State Board of Medical Examiners
Open Disciplinary Minutes
April 19, 2006

A meeting of the New Jersey State Board of Medical Examiners was held on Wednesday, April 19, 2006 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, Criss, DeGregorio, Lambert, Lomazow, Mendelowitz, Nussbaum, Paul, Reichman, Salas-Lopez, Scott, Stanley, Strand, Walsh, Weiss and Wheeler.

EXCUSED

Board Members Criscito, Haddad and Jordan.

ABSENT

ALSO PRESENT

Assistant Deputy Attorney General Joyce, Senior Deputy Attorney General Dick, Deputy Attorneys General Flanzman, Kenny, Krier, Levine, Warhaftig, Executive Director Roeder and Education Director Blanks.

RATIFICATION OF BOARD MINUTES

THE BOARD, UPON MOTION MADE AND SECONDED, VOTED TO APPROVE THE MARCH 8, 2006 OPEN DISCIPLINARY BOARD MINUTES AS SUBMITTED.

HEARINGS, PLEAS, RETURN DATES, APPEARANCES

10:00 A.M. QURESHI, Shams M.D. (License # MA 46706)
(Counseling D.A.G.:Levine, Debra)
HAFNER, Doreen D.A.G. for Complainant Pro Se

This matter was set down on the Attorney General?s emergent application for the immediate temporary suspension of the medical license of Shams M. Qureshi, M.D. predicated upon the allegations set forth in the attached March 31, 2006 Verified Complaint. Also attached for the Board?s review and consideration was D.A.G. Hafner?s March 30, 2006 Letter Brief to the Board; March 31, 2006 Order to Show Cause; Notice of Hearing and Notice to File an Answer.

The Board was urged to determine from the evidence presented, that the public?s health, safety and welfare was jeopardized by Respondent?s continued practice as a licensee of the Board, given his conduct demonstrating a wide spread pattern of economic fraud coupled with documented gross deviations in the quality of care rendered to patients. The Attorney General submitted that Respondent?s continued practice of medicine constituted a clear and imminent danger to the public. Since this danger was palpably demonstrated in her application, the Attorney General respectfully urged the Board to enter an Order of Temporary Suspension pending a plenary hearing to ultimately resolve the merits of the Verified Complaint.

All pertinent materials were attached for the Board?s review and consideration.

THE BOARD, UPON MOTION MADE AND SECONDED, VOTED TO APPROVE THE INTERIM CONSENT ORDER PENDING RESOLUTION OF THE CRIMINAL CASE.

1:00 P.M. HAKIMI, FARID D.P.M. (License # MD 02410)
(Counseling D.A.G.: Flanzman, Steven N.,)
HILL, Harry R., Jr., Esq. For Respondent
KRIER, Siobhan B., D.A.G. for Complainant

This matter was set down for Board consideration whether to adopt, reject, or modify the recommended Initial Decision of ALJ Edith Klinger in the matter of Dr. Farid Hakimi decided on February 24, 2006. Judge Klinger ordered that the license of Farid M. Hakimi to practice Podiatry in the State of New Jersey be revoked and further ordered that the Respondent pay to the State of New Jersey $20,000 in penalties and $65,934.66 in costs.

By way of background, the Attorney General filed a complaint with the Board of Medical Examiners on October 4, 2004 against Dr. Hakimi, seeking the suspension or revocation of his license to practice podiatric medicine in the State of New Jersey and imposing civil penalties and costs and such other relief as the Board deemed just and appropriate. An answer was filed by Respondent on October 25, 2004 and, on December 3, 2004, the Board of Medical Examiners transmitted the matter to the Office of Administrative Law (OAL) for plenary hearing as a contested case pursuant to N.J.S.A. 52:14B-1 to 15 and N.J.S.A. 52:14F-1 to -13. The hearing was held on October 24, 25, 26, 27, and 28, 2005. The record was closed on December 15, 2005 when the final submission was received from the parties.

All pertinent materials were provided for the Board?s review and consideration.

Ms. Karen Criss, Chairperson for the hearing, reminded the parties that the Board was to consider whether to adopt, modify or reject the initial decision of ALJ Edith Klinger in the matter of Farid Hakimi, D.P.M. D.A.G. Shiobhan B. Krier, on behalf of the Attorney General, and Harry R. Hill, Jr., Esq., of Backes & Hill for Respondent, Farid Hakimi, entered their appearances.

