

**State Board of Medical Examiners  
Open Disciplinary Minutes  
Disciplinary Matters Pending Conclusion  
June 14, 2006**

A meeting of the New Jersey State Board of Medical Examiners was held on Wednesday, June 14, 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, Criscito, Criss, DeGregorio, Haddad, Jordan, Lambert, Lomazow, Mendelowitz, Nussbaum, Paul, Salas-Lopez, Scott, Stanley, Walsh, Weiss and Wheeler.

**EXCUSED**

Board Members Reichman and Strand.

**ABSENT**

**ALSO PRESENT**

Senior Deputy Attorney General Dick, Deputy Attorneys General Ehrenkrantz, Flanzman, Gelber, Hafner, Jespersen, Kenny, and Levine, Executive Director Roeder, Medical Director Gluck and Education Director Blanks.

**RATIFICATION OF BOARD MINUTES**

THE BOARD, UPON MOTION MADE AND SECONDED, VOTED TO APPROVE THE MAY 10, 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)  
CONROY, Robert J., Esq. For Respondent  
HAFNER, Doreen D.A.G. for Complainant

This matter was set down on Mr. Conroy's June 1, 2006 letter to Executive Director William Roeder cross-petitioning the Board to vacate any order imposing interim restraints or conditions on Dr. Qureshi's continued practice of medicine. The Attorney General, by D.A.G. Hafner's June 1, 2006 letter to Mr. Roeder, sought the temporary suspension of Dr. Qureshi's license to practice medicine and surgery in the State of New Jersey pending a plenary hearing.

The Board reviewed an Order to Show Cause, Certification of Counsel, Verified Complaint and Letter Brief, all filed on June 2, 2006.

Appearances were placed on the record as follows: Doreen Hafner, Deputy Attorney General on behalf of the Attorney General of New Jersey and Robert J. Conroy, Esq., from Kern, Augustine, Conroy & Schoppman on behalf of Dr. Qureshi along with associate, Ms. Jamie Pego. Dr. Qureshi was sworn. The Proposed Third Interim Consent Order in the matter of the suspension or revocation of Shams Qureshi, M.D. was read into the record. The parties agreed to the terms of the Third Interim Consent Order, which would be provided at a later date.

Mr. Conroy stated that he believed there was an omission in paragraph #4 under "Professional Observer" where mention was made regarding oral reports from Dr. Gluck. He believed such statement should be part of the record. D.A.G. Hafner responded by noting that the statement was included in paragraph #3. Mr. Conroy noted that he wished to be placed on the record with regard to St. Mary's Hospital having difficulty using a professional observer. Counsel sought reassurance that the Attorney General's office would not oppose their application in terms of timeliness and would not be barred by the ninety day provision at St. Mary's Hospital. Finally, Mr. Conroy sought clarification that Dr. Roque had been approved as a peer review monitor, pending approval by Medical Director Gluck. Chairman Criss responded by indicating that Dr. Qureshi would not be returning to practice without written confirmation from Dr. Gluck, approving all three monitors and noted that protocols were in place.

Mr. Conroy advised that all parties understood that there was a pending criminal matter in this case and, therefore, Dr. Qureshi's testimony was limited to the purpose of establishing his consent to the Order that was being entered at the meeting. Counsel further stated that Respondent's testimony was not believed to be a waiver of his distinct right under the U.S. Constitution and with the absolute understanding that the hearing go forward.

Dr. Qureshi testified that he had the opportunity to hear and understood what D.A.G. Hafner read into the record. He further acknowledged that he had the opportunity to confer and discuss with Mr. Conroy the specific terms of the Third Interim Consent Order and that he was afforded an opportunity to question his Counsel about the requirements of the terms contained therein. Dr. Qureshi's testimony further indicated that Mr. Conroy answered all of his questions and that he freely consented to the entry of the Order. Respondent also testified to his understanding that he must be bound by the Consent Order and any deviation from the Order would result in further professional discipline. He indicated on the record his consent to the entry of the Third Interim Consent Order. Finally, Dr. Qureshi agreed that he would cease and desist all practice of medicine until the Order was signed and until receipt of Dr. Gluck's letter informing him that all monitors were approved and in place.

THE BOARD, UPON MOTION MADE AND SECONDED, VOTED TO APPROVE THE THIRD INTERIM CONSENT ORDER PENDING THE TRANSMISSION OF THE MATTER TO THE OFFICE OF ADMINISTRATIVE LAW FOR A PLENARY HEARING.

