

NJ STATE BOARD OF MEDICAL EXAMINERS

OPEN DISCIPLINARY MINUTES

- NOVEMBER 14, 2001

A meeting of the New Jersey State Board of Medical Examiners was held on Wednesday, November 14, 2001 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 William V. Harrer, M.D., B.L.D., Chairperson for Open Disciplinary Matters.

PRESENT

Present were Board Members Chen, Desmond, Farrell, Harrer, Huston, Moussa, Paul, Perry, Reid, Ricketti, Robins, Rokosz, Trayner, Walsh and Weiss.

EXCUSED

Board Members Criss, Haddad, Lucas, Patel and Wallace.

ALSO PRESENT

Deputy Attorneys General Adrianna, Brown, Dick, Flanzman, Gelber, Joyce, Kearns, Levine, Matthews, Spazione and Warhaftig; Executive Director Roeder and Medical Director Gluck, New Jersey State Board of Medical Examiners.

RATIFICATION OF MINUTES

The Minutes from the October 10, 2001 Board meeting were approved as submitted.

HEARINGS, PLEAS, RETURN DATES, APPEARANCES

LARSEN, Johnny, D.O. (Counseling Deputy: FLANZMAN)

KERN, Steven I., Esq., for Respondent

KEARNS, Anthony, D.A.G., for Complainant

(Proceedings Recorded By: Linda Psylos, C.S.R., GUY J. RENZI & ASSOCIATES)

Dr. Rokosz and Mr. Walsh recused themselves from discussion and vote in this matter and left the room.

Hearing held on Motion for Partial Summary Decision filed by the Attorney General on August 9, 2001 urging the Board to grant partial summary decision in this matter and impose discipline based thereon. Enclosed for Board consideration were the Notice of Motion and Letter Brief with attachments and Respondent's September 5, 2001 Notice of Cross-Motion for Summary Decision Dismissing the Administrative Complaint and Letter Memorandum of Law in Opposition to the Attorney General's Motion for Partial Summary Judgment and in support of Dr. Larsen's Cross-Motion for Summary Judgment. Also enclosed were an August 20, 2001 letter of support for Dr. Larsen from Fred M. Jacobs, M.D., Executive Vice President for Medical Affairs for the Saint Barnabas Health Care System; a September 6, 2001 letter from Mr. Kern supplementing and modifying his letter brief dated September 4, 2001; D.A.G. Kearns' September 10, 2001 letter brief in reply to Respondent's Notice of Cross-Motion for Summary Decision Dismissing the Administrative Complaint and an additional letter of support for Dr. Larsen dated September 6, 2001 from Julius Kaplan, M.D., Vice President of Emergency Services for Banner Health System. The

Board also received a November 6, 2001 letter from Mr. Kern reporting to the Board that on November 5, 2001, the Appellate Division of the Superior Court decided the case of Bosshard v. Hackensack University Medical Center (2001 WL 1349425 N.J. Super. A.D.). Mr. Kern states in his letter that "Based upon this decision it is clear that so long as Dr. Larsen maintains his participation with the Physician Health Program and no longer engages in the illegal use of drugs both the ADA and the LAD there can be no imposition of penalty, at this time, against Dr. Larsen since he is a "qualified individual with a disability"." The Board also received in its supplemental packet D.A.G. Kearns' November 8, 2001 letter to the Board in response to Attorney Steve Kern's November 6, 2001 letter to the Board. Included with D.A.G. Kearns' letter was the Superior Court of New Jersey, Appellate Division Decision of November 5, 2001 in the matter of Bosshard v. Hackensack University Medical Center which Attorney Steve Kern referred to in his letter.

This matter was adjourned from the September 12, 2001 meeting until the Board's October 10, 2001 meeting. Board President Harrer granted Dr. Larsen's request for an adjournment of the October 10, 2001 date until the Board's November 14, 2001 meeting.

Deputy Attorney General Kearns opened by explaining that this matter was before the Board on a Motion for Partial Summary Decision on Counts I and II of a Complaint filed with the Board. Essentially, the counts alleged that Dr. Larsen diverted controlled dangerous substances that he prescribed for his patients to himself and/or to his girlfriend and that respondent continued to prescribe controlled dangerous substances to his then patient, then girlfriend, S. R-B., even though he knew she was addicted to those substances. According to D.A.G. Kearns, the matter was ripe for Summary Decision because in April 1999, Dr. Larsen came before a Preliminary Evaluation Committee and testified under oath that he swore to tell the truth and in testifying, he stated and admitted that he, in fact, did divert controlled dangerous substances that he prescribed to patients to himself and to his girlfriend. He admitted doing that with four different patients, initially with his wife (now ex), his girlfriend, his girlfriend's father and girlfriend's brother. He also admitted to the Preliminary Evaluation Committee that he was fully aware his patient/girlfriend was addicted and nonetheless, he continued to prescribe the drug with no attempt to wean her off the drugs or to treat that addiction.

