

NJ STATE BOARD OF MEDICAL EXAMINERS
OPEN DISCIPLINARY MINUTES - AUGUST 11, 2004

A meeting of the New Jersey State Board of Medical Examiners was held on Wednesday, August 11, 2004 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 Mr. Glenn Farrell, Chairperson for Open Disciplinary Matters.

PRESENT

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

EXCUSED

Board Members Chen, Desmond, Harrer, Ricketti, Wallace and Weiss.

ALSO PRESENT

Deputy Attorney Generals Baudry, Dick, Ehrenkrantz, Flanzman, Gelber, Krier, Matthews, Kenny, Warhaftig and Executive Director Roeder.

RATIFICATION OF BOARD MINUTES

THE BOARD, UPON MOTION MADE AND SECONDED, VOTED TO APPROVE THE JULY 14, 2004 OPEN DISCIPLINARY BOARD MINUTES AS SUBMITTED.

HEARINGS, PLEAS, RETURN DATES, APPEARANCES

10:00 a.m. MIRDA, George M., M.D. (License # MA 45026)
(COUNSELING D.A.G.: FLANZMAN, STEVEN N.)
MATTHEWS, Megan D.A.G. for Complainant

Respondent was pro se.

This matter was set down for Board consideration on the enclosed Notice of Motion for Partial Summary Decision filed on July 1, 2004 in the matter of George Mirda, M.D. along with a copy of D.A.G. Matthew's letter brief and appendix.

Chairman Farrell opened the meeting and asked D.A.G. Matthews to place her appearance on the record. Dr. Mirda requested an adjournment to obtain advice of counsel. Chairman Farrell questioned Dr. Mirda as to when he learned of this hearing and he responded at the end of July, 2004. Chairman Farrell asked the State as to the Attorney General's response to the adjournment request. D.A.G. Matthews strenuously voiced her opposition to any adjournment and stated her reasons as follows.

Dr. Mirda appeared before a January 7, 2004 PEC, at which time Respondent was verbally advised of the specific allegations that had been lodged against him and the seriousness of those allegations. Dr. Mirda was repeatedly advised on January 7, 2004 that he could seek counsel and he chose not to. Also, on January 21, 2004 Dr. Mirda appeared before a Committee of the Board for a hearing regarding the temporary suspension of his license. At that time he again was advised that he was being prosecuted and that he could seek advice of counsel and Dr. Mirda chose not to. An Order for the Temporary Suspension of his license was entered on that date. In early or mid-July, Dr. Mirda was served with papers regarding the Motion for Summary Decision that was scheduled to be heard at the August 11, 2004 Board meeting. D.A.G. Matthew's motion and brief requested the Board to revoke Dr. Mirda's license and to impose costs and penalties. D.A.G. Matthews further noted to the Board that

seven months had passed since Dr. Mirda was first advised of the serious nature of the allegations that have been lodged against him and that he has had multiple opportunities to seek advice of counsel, and further adding, that in those seven months, Dr. Mirda has not registered with the Board. He has not obtained malpractice insurance, nor has he obtained CDS or DEA registration. As a result, the Attorney General must oppose any adjournment of this matter given the amount of time that Dr. Mirda has had to obtain counsel.

D.A.G. Matthews indicated to the Board, should the Board decide to grant an adjournment in this matter, she requested that the Board make it very clear to Dr. Mirda that his license remains temporarily suspended until he complies with all of the requirements outlined in the Order of Temporary Suspension filed January 7, 2004.

Chairman Farrell asked Dr. Mirda if he wished to respond and Dr. Mirda replied that he was unaware that the proceedings would continue after attending the January 21, 2004 meeting before the PEC and that he was under the impression that was the sum total of the proceedings at that particular time. Dr. Mirda indicated that his license to practice had been temporarily suspended and he was given a specific number of issues which he had to resolve before seeking reinstatement of his license before the Board. He further noted that he disagreed with D.A.G. Matthew's contention that he did not renew his license at the Medical Board and that he did not apply for CDS and DEA registration. Chairman Farrell interrupted and pointed out that the merits of the case were not being discussed at this juncture and only the adjournment matter was being discussed. The Chair asked Dr. Mirda if he had anything further to add on his response to the opposition of his request for an adjournment. Dr. Mirda reiterated that he wished to seek advice of counsel and he wished to re-appear and answer the particulars of the situation.

Chairman Farrell asked Dr. Mirda if he acknowledged that he was advised to seek counsel in January, 2004 and Dr. Mirda responded that he believed that the proceedings had ended as of the January 20, 2004 meeting before the Committee of the Board. Dr. Mirda was sworn in and Chairman Farrell asked Dr. Mirda if it was clear to him that everything that he'd said up until this point had been truthful and accurate and Dr. Mirda responded in the affirmative.

Chairman Farrell asked Dr. Mirda whether or not he had been informed in January, 2004 that he was to seek advice of counsel? Dr. Mirda responded that he did not recall. His only recollection was that at the initiation of that particular meeting it was suggested to him that if he wished to proceed at that time without counsel he could. Dr. Mirda indicated that his impression was after the PEC's decision was rendered, that it was a binding decision and he would abide by that decision and correct any deficiencies that had been addressed at the meeting and thus proceed with his practice. Chairman Farrell questioned Dr. Mirda if he felt he had complied with all the terms of that Order and Dr. Mirda responded that he had not fully complied because he had not resolved all of the suggested options that were addressed at that particular PEC meeting. Chairman Farrell continued to question Dr. Mirda if he had engaged in the practice of medicine since the Order of Temporary Suspension entered on January 23, 2004 and Dr. Mirda replied that he had abided by all the restrictions of the Board.

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

The Board returned to open session and announced the following motion read by D.A.G. Flanzman.

