

NJ STATE BOARD OF MEDICAL EXAMINERS

OPEN DISCIPLINARY MINUTES

- APRIL 20, 2001

A meeting of the New Jersey State Board of Medical Examiners was held on Friday, April 20, 2001 at The Atlantic City Convention Center, One Ocean Way, Room #407, Atlantic City, New Jersey for Disciplinary Matters Pending Conclusion, open to the public. The meeting was called to order by William B. Harrer, M.D., B.L.D., Chairperson for Open Disciplinary Matters.

PRESENT

Present were Board Members Bradley, Chen, Criss, Farrell, Haddad, Harrer, Huston, Lucas, Patel, Perry, Reid, Ricketti, Robins, Rokosz, Trayner, Walsh and Weiss.

EXCUSED

Board Members Desmond, DiFerdinando, Fernandez and Wallace.

ALSO PRESENT

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

RATIFICATION OF MINUTES

The Minutes from the March 14, 2001 Board meeting were approved as submitted.

HEARINGS, PLEAS, RETURN DATES, APPEARANCES

WATSON, Jerrod C., Athletic Trainer (Counseling Deputy: FLANZMAN)
ASHLEY, Thomas R., Esq., for Respondent
RUBIN, Michael, D.A.G., for Complainant

(Proceedings Recorded by Ed Silver, C.S.R., SILVER REPORTING SERVICES)

The Board voted to go into executive session for advice of counsel. Deputies, other than counseling staff, left the room, along with all other members of the public present.

The Board returned to open session with all parties present. Chairman Harrer announced that this matter was set down for final decision-making on a peremptory basis in the matter of Jerrod C. Watson, A.T. The Board received for review the February 20, 2001 Partial Initial Decision of ALJ Diana C. Sukovich. The matter was initiated based upon a Complaint filed September 24, 1999 alleging a conviction of a crime of moral turpitude and lack of good moral character. The Board also received the September 24, 1999 Complaint, Respondent's Answer and Separate Defenses filed October 20, 1999; and the Attorney General's Exceptions filed February 28, 2001. This matter was adjourned from the March 14, 2001 meeting based upon the Board's receipt of a signed stipulation from Mr. Watson stating that he would not engage in any practice of athletic training pending the Board's resolution of this matter. The Board also received as a handout Mr. Ashley's letter brief filed April 18, 2001, on behalf of Dr. Watson, and D.A.G. Rubin's submission dated April 19, 2001.

Attorney Ashley began by asking the Board to consider that there are two central issues in this case: (1) whether or not the Board should impose costs; and (2), whether the Board should impose civil penalties. Mr. Ashley urged the Board to endorse the opinion of the ALJ in her reading of the Statute with respect to the issue of imposing costs in the alleged unlicensed practice case. Mr. Ashley stated the ALJ decided to preclude any costs except in cases involving the unlicensed practice of a professional occupation or injunction. Regarding civil penalties, he argued that the case cited by the State is not relevant to this case because it involved a transgression associated with the practice of medicine. He went on to state that what was being sought here was to punish twice. He argued that the issue of double jeopardy was whether or not the behavior itself was a crime, and in this case there were administrative violations which were not criminal. Attorney Ashley argued that his client's position was that assessing a civil penalty was double jeopardy in this context.

D.A.G. Rubin began by pointing out that, to the contrary, as to the findings of fact in the ALJ opinion, they were not in dispute. As to the two areas where the Attorney General took exception, he argued that the Uniform Enforcement Act, N.J.S.A. 45:1-22, provides an alternative to the other remedies in licensing proceedings whereby civil penalties can be imposed. These civil penalties do not automatically violate double jeopardy. The Hudson case sets forth considerations. It was in the context of registration or carrying out functions of an athletic trainer for which Mr. Watson was being disciplined. D.A.G. Rubin argued it was professional misconduct and this misconduct provides a separate basis for imposition of a civil penalty. He stated there was no case law that would automatically take the civil penalty issues out of the discretion of the Board. He argued the penalties were in the discretion of the Board as accepted in the Hudson Supreme Court case.

D.A.G. Rubin continued by arguing that the ALJ's opinion concerning the imposition of costs in this case was incorrect when it was found that the State of New Jersey, the Board of Medical Examiners, was without ability to recoup cost. He argued was a well-established principle and a long-standing practice that professional Boards can recoup their costs as endorsed in Polk by the New Jersey Supreme Court. The Statute, at N.J.S.A. 45:1-25, specifically authorizes the Board, or the Court, to order the repayment of costs incurred by the State. He went on to argue that it would be preposterous to limit the repayment of costs when one is unlicensed, while people licensed and acting in contrary to Board regulations are somehow protected from repaying costs. He stated the Board was definitely able to recoup its costs. However, if the Board said that the circumstances of this case did not warrant a penalty up to the maximum or below, that always has been within the discretion of the Board. He urged the Board to reject the conclusion of law in the Judge's opinion and requested that the Board find that it is within its statutory authority to order costs. Additionally, he requested that the Board determine that it also has the authority to order civil penalties in a case such as this.

