

OPEN MINUTES - N.J. STATE BOARD OF MEDICAL EXAMINERS - PG. 1
DISCIPLINARY MATTERS PENDING CONCLUSION - APRIL 11, 2012

A meeting of the New Jersey State Board of Medical Examiners was held on Wednesday, April 11, 2012 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 George Scott, D.P.M., D.O., Board Vice President.

PRESENT

Board Members Berkowitz, Cheema, Criss, Howard, Jordan, Krauss, Lomazow, Rajput, Rock, Scott, Stanley, Tedeschi and Walsh.

EXCUSED

Board Members Baker, Ciechanowski, DeGregorio, Maffei, Mendelowitz, Paul and Weiss.

ALSO PRESENT

Division of Consumer Affairs Acting Director Joyce, Senior Deputy Attorneys General Dick, Flanzman and Gelber; Deputy Attorneys General Ehrenkrantz and Warhaftig; Executive Director William V. Roeder.

RATIFICATION OF MINUTES

**THE BOARD, UPON MOTION MADE AND SECONDED, VOTED TO
APPROVE THE MINUTES FROM THE MARCH 14, 2012 BOARD MEETING.**

HEARINGS, PLEAS AND APPEARANCES

KAUL, Richard A. M.D. 25MA06328100
DAG Doreen Hafner, Prosecuting

The Attorney General made application for the Temporary Suspension of Respondent's license to practice medicine and surgery in the State of New Jersey. This matter was to be heard on April 11, 2012, but was subsequently adjourned and scheduled for a later date.

SALKIND, Scott D.O. 25MB0384500
Robert Agre, Esq. For the Respondent
DAG Jeri Warhaftig, Prosecuting
DAG Steve Flanzman, Counseling

Board Vice President, Dr. Scott, opened the hearing, at which time, the attorney's placed their appearances on the record.

OPEN MINUTES - N.J. STATE BOARD OF MEDICAL EXAMINERS - PG. 2
DISCIPLINARY MATTERS PENDING CONCLUSION - APRIL 11, 2012

DAG Warhaftig, in her opening, informed the Board that there was a Joint Stipulation drafted by the parties as to the facts in the case. She offered into evidence the stipulation which was marked as J-1. Also, she noted, that in paragraph five of the Stipulation, a clarification needed to be made which appended language to include that Respondent deposited one million dollars into an account and later withdrew the money, payable to himself and other recipients. DAG Warhaftig reserved the bulk of her time for closing, but initially asked the Board to be mindful that the case involved state and federal laws, to which the doctor has entered a guilty plea for violations of various statutes which included professional misconduct and commission of a crime or offense that involved a crime of moral turpitude. She requested that the Board be mindful of the findings already established in the case, and as evidenced by the Joint Stipulation. J-1 was accepted into evidence without any objection from Mr. Agre.

Having established liability, the Board proceeded to the mitigation phase of the case.

Mr. Agre, in his opening, wanted to acquaint the Board with the underlying case and noted that the investigation began in the summer of 2010 when the Internal Revenue Service (IRS) visited Dr. Salkind's office. From the onset, according to Mr. Agre, Dr. Salkind cooperated with the authorities throughout its investigation by providing on a voluntary basis much of the evidence introduced by the US Attorney's office during the guilty plea. Eventually, an agreement was reached and the actual taxable loss was just less than \$200,000. Dr. Salkind paid penalties and agreed to reimburse the government a total of just less than \$500,000. He emphasized the time period in question spanned between 2005 and 2008.

Prior to Mr. Arge calling Dr. Salkind as a witness, DAG Warhaftig offered into evidence a Position Statement from the Physician Assistance Program (PAP) which was marked as J-2. J-2 was accepted into evidence without any objection by the Respondent.

After being sworn in, Dr. Salkind testified and apologized for any mis-judgments that he made in the past. He thanked the Board for the opportunity to address it. He continued by informing the Board that he entered into the practice of medicine to help his patients. He does not, according to the witness, engage in the practice for the money, but for the sheer love of medicine. His population consists primarily of diabetic patients and he is available nearly 24/7 to see them. His overall philosophy, he maintained, is to be there for his patients. Dr. Salkind testified that, how or if, he is going to be paid is never taken into account. He noted that he has no children and is not married and that the practice of medicine is what is most important to him in life.