THE BOARD, UPON MOTION MADE AND SECONDED, MOVED TO GRANT AN ADJOURNMENT ON THE NOTICE OF MOTION FOR PARTIAL SUMMARY DECISION TO THE OCTOBER 13, 2004 MEETING BEFORE THE BOARD AND THAT THE ORDER OF TEMPORARY SUSPENSION FILED ON JANUARY 23, 2004 SHALL CONTINUE IN EFFECT. RESPONDENT MAY NOT MOVE TO VACATE THE ORDER OF TEMPORARY SUSPENSION PRIOR TO THAT DATE ON WHICH A HEARING ON THE PENDING APPLICATION FOR SUMMARY DECISION IS HELD. RESPONDENT SHALL RETAIN COUNSEL NOT LATER THAN 30 DAYS OF THE DATE OF THIS ORDER, THAT IS, NOT LATER THAN SEPTEMBER 10, 2004. UPON RETENTION, COUNSEL SHALL BE REQUIRED TO IMMEDIATELY ADVISE THE BOARD AND THE PROSECUTING DEPUTY ATTORNEY GENERAL OF HIS OR HER REPRESENTATION OF DR. MIRDA.

IN THE EVENT THE RETAINED COUNSEL CHOOSES TO SUBMIT ANY PAPERS IN OPPOSITION TO THE PENDING MOTION FOR SUMMARY DECISION, ANY SUCH DOCUMENTS MUST BE SERVED UPON THE BOARD AND THE PROSECUTING DEPUTY ATTORNEY GENERAL NO LATER THAN SEPTEMBER 23, 2004. THE ATTORNEY GENERAL SHALL RESPOND TO ANY SUCH FILINGS NOT LATER THAN OCTOBER 5, 2004.

FINALLY, REGARDLESS WHETHER RESPONDENT, IN FACT, RETAINS COUNSEL IN ACCORDANCE WITH THE PROVISIONS OF THIS ORDER OR NOT, THERE SHALL BE NO FURTHER ADJOURNMENTS GRANTED ON THE RETURN DATE OF THIS HEARING.

Chairman Farrell asked Dr. Mirda if he understood the motion that had been read by D.A.G. Flanzman and reiterated the dates with Dr. Mirda. D.A.G. Matthews requested clarification that in the event that Dr. Mirda did not obtain counsel within the parameters of the motion, whether Respondent could also submit documentation along the same time-lines. Chairman Farrell made a motion that Dr. Mirda be permitted to file papers along the same time-line that his attorney would be able to file papers.

THE BOARD, UPON MOTION MADE AND SECONDED, VOTED TO PERMIT DR. MIRDA FILE PAPERS ALONG THE SAME TIME-LINE THAT HIS ATTORNEY WOULD BE ABLE TO FILE PAPERS.

12:00 p.m. GOLDSTEIN, Jerrold B., (License # MB 22185)
(COUNSELING D.A.G.: DICK, Sandra Y.,)
GORRELL, Joseph M., Esq. for Respondent
BAUDRY, Adriana E., D.A.G. for Complainant

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

D.A.G. Baudry's July 28, 2004 letter brief to the Board in support of the Attorney General's emergent application for an immediate temporary suspension of the license of Jerrold B. Goldstein, D.O. to practice medicine and surgery in the state of New Jersey was enclosed for Board consideration. Additionally, Dr. Goldstein's answer was handed out.

The Attorney General's application was premised upon the Verified Complaint, the exhibits thereto, Order to Show Cause and Certification of Counsel which were enclosed for the Board's review along with other pertinent information regarding this matter.

Chairman Farrell opened the meeting and asked for the appearances of counsel to be put on the record. Mr. Farrell asked that the record reflect that Dr. Robins was recused and was not at the Board table and requested the State to present its case with their opening statements and take care of the preliminary matter of exhibits being marked and identified. D.A.G. Baudry stipulated to move into evidence the following exhibits for the State:

P-1 - which is what has been attached to the Verified Complaint as Exhibit A and it is an Order from March 28, 1980 ? Final Order of the Board revoking Dr. Goldstein's license following the hearing in which it was said among other things that Dr. Goldstein suffered from a personality disorder.

P-2 - which is Exhibit B of the Verified Complaint. Order of the Board dated January 7, 1983 reinstating Dr. Goldstein's license with limitations, allowing him to practice only in the capacity of an employee under supervision and limiting his prescribing of CDS.

P-3 - which is exhibit C to the Verified Complaint. Order of the Board dated October 15, 1984 listing some of the 1983 restrictions that required Dr. Goldstein to continue random urine monitoring; participate in alcohol anonymous and submit to a psychiatric evaluation.

P-4 - which is exhibit D to the Verified Complaint. An Amended Order dated February 20, 1986 requiring Dr. Goldstein to continue with his alcoholic anonymous participation.

P-5 - which is exhibit E to the Verified Complaint. A Consent Order dated October 16, 1995 in which Dr. Goldstein was reprimanded for failing to truthfully respond to questions in his biennial renewal application by omitting information concerning his 1979 arrest and conviction in Florida. He was required by that Order to include that arrest and conviction in all subsequent applications.

P-6 - which is exhibit F to the Verified Complaint. Another Consent Order dated March 8, 2004 again reprimanding Dr. Goldstein for failing to truthfully respond in his next biennial renewal application regarding the arrest and conviction. This time he was ordered to undergo psychological and psychiatric evaluation.

P-7 - which is exhibit G to the Verified Complaint. A certification of Dr. Louis Baxter from the PHP dated July 22, 2004 with attached letter from Dr. Baxter.

P-8 - which is exhibit H to the Verified Complaint. A letter dated July 15, 2004 from Dr. Goldstein's counsel, Mr. Gorrell, advising that the Dr. had entered into the PHP and was under the care of a psychiatrist and two counselors.

P-9 - which is a certified true copy of the entire police record, police report from Warren Township dated July 6, 2004 relating Dr. Goldstein's suicide attempt.

Chairman Farrell noted that his understanding was that this evidence was stipulated to by the parties and that Mr. Gorrell had no objection to the exhibits. The exhibits that were marked on behalf of Dr. Goldstein were as follows:

R-1 - which is a letter from David I. Canavan, M. D., Medical Director of the PHP to Mr. Gorrell, dated August 9, 2004 indicating Dr. Goldstein's participation in the PHP and attached to the letter were four reports of urine specimens done on July 15, 20, 21, and 27, all of which were negative.