The Board voted to go into executive session for deliberations and advice of counsel. Deputies, other than counseling staff, left the room, along with all other members of the public present.

The Board returned to open session, with all parties present, and announced the following motion:

THE BOARD, UPON MOTION MADE AND SECONDED, VOTED TO ADOPT ALL FINDINGS OF FACT SET FORTH IN ALJ SUKOVICH'S DECISION AND REVERSED AND MODIFIED HER DECISION WITH REGARD TO THE CONCLUSION OF LAW THAT THE BOARD LACKS AUTHORITY TO ASSESS COSTS AND CONCLUDED THAT THE BOARD DOES HAVE THE AUTHORITY TO ASSESS COSTS AND, FOR PURPOSES OF CLARIFICATION, MADE IT CLEAR THAT THE BOARD HAS AUTHORITY TO ASSESS PENALTIES IN THIS TYPE OF CASE. THE BOARD VOTED THAT THE HEARING PROCEED TO MITIGATION, AFTER WHICH IT WILL DETERMINE WHAT TYPE OF COSTS AND PENALTIES IT WILL ASSESS IN THIS MATTER.

In mitigation, Mr. Ashley argued that the arguments previously made concerning whether or not a penalty should be imposed were also relevant to the issue of mitigation, insofar as in this case, the activity itself was totally unrelated to an unlicensed athletic trainer. He believed his client has already been punished,

spending four years in prison. He stressed that his client certainly will never practice any activities relating to athletic training. He asked the Board to consider when enough is enough. Imposing a civil penalty would serve no purpose other than a punitive purpose.

D.A.G. Rubin waived any response.

The Board voted to go into executive session for deliberations and advice of counsel. Deputies, other than counseling staff, left the room, along with other all members of the public present.

The Board returned to open session, with all parties present, and announced the following motion:

THE BOARD, UPON MOTION MADE AND SECONDED, VOTED THAT THE ATHLETIC TRAINING LICENSE OF JERROD C. WATSON BE REVOKED. THE BOARD FURTHER VOTED TO ASSESS COSTS IN THE AMOUNT OF \$399 WITH NO ASSESSMENT OF PENALTY IN THIS CASE.

**KATZ, Michael M., M.D. (Counseling Deputy: FLANZMAN)
FRUCHTMAN, Susan, Esq., for Respondent
GELBER, Joan D., D.A.G., for Complainant (Without Appearance)**

This matter was to be heard today on a Motion for Partial Summary Decision filed by the Attorney General on January 26, 2001. The Board received for ratification and approval Board President Rokosz' decision to enter an April 18, 2001 Consent Order Adjourning Motion on Summary Decision, Transmitting Counts 1-15 to the Office of Administrative Law, and Prohibiting Medical Practice in New Jersey until Final Disposition of Proceedings.

The Board voted to go into executive session for advice of counsel.

The Board returned to open session and announced the following motion:

THE BOARD, UPON MOTION MADE AND SECONDED, VOTED TO APPROVE AND RATIFY THE CONSENT ORDER FILED APRIL 18, 2001.

OLD BUSINESS

**1. BAIRD, David B., M.D., Lic. #29835 (Prior Counseling Deputy: FLANZMAN)
LEWIS, Brenda-Talbot, D.A.G. (Without Appearance)**

In accordance with an Order granting limited reinstatement of licensure filed June 23, 2000, prior to resuming any practice in New Jersey, Dr. Baird must first advise the Board of his practice intentions and provide the Board with a written summary setting forth information concerning the type of practice he anticipates engaging in and the supervision arrangements that will be in place. He may not commence any practice of medicine unless and until he receives notice from the Board that his practice plan has been approved. The Board received for consideration a March 23, 2001 letter from Dr. Baxter of the Physicians' Health Program and a March 21, 2001 letter from Dr. Baird which included a November 28, 2000 letter from Dr. Baxter, a certificate of liability insurance, a March 15, 2001 letter from Rev. Bruce Borgard, Assistant Pastor, Morning Star Fellowship, and a letter dated March 18, 2001 from Jim and Eva Johnson of Marriage Ministries International. Also enclosed for Board consideration were D.A.G. Lewis' April 6, 2001 letter to the Board and the June 23, 2000 Board Order. The Board also received as a handout an April 12, 2001 letter to Medical Director Gluck from James M. Pedigo, M.D., informing Dr. Gluck that Dr. Baird plans to increase the frequency of his visits to two times each week on Mondays and Thursdays for thirty minutes each session.

THE BOARD, UPON MOTION MADE AND SECONDED, VOTED TO REJECT THE PROPOSAL SUBMITTED BY DR. BAIRD. THE BOARD BASED ITS DECISION ON DR. BAIRD'S FAILURE TO HAVE COMPLIED WITH THE TERMS AND CONDITIONS OF PARAGRAPH 5 OF THE ORDER OF

LIMITED REINSTATEMENT ENTERED ON JUNE 23, 2000.

