

**OPEN MINUTES - N.J. STATE BOARD OF MEDICAL EXAMINERS - PG. 1**  
**DISCIPLINARY MATTERS PENDING CONCLUSION - MAY 13, 2009**

A meeting of the New Jersey State Board of Medical Examiners was held on Wednesday, May 13, 2009 at the Richard J. Hughes Justice Complex, 25 Market Street, 4<sup>th</sup> 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 Bender, Berkowitz, Criss, Cheema, DeGregorio, Iannuzzi, Jordan, Lambert, Lomazow, Reichman, Mendelowitz, Nussbaum, Rajput, Scott, Walsh and Weiss.

**EXCUSED**

Board Members Ciechanowski and Paul.

**ALSO PRESENT**

Assistant Attorney General Joyce; Deputy Attorneys General Levine, Flanzman, Warhaftig, Puteska, Ehrenkrantz and Merchant; Executive Director William V. Roeder.

**RATIFICATION OF MINUTES**

**THE BOARD, UPON MOTION MADE AND SECONDED, VOTED TO  
APPROVE THE MINUTES FROM THE MARCH 11 AND APRIL 8, 2009  
BOARD MEETING.**

**HEARINGS, PLEAS, AND APPEARANCES**

**LOSMAN, Jacques G. M.D. 25MA04496200**  
**Joseph Gorrell, Esq. For the Respondent**  
**DAG Bindi Merchant, Prosecuting**  
**DAG Debra Levine, Counseling**

Administrative Law Judge Richard Gill's decision in this matter was rendered on or about March 17, 2009. Oral argument and final decision making in the matter was heard before the Board on May 13, 2009.

Dr. Berkowitz recused from discussion and vote in this matter and left the table. Dr. Berkowitz was not present during any closed session discussions.

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

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

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Returning to Open Session, the parties informed the Board that they would be waiving oral argument on the exceptions that were filed.

Dr. Jordan noted for the record that he was on staff with Dr. Losman some years ago, but did not believe that he should recuse.

Drs. Mendelowitz, Cheema and Reichman informed the Board that Mr. Gorrell represented their respective staff on several matters for the hospital. They did not believe that his representation would bias them and believed could render a fair and impartial decision. Neither attorney objected to their continued participation.

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

Motion made by Dr. Jordan and seconded by Dr. Scott.

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

The Board returned to open session and announced the following.

**THE BOARD, UPON MOTION MADE AND SECONDED, VOTED TO  
ADOPT THE FINDINGS OF FACT AND CONCLUSIONS OF LAW IN  
THEIR ENTIRETY OF THE INITIAL DECISION AND FURTHER  
FOUND THAT THERE WAS INSUFFICIENT CAUSE TO SUSTAIN THE  
ASSERTION THAT DR. SABO'S OPINION CONSTITUTED A NET  
OPINION AND UPON REVIEW OF THE RECORD, FOUND THAT  
SUFFICIENT FACTUAL PREDICATE EXISTED TO FIND GROSS  
NEGLIGENCE.**

The motion was made by Dr. Cheema and seconded by Dr. Lambert.

The Board moved to the mitigation phase.

Mr. Gorrell called Dr. Haims, who was sworn in. Dr. Haims is licensed to practice in the State of New Jersey and is Board certified in General Surgery and passed the test as a wound specialist. He said he has known Dr. Losman and works with him at the Wound Center. They work together on many of the patients. Dr. Haims works only in the Wound Center and uses Dr. Losman to admit his patients to the hospital. Dr. Haims said Dr. Losman follows the patient at the hospital until they return to the Wound Center. According to the witness, Dr. Losman is very kind to his patients and sees the patients regardless of whether or not they have insurance. He is very competent and has provided invaluable service to the Wound Center. In the event that his license were suspended, Dr. Haims felt it would almost cripple the facility because he is the only

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one from the Wound Center that goes to the hospital.