R-2 - certification dated August 5, 2004 of Martin A. Silverman M. D. who is Dr. Goldstein's treating psychiatrist.

R-3 - certification of Peter Gibb, licensed medical social worker dated August 6, 2004 who is also a treating professional for Dr. Goldstein.

D.A.G. Baudry began her opening statement by addressing the Members of the Board arguing that this case was about a doctor licensed by the Board with a multitude of public orders entered against him and who was currently involved in an on-going disciplinary matter. The evidence would show that the Attorney General was notified that Dr. Goldstein suffered a relapse into substance abuse and voluntarily entered into a detoxification center, "White Deer". The evidence further will show that he then contacted the PHP, after almost a two year absence, to resume monitoring. Further the evidence would show that before monitoring actually began he attempted suicide. The proofs would show that the Board lacked any credible information that could assure the Board that Dr. Goldstein could safely practice medicine and surgery in the State of New Jersey.

Mr. Gorrell stated that conspicuously absent from D.A.G. Baudry's opening statement was a citation to the rule, to the statute which governs the proceedings in this hearing, which is N.J.S.A. 45: 1:22. This is the statutory authority for the Board to enter an Order of Temporary Suspension and is the only authority for the Board to rely on. Mr. Gorrell continued that what that Statute says is that an application for temporary suspension shall not be granted unless the Attorney General palpably demonstrates the clear and imminent danger to the public health and safety and welfare of the public. Mr. Gorrell noted that even from the face of what has been offered to the Board, there's been no proof of that in this case. There has been no proof of any harm to any patient, with the exception of a very short period of time, there is no proof that Dr. Goldstein has been impaired. Mr. Gorrell would demonstrate through Dr. Goldstein's testimony and through the documents which were admitted into evidence that, in fact, since his return from Morristown Memorial Hospital on July 16, 2004, Dr. Goldstein had practiced without incident, that the urine screens were negative there is in fact, no evidence to support a finding that Dr. Goldstein presents any danger to the public.

Mr. Gorrell continued that whatever happened in the past with regard to Dr. Goldstein is immaterial and the issue is "Is Dr. Goldstein a danger at this particular point in time" and is there a palpable showing of that and clearly there is not. Mr. Gorrell referenced that the Board has an alternative and this provision was added 2 ? years ago to give the Board more flexibility in these types of situations. The statute says if upon review of the Attorney General's application, the Board determined although no palpable demonstration of a clear and imminent danger has been made, the licensee may continue on restricted practice pending a plenary hearing to determine if he poses a risk. Not that there's a palpable demonstration, but there's some possibility that may pose a risk, then monitoring may be imposed, psychological testing can be imposed, and he indicated that Dr. Goldstein would consent to those provisions in an Order. Mr. Gorrell also indicated to the Board that, although as a matter of Law Dr. Goldstein was not obligated to do so, he would consent to a provision saying that should his urine screens be positive, he would consent to an immediate suspension of his license without the necessity of reappearing before the Board. Mr. Gorrell further added that Dr. Goldstein had his license revoked 24 years ago as a result of drug and alcohol impairment and it is also a fact that he has been sober for all those years. His recent relapse was extremely short and Dr. Goldstein will testify that, in fact, he used some vicodin for a couple of weeks before going to rehab. Mr. Gorrell argued that Dr. Goldstein was not a doctor who had continually relapsed over the years with respect to drugs and alcohol and referenced Dr. Goldstein's treating psychiatrist, who was on vacation, indicated in his certification that the so-called "suicide attempt" was not a real suicide attempt, that in fact, it was a "gesture". For the reasons stated, Mr. Gorrell asked the Board to reject the application of the Attorney General.

D.A.G. Baudry responded that she intended to present this case on the papers by way of the evidence that had been offered to the Board, Exhibit P-1 through P-9 and the Attorney General reserved closing remarks until after Mr. Gorrell presented his case.

Chairman Farrell noted that the exhibits of both counsels were admitted into evidence by stipulation and directed Mr. Gorrell to proceed with his case.

Mr. Gorrell called Dr. Goldstein to testify and the witness was sworn in. Mr. Gorrell began his questioning of Dr. Goldstein as to the reason for the revocation of his license in 1980. Respondent answered that it was for drug and alcohol abuse and that he entered multiple treatment facilities throughout a period of 1 to 2 years and was able to abstain from substances. Dr. Goldstein also testified that he was successful in obtaining sobriety in 1980 and that he did not use alcohol from 1980 to 2004.

Dr. Goldstein testified that in 2003, he was prescribed medications of vicoprophen and vicodin for pain as a result of extensive dental work involving a series of multiple root canals, multiple extractions and the preparation of an upper and lower mouth with temporary and eventually, permanent fillings. Respondent testified that Dr. Gordon of North Miami Beach, Florida prescribed the vicodin who did much of the dental work. Dr. Gordon prescribed the vicodin with instructions to basically take 2 vicoprofen or 2 vicodin prior to the office visit. Dr. Goldstein was then instructed to take the pain medication for a period of 2 to 5 days for post-treatment pain management, if needed. During the course of the dental work, two other dentists were involved in the treatment. Dr. Gelseiler in West Orange, New Jersey, who did the Respondent's four implants and prescribed similar narcotics, and Dr. Layton from Millburn, New Jersey, an endodontist who did multiple root canal procedures on Dr. Goldstein that involved complications.

Dr. Goldstein testified that both doctors prescribed vicodin and viocoprofen for the pain and Respondent continued taking these medications through May of 2004. Dr. Goldstein continued that he found himself taking these pain medications after the pain was gone and after some difficulties at home and arguing with his wife, for a period of approximately one month. Respondent asked his office manager and his wife to make arrangements for his detoxification at White Deer Run as a result. During this time, Dr. Goldstein testified that he stopped seeing all of his patients as a result of his impairment and they were referred to his colleagues in the office. Dr. Goldstein was in White Deer Run for a five day detoxification and upon discharge he began seeing Mr. Lewis, a certified addiction counselor in Somerville, New Jersey and returned to Alcoholics Anonymous. Dr. Baxter of the Physicians Health Program in Lawrenceville also was contacted and he was made aware of Dr. Goldstein's relapse. Dr. Goldstein explained that he began the necessary number of meetings, per their prescription, which

involved Alcoholics Anonymous meetings at least three to four times a week and to meet with a social worker and a marriage counselor. He also continued to see an addiction counselor by the name of Mr. Gibb, who was more convenient to Respondent's home.