D.A.G. Kearns pointed out that the Board had before it a submission from Respondent's attorney with regard to the Americans with Disabilities Act (ADA) and the New Jersey Law Against Discrimination (LAD). D.A.G. Kearns argued that essentially Respondent was saying that the Board lacked the authority to act and prosecute because Dr. Larsen was addicted to the drug while he engaged in those activities. D.A.G. Kearns stated the ADA and the LAD are very important statutes that protect people with disabilities, but they do not shield and protect someone from criminal activity. Essentially, D.A.G. Kearns believed what the respondent seemed to be arguing was that similar to an alcoholic who gets in a car, drives, runs down a pedestrian, is arrested, and then gets into treatment with an inpatient program, outpatient program, AA, recovery, and argues that he should not be responsible for running down the pedestrian because he was an alcoholic. Whether Dr. Larsen should be considered someone with a disability or not, D.A.G. Kearns stated was not a matter before this Board, and the matter before the Board was did the doctor engage in conduct that violated Board statutes and regulations. D.A.G. Kearns submitted that Respondent, in his PEC appearance, admitted that he violated the statutes and regulations. He argued it was for that reason that the issue before the Board could be resolved as a matter of law. If the Board finds that a doctor diverted controlled dangerous substances from his patients and the doctor continued to prescribe to patients that he knew were addicted, the Board could reach only the conclusion; that the doctor violated the Medical Practice Act as a matter of law. In support of his argument, D.A.G. Kearns directed the Board to the sections of the transcript where Dr. Larsen made these admissions (See pp. 10, 13, 14, 15 and 19) that he prescribed to four different patients and then diverted those prescriptions. D.A.G. Kearns also referred the Board to page 17 of the transcript, lines 1 through 8, where Dr. Larsen not only admitted to diverting the drugs, but admitted to diverting an entire prescription from a patient whom he reported he was treating for a painful condition. D.A.G. Kearns also directed the Board's attention to page 24 of the transcript, lines 18 through 23, in which Dr. Larson admitted to continuing to prescribe for his then girlfriend, even after he knew she was addicted. D.A.G. Kearns further directed the Board's attention to page 20 of the transcript, lines 9 through 12, and lines 19 through 24, which was significant in that Dr. Larsen admitted that he

stopped abusing the drugs, yet continued to prescribe for his girlfriend.

In summary, D.A.G. Kearns stated that there were no facts in dispute. Respondent admitted under oath to engaging in activities which violate the statutes and regulations of the Board. The ADA and LAD do not apply in this matter. It is a red herring and a distraction. The Attorney General sought that the Board hold Respondent accountable for his conduct. Therefore, the Attorney General's Office requested that the Board grant its Motion for Partial Summary Decision.

Mr. Kern, attorney for Respondent, countered by arguing that the issues before the Board were nowhere near as simplistic as the Deputy Attorney General would like them to be. Dr. Larsen never admitted to diverting drugs. He never admitted that his new wife was addicted to drugs. He argued those were the Deputy's words, not the doctor's. Mr. Kern stated those "factual" issues needed to be resolved before the question of whether the ADA applied. The analogy of the alcoholic running over a pedestrian was not applicable here. Contrary to the Deputy Attorney's assertion, Respondent was not arguing that a person is free to commit crimes while addicted, if those crimes are being committed to support his addiction. Mr. Kern noted that the Courts have made it clear that drug addiction is a disability -- a point of agreement between Respondent and the Deputy. He pointed out that the Deputy made a clever argument in proffering that it is not the addiction sought to be punished, but it is the conduct related to that addiction which is punishable. Respondent maintained that this was a factual issue in this case as to whether the conduct at issue was related to the addiction because if so, common sense would tell us, that the ADA and LAD apply because it is virtually impossible for a physician to maintain an addiction to CDS without violating the law. Drugs used for purposes of addiction are illegal and are procured illegally whether off the street, by self-prescribing, or misleading another physician to prescribe them. Whatever the reason, however, the procurement occurs, yet is illegal by definition. Mr. Kern further stated that the ADA and LAD could not have any meaning to drug addiction if one can separate out the conduct of procurement from the conduct of addiction. Respondent conceded that if Dr. Larsen raped a patient in his office, if he bombed the building, one could not argue that he is protected by ADA, but if he procured drugs and this naturally must happen through unlawful means, then the procurement of drugs cannot be separated from the addiction, which is protected by the ADA and LAD. He stated that to do so would make the protections afforded by the law totally meaningless.

Regarding Dr. Larsen's new wife, Mr. Kern stated that Respondent maintained that he never admitted treating her for addiction, but was treating her for pain. Mr. Kern noted that when patients are treated for pain, there can be a dependency factor as well. It does not mean you cannot continue to treat. She was able to remove herself from the CDS after her pain ceased.

Finally, Mr. Kern asked that the Board hear from Dr. Louis Baxter, the Executive Medical Director of the Physicians' Health Program. Dr. Baxter is also the chair of the Task Force for healthcare in Washington, D.C. and wanted to appear amicus regarding the ADA and LAD issue. Specifically, Dr. Baxter wanted to address the argument that one cannot segregate out the procurement from the addiction.

D.A.G. Kearns objected to Dr. Baxter testifying during a Motion for Partial Summary Decision. He argued that it was more appropriate for Dr. Baxter to testify in mitigation. D.A.G. Kearns also pointed out that no notice, while briefing on the ADA issue had been done, was given to the Attorney General's Office of the potential testimony. He maintained that Dr. Baxter's opinion was not necessary and that the Board had sufficient materials to find as a matter of law in favor of the Attorney General's Motion for Partial Summary Decision.

Mr. Kern countered by seeking that the Board permit Dr. Baxter to speak to the issue, since the Board's decision could have enormous impact to the future direction of the Board's handling of addiction issues. He submitted that Dr. Baxter was prepared to present to the Board the view of a nationally recognized organization, the PHP, with regard to whether or not there is a fundamental violation of the ADA when one seeks to procure illegally CDS to support one's addiction.

The Board voted to go into executive session for advice of counsel. Deputies, other than counseling staff left the room, along with all other members of the public present.

The Board returned to open session. With all parties present,

THE BOARD, UPON MADE AND SECONDED, VOTED TO SUSTAIN D.A.G. KEARN'S OBJECTION TO NOT AFFORD DR. BAXTER THE OPPORTUNITY TO TESTIFY DURING THE ARGUMENT PHASE OF THE MOTION FOR PARTIAL SUMMARY DECISION.

