insurance. Additionally, Dr. Levine failed to reveal on his malpractice insurance application that he was the subject of two criminal indictments, even though the application requested the disclosure of any pending criminal charges. Dr. Levine appealed the Board's decision, but on March 7, 2008 the Appellate Division affirmed the Board's Final Order. On February 22, 2008 Dr. Levine requested reinstatement of his medical license since he has not practiced medicine for over 2 years and requested that the Board grant him credit for "time served." On March 10, 2008, the Attorney General submitted her response in opposition to that request. The matter was heard on the papers on March 19, 2008.

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:

THE BOARD, UPON MOTION MADE AND SECONDED, DECIDED THE MATTER ON THE PAPERS AND VOTED TO DENY DR. LEVINE'S REQUEST FOR REINSTATEMENT. ALTHOUGH THE BOARD NOTED THAT IT WAS UNNECESSARY TO ADDRESS THIS ISSUE SINCE THE ARGUMENTS RAISED NOW WERE THE SAME ARGUMENTS THAT HE RAISED IN SEEKING A MODIFICATION OF THE PROVISIONAL ORDER OF DISCIPLINE. THE BOARD REJECTED THOSE ARGUMENTS NOW AS IT DID IN THE PAST. DR. LEVINE'S SUSPENSION WILL CONTINUE THROUGH AT LEAST OCTOBER 2008.

2. DAVID WEISS, D.O. 25MB05233600

Sandra Y. Dick Counseling DAG
Steven I. Kern, Esq. for Respondent

Drs. Criscito and Ciechanowski recused from discussion and vote in this matter and left the table.

This matter is at the Office of Administrative Law. Counsel for Dr. Weiss wrote to the Board office seeking an appeal of an Order of the Honorable Solomon Metzger A.L.J., dated February 26, 2008 which denied respondent's motion for leave to conduct depositions of the two expert witnesses identified by the State. DAG Gelber responded and requests that the Board uphold the Judge's Order.

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:

THE BOARD, UPON MOTION MADE AND SECONDED, VOTED TO DENY DR. WEISS' APPEAL. THE BOARD NOTED THAT IT DID NOT HAVE TO REACH A DECISION ON THE MERITS OF THE REQUEST AND COULD DENY THE REQUEST ON PROCEDURAL GROUNDS INsofar AS IT APPEARS THE APPEAL HAS BEEN FILED BEYOND THE TIME FRAME AS PRESCRIBED BY THE RULES AND DID NOT DEMONSTRATE A REASONABLE EXPLANATION AS TO THE REASONS FOR THE DELAY. NONETHELESS, BECAUSE THE MATTER WAS BEFORE THE BOARD, IT DENIED THE REQUEST BECAUSE THE RESPONDENT DID NOT MAKE THE REQUISITE SHOWING FOR INTERLOCUTORY APPEAL AND THEREFORE THE BOARD UPHOLDS THE ADMINISTRATIVE LAW JUDGE'S DECISION. IN LIGHT OF WHAT HAS BEEN PRODUCED AND ALREADY PRESENTED, NO EVIDENCE HAS BEEN SUGGESTED TO WARRANT OVERTURNING THE JUDGE'S DECISION.

3. JOAN K. LIESER, M.D. 25MA05195300.

Joan D. Gelber, DAG for Complainant.
Rebecca Edelman-Levy, Esq. for Respondent

The Board considered a settlement proposal jointly submitted by the Attorney General and Respondent to resolve an investigative matter arising from a patient complaint. The proposal included terms previously identified by the Board as necessary for settlement purposes, in light of the information derived from the investigation. The Board found good cause shown for the Respondent's request for an extended payment period.

THE BOARD, UPON MOTION MADE AND SECONDED, ACCEPTED THE SETTLEMENT, TO INCLUDE AN ORDER OF REPRIMAND, PAYMENT OF \$5,000 PENALTY PLUS COSTS, AND NUMEROUS REMEDIAL PROVISIONS IN CONNECTION WITH PATIENT CONSENT FORMS, IN-OFFICE SURGERY, SUPERVISION OF A CRNA, VARIOUS OFFICE DOCUMENTATION PROBLEMS AND BILLING.

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

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