

OPEN MINUTES - N.J. STATE BOARD OF MEDICAL EXAMINERS - PG. 1
DISCIPLINARY MATTERS PENDING CONCLUSION - JUNE 10, 2009

A meeting of the New Jersey State Board of Medical Examiners was held on Wednesday, June 10, 2009 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 Berkowitz, Ciechanowski, Criss, Cheema, Iannuzzi, Jordan, Lambert, Lomazow, Reichman, Mendelowitz, Nussbaum, Paul, Rajput, Scott, and Weiss.

EXCUSED

Board Members Bender, DeGregorio, and Walsh.

ALSO PRESENT

Deputy Attorneys General Dick, Gelber, Levine, Flanzman, Warhaftig, Puteska, Ehrenkrantz and Hafner; Executive Director William V. Roeder.

RATIFICATION OF MINUTES

**THE BOARD, UPON MOTION MADE AND SECONDED, VOTED TO
APPROVE THE MINUTES FROM THE MAY 13, 2009 BOARD MEETING.**

HEARINGS, PLEAS, AND APPEARANCES

- 1. VUYUYURU, Lokesh Babu, MD 25MA05488000**
DAG Doreen Hafner, Prosecuting
DAG Debra Levine, Counseling

On December 12, 2007, the Board voted to grant Dr. Vuyyuru's request to return to a lapsed license status with an agreement not to seek reinstatement of his medical license until after his appeal in Virginia was concluded and after he has appeared before a committee of the Board to discuss his reinstatement application. Dr. Vuyyuru was set to appear before the Board at the May 13, 2009 Board meeting at 1:00 p.m., however, the matter was adjourned until the June 10, 2009 Board meeting. DAG Levine walked the perimeter outside the meeting room asking if Dr. Vuyyuru was present. No one responded or identified himself as Dr. Vuyyuru.

THE BOARD, UPON MOTION MADE AND SECONDED, VOTED TO

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**MOVE INTO CLOSED SESSION FOR ADVICE OF COUNSEL AND
DELIBERATIONS.**

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

Returning to open session, the Board heard the matter of Dr. Vuyyuru.

**THE BOARD, UPON MOTION MADE AND SECONDED, VOTED TO
RATIFY THE BOARD PRESIDENT'S DENIAL OF THE
ADJOURNMENT REQUEST.**

DAG Hafner then demonstrated that adequate notice of the proceedings had been sent and delivered to the address of record of Dr. Vuyyuru. After moving P-1 through P-4 into evidence, she petitioned that the Board to grant her motion to proceed in default.

**THE BOARD, UPON MOTION MADE AND SECONDED, VOTED TO
GRANT THE ATTORNEY GENERAL'S MOTION IN DEFAULT AND
FURTHER FOUND THAT ADEQUATE NOTICE HAD BEEN
AFFORDED DR. VUYYURU CONCERNING THE MATTER BEFORE
THE BOARD.**

The Attorney General then moved that all identities of the patients be represented only by initials.

**THE BOARD, UPON MOTION MADE AND SECONDED, VOTED TO
GRANT THE MOTION TO USE ONLY INITIALS TO PROTECT THE
CONFIDENTIALITY OF THE PATIENTS IDENTITY.**

The Attorney General requested that the Board act on her motion to amend the Provisional Order of Discipline. DAG Hafner explained that, at the time of the initial filing, only Virginia had taken action against Dr. Vuyyuru's license. In the interim period, both Illinois and New York also took action against his license on the same facts underlying the Virginia action. Additionally, DAG Hafner said that Dr. Vuyyuru testified in the Illinois matter. (It is a common practice of law that all actions against him should be heard at the same time. Fairness, she continued, dictates that actions in one state based on the same operative facts all be heard at the same time.) The Attorney General maintained that it was in the best interest of the public to act on her request because three states have now taken action against his license in their respective states. All operative facts in the sister states are the same as those before the Board. DAG Hafner also noted that Dr. Vuyyuru had adequate knowledge of those facts since at least 2006 when New Jersey filed the initial Provisional Order of Discipline.