In rebuttal, D.A.G. Kearns stated that Mr. Kern's argument that the uses of the word "diversion" are the words of the Attorney General and such a use was taking the words of Dr. Larsen out of context, is fallacious. He directed the Board's attention to page 10 of the transcript, line 2, further arguing that Dr. Larsen's testimony was the standard definition of diversion. D.A.G. Kearns also referred the Board to page 14 of the transcript, line 16. Again, he stated that there appeared to be no other word appropriate but diversion. With regard to Mr. Kern's argument that Dr. Larsen was not aware of his girlfriend's addiction or was not treating her as one with an addiction, D.A.G. Kearns referred the Board to page 24 of the transcript, line 18, where Dr. Larsen stated that he knew she was addicted to the substance.

D.A.G. Kearns continued by arguing that Respondent's argument seemed to come down to if one engages in a criminal act or activities in violation of Board law by procuring drugs because one is addicted to them, then one should not be held accountable. D.A.G. Kearns stated if that argument had merit, then the Board should consider that there are various heroin addicts out there, where people rob banks, hold up stores or people at gunpoint to procure the money, or rob a pharmacy to procure drugs. If the Board accepted Respondent's argument, then none of those people would be held accountable for the criminal acts because they were performed in an attempt to procure things needed to sustain the addictions. D.A.G. Kearns asked the Board to pay attention to the conduct of Dr. Larsen, not his addiction, in granting the Motion for Partial Summary Decision.

Defense Counsel Mr. Kern reminded the Board that some time ago, it concluded that physicians with substance abuse problems should be treated as people suffering from a disease, treated for that disease and helped to return to the practice of medicine, and that is the history of this Board. He stated to ignore the interplay between the addiction and the conduct would undo all the efforts the Board has made. Respondent did not rob a bank or pharmacy. He used the least offensive means available to procure what he needed for his disease. He noted there is a difference between abusing a drug and addiction to a drug, and stated there are lots of people who abuse substances on a routine basis, but are not addicted. He trusted that the Board understood the difference. Mr. Kern further stated there is a difference between writing a prescription and diverting the drug initially intended for someone else. If you write a prescription for a patient knowing the patient needs 15 and write it for 30, one half going to you, it is not diversion. It was never intended for all 30 to be used by that patient. Mr. Kern argued that it has not been proven that Dr. Larsen "diverted" prescriptions meant for other patients. In conclusion, Mr. Kern stated that this case was not ripe for Summary Decision, and there were a lot of open factual issues in the case.

The Board voted to go into executive session. Deputies, other than counseling staff, left the room, along with all other members of the public present.

During the Board's deliberation of this matter, it directed counseling deputy Flanzman to meet with the parties and he advised them that the Board was prepared to decide on the Motion, but requested that he propose to the parties the settlement terms originally offered.

The Board returned to open session, with all parties present and announced the following motion:

THE PARTIES HAVE AGREED TO THE ENTRY OF AN ORDER BY THE BOARD RESOLVING THIS MATTER. WITHIN THE ORDER, THE BOARD WILL FIND THAT DR. LARSEN ENGAGED IN INDISCRIMINATE PRESCRIBING OF CONTROLLED DANGEROUS SUBSTANCES AND THAT HE PROCURED CDS THROUGH IMPROPER METHODS TO MAINTAIN HIS THEN ADDICTION

TO CONTROL DANGEROUS SUBSTANCES. THAT CONDUCT WILL BE FOUND TO HAVE BEEN IN VIOLATION OF N.J.S.A. 45:1-13 AND TO CONSTITUTE PROFESSIONAL MISCONDUCT PROVIDING GROUNDS FOR DISCIPLINARY ACTION PURSUANT TO N.J.S.A. 45:-1-21(e). THE ORDER WILL ALSO REFLECT THAT DR. LARSEN OBTAINED TREATMENT FOR CDS ADDICTION IN 1998, AT WHICH TIME HE WAS OUT OF PRACTICE FOR SIX WEEKS AND THAT HE HAS SUCCESSFULLY PARTICIPATED WITH THE PHYSICIANS' HEALTH PROGRAM OF THE MEDICAL SOCIETY OF NEW JERSEY SINCE THAT TIME. BASED ON THE FINDINGS MADE, THE BOARD WILL ORDER:

(1) DR. LARSEN'S LICENSE SHALL BE SUSPENDED FOR A PERIOD OF TWO YEARS, THE ENTIRETY OF THE SUSPENSION STAYED TO BE SERVED AS PROBATION IN RECOGNITION OF SIX WEEKS THAT DR. LARSEN WAS OUT OF PRACTICE.

(2) DURING PROBATION, DR. LARSEN SHALL CONTINUE TO PARTICIPATE WITH THE PHYSICIANS' HEALTH PROGRAM (PHP), AND THE PHP SHALL PROVIDE THE BOARD WITH QUARTERLY REPORTS CONCERNING DR. LARSEN'S PARTICIPATION.

(3) DR. LARSEN SHALL PAY COSTS IN THIS MATTER NOT TO EXCEED \$6,000 INCLUSIVE OF ANY INTEREST. THE PAYMENTS SHALL BE MADE QUARTERLY IN EIGHT EQUAL INSTALLMENTS, BEGINNING FROM THE ENTRY OF THE ORDER.

It was noted that the Attorney General submitted the certification for costs. S-1 was a certification from the Enforcement Bureau and S-2 was a certification from the Administrative Office of the Medical Board.