The Chair noted that the written exceptions of both parties had been received and reviewed by the Board and thus, the members were familiar with the record. The Chair further indicated that the Board would hear oral arguments on the exceptions and time would be limited to 15 minutes per party. Should either party plan a rebuttal, they should reserve part of the 15 minutes for that time. The Chair further noted that, in the event that the Board adopted in full or in part the ALJ Klinger?s decision, the Board would then consider the issue of penalty to be assessed. Dr. Hakimi would be afforded an opportunity to present any mitigation of evidence at that time.

Mr. Hill, in his opening argument, noted that in the written summation in his post-trial memorandum he attempted to offer the court an accurate portrait of Dr. Hakimi. He noted that from a personal stand point, Dr. Hakimi was married and had one small daughter. He has an excellent educational background and graduated with honors and awards from Podiatric Medical School. Respondent?s counsel reiterated that before this case, Dr. Hakimi boasted an unblemished record. Mr. Hill referenced the Enforcement Bureau Report in which Ms. Susan Sugalski reported that Dr. Hakimi indeed had an unblemished record after a thorough investigation of local police departments in both his residential and work municipalities.

Counsel for Respondent indicated that he found the Attorney General?s post-hearing brief disturbing. He quoted the preliminary statement in the second paragraph: "What occurred in Dr. Hakimi?s office on August 14, 2001 was not a limb length examination, but the opportunity for Dr. Hakimi to unnecessarily expose his patient?s naked body and to touch the patient inappropriately for his own puritan interest." Mr. Hill believed the statement was untrue. He further noted that the D.A.G. knew it was untrue, and he questioned the reason it was put in the beginning of the Attorney General?s brief. He referred the Board to transcript page four of the fifth day of the trial where it was noted that investigator Susan Sugalski testified that she did not have the impression that Dr. Hakimi was aroused or sexually gratified from the examination in any way. Mr. Hill further indicated that the comment came from the complaining witness, and the D.A.G. was present when that testimony was taken. Mr. Hill opined that the statement was added to the preliminary portion of the D.A.G.?s brief for the purpose of blunting or attempting to negate the fact that Dr. Farid Hakimi had an unblemished record.

Respondent?s counsel referenced two letters written to the Executive Director by Dr. Maffei, a podiatric doctor,

who was called as a witness by the State. Mr. Hill noted that on cross-examination, Dr. Maffei testified that "the record submitted did not establish enough factual information to determine if the professional sexual misconduct had occurred," thus further negating the comment that was made in the Attorney General?s preliminary statement. Mr. Hill believed that this statement tainted the initial decision of Judge Edith Klinger.

Mr. Hill discussed different scenarios as to the treatment of Dr. Hakimi versus the treatment of the complaining witness by the ALJ. Counsel believed that there was an uneven playing field as to the treatment of the parties and believed that it was very unfair to his client. Mr. Hill recounted that an application was made on behalf of the complaining witness to have her name deleted from all documents. That request was granted, and she was known as K.G. Mr. Hill made the same application that the doctor be known as Dr. F.H., and the request was denied. He pointed out that this one was just one example of the disparity of treatment received by the parties by the ALJ. He urged the Board to reject all the findings of fact and conclusions of law of the Initial Decision.

D.A.G. Krier, in her opening statement, reminded the Board that sexual misconduct cases can be very difficult and, without obvious physical evidence, the burden of persuasion is correctly a very difficult one. The Attorney General referenced the matter of Paul Caragine, also a sexual misconduct case, and the ALJ noted that the preponderance was met not by the number of witnesses, but on the greater convincing power of the evidence presented. In the matter of Dr. Hakimi, D.A.G. Krier noted that ALJ Klinger heard the testimony of K.G. who testified on August 14, 2001 that she had gone to see Dr. Hakimi for a sore toe. Dr. Hakimi examined the toe but, according to K.G., the doctor did not stop there. Under the guise of providing medical treatment, the doctor offered to conduct a full body exam and, as the Board members were fully aware from the record, the body exam described by K.G. did not comport with the limb length discrepancy exam that can be conducted by the doctor. D.A.G. Krier continued that K.G. went in for a sore toe and ended up totally disrobing without a chaperone present. The witness further testified that Dr. Hakimi engaged in what can only be described as an inappropriate and sexually harassing conversation. The exam culminated with the doctor shoving his hand between the patient?s legs and grazing her genital area as he removed his hands. D.A.G. Krier stressed the serious nature of abuse experienced by this patient.

