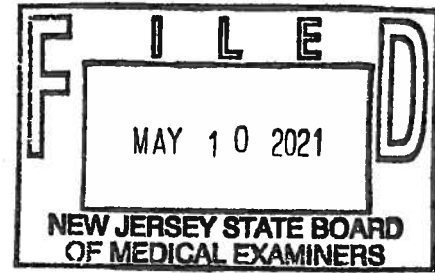


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ATTORNEY GENERAL OF NEW JERSEY
Division of Law
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Effective Date - May 31, 2021

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STATE OF NEW JERSEY
DEPARTMENT OF LAW AND PUBLIC SAFETY
DIVISION OF CONSUMER AFFAIRS
STATE BOARD OF MEDICAL EXAMINERS &
DRUG CONTROL UNIT

IN THE MATTER OF THE SUSPENSION OR
REVOCATION OF THE LICENSE AND CDS
REGISTRATION OF

ALEXANDER KULISCHENKO, M.D.
License No. 25MA04300900
NJ CDS Registration No. D04194400

Administrative Action

FINAL CONSENT ORDER

This matter was opened to the State Board of Medical Examiners ("Board") and Kaitlin A. Caruso, Acting Director of the New Jersey Division of Consumer Affairs (the "Director") upon receipt of information from the Division of Criminal Justice that Alexander Kulischenko, M.D., License No. 25MA04300900, NJ CDS Registration No. D04194400 who maintains a medical practice at 495 Ryders Lane, East Brunswick was engaged in the indiscriminate prescribing of Controlled Dangerous Substances ("CDS").

On December 18, 2019, the Enforcement Bureau of the Division of Consumer Affairs ("EB") conducted an inspection of Dr. Kulischenko's office. Investigators observed that while nearly all the records contained diagnostic testing supportive of the need for pain management, the files lacked

CERTIFIED TRUE COPY

narcotic contracts, Prescription Monitoring Program ("PMP") database searches or toxicology screen results. A number of the patients that were being treated for chronic pain management were prescribed excessively high morphine milligram equivalents ("MMEs"), which were between 800 and 1100 MMEs daily.

Following the inspection, Dr. Kulischenko advised the EB that he had initiated utilization of a patient agreement for CDS prescriptions, random urine drug testing and routine PMP checks, at least once per quarter. He also reported recently completing a Continuing Medical Education ("CME") online course titled "Pain Management and Opioids: Balancing Risks and Benefits."

On July 22, 2020, Dr. Kulischenko appeared for a virtual PEC during which he testified to having between 5,000 and 7,000 patients in his practice and treating approximately 50 individuals for Pain Management. He informed the committee that all the pain patients had already been under his care when they started being treated for chronic pain. He acknowledged that prior to the EB's investigation, he had not been conducting toxicology screens on his pain patients, but had now instituted a new policy of requiring them twice per year. Dr. Kulischenko acknowledged being aware of the NJ Prescription Monitoring Program prior to December 2019 when the EB conducted their investigation, but admitted not regularly utilizing the database. At the conclusion of the PEC, Dr. Kulischenko explained that he had already arranged to transfer all his chronic pain patients to a pain management specialist and expressed his willingness to cease prescribing all Schedule II CDS medications and cooperate with the Board in order to improve his practice of medicine.

The Board's investigation, including a review of Respondent's patient records and his testimony before the PEC, resulted in a finding that Respondent, an internist without any special training in treating pain, acted inappropriately by prescribing high doses of opioids to a limited number of patients. Specifically, he prescribed CDS to certain patients for years without tapering

doses, referring the patients to alternate treatment modalities or utilizing proper monitoring tools, which resulted in his failure to recognize when it was necessary to refer the patients to a pain management physician or addiction specialist.

Based upon Respondent's admissions and the information learned through the Board's investigation, the Board finds that Respondent engaged in indiscriminate prescribing of CDS, in violation of N.J.S.A. 45:1-21(e), (m) and (h), specifically N.J.A.C. 13:35-7.6. Furthermore, prescribing CDS without a legitimate medical purpose is a violation of N.J.A.C. 13:45H-7.4 which provides the basis under N.J.S.A. 24:21-12(a)(3) for the Director to suspend or revoke Respondent's New Jersey CDS Registration.