OLD BUSINESS

1. BLAIR, Georgia R., C.N.M., License #325 (Without Appearance)
BLISS, Walter R., Jr., Esq., for Respondent
KENNY, Paul R., D.A.G., for Complainant

The Board received for consideration D.A.G. Kenny's November 1, 2001 memo along with Mr. Bliss' October 26, 2001 letter. The Board also received for review a copy of the Consent Order filed in the matter of Ms. Blair on May 7, 2001. Paragraph 4 of that Consent Order states: "At the end of respondent's Board review period and before such Board review shall be lifted, respondent shall meet with the Certified Nurse Midwifery Committee and demonstrate to that Committee her fitness to practice without the restrictions imposed by this Order. Respondent may apply for relief from the conditions of this Order prior to the end of the one year Board review period, however, no sooner than six months from the date of this Order." Mr. Bliss requests that the Board consider his October 26, 2001 letter to be an application, on behalf of Ms. Blair, for relief from the conditions of the Order pursuant to paragraph 4. As noted in D.A.G. Kenny's memo, the Attorney General has no objection to Ms. Blair's request. In addition, Medical Director Gluck recommends approval and was available at the meeting to discuss his recent report in closed session.

THE BOARD, UPON MOTION MADE AND SECONDED, VOTED TO GRANT MR. BLISS' REQUEST, ON BEHALF OF MS. BLAIR, FOR RELIEF FROM THE CONDITIONS OF THE ORDER PURSUANT TO PARAGRAPH FOUR. HOWEVER, PURSUANT TO THE ORDER, BEFORE SUCH BOARD REVIEW SHALL BE LIFTED, MS. BLAIR MUST APPEAR BEFORE THE CERTIFIED NURSE MIDWIFERY COMMITTEE AND DEMONSTRATE TO THAT COMMITTEE HER FITNESS TO PRACTICE WITHOUT THE RESTRICTIONS IMPOSED BY THAT ORDER.

2. CAUSTON, Ronald, M.D., License #38596 (Without Appearance)
FURLOW, William M., Esq., for Respondent
LAPOLA, Darlene, D.A.G., for Complainant

Enclosed for Board consideration were D.A.G. Lapola's October 25, 2001 letter to the Board and Mr.

Furlow's August 23, 2001 letter requesting that the Board reconsider the Final Order of Discipline filed June 26, 2001, which suspended Dr. Causton's New Jersey license for five years. The Board also received the June 26, 2001 Final Order of Discipline for its review.

THE BOARD, UPON MOTION MADE AND SECONDED, VOTED TO RECONSIDER THIS MATTER.

THE BOARD, UPON MOTION MADE AND SECONDED, VOTED TO MODIFY THE FINAL ORDER OF DISCIPLINE TO MIRROR THE FLORIDA BOARD ACTION OF A ONE-YEAR STAYED SUSPENSION AND A FIVE-YEAR PROBATION WITH NO PENALTY.

**3. KALANI, Ghanshyam, M.D., License #57962 (Without Appearance)
FRUCHTMAN, Susan, Esq., for Respondent
PHAM, Jacqueline, D.A.G., for Complainant**

A Provisional Order of Discipline (POD) was filed March 29, 2001 which would revoke the above physician's license. Enclosed for Board consideration were D.A.G. Pham's October 17, 2001 letter to the Board; Ms. Fruchtmann's September 21 and 28, 2001 responses; and the POD with attachments filed March 29, 2001.

THE BOARD, UPON MOTION MADE AND SECONDED, VOTED TO FINALIZE THE PROVISIONAL ORDER OF DISCIPLINE WITH A FINAL ORDER OF DISCIPLINE FOR REVOCATION.

**4. LEVINE, Benjamin, M.D. (Counseling DAG: JOYCE) (Without Appearance)
DICK, Sandra Y., D.A.G.**

Mr. Walsh recused himself from discussion and vote in this matter.

A Complaint was filed May 2, 1996 in the matter of Dr. Levine which alleges Dr. Levine's failure to make payments on the penalties and costs previously assessed by prior Board Orders. The Complaint is still pending. A Certificate of Debt was filed with the Court on May 16, 1995, Docket #DJ114435-95, which listed \$20,000 costs plus 8% Interest. A review of the Administrative Office files indicate the \$20,000 in costs assessed with interest, if it had been paid off by June 30, 2001, totaled \$39,998 owed. Dr. Levine has submitted the enclosed September 13, 2001 letter along with an Affidavit verifying that he is not the owner of the house at 6 Wedgewood Court, East Brunswick, NJ and that the Certificate of Debt used to obtain the lien shall be considered false because it certified that he is the owner. The Certificate of Debt filed with the Court by the Administrative Office did not list this address. Dr. Levine expects the Board to voluntarily release the lien on this property which he states was placed in error. This lien is on the house that belongs to his employee, but Dr. Levine is listed as the owner. Also enclosed was D.A.G. Dick's November 7, 2001 letter to the Board. The Board also received as a handout a November 9, 2001 Affidavit in Support of Declaratory Action to Remove Lien on Makris House from Kay Makris submitted by Dr. Levine.

THE BOARD, UPON MOTION MADE AND SECONDED, VOTED TO DENY THE RELEASE OF THE LIEN.

Dr. Robins abstained from discussion and vote in this matter.

**5. NIZNIKEWICZ, Stanislaw, M.D., License #46932 (Without Appearance)
CIAMPI, Arthur J., Esq., for Respondent
PHAM, Jacqueline, D.A.G., for Complainant**

A Provisional Order of Discipline (POD) was filed August 28, 2001 which would place the above physician's license on probation for one year. Enclosed for Board consideration were D.A.G. Pham's October 26, 2001 letter to the Board with attachment; Mr. Ciampi's October 11, 2001 response with

attached Exhibit A; and the POD with attachments filed August 28, 2001.

THE BOARD, UPON MOTION MADE AND SECONDED, VOTED TO FINALIZE THE PROVISIONAL ORDER OF DISCIPLINE WITH A FINAL ORDER OF DISCIPLINE.