Dr. Salkind relayed that he lent money to people he knew who were in trouble and needed help. One person he met through AA and this one individual continued to come to him for more and more help. Dr. Salkind said that he borrowed the money from his real estate account and he was embarrassed to tell his father who was also his accountant. Since he didn't want his father to know, he did not disclose the information, especially all the withdrawals, on the information used for his tax returns that was given to his father.

OPEN MINUTES - N.J. STATE BOARD OF MEDICAL EXAMINERS - PG. 3
DISCIPLINARY MATTERS PENDING CONCLUSION - APRIL 11, 2012

Dr. Salkind informed the Board that the real estate account was created in 1992 when he was in practice with another physician and they needed money to handle office expenses. Eventually that physician left the practice and he continued to maintain and use that account.

At first, Dr. Salkind maintained that the only thing that he did wrong was not disclose his inappropriate behavior to his dad. He lent a lot of money to people and did not want his father to find out. The IRS visited with him and told him it would be a good idea to speak to a lawyer. When pressed, Dr. Salkind was able to admit that he cheated the government from paying his share of taxes at the time. He also claimed that he does not lend anyone any money, nor does he pay anyone in cash anymore. He also claimed that his dad never asked him for the 1099 forms, but only relied on what he gave him, even though his father was an accountant, to prepare tax returns. The Respondent did not present anything further in mitigation.

The Attorney General introduced AG-1, copies of documents which are part of the public record and included items from 1987 to the present consisting of Temporary Suspension Orders, Consent Orders, Orders Enjoining Dr. Salkind from practice, Limited Reinstatement Orders and Orders of Reinstatement. It was accepted into evidence without objection by Mr. Agre. With that the Attorney General rested.

In closing, Mr. Agre asked the Board to realize that Dr. Salkind acknowledges what he did and that he has shown remorse for his actions. He has admitted that he did not report money that went into a separate account even though the money was generated by his business practice. There is no doubt, according to Mr. Agre, that Dr. Salkind was lacking in the fundamentals of running his office. His decisions, at best Mr. Agre argued, were flawed, but argued, they were without malice. He asked the Board to note that Dr. Salkind is rectifying his mistakes and is in the process of making restitution to the government.

Mr. Agre also asked the Board to consider the letter from Dr. Baxter, Medical Director of the Professional Assistance Program in support of Dr. Salkind. He stressed that he has been fully compliant with the contours of the Program and has its unqualified support.

There is no dispute, Mr. Agre concluded, about the quality of Dr. Salkind's practice of medicine. He dared say that most physicians have not had to endure the relationship that Dr. Salkind has had with the Board and for that Dr. Salkind is regretful. He asked the Board to take into consideration the love that Dr. Salkind has for the profession and the fact that he never allowed money or greed to motivate his care and concern for his patients. Dr. Salkind was requesting that he be permitted to continue to practice and Mr. Agre urged the Board to grant that request. He offered that if the Board deemed necessary, Dr. Salkind would agree to strict monitoring and supervision of his practice if he were to be permitted to continue to practice the profession that he so dearly loves.

DAG Warhaftig, in her closing, acknowledged that it is possible that Dr. Salkind is as well intentioned as he asked the Board to believe. She submitted, however, that based on the

OPEN MINUTES - N.J. STATE BOARD OF MEDICAL EXAMINERS - PG. 4
DISCIPLINARY MATTERS PENDING CONCLUSION - APRIL 11, 2012

testimony heard before the Board that it strained credulity that he would offer the excuses that he has. She continued by noting that there is no expectation that licensees be accountants, but it is well within reason to expect them to hire professionals that can assist in that area. Dr. Salkind, she argued, claimed to love the profession, however, when you look at his history, and in particular his most recent admissions of wrong doing, that assertion too strained credulity. What he cherishes the most, the DAG went on to argue, is what he abuses for his own gain and personal use. She agreed that Dr. Salkind refrained from collecting co-pays and deductibles and while well intentioned, she noted that at the same times he was cheating the government, cheating the IRS and cheating the insurance companies. It may sound altruistic, the DAG continued, but fundamentally it is wrong and inappropriate and in most cases, breaks the law.

DAG Warhaftig acknowledged that Dr. Salkind apologized for his misjudgments and bad decisions, but that is far from the truth of what happened. She also found it a bit perplexing that since these egregious lapses in judgment he still hasn't even hired a new accountant. DAG Warhaftig posited that his behavior impacted patients, insurance companies and his colleagues also practicing, not to mention committing fraud against the IRS. She did acknowledge and applauded Dr. Salkind insofar as there has not been any direct, healthcare harm to any patients and similarly, for his participation and compliance with the Professional Assistance Program, however, that did not erase the gravity of his actions.

