

**Open Minutes  
New Jersey State  
Board of Medical Examiners  
Disciplinary Matters Pending Conclusion**

October 9, 2002

A meeting of the New Jersey State Board of Medical Examiners was held on Wednesday, October 9, 2002 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 David M. Wallace, M.D., Chairperson for Open Disciplinary Matters.

**PRESENT**

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

**EXCUSED**

Board Members Desmond, Patel, and Walsh

**ALSO PRESENT**

Deputy Attorneys General Dick, Ehrenkrantz, Gelber, Joyce, Kenny, Levine and Warhaftig, Executive Director Roeder and Medical Director Gluck

**RATIFICATION OF MINUTES**

The Minutes from the September 11, 2002 Board meeting were approved as submitted.

**HEARINGS, PLEAS, RETURN DATES, APPEARANCES**

**10:00 A.M. GOLDSTEIN, Jerrold, D.O.**  
**GORRELL, Joseph M., Esq., for Respondent**  
**KEOSKEY, Alex, D.A.G., for Complainant**

Order to Show Cause and Verified Complaint filed September 3, 2002 for the emergent temporary suspension of Dr. Goldstein's license based on allegations of dishonesty, fraud, deception and misrepresentation; indiscriminate prescribing of C.D.S.; gross malpractice, gross negligence, or gross incompetence and repeated acts of negligence, malpractice or incompetence; professional misconduct; violation of the recordkeeping requirements; actions that demonstrate that Respondent's practice poses a clear and imminent danger to the public health, safety and welfare; demonstration of repeated deviations from appropriate standards of medical practice; and violation of Board regulations regarding dispensing of prescription medication. The filed documents were provided to the Board under separate cover by the Division of Law for its September Board meeting. Due to scheduling difficulties, the Board adjourned the matter. Although under protest by Mr. Gorrell, all parties agreed to the adjournment.

At its September meeting, the Board, upon motion made and seconded, voted to adjourn the hearing until September 25, 2002 before a committee of the Board. The Board further voted that the committee's decision of the matter would be effective on the day that it was made, subject to full board consideration for acceptance, modification, or rejection of that decision at its October meeting. The hearing went forward on September 25, 2002 and was reconvened on October 2, 2002. Before the Board was a copy of the Committee's decision. Attached also was a copy of Executive Director's Roeder's October 3, 2002 to the parties and the transcripts of October 2, 2002.

Prior to the hearing, counsel was informed that each side had ten minutes on oral argument whether the Board should adopt, modify or reject the Committee's decision of October 2, 2002.

Drs. Perry and Robins recused themselves from discussion and vote in this matter and left the table.

Mr. Farrell opened the hearing by providing the procedural background. The matter originally was set down for hearing with the Board of Medical Examiners at the September 11th meeting. Due to delay and other scheduling difficulties, the matter was adjourned and scheduled for a hearing on September 25th. At the September 11th Board meeting, Dr. Goldstein voluntarily agreed to the cessation of practice until the adjournment date and hearing before a Committee of the Board to make determination which was effective that date, subject to Board consideration at the October meeting. The Committee heard the case over 19 hours. The Committee denied the State's application for temporary suspension and referred the matter to the Office of Administrative Law. The Order memorializing the Committee's decision was subject to review at the October meeting. The parties were given ten minutes each of oral argument to set forth their positions regarding the decision the full Board was to consider.

Deputy Attorney General Keoskey urged the Board to not uphold the Hearing Committee's decision. While the Committee made findings of inappropriate and improper medical care, it concluded that Dr. Goldstein did not present a clear and imminent danger to the public. D.A.G. Keoskey submitted, with all due respect to the Committee, that the evidence did not support this conclusion. While the patient records at first blush may not indicate a danger, when one views the records as a whole and the effect of the treatments over a period of time, Dr. Goldstein's practice presents a clear and imminent danger. He reminded the Board that Dr. Goldstein's own experts concluded that there was a clear pattern of over testing. D.A.G. Keoskey also stressed that in spite of obvious manifestations of harm to his patients, Dr. Goldstein continued to treat them. The Board was further reminded of Dr. Goldstein's past history with the Board and his lying on his biennial renewal about his arrest in Florida for assaulting a police officer. He also argued that the Respondent's experts were tainted because they were related to one another and shared information between them. Those reports, D.A.G. Keoskey postulated, should not be considered. Again, stressing his respect for the work of the Committee, he concluded by urging the Board to overturn its decision and based on the evidence as a whole, conclude that Dr. Goldstein presents a clear and imminent danger and his license to practice medicine and surgery in the State of New Jersey should be temporarily suspended pending a plenary hearing.