PURSUANT TO SAID PARAGRAPH, THE REINSTATEMENT OF DR. BAIRD'S LICENSURE WAS SPECIFICALLY CONDITIONED ON THE REQUIREMENT THAT HE ENGAGE, AT A MINIMUM, IN TWICE WEEKLY PSYCHOTHERAPY SESSIONS, EITHER WITH A PSYCHIATRIST SPECIALIZING IN PSYCHOTHERAPY OR A PSYCHOLOGIST. WHILE DR. BAIRD STATES IN HIS MARCH 21, 2000 LETTER THAT HE STARTED SEEING DR. JOSEPH PEDIGO AT THE JOSEPH J. PETERS INSTITUTE IN PHILADELPHIA IN OCTOBER 2000, HE STATES THAT HE DID NOT SEE DR. PEDIGO IN DECEMBER 2000 OR IN JANUARY AND FEBRUARY 2001. FURTHER, WHILE DR. BAIRD STATES THAT HE HAS RESUMED SESSIONS WITH DR. PEDIGO AS OF MARCH 16, 2001, HE STATES THAT HE PLANS TO SEE HIM ONLY ON A WEEKLY BASIS. BASED ON DR. BAIRD'S OWN LETTER, IT APPEARED APPARENT TO THE BOARD THAT DR. BAIRD HAS FAILED TO COMPLY WITH THE CONDITIONS IMPOSED UPON HIM IN THE ORDER OF LIMITED REINSTATEMENT.

THE BOARD WILL ONLY CONSIDER APPROVING ANY PRACTICE PROPOSAL DR. BAIRD MAY SUBMIT (CONSISTENT WITH THE REQUIREMENTS SET OUT AT PARAGRAPHS 2, 3 AND 4 OF THE LIMITED ORDER OF REINSTATEMENT) AT SUCH TIME AS HE CAN DEMONSTRATE THAT HE IS IN COMPLIANCE WITH ALL TERMS AND CONDITIONS OF THE ORDER OF LIMITED REINSTATEMENT ENTERED JUNE 23, 2000. SHOULD DR. BAIRD WISH THE BOARD TO CONSIDER ANY PRACTICE PROPOSALS IN THE FUTURE, HE MUST IMMEDIATELY COMMENCE TWICE WEEKLY PSYCHOTHERAPY SESSIONS AS REQUIRED BY THE TERMS OF SAID ORDER.

**2. COURTNEY, Robert L., D.O., License #42185, Pro Se (Counseling Deputy:
BEY-LAWSON, Hakima, D.A.G., for Complainant JOYCE)
(Without Appearance)**

Enclosed for Board review was the Complaint filed January 31, 2000 in the matter of Dr. Courtney alleging gross negligence, malpractice and incompetence; professional misconduct; and repeated acts of negligence, malpractice and incompetence. Also enclosed was the March 15, 2001 Initial Decision of The Honorable Joseph F. Martone, ALJ, without attachments. As noted, prior to the scheduling of the hearing at OAL, the parties agreed to the issuance of a letter of advice resolving all of the issues in the Complaint and the matter before OAL was dismissed. The Judge's recommended decision was submitted to the Board for adoption, modification or rejection.

THE BOARD, UPON MOTION MADE AND SECONDED, VOTED TO ADOPT THE INITIAL DECISION OF JOSEPH F. MARTONE, A.L.J.

**3. DiMARIO, Carmen N. D.O. (Without Appearance)
RINGLER, Kim D. Esq., For Respondent
LEWIS, Brenda-Talbot D.A.G. For Complainant**

In accordance with the Final Order of Discipline filed March 26, 2000, Dr. DiMario's license was revoked based on a federal conviction for one count of mail fraud and one count of tax evasion for defrauding insurance companies and attempting to evade income taxes. Enclosed for Board consideration were the Final Order of Discipline filed March 26, 2000; D.A.G. Lewis' March 20, 2001 memo to the Board outlining this matter; Ms. Ringler's March 13, 2001 letter requesting reconsideration and an appearance; a copy of Dr. DiMario's Pennsylvania current Pennsylvania license; and a February 28, 2001 letter from Benjamin A. Cero, Assistant Counsel for the Pennsylvania Osteopathic Board stating that there are no restrictions on Dr. DiMario's license as of January 15, 2001.

THE BOARD, UPON MOTION MADE AND SECONDED, VOTED TO REAFFIRM ITS FINAL ORDER OF DISCIPLINE FILED MARCH 26, 2000.