Dr. Goldstein also testified that he's been seeing a psychiatrist by the name of Dr. Martin Silverman, and that he previously had been seeing Dr. Harold Schwartz of Maplewood, New Jersey but stopped treatment with him as a result of the doctor leaving for Europe and Dr. Silverman had been left in charge of his patients. While in Morristown Hospital, Dr. Goldstein began seeing Dr. Silverman on a regular basis.

When asked about the events that took place on July 6, 2003 by Mr. Gorrell, Dr. Goldstein described the incident as a "suicidal gesture". Respondent recounted that he drank half a glass of wine, took one or two sleeping pills, went into the garage and turned the car on and testified that he also took one vicodin and believed he drank half a glass of vodka. While in the garage with the car on, he called his office manager and asked for help. The reason for the events that lead up to the suicide attempt were primarily because of all the stress Respondent had been putting his family through due to his relapse, his strained relationship with his wife and he was despondent over the fact that his wife had gone to her mom's the night before. He admitted that it was a foolish way to ask for help and support.

Dr. Goldstein also testified that he discussed this issue with his psychiatrist and his understanding of the suicide attempt was that it was an attempt to get support and an attempt to cry out for help which he really needed. Respondent was admitted to Morristown Memorial Hospital and was there approximately from Tuesday to the following Monday which he thought was July 16th. After leaving Morristown Memorial Hospital, Dr. Goldstein testified that his urines have been monitored by the PHP on a twice a week basis and that the urines had been negative since the monitoring began. Dr. Goldstein also testified that he has not used drugs or alcohol since July 9, 2004. Respondent has been attending AA weekly meetings on an average of four times a week and has been seeing Dr. Silverman a minimum of once week, along with seeing Peter Gibb once a week on Friday night. Dr. Goldstein and his wife see Annette Britton, a social worker, once a week, for family counseling and issues that Respondent was dealing with in his recovery.

Dr. Goldstein testified that since July 16, 2004 he's been actively seeing patients on Monday, Wednesday and Thursday. Mr. Gorrell questioned Dr. Goldstein if the people in his office noted that there was a change in his demeanor and he believed that they did and that his office manager had brought this behavior to his attention. Dr. Goldstein testified that since his discharge from Morristown Memorial Hospital on July 16, 2004 no one from his office staff had raised any issue with respect to possible impairment and there had been no patient complaints regarding the care that he was providing since July 16, 2004.

D.A.G. Baudry began her cross-examination questioning Dr. Goldstein about his history of sobriety. He explained that he has been sober since 1980. When questioned about a problem with substance abuse in Missouri after his revocation in New Jersey, Dr. Goldstein could not recall any prior statements made by him in that regard. He explained that when he went to Missouri he was still in denial about his addiction. While in Missouri, he recalled falling down the stairs in front of his family and that was the turning point in his life that sparked him on to the road to recovery. He was not able to provide any particular dates of these events.

Concerning the dental procedures in 2003, Dr. Goldstein confirmed that during those procedures, he began to use the prescribed Vicoprofen for pain. He further admitted that at times, he inappropriately used the medication.

According to Dr. Goldstein, he went to the PHP on or about June 22, 2004 and reaffirmed his commitment to sobriety at that time. He recalled meeting with Dr. Baxter. He also testified that when Dr. Baxter contacted him to initiate the urine monitoring, Dr. Baxter was unable to get in contact with him because that was the day of the attempted suicide. He was in the hospital. Dr. Goldstein explained that on the day of the suicide attempt, he went into the garage and started both cars. He was not sure of the quantity of Vicodin he had taken, but it was possible that he took two, along with some vodka and wine. He acknowledged that Ativan was also in the car and that this was his wife's prescription. Although he does not remember it, he was transported to Morristown Memorial Hospital by the Warren Township police and woke up in the Emergency Room. He acknowledged that this event

occurred shortly after he was released from Fair Oaks in Summit, New Jersey.

Concerning his admission to Fair Oaks, Dr. Goldstein explained that he had a very poor relationship with his children, and in particular with his son, for a number of years. He further explained that he had not seen his son for over five years because his son did not get along with his wife. He continued by stating that his son called the Warren Police Department and told them that they should go to his father's house because he was a danger. The Warren Police Department went to Respondent's home and they brought him to Somerset, which in turn transferred him to Fair Oaks and where he was subsequently discharged. Dr. Goldstein could not recall whether he had advised Dr. Baxter of his stay in Fair Oaks.

Dr. Goldstein informed the Board that he first started treatment with Dr. Silverman during the week of July 13, 2004. While in Morristown hospital, he spoke with his psychiatrist on numerous occasions. He continues to meet with Dr. Silverman once a week, and sometimes twice a week. In talking to Dr. Silverman concerning the incident in the garage, Dr. Goldstein understood that Dr. Silverman believed that it was not a suicide attempt, but rather a cry for help. Dr. Goldstein clarified that he had not locked himself in the car and the windows were not down with the garage door closed. He also confirmed that he meets with Mr. Gibb three times a week and was seen the first time on July 19th about a week after release from Morristown Memorial Hospital.

Dr. Goldstein, in response to a Board member question, stated that he stopped seeing patients as soon as he relapsed. He transferred his patients to a Board Certified Doctor and physician assistant working for him. Once the patients were transferred, he admitted himself into White Deer Run. Dr. Goldstein explained that although he had a long history with the PHP, he believed it was in his best interest to take responsibility for his recovery and thereafter contact the PHP.

Dr. Goldstein testified that since being released from White Deer Run and reentry into the PHP program, Dr. Karras and Dr. Reading from the PHP come out to Dr. Goldstein's office on a regular basis for the urine screenings. Dr. Goldstein described how the urine is collected in front of both physicians and the bottle is closed and it is sealed with his signature in two places. Dr. Goldstein acknowledged that he had been sober and participated in the urine screening on a regular basis. He could not recall when the urine monitoring stopped on a regular basis, but believed that after 20 years of sobriety, the PHP only collects urine once a year.