The parties desiring to resolve this matter without the need for formal proceedings, and it appearing that Respondent has read the terms of the within Order and understands their meaning and effect and agrees to be bound by same and has availed himself of the advice of counsel, and the Board and Director finding the within disposition adequately protective of the public health, safety and welfare, and that good cause exists for entry of the within Order:

IT IS, therefore, on this 10th day of May, 2021,

ORDERED THAT:

1. Respondent, Alexander Kulischenko, M.D., license number 25MA04300900 agrees to retire his license to practice medicine and surgery in the State of New Jersey, with such retirement to be deemed a permanent suspension effective May 31, 2021.

2. In order to allow adequate time for the transfer of care of Respondent's patients, Respondent shall be afforded a "wind-down" period until May 31, 2021. Respondent shall not accept any new patients during this "wind-down" period and shall assure that arrangements are made for the

orderly transfer of care of current patients to New Jersey licensed physicians, and that patients have access to their patient records pursuant to the requirements of N.J.A.C. 13:35-6.5(h).

3. As of May 31, 2021, Respondent's New Jersey CDS Registration, No. D04194400, pursuant to the authority of the Director under N.J.S.A. 24:21-9 et seq., is surrendered, which shall be deemed a permanent revocation. This CDS Registration surrender is independent of any action taken by the Board, the United States Drug Enforcement Administration ("DEA") or any other law enforcement or licensing authority. A copy of this Order, signed by the Acting Director, will be filed with the Division's Drug Control Unit.

4. Respondent agrees not to reapply for a CDS Registration or a medical license in New Jersey in the future.

5. Pursuant to N.J.S.A. 24:21-12(f), the Director shall promptly notify the DEA of the entry of this Order.

6. Respondent shall pay a penalty in the amount of \$5,000. A Certificate of Debt reflecting the \$5,000 currently due and owing shall be filed pursuant to N.J.S.A. 45:1-24 to protect the judgment. Payment shall be made by certified bank check, certified check, wire transfer, credit card or money order, payable to the State of New Jersey and forwarded to the attention of Terri Goldberg, Acting Executive Director, Board of Medical Examiners, 140 East Front Street, 2nd floor, Trenton, New Jersey 08608. Any payment in a form other than those noted in this paragraph will be rejected and returned to the sender. Full payment shall be made within ten days of the entry of this Order.

7. As of May 31, 2021, Respondent shall cease and desist all patient contact at any location in New Jersey and the rendering of medical care, including the issuance of any prescriptions

for, or dispensation of, medications of any kind. Respondent shall not enter the premises of his former medical practice during business hours when patients may be present.

8. As of May 31, 2021, Respondent shall not charge, receive or share in any fee for professional services rendered by others. Respondent shall be permitted to collect accounts receivable with respect to professional services that he rendered prior to May 31, 2021.

9. Respondent shall divest himself from any current and future financial interest in or benefit derived from the practice of medicine, including but not limited to the provision of healthcare activities taking place at 495 Ryders Lane, East Brunswick, Respondent's former medical office, or anywhere else.

10. Within ten days of the filing of this Order, Respondent is to notify Terri Goldberg, Acting Executive Director, New Jersey State Board of Medical Examiners, 140 East Front Street, P.O. Box 183, Trenton, New Jersey 08625-0183 as to where his patient records are secured, and how patients may obtain them.

11. Given that Respondent has retired, but with such retirement deemed a permanent suspension from the practice of medicine, he shall be precluded from managing, overseeing, supervising or influencing the practice of medicine or provision of healthcare activities, including by testifying as an expert witness, in the State of New Jersey.

12. On May 31, 2021, Respondent shall return his original New Jersey license, current biennial registration and CDS registration to the New Jersey State Board of Medical Examiners, 140 E. Front Street, P.O. Box 183, Trenton, New Jersey 08625-0183.