Mr. Gorrell began by reminding the Board that the Attorney General must establish that there is a palpable demonstration of a clear and imminent danger to the public health, safety and welfare. Pointing to the transcript of the hearing, Mr. Gorrell informed the members that the state's own expert during questioning testified that he did not see any evidence of any patient harm. Dr. Willard also testified that he had little to no familiarity with the type of hormonal therapy at issue in the case. To the contrary, Dr. Goldstein's experts testified that they had approximately thirty to forty percent experiences with this therapy. Also, Mr. Gorrell asked the Board to consider other errors that the State's expert made. For example, the State's expert accused Dr. Goldstein of not addressing cholesterol levels, yet the patient record demonstrated that he was on Lipitor. Also, the state's expert claimed that Dr. Goldstein didn't change a medication that another patient was taking. Yet, the state's expert failed to recognize that another practitioner had prescribed the medication and it was not Dr. Goldstein's responsibility to alter that medication regime prescribed by another physician. The defense experts, extremely familiar with hormonal therapy, opined that the doses and care provided were correct. The overwhelming evidence produced on behalf of Dr. Goldstein supports the Committee's conclusion that he does not present a clear and imminent danger to the public. Mr. Gorrell assured the Board that Dr. Goldstein is a careful, considerate, compassionate physician. While Mr. Keoskey alleges that the care provided is controversial, but Mr. Gorrell argued that it does not provide the basis for a temporary suspension of licensure. He concluded with stating that four members of this Board spent approximately 20 hours listening to testimony, reviewing documents and evaluating the credibility of witnesses. The Committee concluded that the state did not meet its burden and a review of the record clearly supports that finding. He urged the Board to conclude that there is no basis for the Board to overturn the decision made by the Committee who heard the case.

In rebuttal, D.A.G. Keoskey asked the Board to consider a newer section of N.J.S.A. 45:1-22, which would permit the Board to require monitoring of Dr. Goldstein's practice or to order him to undergo an assessment of skills. The evidence during the hearing demonstrated that Dr. Goldstein's practice presents a danger and the Attorney General has demonstrated the palpable harm that exists if he is to continue an unmonitored practice. He again reminded the Board of Dr. Goldstein's dishonesty on his biennial renewal form in which he failed to disclose his arrest in Florida.

Mr. Gorrell countered with pointing out that this is the first time that D.A.G. Keoskey is seeking some relief under N.J.S.A. 45:1-22 as it relates to the Board's ability to require a licensee to undergo a medical assessment. He posited that the Attorney General's office now turns to the provision since it has not met its burden in proving its case.

The Board voted to go into Executive Session. Deputies, other than counseling staff, and Drs. Perry and Robins 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 and announced the following motion:

THE BOARD, UPON MOTION MADE AND SECONDED, VOTED TO RATIFY THE COMMITTEE'S DECISION BASED ON THE RECORD BEFORE THE BOARD AND THE ORAL ARGUMENTS OF COUNSEL. THE BOARD NOTED THAT THE RECORDS ORDERED TO BE PRODUCED HAVE BEEN PRODUCED PURSUANT TO PARAGRAPH 4 OF THE ORDER AND THAT A CORRECTION TO PAGE 11 REGARDING REFERENCE TO PATIENT A.C. REQUEST FOUR HCG IN REALITY IT SHOULD HAVE BEEN HUMAN GROWTH HORMONE, HGH. THE ORDER WILL BE CORRECTED.