Dr. Goldstein testified that he basically has a family practice, specializing in Internal Medicine. He further explained that when he went to Florida for his dental procedures, he informed the dentists about his history of addiction. He was not familiar with the drug Ultracet, however, he was familiar with Ultram. He believed that Ultracet may have been similar to a nonsteroidal, but was not sure. He also believed that it may have been a pain medication that was not addictive.

Dr. Goldstein confirmed that there was another car in the garage when he was sitting in his car and that it also was running. He again informed the Board that he had not seen his son in over five years and that they had had an argument. Subsequently, his son telephoned the police. The police believed that he needed to be assessed and took him to Summit. There, according to Dr. Goldstein, they discovered phenobarb in his system and then sent him to Fair Oaks. As Dr. Goldstein understands it, the phenobarb was in his system as a result of the detox at White Deer Run.

Dr. Goldstein believed that his office manager approached him because of his behavior. She, too, is in recovery and so she was well aware of addictive behavior. He denied any disruptive behavior in his office or with patients.

When pressed further, Dr. Goldstein estimated that each Vicodin prescriptions during his dental work contained about 20 to 30 pills, taking about two or three pills a day. He estimated that he received a total of 25 prescriptions over the course of one year. Dr. Goldstein also acknowledged that the prescription of Ativan found in the garage was his wife's, not his.

During his hospitalizations at White Deer, Somerset and Fair Oaks, he did have psychometric and neurocognitive testing such as memory testing, and the results were all positive. Respondent acknowledged that he has not supplied Dr. Baxter with the psychometric testing, but would see if the facilities could send it over to Dr. Baxter.

He further explained that he signed anything and everything which Dr. Baxter requested.

The police report, in addition to the half empty bottle of vodka, the wine, the three prescription bottles in his car in the garage, noted there was also a handwritten note that said, his wife was at her mom's house with the telephone number. According to Dr. Goldstein, he left the note to be sure that they would know where she was. He continued by explaining that his wife had left very angry the night before. Dr. Goldstein, however, disagreed that he left the note because he intended to commit suicide, but rather he thought that the housekeeper would find it and call her. He emphatically stated that he left the note on the kitchen table, although the police report indicated that it was next to him in the car.

Chairman Farrell announced that the Board would entertain brief closing statements from counsel.

D.A.G. Baudry stated that the Board may use its own expertise in reviewing the certifications and evidence presented before them, certifications of Dr. Baxter, Dr. Silverman, Mr. Gibb, in determining that Dr. Goldstein's conduct as a physician did indeed rise to the level of a clear and imminent danger to the public. Dr. Goldstein had a brief four or five day stay at White Deer and that very brief stay was obviously not enough. It was inadequate, since his own son had to call the Warren Police Department to get him to seek even more medical attention, which is why he ended up at Fair Oaks for a period of days.

In-between his stay at White Deer and Fair Oaks, he went to the PHP to recommit to his sobriety. Even so, as his testimony had indicated, his own office manager noticed changes in his personality. His own son had him taken to a facility, Somerset, which then transferred him to Fair Oaks. Upon discharge from Fair Oaks, within days, his office manager had to call Warren Township Police, again, to go and rescue Dr. Goldstein from his suicide attempt.

D.A.G. Baudry continued that the State had a certification from Dr. Silverman, not a report, just his certification. The certification made no mention of the stay at White Deer, no mention of the stay at Fair Oaks, no mention of Dr. Goldstein's long history of addiction, psychiatric and psychological evaluations, or of his disciplinary orders and problems with the Board. The certification only mentions that Dr. Silverman spoke to the treating physician at Morristown Memorial Hospital. It does not mention that he reviewed any records, any discharge summary, either from Morristown Memorial Hospital or from the other facilities which Dr. Goldstein was in.

Furthermore, conspicuously absent from that certification is any mention as to how Dr. Goldstein attempted the suicide on July 6, 2004. It only says that this attempted suicide was not a real attempt. If the Board is to determine that it is not a real attempt on his life, then this Board must determine that someone who takes vicodin, vodka, wine, Sonata, proceeds to go into a car that is running, making sure that the car next to it is also running, puts himself in his garage, and then leaves a note to contact his wife, was not a serious in attempt to take his life.

D.A.G. Baudry also referenced a certification from Mr. Gibb, who, at most, saw Dr. Goldstein three or four times since July 19th, according to his certification. Mr. Gibb feels that Dr. Goldstein is fit to practice medicine. Again, Mr. Gibb is a social worker who did not mention anywhere in his certification any of the treatment that Dr. Goldstein had received or any mention of his stays at the facilities.

D.A.G. Baudry stated that if the Board is to look at the time-line in this case, it shows that this is a doctor who, between 1982 and 2001 participated with the PHP. Then in June of 2003, he presumably had dental work, which presumably caused so much pain that he was put on Vicodin or Vicoprofen which he took for a year. He testified that he stockpiled them. Why, she questioned his motive. He then decided that he had had a relapse and he admitted himself or asked to be admitted to White Deer. He then contacted the PHP, after his discharge from White Deer. The PHP was contacted on June 22, 2004 and within a period of two weeks, his son wanted him to seek treatment, which is when he was discharged from Fair Oaks by a Dr. Taylor. Dr. Goldstein testified that he was unconscious until he went to Morristown Memorial Hospital, yet he himself gave the history to the rescue squad. He indicates that he took the Vicodin, he took the sleeping pills and he drank the wine.

Finally, he was in Morristown Memorial for approximately a week and was discharged on July 13, 2004. Now the doctor comes before this Board and says that he's fine. Dr. Silverman states in his certification on behalf of

Dr. Goldstein, that Dr. Goldstein is fit to practice, that he is drug free at this time. He's in control. Well, the Board has to ask itself then, was Dr. Goldstein under control between 2003 and 2004 when he was stockpiling Vicodin? Was he in control when he put himself into White Deer? Did he lose control when he left White Deer and went to the PHP or was he still in control? And then what about when his own son called the Warren Township Police Department? Was he out of control? He says that he was on phenobarbital from White Deer and that is why there was a concern at Somerset Hospital that the drug was in his blood system. Dr. Goldstein had to be evaluated.