**6. PRAVETZ, Michael J., M.D. (Counseling Deputy: FLANZMAN)
ALBERTSON, B. Michele, D.A.G. (Without Appearance)**

A Final Order Adopting Provisional Order of Discipline (POD) and Revoking Licensure was filed by the Board on December 28, 2000 in the matter of Dr. Pravetz. Dr. Pravetz wrote to the Board on January 16, 2001 and asked that the Board rescind its action. He claimed that he had learned of the Board's action only upon its publication in the National Practitioner Data Bank. He further claimed that he had surrendered his New Jersey license in 1993, that he had not been advised of the actions taken by the New Jersey Board, and argued that the information set forth in the Board's Order was "totally incorrect." The Board, at its May 9, 2001 meeting, reviewed Dr. Pravetz' correspondence and an April 10, 2001 reply from D.A.G. Lewis wherein argument was advanced that the Board should not disturb the Order of Revocation that had been entered. The Board voted at its May meeting that it would afford Dr. Pravetz an opportunity to appear before a Board Committee for a hearing upon the action proposed in the POD. The Final Order entered on December 28, 2000 was stayed pending the hearing. The hearing was held July 25, 2001 before Doctors Lucas and Wallace. As noted in the Report and Recommendation of the Committee, the Committee recommends revocation precluding Dr. Pravetz from applying for reinstatement of New Jersey licensure for a minimum period of one year after the effective date of revocation of his New Jersey license. The Report and Recommendation of the Hearing Committee was submitted to the Board for acceptance, rejection or modification. Upon the Board's review, a Final Order of the Board shall be entered in this matter. The Board also received as a handout Dr. Pravetz' November 9, 2001 response to the report and recommendation of the Hearing Committee.

THE BOARD, UPON MOTION MADE AND SECONDED, VOTED TO ADOPT THE REPORT AND RECOMMENDATION OF BOARD MEMBERS LUCAS AND WALLACE AS THE BOARD'S FINAL DECISION. A FINAL ORDER WILL BE ISSUED.

**7. SARNER, Steven W., M.D., License #50401 (Counseling Deputy: DICK)
GHIGNONE, Thomas A., Esq., for Respondent
GELBER, Joan D., D.A.G. (Without Appearance)**

Enclosed were an October 15, 2001 memo to the Board from Medical Director Gluck and the Order of Limited Reinstatement of License with Conditions filed in the matter of Dr. Sarner on June 21, 2001. In his memo, Dr. Gluck provides the background of this matter and outlines the conditions required by the June 21, 2001 Order. Newton Memorial Hospital has offered Dr. Sarner an opportunity to provide psychiatric services at the Newton Memorial Hospital Center for Mental Health. Dr. Gluck received and reviewed a 45-page fax from Newton Memorial Hospital containing complete cv's of all of the people that would be in contact with Dr. Sarner and his supervision. The Administrator of Behavioral Health Services has stated in his letter that his responsibilities will include seeing outpatient males and covering emergency services and while covering these services, he will be chaperoned when seeing female patients. The Administrator has indicated that if any additional staff members are assigned to chaperone, he will have their cv's forwarded to the Board Office. Concerning the immediate supervisor, the Administrator has indicated that he will be providing, along with David Meltz, M.D., Vice President of Medical Affairs, written reports every four months to the Board as to Dr. Sarner's progress and behavior and will immediately report to the Board any conduct with a patient or staff member which might violate the Order.

Although condition 1.a. of the Order of Limited Reinstatement of License with Conditions states that approval may be granted by the Board President subject to ratification of the Board, Medical Director Gluck reviewed the 45-page fax, on behalf of Board President Harrer, and directly contacted the Interim Administrator of Behavioral Health Services, Gail A. Tannenhaus, and went over the Order with her and

discussed what the Board expected the roles of the various supervisors to perform. Medical Director Gluck communicated with Board President Harrer. Board President Harrer approved Dr. Gluck sending an approval letter to Newton Memorial Hospital for Dr. Sarner to be considered for employment at that facility and for them to determine an appropriate starting date for Dr. Sarner. As noted in Dr. Gluck's memo, he is satisfied that the situation is what the Board desires of the subject and the cooperation that would be forthcoming from the supervisors was very evident. The supervisors affiliated with Newton Memorial Hospital assured the Board, through Medical Director Gluck, that all of the proposals, recommendations, and requirements will be in place.

Board ratification of Medical Director Gluck and Board President Harrer's approval of Dr. Sarner to be employed at Newton Memorial Hospital as outlined was requested.

THE BOARD, UPON MOTION MADE AND SECONDED, VOTED TO RATIFY BOARD PRESIDENT HARRER'S DECISION.

8. SHAH, Pankajal S., M.D., License #45596 (Without Appearance)
TUBIOLO, Richard S., Esq., for Respondent
PHAM, Jacqueline, D.A.G., for Complainant (Counseling Deputy: DICK)

A Provisional Order of Discipline (POD) was filed August 28, 2001 which would suspend the above physician's license for six months, stayed. Enclosed for Board consideration were D.A.G. Pham's October 24, 2001 letter to the Board; Mr. Tubiolo's September 21, 2001 response with attachments; and the POD with attachments filed August 28, 2001.

The Board voted to go into executive session for advice of counsel on the deliberations of this matter. Deputies, other than counseling staff left the room, along with all other members of the public present.

The Board returned to open session with all members of the public present.

THE BOARD, UPON MOTION MADE AND SECONDED, VOTED TO FINALIZE THE PROVISIONAL ORDER OF DISCIPLINE WITH A FINAL ORDER OF DISCIPLINE.