13. On May 31, 2021, Respondent shall send all of his remaining prescription blanks, along with a cover memorandum indicating that he will no longer be writing CDS prescriptions and

asking that his prescription blanks be destroyed pursuant to standard operating procedures, to Dana Pulizzano, Executive Director, Drug Control Unit, P.O. Box 45045, Newark, NJ 07101.

14. Respondent shall comply with the attached "Directives Applicable to Any Medical Board Licensee who is Disciplined or Whose Surrender of Licensure or Cessation of Practice has been Ordered or Agreed Upon."

15. Any practice in the State in violation of the above conditions shall constitute grounds for discipline for violation of a Board Order and professional misconduct pursuant to N.J.A.C. 13:45C-1.4.

16. The parties hereby stipulate that entry of this Order is without prejudice to further action, investigation, and prosecution by this Board, the Attorney General, the Drug Control Unit, the Director of the Division of Consumer Affairs or other law enforcement resulting from Respondent's conduct not addressed by the terms of this Order.

NEW JERSEY STATE BOARD OF MEDICAL EXAMINERS



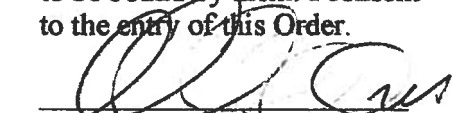
By: METZGER, Scott E., M.D.
Scott E. Metzger, M.D.
President

NEW JERSEY DIVISION OF CONSUMER AFFAIRS



By: Kaitlin A. Caruso
Kaitlin A. Caruso
Acting Director

I have read the within Order,
understand its terms and agree
to be bound by them. I consent
to the entry of this Order.


Alexander Kulischenko, M.D.

Dated: 4/28/21

Consented as to form:


Lauren Zalepka, Esq.
Attorney for Respondent

Dated: 5/3/21

**DIRECTIVES APPLICABLE TO ANY MEDICAL BOARD LICENSEE
WHO IS DISCIPLINED OR WHOSE SURRENDER OF LICENSURE
OR CESSATION OF PRACTICE HAS BEEN ORDERED OR AGREED UPON**

APPROVED BY THE BOARD ON AUGUST 12, 2015

All licensees who are the subject of a disciplinary order or surrender or cessation order (herein after, "Order") of the Board shall provide the information required on the addendum to these directives. Failure to provide the information required may result in further disciplinary action for failing to cooperate with the Board, as required by N.J.A.C. 13:45C-1 et seq: Paragraphs 1 through 4 below shall apply when a licensee is suspended, revoked, has surrendered his or her license, or entered into an agreement to cease practice, with or without prejudice, whether on an interim or final basis. Paragraph 5 applies to licensees who are the subject of an order which, while permitting continued practice, contains probationary terms or monitoring requirement.

1. Document Return and Agency Notification

The licensee shall promptly forward to the Board office at Post Office Box 183, 140 East Front Street, 2nd floor, Trenton, New Jersey 08625-0183, the original license, current biennial registration and, if applicable, the original CDS registration. In addition, if the licensee holds a Drug Enforcement Agency (DEA) registration, he or she shall promptly advise the DEA of the licensure action. (With respect to suspensions of a finite term, at the conclusion of the term, the licensee may contact the Board office for the return of the documents previously surrendered to the Board. Prior to the resumption of any prescribing of controlled dangerous substances, the licensee shall petition the Director of Consumer Affairs for a return of the CDS registration if the basis for discipline involved CDS misconduct. In addition, at the conclusion of the term, the licensee should contact the DEA to advise of the resumption of practice and to ascertain the impact of that change upon his/her DEA registration.)

2. Practice Cessation

The licensee shall cease and desist from engaging in the practice of medicine in this State. This prohibition not only bars a licensee from rendering professional services, but also from providing an opinion as to professional practice or its application, or representing him/herself as being eligible to practice. (Although the licensee need not affirmatively advise patients or others of the revocation, suspension, surrender or cessation, the licensee must truthfully disclose his/her licensure status in response to inquiry.) The licensee subject to the order

is also prohibited from occupying, sharing or using office space in which another licensee provides health care services. The licensee subject to the order may contract for, accept payment from another licensee for rent at fair market value for office premises and/or equipment. In no case may the licensee subject to the order authorize, allow or condone the use of his/her provider number by any health care practice or any other licensee or health care provider. In situations where the licensee has been subject to the order for less than one year, the licensee may accept payment from another professional who is using his/her office during the period that the licensee is (suspended), subject to the order for the payment of salaries for office staff employed at the time of the Board action.