D.A.G. Baudry continued by arguing that this Board cannot make a decision that Dr. Goldstein is fit to practice medicine at this time without seeing each and every one of his medical records, from Fair Oaks, from White Deer, from Morristown Memorial Hospital, from his treating psychiatrist, and psychologists and counselors. Furthermore, this Board should also have access to the entire report from the police department, and if there was an ambulance report taking him to Somerset and Fair Oaks. This doctor is not in control, despite what the very brief certification, that is not backed up by any medical information says from Dr. Silverman or the one from Mr. Gibb.

D.A.G. Baudry further argued Dr. Goldstein presents a clear and imminent danger pursuant to N.J.S.A. 45:1-22 and he should not be allowed to practice medicine until such time as this Board has had the opportunity to review all of the records, make its own informed decision, and require Dr. Goldstein be evaluated by the Board's own psychiatrist and psychologist.

Mr. Gorrell began his closing argument by first commenting on two things that Ms. Baudry indicated that the Board should have. One of which is access to any and all reports, medical records of facilities where Dr. Goldstein has been treated. Mr. Gorrell stated that he can represent to the Board on behalf of Dr. Goldstein that he has and is prepared to sign whatever releases are necessary to obtain those documents. In fact, Ms. Baudry sent releases for various facilities last week and Dr. Goldstein has already signed them. So that's not an issue. She indicates that the Board should send Dr. Goldstein for an evaluation by someone other than Dr. Silverman, Mr. Gorrell represented that Dr. Silverman is highly respected, but if that was what the Board wanted, they were prepared to do that.

Mr. Gorrell continued to state that the legal issue before the Board, again, brushed over, although she finally mentioned it, is that there must be a demonstration by the Attorney General of an absolutely clear and imminent danger to the public health, safety, and welfare. Is there some proof that Dr. Goldstein has had problems over the past several months? The answer is unquestionably, yes. But the testimony is absolutely clear that that was for a restricted confined period of time. Since July 16th, a full month, the only proof before the Board is that Dr. Goldstein has been practicing, that he has been attending AA meetings four times a week on average. As Dr. Goldstein testified and is uncontradicted, that he has provided the card from AA to the PHP. You have proof of urine monitoring, documentary proof submitted by the PHP indicating that Dr. Goldstein has not been engaged in drug or alcohol use for the past month along with the certification from his treating physician and his social worker, and uncontradicted testimony from Dr. Goldstein that he is under treatment. So the Board can be well assured that if in fact Dr. Goldstein has another relapse, they will know immediately. He repeated a representation that he made at the beginning of this hearing that Dr. Goldstein is prepared to consent, under the statute, to an immediate suspension of licensure if in fact his urine monitoring turns out to be positive in any way, without contesting it at a hearing. Mr. Gorrell also noted the Board's amendment to its Statute 2 years ago that if there is no palpable danger in these types of cases, the Board can require monitoring or require an assessment.

He further argued that two years ago, the legislature recognized that this Board needed an additional ability to use under certain circumstances in these kinds of cases. The legislature, perhaps in response to a request by the Board, amended the statute to say that if there is no palpable danger, and Board support is concerned it can require monitoring or require an assessment.

There is no palpable danger that's been demonstrated. Dr. Goldstein is prepared to meet with another psychiatrist, if the Board feels that's necessary, or psychologist to do psychometric testing, whatever is necessary. But the plain fact is ? the facts are that there is no imminent danger to any patient. There has been no

patient complaint and there's absolutely no proof before this Board that there has been any risk to any patient whatsoever.

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

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

THE BOARD, UPON MOTION MADE AND SECONDED, BASED ON ITS REVIEW OF ALL INFORMATION BEFORE IT, (INCLUDING A RECENT RELAPSE OF PRIOR DRUG AND ALCOHOL ABUSE AND ADDICTION INCLUDING USE OF OVER A ONE- YEAR PERIOD CULMINATING IN ADMITTED ABUSE OF STOCKPILED CONTROLLED SUBSTANCES AND INCLUDING RECENT MANIFESTATIONS OF IMPAIRED JUDGMENT AND PSYCHIATRIC ILLNESS INCLUDING NOTICED CHANGED BEHAVIOR IN THE OFFICE; TWO ADMISSIONS TO PSYCHIATRIC UNITS; DEPRESSION AND A SUICIDE ATTEMPT, CONCLUDED THAT THIS MATTER INVOLVES A PRACTITIONER WITH ALTERED JUDGMENT UNABLE TO MAKE CLEAR DECISIONS.

THE BOARD FINDS THAT A PALPABLE DEMONSTRATION OF A CLEAR AND IMMINENT DANGER TO THE PUBLIC HAS BEEN MADE AND DUE TO THE RECENCY OF THE EVENTS AND A LACK OF A SIGNIFICANT TRACK RECORD OF SOBRIETY, THE BOARD HAS NO CHOICE BUT TO PROTECT THE PUBLIC'S SAFETY AND WELFARE BY SUSPENDING RESPONDENT'S LICENSE UNTIL SUCH TIME AS RESPONDENT CAN APPLY FOR RECONSIDERATION UPON A DEMONSTRATION OF FITNESS TO PRACTICE TO INCLUDE, AT A MINIMUM, THREE MONTHS OF DOCUMENTED SOBRIETY AND COMPLIANCE WITH ALL PHP REQUIREMENTS; PRODUCTION FOR REVIEW BY THE BOARD OF ALL RECORDS OF MEDICAL, PSYCHIATRIC TREATMENT AND PSYCHOMETRIC AND NEURO-COGNITIVE TESTING SINCE HIS RELAPSE, INCLUDING BUT NOT LIMITED TO DISCHARGE SUMMARIES AND TREATMENT RECORDS, PRODUCTION OF THE RESULTS OF AN INDEPENDENT PSYCHIATRIC EVALUATION WITH A BOARD- APPROVED PSYCHIATRIST AT RESPONDENT'S EXPENSE AND AN UPDATED REPORT FROM THE PHYSICIAN'S HEALTH PROGRAM AFTER ALL TREATMENT AND DIAGNOSTIC TESTING RECORDS HAVE BEEN SUPPLIED TO THEM.