The Attorney General maintained that the doctor had notice of the State's intention to amend its POD and has defaulted in his response to that, in addition to his failure to appear at the hearing.

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THE BOARD, UPON MOTION MADE AND SECONDED, VOTED TO GRANT THE ATTORNEY GENERAL'S MOTION TO AMEND ITS PROVISIONAL ORDER OF DISCIPLINE TO INCLUDE THE NEW YORK AND ILLINOIS ACTIONS.

Moving to the liability phase, DAG Hafner entered into evidence the supporting documents of the New York and Illinois actions. Additionally, she entered into evidence the Court Orders of the Virginia Court of Appeals and Supreme Court Orders.

As to the penalty in the case, DAG Hafner argued that revocation is the only appropriate remedy. Virginia found that he grossly deviated from the standard of care and the appeals brought by Dr. Vuyyuru sustained that finding. Additionally, the Illinois Board held a two-day hearing after which it also affirmed the findings of Virginia. Ultimately, Illinois revoked his license, followed by New York for the same reasons. The Attorney General maintained that in response to the New Jersey filings, Dr. Vuyyuru had defaulted and it was his attempt to thwart the Board's ability to take action against his license through the various delays sought by him.

THE BOARD, UPON MOTION MADE AND SECONDED, VOTED TO REVOKE DR. VUYYURU'S LICENSE TO PRACTICE MEDICINE AND SURGERY IN THE STATE OF NEW JERSEY.

2. **MANZELLA, John R., MD 25MA02240100**
DAG William Lim, Prosecuting
Scott A. Telson, Esq. for the Respondent
DAG Debra Levine, Counseling

The matter was opened and the attorneys placed their appearances on the record. The Board was asked to consider the Initial Decision of the Administrative Law Judge and determine whether to accept, reject or modify those findings.

Mr. Telson, on behalf of Dr. Manzella, argued that the MW allegations, decided on the Motion for Summary Judgment and just placed on the record, should not be given any credibility. They were denied, and at best, were *de minimus* actions on Manzella's part, especially relating to the medical records. On the sexual misconduct issues, Mr. Telson took exception to the credibility of MW. According to the attorney, he was able, on cross examination, to discredit the witness. He continued that when the Board reviews the transcripts, it should see just how inconsistent MW's testimony was. He urged the Board to overturn the findings of credibility of MW.

In response, DAG Lim argued that the Partial Summary Decision was entered properly. He further argued that when the Board examines the facts, the record would show that Dr. Manzella not only did not maintain appropriate files, he failed to record information in the records that did

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exist. He also prescribed Controlled Dangerous Substance (CDS) without any treatment records. The other issues, such as unlicensed practice and his failure to cooperate, were also fully supported by the record.

Turning his attention to MW's allegations, DAG Lim noted that the Judge, as the trier of fact in the matter, heard the testimony, saw the demeanor and assessed the totality of the witness's comportment, including aspects of her memory loss. The test used to overturn a finding of credibility is a high one and Respondent has not argued any specific portions or aspects of her testimony that were incredible, but simply makes a blanket assertion that all the testimony should be rejected based on credibility grounds.

When taken as individual violations, DAG Lim continued, each Count could sustain a finding of revocation. In this case, there are five Counts to support such a finding. He urged the Board to accept the findings of fact and conclusions of law of ALJ Hurd in their entirety.

In rebuttal, Mr. Telson again stressed that, upon closer examination, the alleged violations were really *de minimus* insofar as they dealt only with a few close friends of the doctor. He also stressed that her testimony was replete with inconsistencies. While he did not question her sincerity, he questioned MW's testimony when read as a whole.

DAG Lim responded by noting, as he did during the hearing, that memory loss generally happens when someone in authority crosses these kinds of boundaries. The victims are in shock and it can cloud their understanding of what is occurring.