The Attorney General noted that the ALJ observed K.G.?s demeanor and saw evidence of embarrassment even after four years. The ALJ found K.G.?s testimony to be credible and, as D.A.G. Krier continued, straightforward and consistent with the version of events discovered throughout the investigation. D.A.G. Krier further noted that the ALJ did not find Dr. Hakimi to be credible, noting discrepancies in Dr. Hakimi?s notations in the patient?s record and his testimony. The testimony of Executive Director Roeder regarding the unlicensed practice of Dr. Hakimi was also considered by the ALJ to be entirely credible. The ALJ was unable to form a coherent hold of Dr. Hakimi?s testimony before the Preliminary Evaluation Committee and his testimony at the hearing because of the internal contradictions and inconsistencies of the testimony, as noted in the ALJ?s Initial Decision.

D.A.G. Krier touched upon the testimony by Dr. Maffei, witness for the State, in regard to Count II of the complaint alleging negligence, but considered the arguments to be moot due to the dismissal of Count II. The Attorney General added that it was important for the Board to know that Dr. Maffei at no time was asked to opine whether or not there was sexual misconduct or to give his opinion regarding which witness was telling the truth.

D.A.G. Krier responded to Mr. Hill?s suggestion that the Judge was biased, and to the argument that an uneven playing field existed in this matter. The Attorney General noted that the respondent had the opportunity at that time to seek Interlocutory Review with the Board but could not do so at this time (N.J.A.C. a:1-141(m)), as a party may not seek review of such orders or rulings after the Judge rendered a decision. D.A.G. Krier concluded by urging the Board to adopt in full ALJ Klinger?s Initial Decision.

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 UPON CONSIDERATION OF THE WRITTEN ORAL EXCEPTIONS OF COUNSEL. THE BOARD FOUND NO REASON TO DISTURB THE

DETERMINATIONS MADE BY ALJ EDITH KLINGER AND, THEREFORE, THE BOARD ADOPTED IN ITS ENTIRETY THE FINDINGS OF FACT AND CONCLUSIONS OF LAW SET FORTH IN ALJ KLINGER?S INITIAL DECISION.

The Chair requested that the mitigation portion of the proceedings begin and asked for Dr. Hakimi?s testimony. Respondent?s counsel, Mr. Hill, made a statement that the letter from Executive Director William Roeder, dated April 12, 2006 asking counsel for submission of names of witnesses with respect to the imposed penalty was received seven days before the hearing. Mr. Hill?s contention was that he considered the request to be unfair due to the short time frame. Mr. Hill requested adjournment of the penalty phase, and the Attorney General did not take a position on counsel?s request.

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 MR. HILL?S MOTION TO ADJOURN THE MITIGATION PROCEEDING IN THIS CASE CLAIMING THAT HE HAD NOT BEEN PROVIDED ADEQUATE NOTICE IN ADVANCE OF THE PROCEEDING WITH REGARD TO THE SCHEDULING OF WITNESSES. THE BOARD DETERMINED THAT IT WAS PREPARED TO GRANT THE MOTION BUT ONLY WITH THE CONDITION THAT DR. HAKIMI AGREE TO CEASE AND DESIST FROM ENGAGING IN THE PRACTICE OF PODIATRY FROM THE CLOSE OF BUSINESS FRIDAY, APRIL 21, 2006 UNTIL ANY RESUMED DAY OF THIS PROCEEDING WHICH WOULD LIKELY BE MAY 10, 2006. IN THE EVENT DR. HAKIMI WOULD NOT AGREE TO CEASE AND DESIST FROM ENGAGING IN THE PRACTICE OF PODIATRY FROM THE CLOSE OF BUSINESS, FRIDAY, APRIL 21, 2006 UNTIL ANY RESUMED DATE OF THIS PROCEEDING, THE BOARD WOULD DENY THE MOTION FOR ADJOURNMENT OF THIS PROCEEDING AND WOULD PRESENTLY CONDUCT THE MITIGATION PHASE OF THE PROCEEDING AND, THEREAFTER, WOULD DETERMINE TO ADOPT, REJECT, OR MODIFY ALJ KLINGER?S RECOMMENDATION THAT DR. HAKIMI?S LICENSE BE REVOKED.