**4. FANELLI, Andrew T., D.O., License #24557 (Counseling Deputy: DICK)
GOLDSTEIN, Jonathan L., Esq., for Respondent
LEWIS, Brenda Talbot, D.A.G., for Complainant (Without Appearance)**

A Final Order of Discipline was filed January 23, 2001 revoking the license of Dr. Fanelli. By letter dated April 4, 2001, counsel for Dr. Fanelli submitted a Motion for Stay of Order Pending Appeal with Memorandum of Law in Support thereof. Enclosed were the Final Order of Discipline filed January 23, 2001; counsel for Dr. Fanelli's Motion for Stay of Order Pending Appeal with Memorandum of Law in Support thereof; and D.A.G. Lewis' April 5, 2001 response that no stay should be granted. The matter was submitted to Board President Rokosz on an emergent basis for his consideration. Enclosed for Board ratification was Board President Rokosz' April 6, 2001 letter with attachment denying the motion for a stay. The Board also received as a handout an April 19, 2001 letter from Dr. Fanelli's new counsel, Jonathan L. Goldstein, Esq.

The Board voted to go into executive session for advice of counsel (D.A.G. Flanzman for D.A.G. Dick). Deputies, other than counseling staff, left the room, along with all other members of the public present.

The Board returned to open session, with all parties present, and announced the following motion:

THE BOARD, UPON MOTION MADE AND SECONDED, VOTED TO RATIFY DR. ROKOSZ' APRIL 6, 2001 DETERMINATION TO DENY THE MOTION FOR A STAY.

FURTHER, THE BOARD, UPON MOTION MADE AND SECONDED, DETERMINED THAT IT WOULD CONSIDER MR. GOLDSTEIN'S

MOTION FOR RECONSIDERATION OF THE UNDERLYING BOARD DECISION IN THIS MATTER, BUT AS AN APPEAL OF THE BOARD DECISION WAS FILED BY PRIOR COUNSEL, THE BOARD WAS WITHOUT JURISDICTION TO CONSIDER SUCH A MOTION AT THE PRESENT TIME. SHOULD CONSIDERATION BE GIVEN TO WITHDRAWAL OF THE APPEAL, MR. GOLDSTEIN MAY SUBMIT TIMELY MATERIALS IN SUPPORT OF A MOTION FOR RECONSIDERATION GIVING AMPLE TIME FOR RESPONSE BY D.A.G. LEWIS SO THAT THE MOTION CAN BE PRESENTED TO THE BOARD.

**5. VINING, Donna Boles, D.O., License #MB52062 (Without Appearance)
TANNER, Richard A., Esq., for Respondent
LEWIS, Brenda Talbot, D.A.G., for Complainant**

A Provisional Order of Discipline (POD) was filed March 14, 2001, which would revoke the above physician's license. Enclosed for Board consideration were D.A.G. Lewis' April 2, 2001 letter to the Board; Mr. Vining's response dated March 21, 2001; and the POD with attachments filed March 14, 2001.

THE BOARD, UPON MOTION MADE AND SECONDED, VOTED TO MODIFY THE PROVISIONAL ORDER OF DISCIPLINE TO BECOME A FINAL ORDER OF REVOCATION WITH LEAVE TO SEEK REINSTATEMENT IN TWO YEARS AND UPON DEMONSTRATION OF RESTORATION OF DR. VINING'S NEW YORK LICENSE, AFTER WHICH DR. VINING SHALL APPEAR BEFORE A COMMITTEE OF THE BOARD PRIOR TO ANY PRACTICE IN NEW JERSEY.

D.A.G. ITEMS NOT ON AGENDA

**1. SINGH, Manjit, M.D. (Without Appearance)
GORRELL, Joseph M., Esq. (Counseling Deputy: JOYCE)
GELBER, Joan D., D.A.G.**

The Board received as a handout D.A.G. Joyce's April 19, 2001 memo to the Board; Mr. Gorrell's March

14, 2001 letter requesting that Dr. Singh be granted an unrestricted license; D.A.G. Gelber's April 4, 2001 reply; Mr. Gorrell's April 9, 2001 letter of clarification; and the Final Consent Order Including Limited Reinstatement of License on Conditions filed May 6, 1997.

THE BOARD, UPON MOTION MADE AND SECONDED, VOTED TO REJECT COUNSEL'S REQUEST THAT DR. SINGH BE GRANTED AN UNRESTRICTED LICENSE, SINCE DR. SINGH HAS NOT PAID ANY OF THE COSTS ASSESSED IN THIS MATTER; HAS NOT PAID 10% OF THE MONEY BACK TO THE PATIENTS; AND HAS NOT PROVIDED ANYTHING FROM THE CURRENT TREATING PSYCHIATRIST TO VERIFY MR. GORRELL'S APRIL 9, 2001 LETTER. THE BOARD STATED DR. SINGH SHOULD MAINTAIN A RELATIONSHIP WITH THE PSYCHIATRIST AND CONTINUE IN TREATMENT, AND CONTINUE ATTENDING GAMBLER'S ANONYMOUS.

