

**NJ STATE BOARD OF MEDICAL EXAMINERS
OPEN DISCIPLINARY MINUTES**

July 9, 2003

A meeting of the New Jersey State Board of Medical Examiners was held on Wednesday, July 9, 2003 at the Richard J. Hughes Justice Complex, 25 Market Street, 4th Floor, Conference Center, Trenton, New Jersey for OPEN DISCIPLINARY MINUTES, open to the public. The meeting was called to order by Mr. Glenn Farrell, Chairperson for Open Disciplinary Matters.

PRESENT

Board Members Chen, Criss, Farrell, Haddad, Harrer, Huston, Lucas, Moussa, Patel, Paul, Perry, Ricketti, Robins, Rokosz, Trayner, Wallace, and Walsh.

EXCUSED

Board Members Desmond and Weiss.

ALSO PRESENT

Assistant Attorney General Joyce, Deputy Attorney Generals Dick, Ehrenkrantz, Flanzman, Kenny, Levine and Warhaftig, Executive Director Roeder and Medical Director Gluck.

RATIFICATION OF MINUTES

THE BOARD, UPON MOTION MADE AND SECONDED, VOTED TO APPROVE THE JUNE 11, 2003 AS SUBMITTED.

HEARINGS, PLEAS, RETURN DATES, APPEARANCES

**11:00 a.m. YOUSSEF, Safwat A., M.D. (License# MA41047)
MATTIA, Philip F., Esq., for Respondent
LEVINE, Debra W., D.A.G. for Complainant**

Mr. Kevin Walsh was recused in this matter and left the room.

Matter was set down for a mitigation hearing. Enclosed was the Provisional Order of Discipline filed in the matter of Dr. Youssef on October 21, 2002 seeking the suspension of Dr. Youssef's New Jersey license for an indefinite period of time, until he could show that he has an unrestricted license in the State of New York. The POD was filed based on the revocation of Dr. Youssef's New York license on or about June 8, 2002, wherein the New York Board found Dr. Youssef guilty of 13 specifications of misconduct and two counts of fraudulent practice. Also enclosed was Dr. Youssef's November 2, 2003 response to the POD seeking a hearing before the Board and D.A.G. Pham's December 4, 2002 letter to the Board. These documents were reviewed by the Board at its December 11, 2002 meeting (Minutes were enclosed) wherein the Board approved granting Dr. Youssef a mitigation hearing. Also enclosed were D.A.G. Levine's letters of May 8, 2003, May 30, 2003 and June 30, 2003. As noted, D.A.G. Levine attempted to schedule this mitigation hearing before a Committee of the Board on June 25, 2003 and received no confirmation of Dr. Youssef's agreement to a mitigation hearing before that Committee and no formal request for an adjournment. Therefore, this matter was scheduled to be heard before the full Board.

D.A.G. Warhaftig informed the Board that she had obtained a proposed Order of Settlement that was presented to the Board for its consideration. She continued by informing the Board that Dr. Youssef was out of the country and had authorized his attorney to enter into the settlement on his behalf. D.A.G. Warhaftig had the representation from Dr. Youssef's attorney, Mr. Philip Mattia, that he had the requisite authority and D.A.G. Warhaftig had Mr. Mattia's representation that Dr. Youssef had agreed to the terms of the settlement. D.A.G. Warhaftig had a fax with Mr. Mattia's signature that was signed on July 9, 2003

The proposed settlement essentially recites the history of the Doctor's discipline in New York, which resulted in a revocation. It further recites the fact that the New York matter is pending on appeal while the Doctor's license remains revoked. Dr. Youssef continues to deny the underlying allegations of unprofessional negligence. The order provides for the voluntary surrender of the Doctor's license to be deemed a revocation, without prejudice to his reapplication in the event that his license is reinstated in New York. Dr. Youssef, in the interim, is required to return his license, his CDS registration and comply with the usual Board directives. Finally, the Order requires that Dr. Youssef must appear before a Committee of the Board to demonstrate his fitness to practice, as well as his obtaining an unrestricted license in New York. This settlement was acceptable to the Attorney General.

THE BOARD, UPON MOTION MADE AND SECONDED, VOTED TO ACCEPT THE TERMS OF THE PROPOSED ORDER OF SETTLEMENT.

D.A.G. Warhaftig requested that the record reflect that the Board office was provided with a photocopy for filing and that the Attorney General would supplement the faxed copy with the original, executed order when received from the Doctor.

**1:00 p.m. JOACHIM, Leonard, M.D. (License#MA 47527)
(FLANZMAN, Steven, Counseling D.A.G.)
KERN, Steven I., Esq. for Respondent
HAFNER, Doreen, A., D. A.G. For Complainant**

Dr. Ricketti was not present for discussion and vote this matter.

The Attorney General was seeking an Order temporarily suspending the license of Dr. Leonard Joachim, M.D. The Attorney General alleged that Dr. Joachim's continued practice presented a clear and imminent danger to public health, safety and welfare. The Complaint included allegations that Dr. Joachim engaged in prohibited sexual contact with patient D.S. and sexually harassed D.S., and was based in part on Dr. Joachim's arrest in Passaic on June 4, 2003 and his having then been charged with one count of criminal sexual contact involving D.S.

D.A.G. Hafner sent under separate cover to the members of the Board a Letter Brief with attachments in support of the Attorney General's emergent application for an immediate temporary suspension of the license of Respondent, Dr. Leonard Joachim, to practice medicine and surgery in the State of New Jersey. The Attorney General's application was premised upon the Verified Complaint, the Exhibits thereto, an Order to Show Cause, and the Certification of Counsel which accompanied D.A.G. Hafner's Letter Brief to the Board members.