The Chair informed Dr. Hakimi that it was up to him to make a statement for the record as to whether he agreed to the proposed motion or condition of an adjournment. Mr. Hill stated the Respondent did not believe he could abide by the motion and would not agree to close out his practice by Friday, April 21, 2006. Mr. Hill asked to be heard regarding the doctor?s license renewal for the period 2003 to 2005, and D.A.G. Krier objected, indicating that the State did not believe the doctor?s testimony addressed the motion that was pending. The Chair ruled to give the Respondent latitude and allowed for Mr. Hill?s brief remarks. Mr. Hill continued with his argument that Dr. Hakimi?s license was renewed for the period 2005 to 2007. Mr. Hill continued to argue that Dr. Hakimi had practiced during those two periods with no complaints and had cared for his patients during that time with no problems whatsoever. Thus, Dr. Hakimi?s answer to the Board?s condition was that it was unacceptable.

The Chair responded stating that the Board had considered the status of Dr. Hakimi?s license during its deliberations and such was considered when the Board made its recommendation of the condition in granting an adjournment. The Board was ready to continue with the mitigation portion of the hearing if the condition was unacceptable. The Chair requested Mr. Hill to continue with the mitigation portion of the hearing.

Counsel called Dr. Hakimi to testify and Respondent was sworn. Dr. Hakimi thanked the Board for hearing his case and stated that the past four years had upended his life because of the complaint of one woman. He continued that he sat before the Board fighting for his life and livelihood and further noted that he had worked very hard to obtain his medical degree. He added that he was the sole means of support for his wife and five-year-old daughter. Dr. Hakimi felt that he was being made an example by the Board and there were basically two parts to his case. The first part was a complaint of inappropriate touching during an exam and the second part was the unlicensed practice of podiatry. Dr. Hakimi asked the Board to be fair in its decision regarding his penalty and asserted his innocence of the charges against him. He asked that the Board not remove his ability to treat his patients and to support his family.

Dr. Hakimi was questioned by various Board members as to his training in examination of the back and examination for scoliosis. Dr. Hakimi responded that during his residency, he spent one month in an orthopaedic rotation and was simultaneously trained by his residency director in scoliosis and limb-length-discrepancy examinations throughout the entire year.

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.

When questioned by Board members regarding his use of a chaperone for female patients in his current practice, Dr. Hakimi responded that he does not see young female patients. Dr. Hakimi testified that he only treats senior citizens at their own homes, where most patients have a nurse assisting him when he treats them. He further testified that he has not had a chaperone in the last four years.

D.A.G. Krier reminded Board Members that the findings of the ALJ had been adopted and it was, therefore, established that Dr. Hakimi had engaged in sexual misconduct with patient K.G. It was the Attorney General?s position that the patient had been humiliated and taken advantage of. The Attorney General cited the Paul Caragine case in her argument that misconduct is heightened when it is under the guise of medical treatment. D.A.G. Krier further cited a Colorado case, Corman vs. State Opthometric Board, wherein an eye doctor?s license was revoked after making his patient strip to the waist so he could shine a light on her breast for supposed clinical purposes. The State continued to argue that the Board should consider the anxiety and trauma that the doctor?s actions inflicted on the patient.

The Attorney General noted for the Board that Dr. Hakimi?s contention that nothing had been proven was false since the Board had adopted the ALJ?s findings and that was, indeed, a fact. D.A.G. Krier opined that a doctor who shows no remorse, with no acknowledgment of his actions, remains a danger to patients in the State of New Jersey. She added that Dr. Hakimi?s disrespect is not limited to the female patient, but he had also shown disregard for the Board?s rules and regulations as he had engaged in unlicensed practice as he admitted to the Committee of the Board. The Attorney General stated that licensees of the Board are required to show good moral character, and Dr. Hakimi had just demonstrated very clearly that he was dishonest and willing to humiliate a patient and engage in sexual misconduct, as well as ignore the Board?s rules and regulations. He was also unwilling to take responsibility for his actions. D.A.G. Krier urged the Board to adopt the penalties in full, as recommended by the ALJ, as Dr. Hakimi remained a danger to patients.