Chairman Farrell announced that there was a request by the Board that the parties consider an expedited hearing and they should discuss whether that is appropriate in this case.

Dr. Rokosz was not present for the following items

**11:00 a.m. - OTTENSTEIN, Alan, M.D., License #51042**  
**KERN, Steven I., Esq., for Respondent**  
**EHRENKRANTZ, Kay, & HAFNER, Doreen, D.A.G.s, for Complainant**

Matter before the Board for hearing on an Order to Show Cause and Verified Complaint filed September 27, 2002 seeking the immediate temporary suspension of Dr. Ottenstein's license to practice medicine and surgery. The Six-Count Verified Complaint alleges in Counts I - IV that Respondent's medical practice threatens the health of his patients, based on his alleged grossly deviant use of multiple dangerous and unnecessary steroid epidural injections absent fluroscopic imaging, which injections are routinely performed contrary to the standard of care. The Complaint further alleges Respondent's billing practices constitute professional misconduct. Count V alleges Respondent's failure to accurately disclose the name and address of any health care service entity in which he had acquired a financial interest, the date on which that interest was acquired, and whether Respondent refers patients to that service, and Count VI alleges Respondent's failure to provide the complete records requested by subpoena in a timely and complete fashion constituting a failure to cooperate.

The Board received under separate cover from the Division of Law the Order to Show Cause, Verified Complaint with Exhibits A through N, Deputy Attorneys General Ehrenkrantz and Hafner's Letter Brief, Certification of D.A.G. Ehrenkrantz and Appendix all filed September 27, 2002. Also enclosed was David B. Hackney, M.D.'s Certification which is made part of Exhibit G to the Verified Complaint.

THE BOARD, UPON MOTION MADE AND SECONDED, VOTED TO ACCEPT THE FOLLOWING STIPULATIONS OF THE PARTIES PENDING A FINAL RESOLUTION OF THE ISSUES SET FORTH IN THE COMPLAINT. DR. OTTENSTEIN AGREED THAT HE WILL PERFORM TRANSFORAMINAL EPIDURAL INJECTIONS ONLY UNDER FLUROSCOPIC GUIDANCE; HE WILL NOT PERFORM TRANSFORAMINAL INJECTIONS AT MORE THAN TWO VERTEBRAL LEVELS PER DAY ON ANY GIVEN PATIENT, WITHOUT THE PRIOR WRITTEN APPROVAL OF THE REVIEWER, AND WILL NOT