1:00 p.m. PONZIO, Matthew R., M.D. (Lic.# MA23353)

(Counseling D.A.G.: DICK, Sandra Y.,)

KEOSKEY, Alex, Esq. For Respondent

JESPERSEN, Kevin D.A.G. for COMPLAINANT

Mr. Keoskey filed for determination a motion on an emergent basis to be decided prior to June 1, 2006 seeking a revised Interim Consent Order. Dr. Paul denied the emergent motion, and a briefing schedule was directed. The Attorney General's response, and Respondent's response thereto, was forwarded for Board consideration.

Appearances were placed on the record as follows: Alex Keoskey from the law firm of DeCotis, Fitzpatrick, Cole & Wisler on behalf of Dr. Matthew Ponzio, and D.A.G. Kevin Jespersen on behalf of the Attorney General of New Jersey.

Mr. Keoskey, in his opening statement to the Board, stated that Dr. Ponzio was a thirty-year veteran of the medical profession and had no malpractice complaints against him and no Board discipline up until the current matter. Counsel believed that D.A.G. Jespersen, along with section-chief Paul Kenny, entered into a very thorough and efficient Consent Order allowing Dr. Ponzio to enter the CPEP program for retraining and ultimately, to return to full practice. Mr. Keoskey, however, outlined two problems with the implementation of the Consent Order; one was Dr. Ponzio's inability to pay the required penalty and costs under the Consent Order; and the second problem was Dr. Ponzio's inability to practice without admitting privileges in the hospital where CPEP had allowed him to practice.

Respondent's counsel reiterated to the Board that Dr. Ponzio had quality of care issues only, that he entered the

CPEP program and strictly adhered to all requirements with the exception of the payment of penalties. Mr. Keoskey added that Dr. Ponzio was involved in phase II of the CPEP first plan and the supplemental plan contemplated allowing him to practice internal medicine and he had received permission from his preceptor, Dr. Zazzali, as well as everyone involved, regarding his ability to practice internal medicine under the rubric of all the CPEP plans. Mr. Keoskey requested the Board's flexibility in this matter.

D.A.G. Jespersen asked the Board to be clear as to what Dr. Ponzio was requesting, in his opening statement. Referencing Mr. Keoskey's latest submission, he argued that Dr. Ponzio was seeking "affirmation from [the] Board that Dr. Ponzio's practice of internal medicine without limitation" and that this request was simply objectionable because the Attorney General believed Dr. Ponzio was incompetent to practice internal medicine. He further noted that Dr. Ponzio had repeatedly failed to meet his obligations and commitments to the Consent Order that was entered into in December of 2005. For example, the Attorney General stated that Respondent had failed to complete the internal medicine education component of CPEP when first presented to him and that he had failed to pay costs and penalties that he had agreed to after providing affirmative representations that the scheduling and the amounts of those payments would be attainable. D.A.G. Jespersen further added that Dr. Ponzio had failed to successfully complete a medical record keeping course. The Attorney General posited that these were serious breaches and gross acts of malpractice that threatened the lives of his patients citing two examples of patient care mismanagement.

The Attorney General continued that it was not only the Board's conclusion that Dr. Ponzio was incompetent to practice medicine, but that CPEP, after its evaluation, concluded that Respondent lacked sufficient understanding of the broader aspects of internal medicine including pneumonia, sepsis, acidosis, and arterial blood gas interpretation. D.A.G. Jespersen argued that Respondent was given a plan originally, enabling him to return to the practice of internal medicine, but Dr. Ponzio had continued to alter the components of the Consent Order, thus circumventing his obligations again. The Attorney General urged the Board to deny Dr. Ponzio's request to practice internal medicine until all the requirements of the Board's current Order are satisfied, including his financial obligations to the Board. In conclusion, he noted that Dr. Ponzio had not submitted any financial records as proof of the hardship he was claiming.

Mr. Keoskey, on rebuttal, stated that only CPEP, and not D.A.G. Jespersen, had the medical expertise to determine whether or not Dr. Ponzio could practice internal medicine. Counsel referenced Exhibit "B" in his certification that CPEP had not stated that Dr. Ponzio could not practice internal medicine, but rather a CPEP representative was working with Medical Education Director Blanks, regarding his limitations. Mr. Keoskey believed that an amendment to the existing Order was all that was needed stating that under the rubric of CPEP, Dr. Ponzio could obtain privileges and practice medicine to the extent of CPEP's parameters. Counsel further added that Dr. Ponzio had already paid \$12,500, half of the penalty, but added that the cost of CPEP was underestimated and Respondent's daughter had incurred an injury, thus disabling his ability to maintain his practice. Mr. Keoskey suggested a payment plan to the Board that was more feasible, taking into consideration Dr. Ponzio's present financial hardship.