REPORT OF INTERIM AND FINAL ORDERS FILED WITH THE BOARD

1. ALMEIDA, Carlos A., D.O., License #58270 (Paramus, NJ)

FINAL ORDER OF DISCIPLINE filed March 26, 2001. On May 12, 1999, the Maryland Board of Physician Quality Assurance issued a Notice of Intent to summarily suspend the medical license of Dr. Almeida. In lieu of a summary suspension, Dr. Almeida entered into a Consent Order with the Maryland Board wherein he agreed to a one-year stayed suspension, to be served as a three-year period of probation, during which he was required to complete comprehensive review courses related to the practice of anesthesiology. One year from the date of the Final Consent Order, he was required to undergo a focused peer review of quality of medical care with a focus on anesthesiology-related patient management. Dr. Almeida's actions constitute having engaged in repeated acts of negligence, malpractice or incompetence in addition to having an action taken by another licensing jurisdiction. A Provisional Order of Discipline was filed with this Board. Dr. Almeida submitted a request for modification to the proposed discipline. The Board reviewed his submission and determined further proceedings were not necessary, however, sufficient mitigation was demonstrated to modify the penalty. The Board ordered that Dr. Almeida's license to practice medicine and surgery in the State of New Jersey be suspended for three years, such suspension is stayed, and he is placed on three years probation, retroactive to May 26, 1999 when he was placed on probation in the State of Maryland. Such probation is subject to the same terms and conditions placed upon his license in the State of Maryland. Prior to engaging in the practice of medicine in New Jersey, he must appear before a Committee of the Board to demonstrate his fitness to practice. The Board reserves the right to impose limitations on his practice in New Jersey. EFFECTIVE DATE: March 26, 2001

2. BOSNIAK, Stephen, M.D., License #35253 (Westbury, NY)

ORDER GRANTING UNRESTRICTED LICENSE filed January 19, 2001. By Final Order filed July 31, 1998, Dr. Bosniak's license to practice medicine and surgery in the State of New Jersey was suspended. This action was based upon disciplinary action taken against his licensure privileges in the State of New York. Prior to any reinstatement of Dr. Bosniak's New Jersey license, he was required to appear before a Committee of the Board. Dr. Bosniak appeared and provided information concerning his satisfactory compliance with the New York Order. The Board ordered he be granted an unrestricted license to practice medicine and surgery in the State of New Jersey. EFFECTIVE DATE: January 19, 2001

3. COLLIER, Bert David, Jr., M.D., License #36322 (Milwaukee, WI)

FINAL ORDER OF DISCIPLINE filed March 20, 2001. On or about February 12, 1999, a Judgment of Conviction was entered in US District Court for the Eastern District of Wisconsin based on Dr. Collier's guilty plea wherein he admitted to having knowingly and willfully made material false and fraudulent statements and representations to an agent of the Office of the Inspector General of the Department of Health and Human Services. By Order of the Wisconsin Medical Examining Board, Dr. Collier's license to practice medicine and surgery was suspended for ten months. Upon reinstatement of his Wisconsin license, he will be subject to limitations, which will include a five-year bar to participation in the

Medicaid/Medicare Programs. In May 1999, Dr. Collier entered into a Stipulation Settlement and Disciplinary Order which revoked his license and stayed that revocation to be served as a seven-year period of probation. On October 4, 2000, a Provisional Order of Discipline was filed with this Board containing the above listed Findings of Fact. Through counsel, Dr. Collier requested a modification of the Provisional Order. The Board reviewed the material submitted and was not persuaded to amend the sanction to mirror the penalty in other states or allow him to surrender his license. The Findings of Fact contained in the Provisional Order were amended to include information concerning the revocation of his license in California. The Board ordered that Dr. Collier's license to practice medicine and surgery in the State of New Jersey be revoked. EFFECTIVE DATE: March 20, 2001

4. DIMARIO, Carmen N., D.O., License #62426 (West Chester, PA)

FINAL ORDER OF DISCIPLINE filed March 26, 2001. The Board received information that on or about September 28, 1999, Dr. DiMario was sentenced to ten months in federal prison to be followed by three years of supervised release after pleading guilty in the US District Court for the Eastern District of Pennsylvania to one count of mail fraud and one count of tax evasion. He was also ordered to pay \$32,242.27 restitution and a \$10,000 penalty, and to perform 100 hours of community service. He had been charged with scheming to defraud insurance companies by means of false and fraudulent pretenses, representations and promises, by representing to patients that insurance would cover a substantial part of the cost of rhinoplasty and by submitting preauthorization request letters falsely stating the patients required surgery as a result of accidental trauma to their noses. The second count charged he attempted to evade a large part of his federal income tax for CY 1993 by filing false and fraudulent joint tax returns. A Provisional Order of Discipline was filed which allowed Dr. DiMario an opportunity to respond to the Findings of Fact contained therein. His submissions were reviewed by the Board which determined further proceedings were not necessary in that no material discrepancies had been raised. The Board ordered that Dr. DiMario's license to practice medicine and surgery in the State of New Jersey be revoked. EFFECTIVE DATE: March 26, 2001