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

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

Returning to open session, the Board announced its decision.

**THE BOARD, UPON MOTION MADE AND SECONDED, VOTED TO
ACCEPT THE FINDINGS OF FACT AND CONCLUSIONS OF LAW IN
THEIR ENTIRETY OF THE INITIAL DECISION OF ALJ HURD.**

The Board moved to the mitigation portion of the hearing.

Mr. Telson asked the Board not to accept the recommendation of revocation. At most, he asked the Board to suspend the doctor. He maintained that Dr. Manzella had provided excellent medical care for a long period of time and it would not be in the best interest of patient care to revoke him. His career, for the most part, has been without blemish. The penalties recommended were \$30,000 and attorneys fees more than \$60,000. Mr. Telson argued that these

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fees and penalties were excessive given the case. He asked the Board to lower them significantly. Mr. Telson also informed the Board that recently Dr. Manzella was having difficulty with his heart and that was the reason for the adjournments. His health is very bad and he cannot work. To assess such high amounts against him, would cripple him financially.

DAG Lim argued that revocation was the appropriate sanction in this case. He stated that Dr. Manzella has a history with the Board and while his attorney characterized his career as without blemish, since 2003, Dr. Manzella has had a somewhat itinerant practice. The violations determined by the Board that Dr. Manzella has committed fully support the revocation of his license.

As to penalty and costs, DAG Lim said that Mr. Telson had copies of the documents supporting his applications for costs and he has failed to object to anything specific. The ALJ had already taken some mitigation into account by reducing the originally requested amount by the Attorney General by \$11,000. Subsequent to the ALJ's Decision, the Attorney General is now seeking reimbursements for an additional \$3,000. Mr. Telson claims financial inability by Dr. Manzella to pay, however, he has not proffered any documents in support of this assertion. DAG Lim opined that a blanket assertion, without proofs, should not be a basis for reducing, or even worse, overturning, the recommended penalty and costs.

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

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

The Board returned to open session and announced the following.

**THE BOARD, UPON MOTION MADE AND SECONDED, VOTED TO
REVOKE DR. MANZELLA'S LICENSE TO PRACTICE MEDICINE AND
SURGERY IN THE STATE OF NEW JERSEY. ADDITIONALLY, IT
ASSESSED A PENALTY IN THE AMOUNT OF \$30,000 AND COSTS IN
THE AMOUNT OF \$64,050.26. THE BOARD NOTED FOR THE
RECORD THAT RESPONDENT HAD BEEN NOTIFIED A NUMBER OF
TIMES THAT, IF HE WAS GOING TO CLAIM AN INABILITY TO PAY,
THAT HE NEEDED TO PROVIDE DOCUMENTATION IN SUPPORT
THEREOF. IT ALSO NOTED THAT THE REDUCTION OF COSTS AND
FEES SOUGHT BY THE ATTORNEY GENERAL WAS APPROPRIATE
BECAUSE THERE WAS SOME DUPLICATE WORK DONE ON THE
PART OF THE ATTORNEY GENERAL'S OFFICE. IT ALSO
INCLUDED THE ADDITIONAL COSTS SOUGHT BY THE ATTORNEY
GENERAL BECAUSE SOME OF THE DELAY WAS OCCASIONED BY
THE RESPONDENT.**

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3. **PATEL, Aruna S. M.D. 25MA03684700**
DAG William Lim, Prosecuting
Joseph F. Borden Jr., Esq. For the Respondent

The Attorney General filed a Motion for Summary Decision in the above referenced matter on or about May 11, 2009. The Respondent filed her Answer on or about March 18, 2009. This matter was heard by the Board on June 10, 2008.