THE BOARD, UPON MOTION MADE AND SECONDED, VOTED TO APPROVE THE FOLLOWING INTERIM CONSENT ORDER IN THE MATTER OF DR. LEONARD JOACHIM:

THIS MATTER HAVING COMING BEFORE THE BOARD BY WAY OF VERIFIED COMPLAINT IN ORDER TO SHOW CAUSE DATED JUNE 30, 2003, AND DR. JOACHIM HAVING FILED AN ANSWER AND MOTION TO SUPPRESS A MEMORANDUM IN OPPOSITION TO THE ORDER TO SHOW CAUSE ALONG WITH ACCOMPANYING CERTIFICATIONS AND FOR GOOD CAUSE SHOWN IT WAS STIPULATED BY THE PARTIES THAT PENDING A FINAL RESOLUTION BY THE BOARD IN THE ISSUES SET FORTH IN THE VERIFIED COMPLAINT, OR UPON PETITION OF EITHER PARTY FOR AN AMENDMENT TO THIS ORDER, THAT DR. JOACHIM AGREES TO TREAT FEMALE PATIENTS IN AN OFFICE SETTING ONLY IN THE PRESENCE OF A FEMALE CHAPERONE WHICH SHALL BE APPROVED BY THE MEDICAL DIRECTOR OF THE BOARD. IN A HOSPITAL OR INSTITUTIONAL

SETTING, DR. JOACHIM SHALL PERFORM PELVIC, RECTAL OR BREAST EXAMINATIONS ONLY IN THE PRESENCE OF A HEALTH CARE PROVIDER EMPLOYED BY THE HOSPITAL OR INSTITUTION OR A CHAPERONE APPROVED BY THE MEDICAL DIRECTOR OF THE BOARD. DR. JOACHIM AGREES THAT WHERE A CHAPERONE IS REQUIRED, SHE SHALL SIGN THE NOTE OF THE PATIENT'S EXAMINATION IN THE PATIENT'S MEDICAL RECORD AND SHALL AGREE TO REPORT ANY MISCONDUCT BY DR. JOACHIM IMMEDIATELY TO THE MEDICAL DIRECTOR OF THE BOARD INCLUDING ANY INSTANCE WHERE THE CHAPERONE LEARNS THAT DR. JOACHIM HAS ENGAGED IN ANY TREATMENT OF A FEMALE PATIENT WHEN THE CHAPERONE IS NOT PRESENT. IT IS UNDERSTOOD THAT BY ENTERING INTO THIS AGREEMENT, THE BOARD HAS NOT ORDERED RESTRICTIONS OR LIMITATIONS UPON DR. JOACHIM'S LICENSE AND THAT THIS AGREEMENT DOES NOT CONSTITUTE A DISCIPLINARY ACTION. THE EFFECTIVE DATE OF THE ORDER WILL BE WITHIN TEN DAYS OF JULY 9, 2003.

D.A.G. ITEM OFF AGENDA

1. NIGAM, Balkrishna, M.D. (License#MA 39594) MANTEL, Donna Lee, Esq., for Respondent BROWN, Joyce, D.A.G. for Complainant

Enclosed were D.A.G. Brown's July 7, 2003 memo to the Board along with Ms. Mantel's letter of June 30, 2003 to D.A.G. Brown with a proposed executed Consent Order signed by Dr. Nigam. Also included were documents concerning action taken by the New York State Board for Professional Medical Conduct.

In lieu of filing a Provisional Order of Discipline (POD), D.A.G. Brown prepared the enclosed Consent Order which would require Dr. Nigam to submit to a focused evaluation and abide by the recommendation of the evaluators. Dr. Nigam signed the Order with knowledge that it is not an offer of settlement from the Board. D.A.G. Brown sought advice from the Board as to whether the Consent Order would be acceptable as a resolution in this matter.

THE BOARD, UPON MOTION MADE AND SECONDED, VOTED TO ACCEPT THE PROPOSED CONSENT ORDER AS A RESOLUTION IN THIS MATTER.

2. SHAFER, Nathaniel (License#MA 43279) (FLANZMAN, Steven: Counseling D.A.G.) ANOLIK, Irving Esq. for Respondent ALBERTSON, Michelle B., D. A.G. for Complainant

Dr. Robins was recused from discussion and vote in this matter.

D.A.G. Flanzman handed out to the Board a letter dated July 8, 2003 from Joseph Gorrell in the matter of Nathaniel Shafer, M.D., requesting reconsideration of the Board's Final Order of Discipline dated November 25, 2002.

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 members of the public that were present.

The Board returned to Open Session.

THE BOARD, UPON MOTION MADE AND SECONDED, VOTED TO TABLE DECISION IN THIS MATTER AND REQUESTED THAT MR. GORRELL BRIEF THE ISSUE AS TO THE BASIS FOR THE BOARD'S RECONSIDERATION AND THE NEED FOR A HEARING, THE PROOFS OF WHICH MAY INCLUDE PROVIDING ANY CERTIFICATIONS FROM DR. SHAFER REGARDING HIS RESPONSE TO THE 1997 APPLICATION.

The Meeting was adjourned at 3:30 p.m.

Respectfully Submitted,

Glenn Farrell, Esq.,
Vice-President
Chairperson for Open
Disciplinary Matters

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