On cross examination, Dr. Haims admitted that he supervises Dr. Losman. He was unaware of whether or not Dr. Losman was under probation at the hospital. He did recall that there was a social problem with one of the technicians at the hospital and the administration suspended his privileges, but after it went to the executive committee, the matter was dropped. The witness' role at the Wound Center is to review all the patient care and if a wound is not healed within sixty days, he would discuss the case with the doctor. Dr. Haims said this was part of his role as a supervisor.

When pushed further, Dr. Haims believed that Dr. Losman's practice is limited to procedures at the Wound Center. The witness is the only general surgeon and there are two other physicians, neither of which are surgeons, however, they do have admitting privileges at Trinitas Hospital. There are also two podiatrists on staff at the Center. Dr. Haims praised the work performed by Dr. Losman and is extremely happy to have him on staff at the Wound Center.

Dr. Losman (68 years old) was called as a witness and was sworn in. His medical education was at Brussels Medical School and he graduated in 1968. He continued his training in New York and in South Africa where he completed a M.Ed. He worked at various hospitals throughout the country. He has worked in New Jersey since 1988.

Dr. Losman continued that the two cases with these proceedings occurred in 2004. At that time, his medical practice consisted of thoracic surgery and he started his work at the Wound Center. After these two cases, he said he changed his practice and began to concentrate less on thoracic surgery and worked more with wound care. He continues to work with pace makers, which he said is a relatively simple procedure of which he has a lot of experience performing. From time to time, he does tracheotomies which he considered superficial surgery. He continues to perform these in some emergent cases.

Personally, Dr. Losman is married with four daughters. He recently adopted a young boy from the Dominican Republic. The three-year old child needed to come to the Wound Center and Dr. Losman kept him at his house during his various medical procedures.

On cross examination, Dr. Losman admitted that he voluntarily restricted his practice to wound care. He recalled that he mentioned this to the hospital. Other than the incident with the technician, he has not had restrictions placed on his hospital privileges. Dr. Losman did not recollect that he is on probation at the hospital.

Continuing in cross examination, Dr. Losman confirmed that he only has performed pace maker and tracheotomies at the hospital, although, there may have been one chest tube insertion over the last year. He does not possess thoracic or general surgery privileges at the hospital.

In closing, DAG Merchant argued that given the severity of Dr. Losman's repeated acts of gross

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negligence, the recommended penalty was insufficient. Patient 1, though not seriously ill, died as a result of his gross act of closing the wrong artery. The second patient also suffered at the hands of this doctor because he inserted the chest tube into the wrong side because of his failure to review the materials prior to the insertion. The elemental reviews, according to the Attorney General, were not performed. Both events were avoidable. DAG Merchant argued that his continued practice would endanger the safety of others. His poor judgment deserves to be punished, but also to let the patients and their families know that the Board will not tolerate an inability to perform the most elemental review of information prior to performing a procedure. DAG Merchant reminded the Board that recently the Board issued a six-month suspension to a doctor for one site surgery mistake. In this case, two were committed.

Mr. Gorrell noted that the *Perera* case can be distinguished from Dr. Losman inasmuch as, in *Perera*, the doctor failed to acknowledge his mistakes and that all through the medical record he attempted to cover up the mistake. That fundamental difference is crucial. Dr. Losman practiced surgery for many years and acknowledged to the Board that these were traumatic events and in fact, he voluntarily gave up practicing the surgeries at issue in both of these cases.

In the Costs argument, it was stated that letters went back and forth earlier in the case and the DAG had articulated a position that settlement could not include anything with tracheotomy. Rather than the courtesy of a phone call, Mr. Gorrell said, the Attorney General filed the case. Mr. Gorrell argued that if a simple phone call was made, none of the costs would have been incurred. Costs were spent because of the Attorney General, not the doctor. Mr. Gorrell urged the Board to let Dr. Losman continue to practice wound care and he noted that no real purpose would be served with any active suspension.

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

Motion made by Mr. Walsh and seconded by Mr. Weiss.

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

Dr. Bender left the meeting.

The Board returned to open session and announced the following.