THE BOARD, UPON MOTION MADE AND SECONDED, VOTED TO ACCEPT THE SETTLEMENT TERMS WHICH INCLUDED THREE YEARS SUSPENSION, THREE MONTHS ACTIVE, SUCCESSFUL COMPLETION OF A PRIME COURSE AND AGREEMENT TO A \$1,000 PENALTY AND \$2,500 IN COSTS. PRIOR TO REINSTATEMENT, DR PATEL MUST APPEAR BEFORE A COMMITTEE OF THE BOARD TO DEMONSTRATE HER FITNESS TO PRACTICE.

4. **MORGANSTERN, Ira M., M.D. 25MA03085500**
John C. Whipple Esq. For the Respondent
DAG David Puteska Prosecuting

A Notice of Hearing and Notice to File an Answer was filed by the Attorney General on April 22, 2009. Respondent's Answer was received on or about May 18, 2009. This matter was heard by the Board on June 10, 2009.

Dr. Reichman was not present for the hearing.

After the attorneys put their appearances on the record, Ms. Criss reminded the parties that liability had been established and the Board accepted the findings of fact as represented in the complaint. The Board proceeded to the mitigation phase of the hearing.

Mr. Whipple said his client, Dr. Morganstern would present some information to the Board concerning his background, the circumstances, and what he has done to rehabilitate himself since the onset of this unfortunate incident.

He called Dr. Morganstern, who was sworn in. Doctor currently lives in Asbury, NJ, where he used to practice psychiatry. Dr. Morganstern said he renewed his license in an Active status, reduced fee where he would be able to prescribe only on a limited basis to family and friends. He continued that he served in the armed forces as a major because he was a physician. This was during the Vietnam war for a two-year period. Afterward, he went into private practice in New

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Jersey, with sundry other part-time positions, until about five years ago. He had developed a computer program that assists in preparing electronic medical records for his patients, and expanded that into a business which has grown to be the 3rd largest in the country for electronic, psychiatric medical records. Over the last five years, he has dedicated the majority of his time to this business.

Dr. Morganstern said he had been married for forty years and separated amicably about three years ago. He has two daughters who reside in San Francisco. He contributes to his wife's support and also for one of his daughters.

Dr. Morganstern continued that, sometime in 2007, he was arrested for having marijuana at his home. According to the doctor, he lives in North Hunterdon County, which is rural. His home is quite secluded. He had grown five plants and had been smoking marijuana on a recreational basis for a number of years, perhaps as much as thirty. His use varied over the years, smoking socially and at his home. At the time of his arrest, Dr. Morganstern said he was smoking every day because he was at home more due to his business. He assured the Board that he was never intoxicated when he saw patients. During the last two years, he got the marijuana from a friend and eventually, he decided to start growing it at home. That particular summer, a colleague of his was moving and Dr. Morganstern offered him a place to stay. Dr. Morganstern said it was actually his friend who suggested he start growing his own. It was located in his yard. He had five plants that were ready to be harvested. According to Dr. Morganstern, it was his intention to keep it for his own use and share it with friends, although he had no specific plans in that regard. He never sold marijuana and never shared it with anyone under twenty-one years.

Unfortunately, the plants were discovered and the state police arrested him. Dr. Morganstern and his friend did attempt to destroy the plants prior to the State police's arrival. As he recalled, he became alarmed when they noticed a helicopter hovering over his house. He continued that someone observed this and the State police arrived shortly thereafter.

After his arrest, Dr. Morganstern informed the Board that he enrolled in the Professional Assistance Program and continues to observe the tenets of the program. He has been fully compliant with the terms since November of 2007. He is also followed by the County Probation staff. He immediately stopped his use of marijuana when he was arrested. Initially, he had cravings to smoke, however, the more time goes by, the less he experiences the cravings.

Dr. Morganstern expressed that he felt humiliated because of this entire situation. It has cost him both emotionally and financially.

DAG Puteska pre-marked three documents, the original indictment (S-1), the judgment and conviction (S-2) and the plea transcript (S-3). They were accepted into evidence without any objection from Mr. Whipple.