PERFORM BILATERAL CERVICAL INJECTIONS; DR. OTTENSTEIN WILL NOT PERFORM TRANSFORAMINAL INJECTIONS UNTIL A REVIEWER HAS BEEN APPROVED BY THE BOARD. PRIOR TO PERFORMING ANY TRANSFORAMINAL INJECTIONS WITHOUT THE PRESENCE OF THE REVIEWER, THE REVIEWER SHALL WITNESS DR. OTTENSTEIN'S INJECTION TECHNIQUE UNTIL SUCH TIME AS HE APPROVES OF THAT TECHNIQUE IN WRITING; HE WILL NOT TRAIN OTHERS IN THE USE OF EPIDURAL INJECTIONS AND WILL NOT EMPLOY OTHER PHYSICIANS IN HIS PRACTICE TO PERFORM TRANSFORAMINAL EPIDURAL INJECTIONS, WITHOUT PRIOR APPROVAL OF THE BOARD. HE MAY, HOWEVER, DISCUSS THIS ISSUE AT MEETINGS AND IN WRITTEN MATERIALS; HE WILL NOT EMPLOY THE SERVICES OF A PHYSICIAN'S ASSISTANT TO PERFORM TRANSFORAMINAL EPIDURAL INJECTIONS.; HE WILL NOT, IN ADMINISTERING TRANSFORAMINAL EPIDURAL INJECTIONS, EXCEED THE GREATER OF THE MAXIMUM DOSAGE RECOMMENDATIONS FOR STEROIDS AND ANESTHETIC AGENTS, AND THE GREATER OF THE FREQUENCY OF INJECTION RECOMMENDATIONS, AS SET FORTH IN THE ATTACHMENTS TO THE ORDER ENTITLED INTERNATIONAL SPINAL INJECTION SOCIETY, EDUCATIONAL GUIDELINES OF PASSOR OR CONTEMPORARY CONCEPTS IN SPINE CARE, LUMBAR EPIDURAL STEROID INJECTIONS OR IN ACCORDANCE WITH ANY SUBSEQUENT PEER REVIEWED PUBLISHED GUIDELINES OF THESE ORGANIZATIONS WITHOUT PRIOR WRITTEN APPROVAL OF THE REVIEWER.; THE REVIEWER SHALL RECEIVE A COPY OF THE PLEADINGS AND THE CONSENT AGREEMENT ENTERED INTO ON OCTOBER 9, 2002 AND SHALL PROVIDE MONTHLY REPORTS TO THE BOARD; THE REVIEWER SHALL BE A PERSON AGREEABLE TO THE ATTORNEY GENERAL, DR. OTTENSTEIN, AND APPROVED BY THE BOARD. THE REVIEWER SHALL BE EXPERIENCED IN PAIN MANAGEMENT TECHNIQUES AND THE REVIEWER'S FEES SHALL BE BORNE BY DR. OTTENSTEIN. THE BOARD RECOGNIZED THAT THE CONSENT AGREEMENT WAS ENTERED INTO BY THE PARTIES VOLUNTARILY WITHOUT ANY ADMISSIONS OR FINDINGS OF ANY KIND. IT WAS FURTHER UNDERSTOOD THAT BY ENTERING INTO THE CONSENT AGREEMENT, THE BOARD HAS ORDERED NO RESTRICTIONS OR LIMITATIONS UPON DR. OTTENSTEIN'S LICENSE AND THAT THIS ORDER DOES NOT CONSTITUTE A DISCIPLINARY ACTION.

**1:00 p.m. - ANDUJAR, Edward, M.D. HERNANDEZ, Jose W., Esq., for Respondent HARPER, Douglas J., D.A.G., for Complainant**

Matter set down for a limited evidentiary hearing. An Order for Interim Restraints, Consolidation and Limited Evidentiary Hearing was filed August 14, 2002. By entry of this Order, the two Complaints filed by the Attorney General dated February 13, 2002 and August 9, 2002 (Amended Complaint), have been consolidated for hearing today seeking the imposition of substantial disciplinary sanctions including active license suspension and the assessment of civil penalties, costs and attorney's fees.

The February 13, 2002 Complaint alleges violations of the Board's Consent Order filed August 12, 1999 in the treatment and billing for Lyme disease patients; for failure to divest majority ownership in practice entity; and practice without a medical director. The Complaint further alleges the maintaining and practicing from an unsanitary office on 11/18/99 and 2/11/02; and knowingly conducting a narcotics treatment program (Methadone dispensing between 11/1/99 & 12/6/99) without registration with the Department of Health and Federal authorities.

An Order was entered on March 28, 2002 wherein the Board ratified the Committee's actions of February 14, 2002 and imposed continuing temporary limitations upon Dr. Andujar's license. The August 9, 2002 Complaint alleges IV administrations by unlicensed individuals 4/1/02 - 7/17/02 and failure to cooperate in the inspection of July 17, 2002 by attempting to frustrate, avoid and evade inspection by advising and directing patients and staff not to speak with investigators and by other acts.

Enclosed for Board consideration are the Complaint filed February 13, 2002; the Amended Complaint filed August 9, 2002; the Order for Interim Restraints, Consolidation and Limited Evidentiary Hearing filed August 14, 2002; the Factual Stipulations with Exhibits A through H filed August 30, 2002; Mr. Hernandez' Answer to Consolidated Complaints Filed August 30, 2002 on behalf of Dr. Andujar; D.A.G. Harper's September 27 and

September 30, 2002 letters to Dr. Andujar's counsel concerning the individuals that may be called to testify at this hearing; and D.A.G. Harper's September 30, 2002-memorandum outlining the Attorney General's case. Also attached was Mr. Hernandez' October 2, 2002-letter to D.A.G. Harper with attachments listing the individuals he may call to testify and the documents he may rely upon.