AN ORDER MORE FULLY EXPRESSING THE BOARD'S RATIONALE WILL FOLLOW AND THIS ORDER OF TEMPORARY SUSPENSION IS EFFECTIVE IMMEDIATELY.

This matter is adjourned.

1:00 p.m. AMBROSE, Jebamoni, M.D. (License # MA 25573)
(Flanzman, Steven N., Counseling D.A.G.)
HAWKINS, Eldridge Esq., for Respondent
GOODMAN, Daniel D.A.G. for Complainant

This matter was set down on an application for the suspension of the license of Dr. Jabamoni Ambrose on an expedited basis, and for such other relief deemed appropriate, until such time as Respondent appeared and gave testimony before a Committee of the Board regarding certain aspects of his medical practice. The Attorney General's application was premised upon the Verified Complaint, the Exhibits thereto, Order to Show Cause, and the Certifications of Counsel which accompany D.A.G. Goodman's July 30, 2004 letter brief to the Board which were all enclosed for the Board's review.

D.A.G. Flanzman informed the Board that there were two requests for adjournment that were received from Dr. Ambrose's attorney, Mr. Hawkins. The initial request for adjournment asked for a 28-day adjournment, citing a procedural rule of court which allows for withdrawal of "frivolous" proceedings for a 28-day period, that was reviewed by the President and Vice President of the Board and a determination was made not to grant the adjournment based on that request. Thereafter, Mr. Hawkins submitted a letter on August 9, 2004 in which he advised the Board that his wife's uncle had passed away over the weekend and the funeral for his wife's uncle

was on the afternoon of the Board meeting. On the basis of that representation, an adjournment of the proceeding was granted and has been rescheduled for September 8, 2004.

THE BOARD, UPON MOTION MADE AND SECONDED, MOVED TO GRANT DR. AMBROSE AN ADJOURNMENT TO THE SEPTEMBER 8, 2004 MEETING.

2:00 p.m. AMBROSE, Dean A., D.O. (License # MB 48347)
(COUNSELING D.A.G.: LEVINE, Debra W.)
MANTEL, Donna L., Esq. for Respondent
KRIER, Siobhan B., D.A.G. for Complainant

Enclosed was D.A.G. Krier's Order to Show Cause Notice of Hearing and Notice to File Answer filed and Verified Complaint all filed on August 6, 2004 along with supporting documents and exhibits seeking the suspension or revocation of the license of Dean Ambrose D.O. to practice medicine and surgery and for such other relief deemed appropriate.

It was alleged in the Attorney General's complaint that Respondent was incapable of safely discharging the functions of a licensee, and it being further alleged that the continued practice of medicine and surgery by Respondent pending final disposition of the Verified Complaint represented a clear and imminent danger to the public health, safety and welfare, in accordance with N.J.S.A. 45:1-22 Dr. Ambrose requested an adjournment based on his entering a Consent Order of surrender of licensure.

THE BOARD, UPON MOTION MADE AND SECONDED, MOVED TO GRANT THE ADJOURNMENT TO NO LATER THAN THE NEXT BOARD MEETING ON THE CONDITION THAT DR. AMBROSE SURRENDER HIS LICENSE PENDING A FULL HEARING IN THIS MATTER TO PERMIT DR. AMBROSE TO OBTAIN AN ATTORNEY WHO IMMEDIATELY WILL CONTACT THE DEPUTY ATTORNEY GENERAL AND THE ADMINISTRATIVE OFFICE. DR. AMBROSE WILL GO TO THE PHYSICIAN'S HEALTH PROGRAM ON AUGUST 11, 2004 AND WILL GIVE URINE AND HAIR SAMPLES.

3:00 p.m. PAPEL, Leonard, D.O. (License # MB 14720)
(FLANZMAN, Steven N., Counseling D.A.G.)
ZATORSKI, Robert D., Esq., for Respondent
GELBER, Joan D., D.A.G. for Complainant

On July 7, 2004, the Initial Decision of Administrative Law Judge Diana C. Sukovich in the matter of Dr. Leonard Papel was received by the Board.

This matter was set down for final decision of the Board to determine whether to adopt, modify or reject the Findings of Fact and Conclusions of Law embodied in the ALJ's Initial Decision. Time was reserved to hear brief arguments on exceptions if they are submitted; consistent with N.J.A.C. 1:1-18(c), no new evidence would be considered and presentations to the Board would be no more than 15 minutes.

Should the Board determine that the Attorney General had established a basis for disciplinary sanction, the Board will then move to the penalty phase of the hearing.

This matter was adjourned because the administrative office inadvertently failed to send out appearance letters notifying the parties that it was scheduled for argument.

THE BOARD, UPON MOTION MADE AND SECONDED, MOVED TO ADJOURN THIS MATTER TO THE SEPTEMBER 8, 2004 MEETING.

OLD BUSINESS

1. LUPINACCI, Alan Louis (License # MA 36283)

BERGER, Susan D.A.G. for Complainant

Enclosed for Board information was D.A.G. Berger's July 12, 2004 memo to Executive Director William Roeder along with enclosure of a copy of the Order Denying Reconsideration as well as the Decision and Final Order in the matter of Alan Lupinacci.

THE BOARD ACCEPTED THIS AS INFORMATIONAL. NEW BUSINESS

1. PRADO, Angel M.D. (License # MA 21655)
(COUNSELING D.A.G.: LEVINE, Debra W.)
CONROY, Robert J., Esq. for Respondent

Enclosed was Ms. Bonnie Weir's July 6, 2004 letter to Executive William Roeder with Notice of Motion for Reconsideration of Final Order of Discipline filed August 16, 2002 or in the Alternative for Reinstatement of Licensure, Supporting Certification of Dr. Prado and Letter Memorandum of Law. Ms. Weir requested the Board's reconsideration in this matter.