In closing, DAG Puteska acknowledged that throughout this matter, Dr. Morganstern and his attorney have fully cooperated with the Attorney General's office and in many instances,

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provided many of the documents without request. The facts, according to the Deputy, speak for themselves and he asked that the appropriate penalty be imposed. He did ask that costs be imposed.

Dr. Morganstern closed acknowledging that his actions were an embarrassment to the medical profession and he regretted his actions. He apologized for his actions.

Mr. Whipple argued that, while on paper, this case may read as a very serious criminal matter, when looked at it closely, it really is not. Unfortunately, the marijuana statutes are broken up into classes relating to the number of plants and the weight of marijuana. In this case, Dr. Morganstern pled guilty to a second degree crime so that the judge would be able to sentence him as a third degree offense. The volume was large, i.e.. more than five pounds, and therefore it was classified as a second degree crime. He asked the Board to realize that Dr. Morganstern had a long, unblemished career. In light of all the mitigating facts, he received a two-year probation. Dr. Morganstern, according to Mr. Whipple, was growing the marijuana for his own personal use and, perhaps, to be shared with his friends. He is not a drug dealer and there was never any intent to distribute it further.

Finally, Mr. Whipple asked the Board to recognize that Dr. Morganstern has been drug free now for almost two years. He voluntarily participated with the PAP and continued to be fully compliant with the program. He urged the Board to impose the most lenient sanction that it could.

Mr. Whipple asked the Board to take the Doctor's testimony into account and the documents that were submitted on his behalf. Additionally, Mr. Whipple asked the Board to realize how much Dr. Morganstern regretted this entire situation.

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

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

Returning to open session, the Board announced the following.

**THE BOARD, UPON MOTION MADE AND SECONDED, VOTED TO
REPRIMAND DR. MORGANSTERN. THE BOARD RECOMMENDED
CONTINUED PARTICIPATION WITH THE PROFESSIONAL
ASSISTANCE PROGRAM UNTIL DISCHARGED FROM THE
PROGRAM , AND PERMITS THE ATTORNEY GENERAL THIRTY
DAYS TO APPLY FOR COSTS.**

5. ATANASIO, Joseph F. MD 25MA03083500

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DAG William Lim, Prosecuting

DAG Steven N. Flanzman, Counseling

An Order to Show Cause, A Notice of Hearing and Notice to File an Answer and Verified Complaint were filed by the Attorney General on or about June 3, 2009. The Board heard the matter on June 10, 2009.

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

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

Returning to open session, it commenced the hearing.

Ms. Criss informed the parties that the Board would hear the matter of Dr. Atanasio on the issue of his failure to cooperate with the Board. DAG Lim placed his appearance on the record. Dr. Atanasio appeared *pro se*. Ms. Criss further explained that the matter would be held in a bifurcated fashion. The liability phase would proceed first and then, if needed, mitigation.

DAG Lim addressed the Board explaining that the Attorney General was seeking to prove that Dr. Atanasio failed to cooperate with the Board. Not only has he failed to comply with a Consent Order of the Board, but when brought into a hearing to discuss his non-compliance, Dr. Atanasio unilaterally ended the hearing and refused to answer any further questions of the Committee. Moreover, prior to leaving the room, he referred to the members as "cretins."

Dr. Atanasio was sworn in. He stated to the Board that everything that the Deputy told the Board was a lie. He said he had been blessed with the skills and talent that he has been given to treat people. It is more of a way of life rather than a job. Over the past six or seven years, he has been trying to do that but with the administrative oversight, it has been difficult. He challenged the screening done by the PAP because he got five positives. He accused the Board of neglecting their duties by keeping him away from his patients. He said that if the Board wanted urine samples he would give them. He continued by saying the Board only wants to see urine tests. He said the Board doesn't even screen for alcohol. He asked the Board "What is sobriety?", and asked if the Board thought that clean urine samples were the answer. He suggested that the Board call in sponsors to see how he's been living.