A licensee whose license has been revoked, suspended or subject to a surrender or cessation order for one (1) year or more must immediately take steps to remove signs and take affirmative action to stop advertisements by which his/her eligibility to practice is represented. The licensee must also take steps to remove his/her name from professional listings, telephone directories, professional stationery, or billings. If the licensee's name is utilized in a group practice title, it shall be deleted. Prescription pads bearing the licensee's name shall be destroyed. A destruction report form obtained from the Office of Drug Control (973-504-6558) must be filed. If no other licensee is providing services at the location, all medications must be removed and returned to the manufacturer, if possible, destroyed or safeguarded. (In situations where a license has been suspended for less than one year, prescription pads and medications need not be destroyed but must be secured in a locked place for safekeeping.)

3. Practice Income Prohibitions/Divestiture of Equity Interest in Professional Service Corporations and Limited Liability Companies

A licensee subject to the order shall not charge, receive or share in any fee for professional services rendered by him/herself or others while barred from engaging in the professional practice.¹ The licensee may be compensated for the reasonable value of services lawfully rendered and disbursements incurred on a patient's behalf prior to the effective date of the Board order.

¹ This bar on the receipt of any fee for professional services is not applicable to cease and desist orders where there are no findings that would be a basis for Board action, such as those entered adjourning a hearing.

A licensee who is a shareholder in a professional service corporation organized to engage in the professional practice, whose license is revoked, surrendered or suspended or who is ordered to cease practice for a term of one (1) year or more shall be deemed to be disqualified from the practice within the meaning of the Professional Service Corporation Act. (N.J.S.A. 14A:17-11). A disqualified licensee shall divest him/herself of all financial interest in the professional service corporation pursuant to N.J.S.A. 14A:17-13(c). A disqualified licensee who is a member of a limited liability company organized pursuant to N.J.S.A. 42:1-44, shall also divest him/herself of all financial interest. Such divestiture of the licensee's interest in the limited liability company or professional service corporation shall occur within 90 days following the entry of the order rendering the licensee disqualified to participate in the applicable form of ownership. Upon divestiture, a licensee shall forward to the Board a copy of documentation forwarded to the Division of Revenue and Enterprise Services demonstrating that the interest has been terminated. If the licensee is the sole shareholder in a professional service corporation or sole member of the limited liability company, the corporation must be dissolved within 90 days of the licensee's disqualification unless it is lawfully transferred to another licensee and documentation of the valuation process and consideration paid is also provided to the Board.

4. Medical Records

If, as a result of the Board's action, a practice is closed or transferred to another location, the licensee shall ensure that (during the three (3) month period) immediately following the effective date of the disciplinary order, a message will be delivered to patients calling the former office premises, advising where records may be obtained. The message should inform patients of the names and telephone numbers of the licensee (or his/her attorney) assuming custody of the records. The same information shall also be disseminated by means of a notice to be published at least once per month for three (3) months in a newspaper of general circulation in the geographic vicinity in which the practice was conducted. If the licensee has a website, a notice shall be posted on the website as well.

At the end of the three month period, the licensee shall file with the Board the name and telephone number of the contact person who will have access to medical records of former patients. Any change in that individual or his/her telephone number shall be promptly reported to the Board. When a patient or his/her representative requests a copy of his/her medical record or asks that record be forwarded to another health care provider, the licensee shall promptly provide the record without charge to the patient.

5. Probation/Monitoring Conditions

With respect to any licensee who is the subject of any order imposing a probation or monitoring requirement or a stay of an active suspension, in whole or in part, which is conditioned upon compliance with a probation or monitoring requirement, the licensee shall fully cooperate with the Board and its designated representatives, including the Enforcement Bureau of the Division of Consumer Affairs, in ongoing monitoring of the licensee's status and practice. Such monitoring shall be at the expense of the disciplined practitioner.