In response, the Attorney General reminded the Board that Dr. Ponzio had requested a payment plan that was affordable to him and agreed upon such plan in December of 2005. D.A.G. Jespersen also refuted the notion that CPEP had somehow found Dr. Ponzio competent to practice internal medicine, adding that CPEP had issued on April, 2006 a 17-page plan to retrain him in internal medicine. The CPEP plan encompassed Dr. Ponzio having a supervisor and training for every patient in such areas as diabetes, hypertension, GERD, upper respiratory infection and hyperthyroidism. The Attorney General urged the Board to enforce its Consent Order with Dr. Ponzio.

The Board, upon motion made and seconded, voted to go into executive session for deliberations and advice of counsel. All parties, except counseling staff and the administrative office, left the room.

The Board returned to Open Session with all parties present and announced the following motion.

**THE BOARD, UPON MOTION MADE AND SECONDED, VOTED TO DENY DR. PONZIO'S MOTION AT**

THIS TIME. THE BOARD WOULD RECONSIDER THIS DECISION AT SUCH TIME THAT DR. PONZIO EITHER FULFILLS HIS FINANCIAL OBLIGATION UNDER THE VOLUNTARY AGREED UPON CONSENT ORDER OR DEMONSTRATES SIGNIFICANT FINANCIAL HARDSHIP IN A MANNER ACCEPTABLE TO THE BOARD THROUGH CERTIFIED FINANCIAL STATEMENTS AND DOCUMENTS OF HIS ASSETS, LIABILITIES AND EXPENSES.

#### DISCUSSION ITEMS

1. CHABRIER-DANCE, Michelle  
GORRELL, Joseph Esq. For Respondent  
(Application for License To Practice Perfusion)

The Board received, as part of the Open Agenda, minutes and the recommendation of the State Perfusionist Advisory Committee regarding an application for licensure submitted under a grandfathering provision by Michelle Chabrie-Dance. Also considered was a copy of a letter submitted by Respondent's attorney, Joseph Gorrell, dated June 6, 2006, wherein Mr. Gorrell outlined his objections to the recommendations made by the Perfusionist Advisory Committee.

By way of background, Ms. Chabrier-Dance filed for a license as a Perfusionist pursuant to the statutory provision which was outlined in the minutes of the committee that would require someone who does not hold ABCP Certification of the Medical Board Cardio-vascular perfusion to have demonstrated that for a period of time, not less than five years proceeding the effective date of the act, which was September 2005, and demonstrate evidence satisfactory to the Board that they have an Operating Cardio-Pulmonary Bypass System as their primary function for not less than five years. The experience requirements mandated were outlined in a regulation adopted by the Board requiring Ms. Chabrier to demonstrate that she performed no less than 75 perfusion procedures per calendar year. Upon submission of an application, there was a breakdown of on-pump and off-pump cases. Subsequently, Ms. Chabrier-Dance was unable to submit for the calendar years of 2002, 2003, and 2004 demonstration that she performed an adequate number of on-pump cases to meet the committee's requirements and, therefore, the Committee recommended that her application be denied. D.A.G. Flanzman suggested to the Board that this matter be further discussed in Executive Session.

Board President, Dr. Paul, placed on the record that Mr. Gorrell's law firm merged or bought the law firm that handled her father-in-law's estate in Philadelphia and believed it did not influence her judgment in this matter in any way. There was no objection to her participation.

The Board, upon motion made and seconded, voted to go into Executive Session for advice of counsel. All parties, except counseling staff and members of the Administrative Office, left the room.

The Board returned to Open session and announced the following motion.

THE BOARD, UPON MOTION MADE AND SECONDED, VOTED TO AMEND THE COMMITTEE'S RECOMMENDATION AND GRANT THE LICENSE.

#### OLD BUSINESS

1. 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 at the New Jersey State Board's April 19, 2006 meeting for consideration whether to adopt, reject, or modify the recommended Initial Decision of Administrative Law Judge Edith Klinger in the matter of Dr. Farid Hakimi decided on February 24, 2006. ALJ 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.