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**THE BOARD, UPON MOTION MADE AND SECONDED, AND CONSIDERING THE EVIDENCE IN THE RECORD AND FROM THE MITIGATION HEARING, VOTED TO IMPOSE THE FOLLOWING: DR. LOSMAN'S LICENSE TO PRACTICE MEDICINE AND SURGERY IS SUSPENDED FOR THREE YEARS WITH THREE MONTHS ACTIVE AND THE REMAINDER TO BE SERVED AS A PERIOD OF PROBATION. DURING PROBATION, DR. LOSMAN WILL LIMIT HIS PRACTICE TO PROVISION OF WOUND CARE. HE IS ASSESSED A CIVIL PENALTY OF \$20,000 AND COSTS IN THE AMOUNT OF \$ 42,730.46, THE AMOUNT CONSISTENT WITH THE SUPPLEMENTAL COST APPLICATION. THIS ORDER COMMENCES 30 DAYS FROM MAY 13, 2009. DURING THE 30 DAY PERIOD PRIOR TO THE EFFECTIVE DATE, DR. LOSMAN SHOULD LIMIT HIS PRACTICE TO RESTRICTIONS HEREIN. THE PENALTY AND COSTS SHOULD BE PAID QUARTERLY OVER THE THREE-YEAR PERIOD OF SUSPENSION.**

Motion was made by Dr. Nussbaum and seconded by Dr. Scott

Dr. Lambert voted against.

**IV. OLD BUSINESS**

- AZAM, Chowdhury M., MD 25MA6382200**  
**DAG David Puteska, Prosecuting**  
**DAG Steve Flanzman, Counseling**

Dr. Azam appeared before the Board for a hearing on the Attorney General's application for the Temporary Suspension of his license on January 14, 2009. The action was based on a Verified Administrative Complaint filed on December 19, 2008. Following a hearing, the Board voted not to temporarily suspend Dr. Azam's license, but entered an Order that imposed conditions on his practice (to include conditions that his practice be monitored, in an approved setting, and limited to male patients only). The Order additionally imposed a requirement that Dr. Azam submit to a psychosexual evaluation to be performed at the JJ Peters Institute. The Order specifically provided that the Board reserved the right to impose additional limitations or restrictions on Dr. Azam's practice following review of the report. This matter was heard on the papers.

Drs. Iannuzzi and Berkowitz recused from discussion and vote in this matter and left the table.

**THE BOARD, UPON MOTION MADE AND SECONDED, VOTED TO**

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**MOVE INTO CLOSED SESSION FOR ADVICE OF COUNSEL AND DELIBERATIONS BECAUSE OF THE CONFIDENTIAL NATURE OF THE REPORT BEING CONSIDERED.**

The Motion was made by Dr. Jordan and seconded by Mr. Weiss.

All parties, except administrative and counseling staff, left the room. Drs. Iannuzzi and Berkowitz also left the room.

The Board returned to open session and announced the following:

**THE BOARD, UPON MOTION MADE AND SECONDED, VOTED THAT DR. AZAM BE PERMITTED TO WORK AT THE NEW LOCATION CONSISTENT WITH ALL THE MONITORING RESTRICTIONS OF THE PRIOR ORDER.**

Motion made by Dr. Mendelowitz and seconded by Dr. Lambert.

2. **RAGI, Gangaram M.D. 25MA05675000**  
**Susan Fruchtman Esq. For the Respondent**  
**DAG Kim Ringler, Prosecuting**  
**DAG Debra Levine, Counseling**

An Order of Summary Decision was filed by the Board on March 9, 2009 and had been stayed by the Superior Court of New Jersey Appellate Division pending an appeal of the Board's decision. Ms. Fruchtman has petitioned the Board to settle the record on appeal. This matter was heard on the papers.

Dr. Mendelowitz recused from discussion and vote in this matter and left the table.

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

Motion made by Mr. Walsh and seconded by Dr. Lambert.

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

The Board returned to open session and announced the following.

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

Motion made by Mr. Weiss seconded by Dr. Walsh.

Ms. DeGregorio, Dr. Nussbaum and Dr. Cheema voted in opposition and Dr. Rajput abstained.

Respectfully submitted,

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Karen Criss, R.N., C.N.M., Chairperson  
For Open Disciplinary Minutes

WVR/dt/br