Chairman Farrell opened the meeting and after counsel, Mr. Kern, placed his appearance on the record, Mr. Farrell informed the Board that this matter was listed on the Board Agenda as a discussion item. Mr. Farrell noted that there appeared to have been some mis-communication with Mr. Kern's office that they were advised to appear at 11:00 a.m for oral argument. Chairman Farrell asked that the record reflect that there's no representative from the State present.

The Board decided to entertain fifteen minutes of argument for the sole purpose of deciding whether and what further proceedings were necessary, including whether a response from the State was necessary. The Board reserved the right to table its decision on this matter.

Mr. Kern informed the Board that two years ago Dr. Prado lost his license in New Jersey and in that interim period, Dr. Prado has been trying to get his life together and to come back to the Board with his reasons as to why he should be permitted a second chance. Mr. Kern explained the confluence of events that lead him to believe that it's in everybody's best interest to give Dr. Prado a second chance. Mr. Kern continued that Dr. Prado has been afforded an opportunity to work with another doctor who would supervise him were the Board to allow him to return to practice. In addition, Dr. Prado had been in touch with two community service organizations in Hudson County which are eager to avail themselves of his service were he allowed to resume the practice of medicine in New Jersey. Mr. Kern recommended that this time be a period of probation upon his 1,000 hours' worth of medical care and treatment to people who would otherwise not be able to get care in that community. At which time, Mr. Kern attempted to turn over the forum to Dr. Prado for further explanation to the Board and description of his efforts and continuing education over the past two years to turn his life around.

Chairman Farrell interrupted Mr. Kern and explained his understanding of how the Board is to proceed and would ask for clarification that the Board would entertain oral argument only from counsel. Chairman Farrell made a motion to go into Executive Session for advice of counsel on the limited issue as to how the Board wishes to proceed.

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

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

THE BOARD, UPON MOTION MADE AND SECONDED, UPON DISCUSSION MADE IN THE MATTER OF ANGEL PRADO, VOTED TO REMIND COUNSEL THAT THE REASON FOR THIS APPLICATION IS TO TELL THE BOARD THE REASONS WHY THE BOARD SHOULD RECONSIDER ITS PRIOR DECISION AND THE BOARD WOULD LIKE TO HEAR THAT FROM COUNSEL AND NOT FROM THE DOCTOR. THERE'S NO ONE PRESENT TO CROSS-EXAM THE DOCTOR. IT MAY COME TO PASS THAT ULTIMATELY, THE BOARD MAY ASK FOR THE DOCTOR'S TESTIMONY, BUT THE BOARD

IS NOT AT THAT STAGE YET AND REQUESTED THAT COUNSEL ARTICULATE THE REASONS WHY THE BOARD SHOULD RECONSIDER.

Mr. Kern proceeded to tell Dr. Prado's story to the Board as to why Dr. Prado lost his license in New Jersey based upon a New York action. The New York action was predicated upon the fact that his documentation and recordkeeping was inadequate and many times did not support that the plastic surgery that he was performing was being done for medical reasons rather than for cosmetic reasons. He continued that Dr. Prado has been out of practice in New Jersey for two years and he has a choice to get his license back in New York or try to come back to New Jersey or continue to not practice.

Mr. Kern informed the Board that Dr. Prado realized that the reasons he started off to be a Doctor many years ago have been lost in the course and travails of the practice of his profession. He started off wanting to help people working within his community, taking care of patients with the same idealism that the doctors on the Board experienced when they started in practice. It's that, during the course of time, those reasons became a secondary focus and other factors took control. Dr. Prado now has an opportunity with the Board's help to be able to do that to serve his community and to practice medicine going back to those ideals and in the process provide the very underserved area with surgical skills that are otherwise unavailable to a large segment of that population. Dr. Prado is willing to provide over the next couple of years, if the Board allows him, 1,000 hours worth of service. He will agree to practice under whatever level of supervision the Board would like him to and he has someone in New Jersey to provide that supervision. Mr. Kern ended by stating that everyone deserves a second chance.

In response to Board Member questions, Mr. Kern explained that his New York license remains revoked and Dr. Prado had not applied for reinstatement, but rather had decided to come to New Jersey solely because of the opportunities and he talked about Dr. Prado having exhausted all of his appellate review.

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

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

THE BOARD, UPON MOTION MADE AND SECONDED, MOVED TO DENY RESPONDENT'S APPLICATION FOR RECONSIDERATION OF THE FINAL ORDER WHICH WAS ENTERED TWO YEARS AGO. THE BOARD FURTHER WILL NOT ENTERTAIN AN APPLICATION FOR REINSTATEMENT OF LICENSURE UNTIL SUCH TIME AS RESPONDENT PRESENTS DOCUMENTATION THAT HE HAS COMPLIED WITH THE FINAL ORDER BY OBTAINING REINSTATEMENT BY THE STATE OF NEW YORK.

2. SISTER-STATE MATTERS - ENTRY OF A FINAL ORDER OF DISCIPLINE W/O MODIFICATION
PEREZ, Mileidy, D.A.G. for Complainant

Enclosed were D.A.G. Perez's three July 27, 2004 memos to the Board seeking the entry of a Final Order of Discipline ("FOD") without modification for the three doctors below. The matters were all subject to finalization 30 days after issuance and no response had been received. Enclosed were Executive Director Roeder's Affidavits of Service with respect to the three physicians below. The Attorney General was seeking the entry of Final Order of Discipline without Modification for each of the following physicians:

1. FRASER, Rodger A., M.D. - POD filed on 1/15/2004
2. LONGMORE, Wayne D., M.D. - POD filed on 4/19/2004
3. SINGH, Paramjit, M.D. - POD filed on 3/5/04

THE BOARD, UPON MOTION MADE AND SECONDED, MOVED TO APPROVE THE ENTRY OF THE FINAL ORDERS OF DISCIPLINE WITHOUT MODIFICATION FOR EACH OF THE ABOVE PHYSICIANS.

The meeting ended at 6:30 p.m.

Respectfully Submitted,

Glenn Farrell, Esq.
Chairperson for Open
Disciplinary Matters

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