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

THE BOARD, UPON MOTION MADE AND SECONDED, VOTED TO ACCEPT THE FOLLOWING SETTLEMENT TERMS. DR. ANDUJAR'S LICENSE IS SUSPENDED FOR TWO YEARS, WITH TWO MONTHS ACTIVE, THE REMAINING TO BE SERVED AS PROBATION. DR. ANDUJAR WILL BE GRANTED CREDIT FOR THE TIME ALREADY SERVED, i.e. ONE MONTH, WITH THE SECOND MONTH TO BE SERVED FROM DECEMBER 1 THROUGH 31, 2002. ADDITIONALLY, \$50,000 WAS ASSESSED IN PENALTIES IN LIEU OF COSTS AND ATTORNEY FEES. DR. ANDUJAR'S PRACTICE SHALL BE RESTRICTED AS REPRESENTED IN THE PRIOR BOARD ORDER AND IN COUNSEL'S LETTER DATED OCTOBER 4, 2002 RELATING TO IV THERAPY AND LYME'S DISEASE TREATMENT. HE SHALL PROVIDE COURSES IN OFFICE PROCEDURE AND GENERAL TREATMENT, AND IN PARTICULAR, IV THERAPY AS APPROVED BY THE BOARD FOR HIS MEDICAL ASSISTANTS, RNs, or LPNs EMPLOYED IN HIS OFFICE. ADDITIONALLY, DR. ANDUJAR IS TO HIRE A CLEANING SERVICE TO SUPPLEMENT THE CLEANING DUTIES OF HIS STAFF. HE IS PROHIBITED FROM THE USE OF METHADONE AND BUPRENORPHINE UNTIL SUCH TIME AS HE HAS RECEIVED ALL REQUIRED PERMITS AND NECESSARY APPROVALS.

It should be noted that the Attorney General's office strenuously objected to this settlement between the Board and Dr. Andujar. The Attorney General viewed the settlement as disproportionate to the allegations and voiced the opinion that it was contrary to the public's interest.

## **OLD BUSINESS**

### **1. OTTENSTEIN, Alan, M.D., License #51042 KERN, Steven I., Esq., for Respondent EHRENKRANTZ, Kay, D.A.G., for Complainant**

Enclosed for Board modification, rejection or amendment is the August 15, 2002 Initial Decision of Administrative Law Judge M. Kathleen Duncan. This matter was initiated based upon a Four-Count Complaint filed November 22, 2000 alleging in Count I that after an automobile accident in January 1997, Respondent had engaged in a persistent and excessive use of Stadol, a drug which became a classified CDS on October 31, 1997, that such excessive use resulted in an addiction which continued beyond the date Stadol was classified as a CDS, resulting in an incapacity to discharge the functions of a license consistent with the public's health, safety and welfare and/or constituting professional misconduct. Count II alleges that during the time period Respondent was taking Stadol, he continued to practice medicine in disregard for the welfare of his patients, constituting gross malpractice, gross negligence, or gross incompetence or repeated acts of negligence, malpractice, or incompetence, further alleging professional misconduct and incapacity. Count III alleges that Respondent engaged in dishonesty, deception or misrepresentation by obtaining from the pharmacy certain prescriptions for Stadol, Ionamin, Naprelan, Prozac, and Pepcid which Respondent's treating physician, Russell Abrams, M.D., denies having authorized. Count IV alleges that Respondent failed to maintain an adequate patient record for himself and that he maintained incomplete and inadequate patient records for J.W. and T.W. in that he repeatedly failed to document the issuance of his CDS prescriptions for them.

Also enclosed are the Complaint filed November 22, 2000, and Respondent's Answer filed December 20, 2000.