9. SINGH, Pritpaul, M.D., License #45825 (Without Appearance)
REYNOLDS, Thomas B., Esq., for Respondent
FLANZMAN, Steven N., D.A.G.

Dr. Reid recused herself from discussion and vote in this matter.

A Final Decision and Order was filed March 9, 1995 (inadvertently not copied for the Board) wherein Dr. Singh's license was suspended for five years with the first three years active commencing March 20, 1995. In accordance with the Order, Dr. Singh fully attended and successfully completed the ProBE ethics course and paid the penalty of \$5,000 and costs of \$11,852.53. The Order states that one month prior to the end of the active period of suspension, Respondent may request an appearance before a Committee of the Board to demonstrate fitness and competency to practice to the Board's satisfaction and the Board may require as a condition of reinstatement that Respondent practice under supervision or otherwise subject Respondent's license to such limitations, practice guidelines, course work or other conditions as it deems warranted. Prior to consideration of any application for reinstatement of license, Respondent shall demonstrate compliance with all terms of this Order.

Mr. Reynolds submitted an April 25, 2001 letter (inadvertently not copied for the Board) requesting an appearance before a Committee of the Board for consideration of his client's reinstatement of his medical license to practice psychiatry in the State of New Jersey. Also attached to that letter is an April 16, 2001 report of Dr. Singh's treating psychiatrist, John R. Rushton, III, M.D., whom Mr. Reynolds stated can attest to Dr. Singh's fitness and competency to practice in a satisfactory manner and to practice consistently with the health and welfare of his patients. The Board received a copy of D.A.G. Brenda Lewis' May 8, 2001

letter which was sent to Mr. Reynolds stating that before an appearance could be scheduled, it was necessary that the Board receive more information about Dr. Singh than it currently possessed. Enclosed was Mr. Reynolds' September 14, 2001 response with an Affidavit signed and sworn to by Dr. Singh, in support of the application for reinstatement of his license, along with Exhibits A through D. The Board was asked to consider whether Dr. Singh should be scheduled for a PEC appearance at this time.

THE BOARD, UPON MOTION MADE AND SECONDED, VOTED TO APPROVE SCHEDULING DR. SINGH FOR AN APPEARANCE BEFORE THE PRELIMINARY EVALUATION COMMITTEE.

**10. TANENBAUM, Judith, P.A., License #342 (Without Appearance)
PHAM, Jacqueline, D.A.G., for Complainant**

A Provisional Order of Discipline (POD) was filed June 11, 2001 which would reprimand the above physician assistant. The Board, at its August 8, 2001 meeting, considered D.A.G. Pham's July 24, 2001 letter to the Board; Ms. Tanenbaum's July 26, 2001 response with attachments; and the POD with attachments filed June 11, 2001. Those documents were again submitted for Board review along with the August 8, 2001 Open Disciplinary Minutes concerning the matter of Ms. Tanenbaum. As noted in the August Minutes, the Board voted that Ms. Tanenbaum appear before the Physician Assistant Advisory Committee. The Board received D.A.G. Levine's October 18, 2001 memo to the Board. Ms. Tanenbaum appeared before the Physician Assistant Advisory Committee at its September meeting. The Physician Assistant Advisory Committee recommends to the Board that, based upon the mitigating information as noted in D.A.G. Levine's memo, the Provisional Order of Discipline be withdrawn.

THE BOARD, UPON MOTION MADE AND SECONDED, VOTED THAT THE PROVISIONAL ORDER OF DISCIPLINE BE WITHDRAWN.

**11. FREUNDLICH, William A., D.P.M., License #1143 (Without Appearance)
GAUL, Joseph M., Jr., Esq., for Respondent
PHAM, Jacqueline, D.A.G., for Complainant (Counseling DAG: DICK)**

The Board received as a handout Mr. Gaul's November 7, 2001 letter and Respondent's Motion for Reconsideration of Board's Final Order of Discipline and Request for Temporary Stay Pending Hearing. Dr. Freundlich's license was revoked by Final Order of Discipline filed August 31, 2001. The Board also received as a handout D.A.G. Pham's November 9, 2001 letter to the Board with attachment. D.A.G. Pham states in her letter that given the timeliness of Dr. Freundlich's Motion for Reconsideration, it would be unfair and inappropriate for the Board to consider the Motion for Reconsideration at this time. She states in her letter that to the extent the Board would consider the Motion for Reconsideration, the Attorney General relies on the previous submission of July 24, 2001, and requests additional time to respond. D.A.G. Pham's November 9, 2001 letter further outlines why Dr. Freundlich's application for a stay pending appellate review must be denied.

The Board voted to go into executive session for advice of counsel. Deputies, other than counseling staff left the room, along with all other members of the public present.

The Board returned to open session.

THE BOARD, UPON MOTION MADE AND SECONDED, VOTED TO STAY THE REVOCATION.

The Board moved to closed session to discuss a proposed settlement in this matter.

REPORT OF INTERIM AND FINAL ORDERS FILED WITH THE BOARD

1. AUSTIN, John, D.O., License #13629 (Glendale, AZ)

FINAL ORDER OF DISCIPLINE filed October 9, 2001. On or about September 19, 2000, Dr. Austin

surrendered his Arizona license to practice medicine based on information that he might be medically and/or psychologically unable to safely and skillfully engage in the practice of medicine. The Arizona Board found he was an immediate threat to the health and welfare of the public. A Provisional Order of Discipline was filed June 6, 2001 which required Dr. Austin to respond within 30 days or the matter would be finalized. Attempts to serve Dr. Austin with the Provisional Order at his last known addresses of record were unsuccessful. The Board determined service to have been effected, further proceedings not necessary and the Provisional Order should be finalized. The Board ordered Dr. Austin's license to practice medicine and surgery in the State of New Jersey be revoked. EFFECTIVE DATE: October 9, 2001