The Board, voted to modify the recommendations made by ALJ Klinger as to penalty, and as part of its final decision, the Board determined that the amount of costs, including attorney's fees, to be assessed in this case be tabled. The Respondent would have until May 9, 2006 to submit, in writing, any objections to the cost application submitted by the Attorney General. The Attorney General would then be afforded until May 19, 2006 to respond, in writing, to any objections that may be raised by Respondent. Thereafter, the Board would consider the written submissions of the parties and enter a supplemental order fixing the amount of costs to be assessed. Furthermore, in the event that Respondent did not submit written objections to the costs application on or before May 19, 2006, the Board would adopt the recommendation made by ALJ Klinger in the amount of \$65,934.66 in costs at its June 14, 2006 meeting.

THE BOARD, UPON MOTION MADE AND SECONDED, VOTED TO GRANT THE PROPOSED APPLICATION FOR COSTS THAT ARE SET FORTH IN ITS ENTIRETY, SUBMITTED BY D.A.G. KRIER.

2. BERGER, Joseph D.O. (Lic.#MB17169)  
O'BRIEN, Timothy P., Esq. For Respondent  
WARHAFTIG, Jeri L., D.A.G. for Complainant

This matter was set down for the New Jersey State Board of Medical Examiner's consideration whether to adopt, reject, or modify the recommended Initial Decision-Settlement of Administrative Law Judge Israel D. Dubin in the matter of Dr. Joseph Berger decided on May 9, 2006. ALJ Dubin concluded that the Board's settlement was reasonable and fully disposes of all issues in controversy and meets the requirements of N.J.A.C. 1:1-19.1 and therefore should be approved.

THE BOARD, UPON MOTION MADE AND SECONDED, VOTED TO ADOPT THE ALJ'S INITIAL DECISION IN ITS ENTIRETY.

3. MAGGIANO, Anthony M., M.D. (License # MA 49427)  
(Counseling D.A.G.: LEVINE, Debra W.,)  
CONROY, Robert J., Esq. For Respondent  
KRIER, Siobhan B., D.A.G. for Complainant

Dr. Mendelowitz recused from discussion and vote in this matter.

Attached was D.A.G. Krier's May 31, 2006 letter informing the Board of Dr. Maggiano's passing and her receipt of Mr. Conroy's, for relief from the terms of the May 10, 2006 Consent Order, on behalf of Dr. Maggiano's estate.

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

THE BOARD, UPON MOTION MADE AND SECONDED, VOTED TO REQUEST DOCUMENTATION FROM DR. MAGGIANO'S ESTATE AS TO RESPONDENT'S ASSETS, LIABILITIES, AND OBLIGATIONS. IT FURTHER DIRECTED THE ADMINISTRATIVE OFFICE TO DEPOSIT THE CHECKS RECEIVED THUS FAR IN THE AMOUNT OF \$21,281.82 AND TO FILE A CERTIFICATE OF DEBT IN THIS MATTER.

## **NEW BUSINESS**

1. SISTER-STATE MATTERS - PROPOSED FINALIZATION OF PROVISIONAL ORDER OF DISCIPLINE  
BRAUNSTEIN, Lynn Carol M.D. (Lic.#MA79358)  
BRISTOL, Lauren B., Esq. For Respondent  
PEREZ, Mileidy D.A.G. for Complainant

Attached was D.A.G. Perez's May 26, 2006 memo to the Board concerning Provisional Order of Discipline (POD) dated April 25, 2006 with respect to Dr. Braunstein . Respondent, through her counsel, did not contest the findings of fact and conclusions of law set forth in the (POD) issued by the Board. Accordingly, the Attorney General sought the entry of a Final Order of Discipline ("FOD"). All underlying documents had been submitted for the

Board's review and consideration.

THE BOARD, UPON MOTION MADE AND SECONDED, VOTED TO APPROVE THE PROPOSED FINALIZATION OF PROVISIONAL ORDER OF DISCIPLINE.

## 2. SISTER-STATE MATTERS - PROPOSED FINALIZATION OF SIGNED CONSENT ORDER

MOSURE, James M.D. (Lic.# MA71389)

SCANLON, Frank J., Esq. For Respondent

PALAN, Tobey D.A.G. for Complainant

Attached was D.A.G. Palan's May 26, 2006 memo to the Board requesting approval of the entry of the attached Consent Order signed by Dr. Mosure in resolution of the matter for the above physician. All pertinent materials were enclosed for the Board's review and consideration.

THE BOARD, UPON MOTION MADE AND SECONDED, VOTED TO APPROVE THE PROPOSED FINALIZATION OF SIGNED CONSENT ORDER IN RESOLUTION OF THIS MATTER.

The meeting ended at 6:10 p.m.

Respectfully submitted,

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

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