DAG Warhaftig concluded by reminding the Board that it has taken action in a myriad of cases in which dishonesty was at the heart. She posited that the Board should take serious discipline, in particular given his history, which would be both punishing and remedial in nature. She urged the Board to remove Dr. Salkind from the practice of medicine and surgery in New Jersey.

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

Motion made by Mr. Walsh and seconded by Ms. Howard. It carried unanimously.

All parties, except administrative and counseling staff, left the room.

Returning to Open Session, it announced its decision.

THE BOARD, UPON MOTION MADE AND SECONDED, ORDERED THAT DR. SALKIND'S LICENSE TO PRACTICE MEDICINE AND SURGERY BE SUSPENDED FOR FIVE YEARS, THREE YEARS OF WHICH WILL BE ACTIVE AND THE REMAINING TWO YEARS TO BE SERVED AS PROBATION AS LONG AS RESPONDENT COMPLIES WITH ALL THE FOLLOWING CONDITIONS. PRIOR TO RESUMING PRACTICE HE IS REQUIRED TO APPEAR BEFORE A COMMITTEE OF THE BOARD TO

OPEN MINUTES - N.J. STATE BOARD OF MEDICAL EXAMINERS - PG. 5
DISCIPLINARY MATTERS PENDING CONCLUSION - APRIL 11, 2012

DEMONSTRATE HIS FITNESS TO PRACTICE. AT THAT TIME, HE MUST SUBMIT TO A PSYCHIATRIC EVALUATION FROM A BOARD APPROVED PSYCHIATRIST AND PROFFER A POSITION STATEMENT FROM THE PHYSICIAN ASSISTANCE PROGRAM BOTH OF WHICH WILL SUPPORT HIS PETITION TO RETURN TO PRACTICE. THE BOARD EXPRESSLY RESERVED, WITHOUT LIMITATION, THE RIGHT TO LIMIT OR RESTRICT HIS MEDICAL PRACTICE TO INCLUDE THAT RESPONDENT MAY PRACTICE ONLY AS AN EMPLOYEE OF ANOTHER PHYSICIAN OR WITHIN A HEALTHCARE ENTITY WITHOUT ANY RESPONSIBILITY FOR BILLING. DURING THE PERIOD OF ACTIVE SUSPENSION RESPONDENT SHALL COMPLETE COURSES IN ETHICS AND MEDICAL OFFICE BILLING PRACTICES PRE-APPROVED BY THE BOARD. RESPONDENT SHALL BE ASSESSED COSTS AS EVIDENCED BY A CERTIFICATION BY DAG WARHAFTIG DUE NOT LATER THAN THIRTY DAYS FROM DATE OF THIS ORDER WITH TWO WEEKS TO RESPOND AFFORDED TO DR. SALKIND TO RAISE ANY OBJECTIONS. THE BOARD WILL CONSIDER THE SUBMISSIONS ON THE PAPERS AND ENTER A SUPPLEMENTAL ORDER SETTING THE AMOUNT OF COSTS. THIS DECISION WAS EFFECTIVE BY CLOSE OF BUSINESS APRIL 27, 2012. FROM THE TIME OF PRONOUNCEMENT UNTIL THAT TIME, RESPONDENT SHALL NOT TREAT ANY NEW PATIENTS AND SHALL ARRANGE FOR THE ORDERLY TRANSFER OF CARE FOR CURRENT PATIENTS.

Motion made by Dr. Jordan, seconded by Dr. Berkowitz. It carried with Dr. Krauss voting against and there were no abstentions.

Mr. Agre then requested a Stay.

THE BOARD, UPON MOTION MADE AND SECONDED, VOTED TO DENY THE STAY.

The Motion, made by Dr. Jordan and seconded by Dr. Berkowitz, carried unanimously.

IV. OLD BUSINESS

Nothing Scheduled.

V. New Business

OPEN MINUTES - N.J. STATE BOARD OF MEDICAL EXAMINERS - PG. 6
DISCIPLINARY MATTERS PENDING CONCLUSION - APRIL 11, 2012

Nothing Scheduled.

Respectfully Submitted,

George J. Scott D.P.M., D.O
Board Vice President

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