2. CHOI, Byong-Du, M.D., License # 31049 (Lansing, MI)

FINAL ORDER OF DISCIPLINE filed October 9, 2001. In January 1999, Dr. Choi entered a Consent Agreement with the Michigan Board based on his treatment of two patients. The Michigan Board found he failed to recognize a potential life-threatening emergency and failed to administer appropriate medications to open the patient's airway and that he also failed to appropriately evaluate the potential difficulty in intubation prior to induction of anesthesia of another patient who was morbidly obese. He did not contest the allegations. Michigan imposed permanent limitations on his medical license and a fine. He surrendered his New York license in August 1999 based on the Michigan disciplinary action. A Provisional Order of Discipline was filed with this Board on June 27, 2001 which required Dr. Choi to respond within thirty days or the matter would be finalized. Dr Choi responded indicating he had no intention of ever practicing in New Jersey, he is retired and wished to surrender his license. The Board ordered that Dr. Choi be granted leave to surrender his license to practice medicine and surgery in the State of New Jersey with prejudice. EFFECTIVE DATE: October 9, 2001

3. CHOUDRY, Mayna Mea, M.D., License #33276 (Chowchilla, CA)

FINAL ORDER OF DISCIPLINE filed October 9, 2001. On May 3, 2000, Dr. Choudry entered into a Stipulation for Surrender of License with the California Medical Board based upon having tested positive for cocaine. She is barred from applying for reinstatement in California for at least three years. A Provisional Order of Discipline was filed and served on Dr. Choudry at her last know address of record. She did not respond. The Board ordered that Dr. Choudry's license to practice medicine and surgery in the State of New Jersey be revoked. The Board will not entertain any application for reinstatement before she has completed the entire period of probation imposed by the California Board. EFFECTIVE DATE: October 9, 2001

4. FELDMAN, Jan Richard, D.P.M., License #907 (Pennington, NJ)

CONSENT ORDER filed September 21, 2001. Dr. Feldman testified at a Preliminary Evaluation Committee of the Board on March 3, 1999. The Board found he gave untruthful testimony. He admitted in a certification provided to the Board on May 15, 1999 that his earlier response relating to original notes of a patient's chart was inaccurate. He asserts he gave inaccurate testimony due to his medical condition at the time of the inquiry, his inaccurate testimony was not intentional and he denies any wrongdoing. The Board ordered that Dr. Feldman be reprimanded based upon the testimony given to a Committee of the Board. EFFECTIVE DATE: September 21, 2001

5. FOSTER, Gregory S., D.O., License #51370 (Pittstown, NJ)

CONSENT ORDER OF VOLUNTARY SURRENDER filed October 25, 2001. The Board received information from the Physicians' Health Program that Dr. Foster voluntarily admitted a relapse into the abuse of alcohol. He had entered into in-patient treatment on or about February 3, 2001 through February 24, 2001. Upon discharge, he was admitted into the Talbott Marsh Recovery Campus, from March 1 through April 21, 2002 and has since completed the program successfully. Dr. Foster has requested permission to voluntarily surrender his license without prejudice. The Board has ordered that he be granted leave to immediately surrender his license to practice medicine and surgery in the State of New Jersey for a minimum of three (3) months from entry of this Order. Prior to any restoration of his license, he must

appear before a Committee of the Board to discuss his readiness to re-enter the practice of medicine and provide evidence he is not then suffering any impairment or limitation which could affect his practice. He must meet with a Board-approved psychiatrist and an aftercare counselor at least once a week, submit to random twice-weekly urine monitoring under the supervision of the Physicians' Health Program and provide the Board with reports from each and every mental health professional who participated in his care and/or treatment from the time of entry into treatment to his appearance before a Committee of the Board. EFFECTIVE DATE: October 25, 2001

6. HEWITT, Alan Richard, M.D., License #26390 (Kensington, CA)

FINAL ORDER OF DISCIPLINE filed October 9, 2001. In May 1999, the California Board entered a Stipulated Settlement and Decision wherein Dr. Hewitt acknowledged he had practiced with gross negligence, incompetence and repeated negligence based on his treatment of four patients. His California license was revoked, with the revocation stayed to be served as a six year period of probation. He was required to undergo an evaluation of his clinical training and education. Based on the California action, he voluntarily surrendered his license to practice medicine in the State of New York. A Provisional Order was filed with this Board which required Dr. Hewitt's response within thirty days. Dr. Hewitt forwarded a letter by which he voluntarily surrendered his license. The Board ordered no further proceedings were necessary and granted leave for Dr. Hewitt to surrender his license to practice medicine and surgery in the State of New Jersey with prejudice. EFFECTIVE DATE: October 9, 2001

7. JUAN, Felipe T., M.D., License #27260 (Sussex, NJ)

CONSENT ORDER filed October 12, 2001. As a result of an undercover investigation by the Enforcement Bureau of the Division of Consumer Affairs, it was found that Dr. Juan had engaged in conduct in violation of the statutes and regulations governing the practice of medicine and the dispensing of medication. Dr. Juan appeared before a Committee of the Board to discuss the care and treatment rendered to the undercover investigators posing as patients as well as his practice of bariatric medicine in general. The Board concluded he was in need of re-education in bariatric medicine and had failed to comply with federal and/or state regulations governing the dispensing of medication. The Board ordered that Dr. Juan be reprimanded for indiscriminate prescribing. The Board also ordered that his license be suspended for two years, with the entire suspension stayed to be served as probation. He must engage in re-education in the field of bariatric medicine consisting of a minimum of fifty (50) hours of Board-approved continuing education necessary to achieve eligibility for Board certification examination offered by the American Board of Bariatric Medicine (ABBM). He must successfully complete the Board certification exam. He shall undertake monitoring of his bariatric charts until such time as Board certification is achieved. If he does not successfully achieve Board certification as a result of the administration of the ABBM Examination offered in October 2001, he consented to the activation of the remaining period of suspension or, alternatively, agreed to notify the Board of his intention to cease and desist from the practice of bariatric medicine until such time as he received Board certification. He must pay a penalty of \$7,500.00 and costs of \$13,442.98. EFFECTIVE DATE: October 12, 2001