Respondent?s counsel, in his closing statement, reiterated that Dr. Hakimi?s position had not changed from the start, and his denial of any wrongdoing was not a change in his position. Mr. Hill asserted that the investigation of Susan Sugalski had supported, to a large degree, Dr. Hakimi?s testimony. Counsel believed that there was one person alleging Respondent?s wrongdoing, and Dr. Hakimi had denied the allegation. Finally, Mr. Hill stated that there had been no proof beyond a reasonable doubt that Dr. Hakimi engaged in sexual misconduct. Therefore, the Board should consider Dr. Hakimi?s constant assertion of innocence when imposing a penalty for his client.

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 MODIFY THE RECOMMENDATIONS MADE BY ALJ EDITH KLINGER AS TO PENALTY AS FOLLOWS:

1.) RESPONDENT?S LICENSE TO PRACTICE PODIATRY IN THE STATE OF NEW JERSEY SHALL BE SUSPENDED FOR A PERIOD OF FIVE YEARS; THE FIRST 18 MONTHS OF THE SUSPENSION SHALL BE SERVED AS A PERIOD OF ACTIVE SUSPENSION; THE REMAINDER OF THE PERIOD OF SUSPENSION MAY BE STAYED AND CONSIDERED A PERIOD OF PROBATION, PROVIDED THAT RESPONDENT COMPLIES WITH ALL CONDITIONS IMPOSED BY THE BOARD AT THIS TIME. IT

PROVIDED, FURTHER, THAT BEFORE RESUMING ANY PRACTICE OF PODIATRY DURING THE PERIOD OF PROBATION, RESPONDENT SHALL BE REQUIRED TO APPEAR BEFORE A COMMITTEE OF THE BOARD AND DEMONSTRATE THAT HE HAS COMPLIED WITH THE CONDITIONS OF THIS ORDER AND THAT HE IS FIT TO RESUME THE PRACTICE OF PODIATRY. THE BOARD EXPRESSLY RESERVES THE RIGHT TO IMPOSE ANY CONDITIONS OR LIMITATIONS ON RESPONDENT?S PRACTICE OF PODIATRY DURING THE PERIOD OF PROBATION TO INCLUDE, WITHOUT LIMITATION, A REQUIREMENT THAT HIS PRACTICE BE CHAPERONED.

2.) THE BOARD ADOPTS ALJ KLINGER?S RECOMMENDATION THAT RESPONDENT BE ASSESSED A TOTAL OF $20,000 IN CIVIL PENALTIES.

3.) A DETERMINATION OF THE AMOUNT OF COSTS, INCLUDING ATTORNEY?S FEES, TO BE ASSESSED IN THIS CASE IS TABLED AT THIS TIME. RESPONDENT SHALL HAVE UNTIL MAY 9, 2006 TO SUBMIT IN WRITING ANY OBJECTIONS TO THE COST APPLICATION SUBMITTED BY THE ATTORNEY GENERAL. THE ATTORNEY GENERAL SHALL THEN BE AFFORDED UNTIL MAY 19, 2006 TO RESPOND IN WRITING TO ANY OBJECTIONS THAT MAY BE RAISED BY RESPONDENT. THEREAFTER, THE BOARD WILL CONSIDER THE WRITTEN SUBMISSIONS OF THE PARTIES AND ENTER A SUPPLEMENTAL ORDER FIXING THE AMOUNT OF COSTS TO BE ASSESSED. IN THE EVENT RESPONDENT DOES NOT SUBMIT WRITTEN OBJECTIONS TO THE COSTS APPLICATION ON OR BEFORE MAY 19, 2006, THE BOARD SHALL ADOPT THE RECOMMENDATION MADE BY ALJ KLINGER IN THE AMOUNT OF $65,934.66 IN COSTS.