Dr. Atanasio recounted that he had two hip replacement surgeries in the last two years. His wife isn't working and neither is he. He didn't ask for this disease and if the Board wanted, he could go over the genetics and environmental factors. He questioned how many of the Board members drink and how many drive afterward. At AA meetings, he continued, they show what happens when you drink and drive. Quoting statistics about smoking and illegal drugs, Dr. Atanasio scoffed that the Board is only concerned about the fact that he hasn't given urine samples for six

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years. He has a disease and he is responsible for it. He is not perfect and he has made mistakes. With his hip replacement surgery, he said he had to take some things. And then he queried, What about his kidney stone? He asked whether the Board members would take anything for that.

Dr. Atanasio testified that he hasn't had a drink of alcohol in about six or seven years. He told the Board that he has been doing it without the Board knowing. He goes to four or five AA meetings a week. He is living the steps and wakes up every day reliving step 1.

He suggested that the Board start doing urine samples in the hospitals. He said he laughed, realizing that he practiced all those years under the influence and then the Board took his license away when he was sober. Once he admitted that he needed help, that is when the Board punished him. He questioned whether it is a good doctor that punishes a diabetic by giving him a piece of chocolate cake? He admitted that he took some extra narcotic medication which was prescribed for him with the hip surgery. When he had the narcotics, it triggered all the urges. He is currently on Suboxone, and anti-depressant medications. He sees his psychiatrist once a month. He stopped seeing a therapist about two months ago because he could not afford it. He also told the Board that his wife goes to Al-Anon, "that Communist society." He tried to joke about their relationship.

According to the doctor, he attempted to rejoin the PAP. The program failed to show up for two urine samples. He doubted that he would be willing to go back again. He also expressed his dissatisfaction with the PAP because they produced the five false positives.

In closing, DAG Lim noted that the colloquy that Dr. Atanasio just had with the Board might have obviated the need to file the failure to cooperate case. Nonetheless, the Attorney General still maintains that a suspension is an appropriate sanction because Respondent has not agreed to come into full compliance with the Board Order by all of the history and his testimony that day, Dr. Atanasio demonstrated, according to DAG Lim, that he refused to engage in a rehabilitative plan.

Dr. Atanasio reaffirmed that he would be willing to give urine samples, just not to the PAP. He suggested that he could give the urine samples to his psychiatrist who would send in quarterly reports to the Board. He wasn't sure what more the Board wanted and since he knows the Board loves urine, he'll give his urine.

THE BOARD, UPON MOTION MADE AND SECONDED, FOUND THAT DOCTOR ATANASIO VIOLATED THE DUTY TO COOPERATE REGULATION WHEN HE APPEARED BEFORE THE PRELIMINARY EVALUATION COMMITTEE OF THE BOARD.

The Board then moved to the mitigation phase as to the penalty that should be imposed. Dr. Atanasio apologized for his conduct and said he should have just told the Board what was

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going on. He just found a new psychiatrist and just keeps treating his disease. He didn't understand why he was here. He asked the Board to take into consideration his family situation, the fact that he is on unemployment and that he has a disease. While he didn't feel any punishment was necessary, he understood that he needed to be less arrogant and less of a cretin himself.

DAG Lim asked Dr. Atanasio when was the last time he was in for treatment. Dr. Atanasio said he was in the hospital right before his hip surgery to get off the pain medications. He has followed with AA and with his psychiatrist. Dr. Atanasio went in-patient and was placed on the Suboxone treatment. He was in pain from the hip surgery and he started the pain management therapy then. As best as he can recall, that was about two years ago, in the fall. The last time that Dr. Atanasio worked as a physician was about three or four weeks ago. He was working at Care Station. Dr. Parman hired him and subsequently fired him. When he was fired, he thought it was because he didn't put something in the right column on a medical record. Care Station is an urgent care facility. He had been working there since last October. Prior to that he worked at another urgent care center for four years.

In the last two years, Dr. Atanasio admitted that hasn't really been keeping up with CMEs as much as he had in the past partly due to financial reasons. He is doing CMEs on line, but it has been sporadic.