(a) Monitoring of practice conditions may include, but is not limited to, inspection of the professional premises and equipment, and inspection and copying of patient records (confidentiality of patient identity shall be protected by the Board) to verify compliance with the Board Order and accepted standards of practice.

(b) Monitoring of status conditions for an impaired practitioner may include, but is not limited to, practitioner cooperation in providing releases permitting unrestricted access to records and other information to the extent permitted by law from any treatment facility, other treating practitioner, support group or other individual/facility involved in the education, treatment, monitoring or oversight of the practitioner, or maintained by a rehabilitation program for impaired practitioners. If bodily substance monitoring has been ordered, the practitioner shall fully cooperate by responding to a demand for breath, blood, urine or other sample in a timely manner and providing the designated sample.

6. Payment of Civil and Criminal Penalties and Costs.

With respect to any licensee who is the subject of any order imposing a civil penalty and/or costs, the licensee shall satisfy the payment obligations within the time period ordered by the Board or be subject to collection efforts or the filing of a certificate of debt. The Board shall not consider any application for reinstatement nor shall any appearance before a committee of the Board seeking reinstatement be scheduled until such time as the Board ordered payments are satisfied in full. (The Board at its discretion may grant installment payments for not more than a 24 months period.)

As to the satisfaction of criminal penalties and civil forfeitures, the Board will consider a reinstatement application so long as the licensee is current in his or her payment plans.

NOTICE OF REPORTING PRACTICES OF BOARD
REGARDING DISCIPLINARY ORDERS/ACTIONS

All Orders filed by the New Jersey State Board of Medical Examiners are "government records" as defined under the Open Public Records Act and are available for public inspection, copying or examination. See N.J.S.A. 47:1A-1, et seq., N.J.S.A. 52:14B-3(3). Should any inquiry be made to the Board concerning the status of a licensee who has been the subject of a Board Order, the inquirer will be informed of the existence of the Order and a copy will be provided on request. Unless sealed or otherwise confidential, all documents filed in public actions taken against licensees, to include documents filed or introduced into evidence in evidentiary hearings, proceedings on motions or other applications conducted as public hearings, and the transcripts of any such proceedings, are "government records" available for public inspection, copying or examination.

Pursuant to N.J.S.A. 45:9-22, a description of any final board disciplinary action taken within the most recent ten years is included on the New Jersey Health Care Profile maintained by the Division of Consumer Affairs for all licensed physicians. Links to copies of Orders described thereon are also available on the Profile website. See <http://www.njdoctorlist.com>.

Copies of disciplinary Orders entered by the Board are additionally posted and available for inspection or download on the Board of Medical Examiners' website.

See <http://www.njconsumeraffairs.gov/bme>.

Pursuant to federal law, the Board is required to report to the National Practitioner Data Bank (the "NPDB") certain adverse licensure actions taken against licensees related to professional competence or conduct, generally including the revocation or suspension of a license; reprimand; censure; and/or probation. Additionally, any negative action or finding by the Board that, under New Jersey law, is publicly available information is reportable to the NPDB, to include, without limitation, limitations on scope of practice and final adverse actions that occur in conjunction with settlements in which no finding of liability has been made. Additional information regarding the specific actions which the Board is required to report to the National Practitioner Data Bank can be found in the NPDB Guidebook issued by the U.S. Department of Health and Human Services in April 2015. See <http://www.npdb.hrsa.gov/resources/npdbguidebook.pdf>.

Pursuant to N.J.S.A.45:9-19.13, in any case in which the Board refuses to issue, suspends, revokes or otherwise places conditions on a license or permit, the Board is required to notify each licensed health care facility and health maintenance organization with which a licensee is affiliated and every other board licensee in this state with whom he or she is directly associated in private medical practice.

In accordance with an agreement with the Federation of State Medical Boards of the United States, a list of all disciplinary orders entered by the Board is provided to the Federation on a monthly basis.

From time to time, the Press Office of the Division of Consumer Affairs may issue press releases including information regarding public actions taken by the Board.

Nothing herein is intended in any way to limit the Board, the Division of Consumer Affairs or the Attorney General from disclosing any public document.