4.) THE BOARD ADDITIONALLY ORDERS THAT DURING THE PERIOD OF ACTIVE SUSPENSION, RESPONDENT SHALL BE REQUIRED TO COMPLETE COURSES ACCEPTABLE TO THE BOARD FOR PROFESSIONAL ETHICS AND BOUNDARY VIOLATIONS. RESPONDENT SHALL ALSO, PRIOR TO APPEARING BEFORE A COMMITTEE OF THE BOARD SEEKING TO RESUME PODIATRY PRACTICE DURING THE PERIOD OF PROBATION, SUBMIT TO

PSYCHO-SEXUAL EVALUATION TO BE CONDUCTED BY AN ENTITY ACCEPTABLE TO THE BOARD WITH A REPORT DETAILING THE RESULTS OF THAT EVALUATION TO BE SUBMITTED TO THE BOARD.

FINALLY, THE SUSPENSION OF RESPONDENT?S LICENSE SHALL BE EFFECTIVE TWO WEEKS FROM THE APRIL 19, 2006 MEETING, MAY 3, 2006. BETWEEN APRIL 19, 2006 AND MAY 3, 2006, RESPONDENT SHALL NOT TREAT ANY NEW PATIENTS, AND DURING THAT TIME PERIOD, RESPONDENT SHALL MAKE APPROPRIATE ARRANGEMENTS FOR THE TRANSFER OF PATIENTS AND PATIENT RECORDS.

Mr. Hill motioned the Board for a stay of the Board?s Order.

The Board, upon motion made and seconded, voted to deny the stay.

2:00 P.M. MAGGIANO, Anthony M., M.D. (License # MA 49427)
(Counseling D.A.G.: Dick, Sandra)
CONROY, Robert J., Esq. For Respondent
KRIER, Siobhan B., D.A.G. for Complainant

Attached was D.A.G. Krier?s March 10, 2006 letter brief to the Board of Medical Examiners in lieu of a formal submission in support of the Attorney General?s Motion for Summary Decision in the matter of Dr. Anthony Maggiano on all four counts of the administrative complaint filed in this matter.

Dr. Maggiano, in sworn testimony and written statements, had admitted to practicing with an expired license and CDS registration for four and one-half years. Respondent had also admitted that during that time he allowed his medical malpractice coverage to lapse, while continuing to treat patients. Also, while his license was suspended, Dr. Maggiano admitted to writing a prescription for a scheduled drug intended for use on a horse. D.A.G. Krier

contended that the Respondent?s admitted conduct constituted violations of several statutes and regulations discussed in her brief. Respondent?s admissions showed: (1) there were no genuinely disputed material facts; (2) Respondent had engaged in professional misconduct, in violation of N.J.S.A. 45:1-21(e); and (3) Respondent had failed to comply with rules and regulations administered by this Board, in violation of N.J.S.A. 45:1-21(h). Based upon the foregoing, the Attorney General urged the Board to suspend or revoke Respondent?s license to practice medicine in the State of New Jersey; to assess civil penalties; to impose liability for costs; and to impose further relief as the Board deemed.

All relevant materials regarding this matter were enclosed for the Board?s review and consideration.

THE BOARD, UPON MOTION MADE AND SECONDED, VOTED TO GRANT MR. CONROY?S REQUEST FOR AN ADJOURNMENT OF THIS MATTER, CONDITIONED UPON MR. CONROY?S AGREEMENT THAT THE MATTER WOULD BE HEARD ON MAY 10, 2006.

OLD BUSINESS

1. ZAHL, Kenneth M.D. (License # MA 56413)
(Counseling D.A.G.: Flanzman, Steven N.,)
JACKSON, John Zen Esq., for Respondent
KENNY, Paul R., D.A.G. for Complainant

Dr. Cheema was recused from discussion and vote in this matter and left the room. This matter was pending before the Board to determine whether the Board should adopt the Attorney General?s contention that Dr. Zahl continued to owe interest upon the assessment (based on the underlying theory that any interest owed began to accrue on June 30, 2003) or Dr. Zahl?s contention that the assessment had presently been satisfied (based on the underlying theory that interest began to accrue on July 19, 2005). That issue, along with the two letters that had thus far been received, were placed before the Board for consideration, on the papers submitted.

All relevant materials were attached for the Board?s review and consideration.