In closing, DAG Lim asked the Board to remember that the information learned from Dr. Atanasio was helpful, but it has taken a lot of time to get the information out of him. Nonetheless, the Attorney General still requested the temporary suspension of his license for his failure to cooperate with the Board.

Dr. Atanasio said he understood where the Attorney General was coming from, but he asked the Board to recognize that there is both the spirit of the law and the letter of the law. He asked the Board to remember there is some mercy needed. He may never work again and may have to apply for disability. Again, he offered urine sampling and quarterly reports. He admitted he was at fault and asked the Board to be fair with him.

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

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

Returning to open session, the Board announced the following:

**THE BOARD, UPON MOTION MADE AND SECONDED, VOTED TO
IMPOSE AN ACTIVE SUSPENSION EFFECTIVE IMMEDIATELY AND
UNTIL SUCH TIME AS DR. ATANASIO CAN APPEAR BEFORE A
COMMITTEE OF THE BOARD WITH AN INDEPENDENT, BOARD**

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APPROVED PSYCHIATRIC EVALUATION AND, IF DEEMED NECESSARY, A NEURO-COGNITIVE EVALUATION BECAUSE OF DR. ATANASIO'S INAPPROPRIATE DEMEANOR AND AFFECT AT THE HEARING AND AT THE PRELIMINARY EVALUATION COMMITTEE. ADDITIONALLY, HE MUST PRESENT A REPORT FROM HIS TREATING PSYCHIATRIST OF HIS FITNESS TO PRACTICE WITH THE RESULTS OF A HAIR AND URINE ANALYSIS DONE WEEKLY FROM A BOARD-APPROVED MONITOR TESTING FOR ALCOHOL AND CONTROLLED DANGEROUS SUBSTANCES. HE WILL ALSO NEED TO DEMONSTRATE THAT HE HAS COMPLIED WITH HIS CONTINUING MEDICAL EDUCATION REQUIREMENTS.

OFF AGENDA

- 1. WEISS, David DO 25MB05233600
Steven I. Kern, Esq.
DAG Joan Gelber, Prosecuting**

A proposed settlement of an Administrative Complaint filed against Dr. Weiss, trial of which was still not completed at the Office of Administrative Law, was presented with consent of opposing counsel, for review by the Board.

THE BOARD, UPON MOTION MADE AND SECONDED, VOTED TO RATIFY THE SETTLEMENT, WHICH INCLUDED CERTAIN ACKNOWLEDGMENTS OF CONDUCT BY DR. WEISS, HIS REPRESENTATION OF FUTURE CORRECT CONDUCT, AN ORDER OF REPRIMAND AND REIMBURSEMENT OF COSTS.

The Office of Administrative Law will be notified that, as the case is no longer contested, it is withdrawn from the OAL.

- 2. 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. Losman was seeking a stay and reconsideration of the portion of the Board's Order which imposes a three-month active period of suspension, effective June 12, 2009.

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

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

Returning into open session, the Board announced the following motion.

THE BOARD, UPON MOTION MADE AND SECONDED, VOTED TO DENY THE REQUEST FOR A STAY OF THE ACTIVE PERIOD OF SUSPENSION. DR. LOSMAN DOES NOT PERFORM UNIQUE PROCEDURES THAT CANNOT BE COVERED BY OTHER PHYSICIANS. THE WOUND CARE CENTER HAD BEEN ON NOTICE FOR AT LEAST ONE MONTH, AT WHICH TIME, THE SUSPENSION WAS HELD IN ABEYANCE FOR THIRTY DAYS, AND THE CARE CENTER SHOULD HAVE A BACK UP PLAN IN PLACE TO COVER FOR THE PHYSICIAN. THE BOARD WAS UNMOVED BY THE PRESENT CLAIMS TO SUPPORT A FURTHER STAY OF THE ACTIVE PERIOD OF SUSPENSION.

Respectfully submitted,

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

WVR/dt/br