8. KELLOGG, William T., M.D., License #MA32321 (Summit, NJ)

ORDER REINSTATING LICENSURE WITH CONDITIONS filed October 24, 2001. Dr. Kellogg petitioned the Board for reinstatement of his medical license, which had been revoked by Board Order on May 3, 1995. On March 2, 2000, a Supplemental Order Restoring Limited Licensure to Participate in Anterior Segment and Refractive Surgery Fellowship Program at New Jersey Eye Center was filed with the Board. The Board reviewed all available documentation and was satisfied that cause existed to grant his petition based on his demonstrated compliance with all conditions placed upon him in the May 3, 1995 Board Order. The Board ordered Dr. Kellogg's license to practice medicine and surgery in the State of New Jersey be reinstated, conditioned upon his compliance with the new terms and conditions specified. He must participate and successfully complete the follow-up phase of the Colorado Personalized Education for Physicians Program (CPEP) documentation seminar. He must make all patient records which he maintains

available to inspection and review by the Board every three months after he resumes any medical practice in the State of New Jersey and at six month intervals thereafter. He must meet with the Medical Director of the Board as may be deemed necessary to discuss any issues or concerns identified during the Board's review of his patient charts. EFFECTIVE DATE: October 24, 2001

9. PO, Teofilo, M.D., License #MA 22518 (Whittier, CA)

FINAL ORDER OF DISCIPLINE filed October 9, 2001. On February 3, 2000, Dr. Po was convicted of aiding and abetting mail fraud which involved a scheme to defraud and obtain money and property from various insurance companies by way of submission of false and fraudulent medical claims. On August 6, 2000, his California license was suspended based on his conviction. A Provisional Order was filed with this Board based on the conviction and the suspension of his California license. His attorney requested a modification of the intended sanction. The Board reviewed the materials and determined further proceedings were not necessary in that no material discrepancies had been raised. The Board ordered that Dr. Po's license to practice medicine and surgery in the State of New Jersey be revoked. EFFECTIVE DATE: October 9, 2001

10. SHARMA, Anil K., M.D., License #63404 (Little Silver, NJ)

ORDER GRANTING UNRESTRICTED LICENSURE filed September 10, 2001. Dr. Sharma petitioned the Board for an unrestricted license to practice medicine and surgery in the State of New Jersey. In April 1999, Dr. Sharma entered into a Consent Order of Voluntary Surrender of Licensure based upon his admitted substance abuse problem. In November 1999, Dr. Sharma entered into a Consent Order reinstating his license with extensive restrictions. In August 2000, Dr. Sharma entered another Consent Order modifying some of the restrictions of the previous Order. Dr. Sharma appeared before a Preliminary Evaluation Committee of the Board in conjunction with his petition for unrestricted license. The Physicians' Health Program supported his petition attesting to his recovery and successful participation in their monitoring program and total compliance with his recovery regimen. The Board ordered that Dr. Sharma be granted an unrestricted license to practice medicine and surgery in the State of New Jersey. EFFECTIVE DATE: September 10, 2001

11. SIRMANS, Meredith, M.D., License #MA39435 (Mt. Vernon, NY)

FINAL ORDER OF DISCIPLINE filed October 9, 2001. In September 1999, the New York Board entered a Consent Order based upon Dr. Sirman's treatment of a patient who suffered a fetal demise. The New York Board found she failed to appropriately monitor the patient during pre-natal visits, failed to diagnose fetal demise on the patient's visit to his office, and failed to address the differences in gestational age. She was found to have engaged in professional misconduct, repeated negligence and failure to maintain an accurate care and treatment record for three patients. The New York Board imposed a two-year stayed suspension, with probation including direct supervision by a practice monitor board certified in obstetrics and gynecology. A Provisional Order was filed with this Board based upon the New York action. Dr. Sirmans requested a modification of the intended sanction. The Board reviewed the submissions and determined no further proceedings were necessary in that no material discrepancies had been raised. The Board was persuaded that the submitted materials merited modification of the discipline. The Board ordered that Dr. Sirman's license to practice medicine and surgery in New Jersey be suspended for two years, with the entirety of the suspension stayed, to run concurrently with the period imposed in New York. Prior to engaging in any practice in New Jersey, she must appear before a Committee of the Board to demonstrate her fitness to practice. The Board reserves the right to impose certain limitations on her practice. EFFECTIVE DATE: October 9, 2001

12. VELEZ, Anthony, MD, License #17754 (New York, NY)

FINAL ORDER OF DISCIPLINE filed October 9, 2001. On November 6, 2000, an Order was entered by the New York Medical Board revoking Dr. Velez' medical license for gross and repeated negligence and incompetence. A Provisional Order was filed with this Board based on the New York action. Dr. Velez'

response to the Provisional Order was reviewed by the Board which determined further proceedings were not necessary since no material discrepancies had been raised. Dr. Velez did not dispute the Findings of Fact or Conclusions of Law. The Board ordered that Dr. Velez' license to practice medicine and surgery in the State of New Jersey be revoked. EFFECTIVE DATE: October 9, 2001

Additional matters which are not considered public reports were filed with the Board Office.

Respectfully submitted,

William V. Harrer, M.D., B.L.D., Chairperson for Open Disciplinary Matters