5. ELLIS, Kent R., M.D., License #46337 (Green Brook, NJ)

CONSENT ORDER filed March 29, 2001. The Board received information from the Physicians' Health Program that Dr. Ellis had admitted a relapse into the abuse of Hydrocodone and that he had voluntarily ceased practice and entered into an in-patient treatment program on or about February 27, 2001. The Board ordered that he immediately surrender his license for a minimum of three months from the date of entry of this Order. Prior to any restoration of license, he must appear before a Committee of the Board to demonstrate his fitness, competence and capacity to re-enter the practice of medicine. He must also provide the Board with reports from each and every mental health professional who participates in his care and/or treatment during the period of time from his entry into treatment until his appearance, and from the Physicians' Health Program detailing the nature and extent of his involvement with that entity. EFFECTIVE DATE: March 29, 2001

6. GARCIA, Jerry Steven, M.D., License #70529 (Newark, NJ)

ORDER OF UNRESTRICTED LICENSURE filed March 27, 2001. On April 19, 2000, Dr. Garcia entered into a Consent Agreement with the Board which granted him a restricted license conditioned on protective safeguards. Dr. Garcia has provided documentation that he has satisfied the requirements of that Consent Order and has requested an unrestricted license. After reviewing all submissions, the Board found that he has satisfied his burden to demonstrate to the Board's satisfaction his ability to engage in the practice of medicine absent the requirements outlined in the April 19, 2000 Consent Order. The Board has ordered that he be granted an unrestricted plenary license to practice medicine and surgery in the State of New Jersey. EFFECTIVE DATE: March 27, 2001

7. KATZ, Michael Martin, M.D., License #50279 (Hewlet Harbor, NY)

CONSENT ORDER ADJOURNING MOTION ON SUMMARY DECISION AND CONTINUING

PROHIBITION ON MEDICAL PRACTICE IN NEW JERSEY UNTIL FURTHER ORDER OF THE BOARD filed February 14, 2001. On January 26, 2001, a Third Amended Complaint was filed alleging as Count 16 that disciplinary action by the New Jersey Board of Medical Examiners against Dr. Michael M. Katz was warranted based upon the final disciplinary Determination and Order by the New York State Board of Professional Medical Conduct issued November 29, 2000 finding him liable for multiple acts of gross negligence and other violations. Dr. Katz requested an adjournment of the Attorney General's Motion for Summary Decision on the ground that the appeals by both Dr. Katz and the New York Board of Professional Medical Conduct are pending with a decision anticipated before May 2001, and on the continued agreement to be bound by the Order prohibiting New Jersey practice at this time.

The Board ordered that Dr. Katz' request for an adjournment of the hearing regarding the Attorney General's motion on Count 16 be granted. The hearing will be conducted at the Board meeting on April 20, 2001. Until further Order of the Board, Dr. Katz will refrain from, and is prohibited from engaging in, any practice of medicine or surgery in the State of New Jersey. EFFECTIVE DATE: February 14, 2001

8. KESHISHIAN, Paul, D.O., License #39051 (Rochelle Park, NJ)

MODIFIED ORDER OF REINSTATEMENT OF LICENSE WITH LIMITATIONS filed March 6, 2001. Dr. Keshishian petitioned the Board for a decrease in the monthly monitor reports required pursuant to Board Orders of March 3, 1999 and December 15, 1999. The Board considered his request and authorized the decrease in monitoring to require reporting on a quarterly basis beginning April 1, 2001. All other terms of the Order will remain in effect. EFFECTIVE DATE: March 6, 2001

9. KRONEN, Michael R., MD, License #52690 (Silver Spring, MD)

FINAL ORDER OF DISCIPLINE filed March 26, 2001. Dr. Kronen entered into a Consent Order with the Maryland Board of Physician Quality Assurance which suspended his license and placed him on five years probation with practice restrictions based upon his having engaged in improper sexual contact with a 21-year-old female patient/student under his care. Based on the above information, a Provisional Order of Discipline was filed with this Board. The Board reviewed Dr. Kronen's submissions in response to the Provisional Order and determined further proceedings were not necessary since no material discrepancies had been raised. However, based on the mitigating circumstances he presented, the Board determined to mirror the discipline imposed by the State of Maryland. The Board ordered that Dr. Kronen's license to practice medicine and surgery in the State of New Jersey will be suspended for six months, with credit for five months of suspension served in the State of Maryland, and with the remaining month stayed. He is placed on five years' probation concurrent with his probation in Maryland (March 24, 1999 - March 24, 2004) and on the same terms and conditions. Prior to engaging in any practice of medicine in New Jersey, he must appear before a Committee of the Board to demonstrate his fitness to practice. The Board reserves the right to impose limitations on his practice in New Jersey. EFFECTIVE DATE: March 26, 2001