As noted in the Initial Decision, Judge Duncan found the Complaint should be dismissed with prejudice. The Administrative Office was advised by the Division of Law that the Attorney General will not be filing exceptions to this Decision.

### **2. CAPOTE, Pedro N., M.D.**

**CASSIDY, Bernard M., Esq., for Respondent**  
**ALBERTSON, B. Michelle, D.A.G.**

A Provisional Order of Discipline (POD) was filed August 15, 2002 which would suspend the above physician's license until he demonstrates that he is no longer excluded from participation in the Medicare, Medicaid, and all Federal health care programs. Enclosed for Board consideration were D.A.G. Albertson's September 25, 2002 letter to the Board, Mr. Cassidy's September 13, 2002 response with attachments, and the POD with attachments filed August 15, 2002.

THE BOARD, UPON MOTION MADE AND SECONDED, VOTED TO ACCEPT THE THREE YEAR SUSPENSION AND TO AMEND THE FOD TO INCLUDE AN APPEARANCE PRIOR TO REINSTATEMENT OF LICENSURE.

**3. GOSS, Graydon, M.D.**  
**GORRELL, Joseph M., Esq., for Respondent**  
**ALBERTSON, B. Michelle, D.A.G.**

A Provisional Order of Discipline (POD) was filed February 5, 2002 which would revoke the above physician's license. Enclosed for Board consideration were D.A.G. Albertson's August 20, 2002 letter to the Board, Mr. Gorrell's May 6, 2002 response with attachments, and the POD with attachments filed February 5, 2002.

THIS MATTER WAS MOVED INTO CLOSED SESSION.

**OFF AGENDA ITEM:**

**4. NAPOLEON, D.O.**  
**Iavicoli, Mario, Esq., for Respondent**  
**KENNY, Paul, D.A.G.**

This matter was opened to the President of the Board upon application by Mr. Iavicoli for an extension of time for the filing of exceptions to the Initial Decision of the Administrative Law Judge. He requested an extension of sixty days in order to file the exceptions. The Attorney General's office objected to any further extensions. The parties convened on September 23, 2002 via telephone conference. During that conference, Mr. Iavicoli represented that Dr. Napoleon would voluntarily cease from practicing medicine, except in the role as a surgical assistant, until such time as a final decision is made. Again, during oral argument on this issue, the Attorney General's objected to any further extensions. Dr. Harrer, in his role as President, granted an extension of thirty nine days from the prior due date of September 20, 2002. Effective immediately and until such time as the Board hears and determines finalization of the Initial Decision, Respondent shall cease and desist the practice of medicine and surgery, except that the Respondent may continue to act as a surgical assistant under the supervision of an operating surgeon at Burdette Tomlin Memorial Hospital. Oral argument on this matter is set for November 13, 2002. This matter is now before the full Board for ratification, modification or rejection of Dr. Harrer's decision.

THE BOARD, UPON MOTION MADE AND SECONDED, VOTED TO AMEND DR. HARRER'S DECISION TO ENTER THE ADJOURNMENT ORDER IN THE NAPOLEON MATTER TO REFLECT THAT DR. NAPOLEON IS VOLUNTARILY CEASING PRACTICE.

There being no further business of the Board concerning Disciplinary Matters Pending Conclusion in open session, the Board voted to continue with the meeting concerning Matters Pending Litigation and Disciplinary Action in closed session.

Respectfully submitted,

---

David M. Wallace, M.D., Chairperson

for Open Disciplinary Matters

[Back to Open Disciplinary Archive Minutes](#)

---

division: [dca home](#) | [complaint forms](#) | [licensing boards](#) | [adoptions](#) | [proposals](#) | [minutes](#) | [consumer protection](#)

departmental: [lps home](#) | [contact us](#) | [news](#) | [about us](#) | [FAQs](#) | [library](#) | [employment](#) | [programs and units](#) | [services a-z](#)

statewide: [nj home](#) | [my new jersey](#) | [people](#) | [business](#) | [government](#) | [departments](#) | [search](#)

Page last modified: *undefined, undefined NaN, NaN*