THE BOARD, UPON MOTION MADE AND SECONDED, DETERMINED THAT THE ATTORNEY?S FEE ASSESSMENT OF $188,106.66 WHICH WAS ENTERED BY WAY OF ORDER JUNE 30, 2003 BUT THEN STAYED PENDING PRESENTATION OF THE ISSUE WHETHER ATTORNEY?S FEES COULD BE AWARDED PURSUANT TO N.J.S.A. 25: 12-5 TO THE APPELLATE DIVISION FOR REVIEW TO HAVE IN EFFECT STAYED THE ASSESSMENT OF ATTORNEY?S FEES. THE ASSESSMENT THEN BECAME DUE ON JUNE 9, 2005, THE DATE THE APPELLATE DIVISION ENTERED ITS DECISION AFFIRMING THE BOARD?S ASSESSMENT OF ATTORNEY?S FEES. THEREFORE, THE INTEREST THAT IS OWED IN THIS MATTER BEGAN TO ACCRUE ON JUNE 9, 2005. THERE IS A DIFFERENCE OF $206.14 IN INTEREST BETWEEN THE AMOUNT PAID BY DR. ZAHL THUS FAR AND THE AMOUNT THAT IS DUE. DR. ZAHL IS REQUIRED TO PAY THE $206.14 IN INTEREST, AT WHICH TIME THE BOARD WILL FILE AN ORDER OF SATISFACTION ON THE CERTIFICATE OF DEBT.

NEW BUSINESS

1. SISTER-STATE MATTERS - Finalization of Provisional Order of Discipline as Proposed
KIM, Sung Uk M.D. (License #MA 55020)
ASHER, Robert S., Esq. For Respondent
PEREZ, Mileidy D.A.G. For Complainant

D.A.G. Perez submitted on March 31, 2006 a letter to the Board concerning a Provisional Order of Discipline (POD) filed with respect to Dr. Sung Kim. The POD was issued on February 14, 2006 and was subject to finalization 30 days after issuance. No response had been received. Enclosed was Executive Director Roeder?s Affidavit of Service with respect to Dr. Kim. The Attorney General was seeking the entry of a Final Order of Discipline as proposed for the above physician.

THE BOARD, UPON MOTION MADE AND SECONDED, VOTED TO APPROVE THE FINALIZATION OF THE PROVISIONAL ORDER OF DISCIPLINE AS PROPOSED BY D.A.G. PEREZ.

2. POULSHOCK, Andrew S., D.O.
PALAN, Tobey D.A.G. for Complainant

D.A.G. Tobey Palan?s April 17, 2006 memo to the Board summarizing the Sister-State Matter of Andrew S. Poulshock, D.O. was reviewed.

This matter involved a criminal conviction in the State of Pennsylvania for misbranding of drugs and was presented to the Board in December 2005. The State of Pennsylvania entered an Order including a $10,000 fine with no practice restriction. The New Jersey State Board of Medical Examiners authorized the deputy, as a Sister-State case, to enter into a Consent Order including an offer of a three-year suspension, with one year active; completion of a Board approved ethics course; satisfaction of all federal requirements; and an appearance before a Committee of the Board with the completion of all requirements in the State of Pennsylvania prior to any practice in the State of New Jersey. D.A.G. Palan presented to the Board a signed Consent Order including a requirement to cease and desist as well as all other protections. It was also noted that Dr. Poulshock had no practice in New Jersey.

THE BOARD, UPON MOTION MADE AND SECONDED, VOTED TO ACCEPT THE SIGNED CONSENT ORDER INCLUDING A CEASE AND DESIST INCLUDING A THREE (3) YEAR SUSPENSION, ONE YEAR ACTIVE; REQUIREMENT OF A BOARD APPROVED ETHICS COURSE; SATISFACTION OF ALL FEDERAL REQUIREMENTS; APPEARANCE BEFORE A COMMITTEE OF THE BOARD BEFORE ACTIVE PRACTICE; AND SATISFACTION OF ALL PENNSYLVANIA BOARD REQUIREMENTS IN THE MATTER OF DR. ANDREW POULSHOCK.

The meeting ended at 5:10 p.m.

Respectfully Submitted,

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Karen Criss, R.N., C.N.M.
Chairperson for Open
Disciplinary Matters