10. MARKOVICH, Dragica, M.D., License #42250 (Hackettstown, NJ)

CONSENT ORDER filed March 30, 2001. The Board office received a patient complaint that Dr. Markovich was indiscriminately prescribing controlled dangerous substances (CDS). Dr. Markovich and counsel appeared before a Committee of the Board which reviewed patient records and pharmacy profiles. The Board is concerned that Dr. Markovich's practice indicates inadequate documentation as well as indiscriminate and contraindicated prescribing of CDS. It appeared to the Board that Dr. Markovich is committed to improving her quality of practice. The Board ordered that Dr. Markovich be reprimanded for indiscriminate and contraindicated prescribing of controlled dangerous substances. She must satisfactorily complete a Board-approved course in controlled dangerous substances and must refrain from prescribing all controlled dangerous substances until such time as the CDS course is completed and proof of same is provided to the Board. She must take and achieve a satisfactory score on the SPEX examination within six months following entry of this Order. She was assessed a \$5,000.00 penalty and costs of \$7,690.69. At the completion of the terms of this Order, she must appear before a Committee of the Board to discuss her

compliance with this Order. EFFECTIVE DATE: March 30, 2001

11. SHIN, Scott Heejoon, D.O., License #66672 (Sicklerville, NJ)

CONSENT ORDER filed March 30, 2001. The Board received information that on April 20, 2000 in Washington Township, New Jersey, Scott Heejoon Shin, D.O., had pled guilty to a charge of terroristic threats, third degree. Dr. Shin testified before a Committee of the Board concerning his guilty plea and authorized the Board to obtain records from his probation officer and treating physicians. The Board has ordered that he be reprimanded. He was directed to enroll in the Physicians' Health Program (PHP) and undergo an evaluation. The evaluation report must be received by the Board prior to completion of his residency program. He was assessed \$304.45 costs and a \$2,500.00 penalty which will be stayed and will be dismissed by the Board upon successful demonstration of completion of the criminal probation.

Following completion of probation and submission of all required reports, he will appear before the Board to discuss his current status, emotional fitness and plans for professional practice. He must immediately notify the Board should he commence the practice of medicine and surgery in another jurisdiction.

EFFECTIVE DATE: March 30, 2001

12. SPERLING, Howard J., M.D., License #42924 (Smithville, NJ)

CONSENT ORDER REINSTATING LICENSURE filed March 2, 2001. Dr. Sperling voluntarily surrendered his license to practice medicine in the State of New Jersey pursuant to a Consent Order filed April 13, 2000 based upon a relapse into substance abuse. That Consent Order required that, prior to any restoration of licensure, Dr. Sperling must appear before a Committee of the Board to demonstrate his capacity to discharge the functions of a licensee in a manner consistent with the public's health, safety, and welfare and that he was not then suffering from any impairment or limitation resulting from any substance use which could affect his ability to practice. On November 2, 2000, Dr. Sperling, accompanied by a representative of the Physicians' Health Program (PHP), testified before a Committee of the Board in conjunction with his petition for reinstatement of his license to practice medicine in this State. The Board reviewed all information and is satisfied that Dr. Sperling has demonstrated his present fitness to practice, provided he complies with all the conditions and terms imposed by this Order. He is precluded from holding a registration certificate for controlled dangerous substances (CDS). Other conditions contained in this Order are: absolute abstinence from all psychoactive substances unless they are prescribed by a treating physician for a documented medical condition; continued participation in weekly aftercare sessions until such time as his counselor and the PHP Medical Director both agree treatment can be concluded; twice weekly random urine screens conducted by the PHP for the first six months following entry of this Order and weekly screens thereafter for a period of not less than a year; continued documented attendance at Alcoholics Anonymous; continued participation with the Physicians' Health Program with quarterly reports to the Board regarding his participation and immediate notification of any failure to comply with the conditions of this Order or evidence of a relapse. EFFECTIVE DATE: March 2, 2001

13. TABOTABO, Armando, M.D., License #32015 (Keyport, NJ)

CONSENT ORDER filed March 15, 2001 with an effective date of March 8, 2001. A Motion was brought before the Board on the basis of the alleged violation of a prior Board Order. On February 16, 2001, Dr. Tabotabo's license was temporarily suspended pending final disposition. All parties appeared before Administrative Law Judge Elinor R. Reiner on March 8, 2001. On that date, Dr. Tabotabo dismissed his attorney on the record and assumed his own representations. Dr. Tabotabo sought to voluntarily surrender his license to practice medicine in the State of New Jersey and admitted to the conduct outlined in the Second Amended Complaint. Said conduct constituted professional misconduct and an express violation of the Board's prior Order. Dr. Tabotabo agreed to the terms of this Consent Order under oath and on the record before Judge Reiner on March 8, 2001. The Board ordered that Dr. Tabotabo be granted leave to surrender his license to practice medicine in the State of New Jersey, with prejudice to any reapplication. Such surrender will be deemed, and have the full effect, of revocation, and is effective as of March 8, 2001. At this time, he will not be made to pay civil penalties or the Board's costs in this matter. However, if he

reapplies for his medical license at any time in the future, no reinstatement will be ordered until he pays the costs in this matter in an amount not to exceed \$3,000.00. Notwithstanding payment of such costs, reinstatement will be at the sole discretion of the Board. EFFECTIVE DATE: March 8, 2001

14. TELANG, Frank W., M.D., License #57090 (Upton, NY)

CONSENT ORDER REINSTATING LICENSURE filed March 30, 2001. The Board received a request from Dr. Telang for discontinuance or relaxation of conditions placed upon his medical practice during a three-year period of probation effected per operation of the Order of Licensure Reinstatement with Restrictions and Limitations filed March 25, 1998. Dr. Telang appeared before a Committee of the Board. His request was supported by the Physicians' Health Program. The Board found he has demonstrated his fitness to practice medicine sufficient to support his application. The Board ordered that Dr. Telang's license be reinstated and the three-year period of probation imposed by operation of prior Board Orders be eliminated. Notwithstanding the reinstatement of his license, Dr. Telang expressly represented and agreed to refrain from engaging in any practice of medicine or surgery in the State of New Jersey, unless and until such time as he provides notice to the Board of his intent to resume the practice of medicine and he appears before a Committee of the Board to demonstrate his then current fitness to engage in the practice of medicine and provides the Board with details concerning the nature of any practice. At such time, the Board will determine whether conditions should then be placed upon his resumed practice in New Jersey, to include the possible imposition of requirements that he practice with a chaperone and/or practice supervisor or monitor. EFFECTIVE DATE: March 30, 2001

15. TELLO-VALCARCEL, Carlos, M.D., License #47031 (Paterson, NJ)

AMENDED CONSENT ORDER filed January 23, 2001 NUNC PRO TUNC August 3, 2000. The Board received an Adverse Action Report from Barnert Hospital in connection with Dr. Tello-Valcarcel's treatment of a patient. Barnert Hospital suspended his privileges based on a single incident in which a patient was admitted through the emergency room in the evening and not seen by the physician. The patient expired the next morning of a ruptured renal artery aneurysm. Subsequent investigation revealed that Dr. Tello-Valcarcel wrote an admission note for this patient after she expired. Throughout, he telephone managed his patient's care, committing repeated acts of negligence and gross negligence, by ordering a blood transfusion, by failing to respond to multiple cardiovascular episodes and by ordering pain medication for this patient. The National Practitioner Data Bank report submitted by Barnert Hospital was subsequently voided by the US Department of Health and Human Services upon receipt of information that the Hospital did not suspend Dr. Tello-Valcarcel's medical staff privileges nor did it implement a request for a nine-month reduction in Dr. Tello-Valcarcel's medical staff privileges. The Board found that his treatment of this patient failed to adhere to accepted standards of practice. The Board ordered that Dr. Tello-Valcarcel be reprimanded for violations of N.J.S.A. 45:1-21. As corrective action, he must successfully complete a Board-approved ethics course. The ProBE course previously attended fails to satisfy this requirement until such time as he successfully rewrites the final paper in the course. He must pay a penalty of \$5,000.00 and costs of \$377.80. EFFECTIVE DATE: Nunc Pro Tunc August 3, 2000

16. THELMO, Franklin L., M.D., License #24066 (Bricktown, NJ)

FINAL ORDER ADOPTING DECISION OF ALJ KENNETH R. SPRINGER filed February 14, 2001. An Administrative Complaint had been filed with the Board on July 11, 1997 relevant to six charges that had been brought against Dr. Thelmo. The matter was transmitted to the Office of Administrative Law for hearing. Following twelve days of hearings, Administrative Law Judge Kenneth R. Springer concluded that the charges had not been sustained by a preponderance of the credible evidence and dismissed the charges against Dr. Thelmo. While the Board could reject or modify this decision, neither party elected to file any exceptions to the decision entered by ALJ Springer. The Board ordered that the Initial Decision entered by Administrative Law Judge Kenneth L. Springer on December 6, 2000 in the matter of Franklin Thelmo, M.D., be adopted in its entirety without modification. All charges against Dr. Thelmo are dismissed. EFFECTIVE DATE: February 14, 2001

17. ZHOU, Huiyi, Acupuncturist, License #MZ 91 (East Brunswick, NJ)

SUPERIOR COURT OF NEW JERSEY, CHANCERY DIVISION: MIDDLESEX COUNTY, DOCKET #C-276-00 - CONSENT ORDER filed January 11, 2001. Defendant admitted to the unlicensed practice of medicine in New Jersey. The Court ordered that Huiyi Zhou be restrained from the practice of medicine unless and until she is licensed to do so. She was ordered to pay a \$4,000 penalty and \$2,045 investigative costs to the Board of Medical Examiners. EFFECTIVE DATE: January 11, 2001

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

There being no further business of the Board concerning OPEN DISCIPLINARY MINUTES in open session, the Board voted to continue with the meeting concerning Matters Pending Litigation and Disciplinary Action in closed session.

Respectfully submitted,

William B. Harrer, M.D., B.L.D., Chairperson for Open Disciplinary Matters