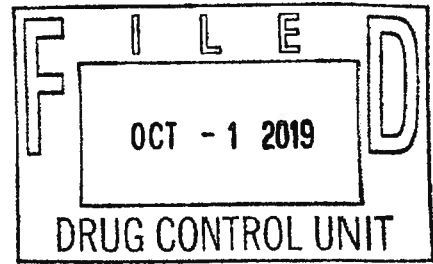
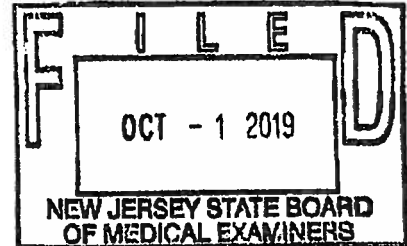


GURBIR S. GREWAL
ATTORNEY GENERAL OF NEW JERSEY
Division of Law
124 Halsey Street
P.O. Box 45029
Newark, New Jersey 07101

By: David M. Puteska
Deputy Attorney General
Tel: 973-648-2972
David.Puteska@law.njoag.gov
Attorney Identification No. 301995



nunc pro tunc April 8, 2014



STATE OF NEW JERSEY
DEPARTMENT OF LAW AND PUBLIC SAFETY
DIVISION OF CONSUMER AFFAIRS
STATE BOARD OF MEDICAL EXAMINERS &
DRUG CONTROL UNIT
OAL Docket No. BDS 02860-2015S

IN THE MATTER OF THE LICENSE TO
PRACTICE MEDICINE AND SURGERY
AND NJ CDS REGISTRATION OF

LIVIU T. HOLCA, M.D.
LICENSE NO. 25MA05447500
CDS REG. NO. D06676300

Administrative Action

CONSENT ORDER

This matter was opened to the New Jersey State Board of Medical Examiners by the Attorney General of New Jersey ("Attorney General"), on March 26, 2014 by the filing of a Verified Administrative Complaint and Order to Show Cause with the New Jersey State Board of Medical Examiners (the "Board"). The Complaint sought the temporary suspension of Liviu T. Holca, M.D.'s ("Respondent") license to practice medicine and surgery in New Jersey and other relief.

The Complaint alleged that Respondent indiscriminately prescribed Controlled Dangerous Substances ("CDS") and exhibited gross and repeated acts of negligence in his care of one (1)

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undercover law enforcement official posing as a patient and six (6) patients, thereby making his continued practice of medicine an imminent danger to the public health, safety and welfare pursuant to N.J.S.A. 45:1-22.

A hearing on the Attorney General's application was scheduled for April 9, 2014. In exchange for an adjournment of the April 9, 2014 return date, Respondent entered into an Interim Consent Order dated April 8, 2014 in which he agreed to cease and desist from the practice of medicine pending the return date of the Order to Show Cause. On June 11, 2014, Respondent entered into a Consent Order of Temporary Suspension. Therein, Respondent denied any wrongdoing but agreed to the immediate temporary suspension of his medical license in the State of New Jersey pending further order of the Board.

On October 7, 2014, the matter was transferred to the Newark Office of Administrative Law as a contested case and docketed as BDS 02860-2015 S. The matter was assigned to the Honorable Patricia M. Kerins, ALJ. On August 31, 2015, Judge Kerins issued an Order of Admission to Inactive List, placing the matter on "Inactive" status pending the outcome of Respondent's criminal matter. Respondent's criminal matter, styled "State of New Jersey v. Liviu T. Holca" and docketed as Indictment No. 14-07-1885, stemmed from his January 24, 2014 arrest by the Ocean County Special Operations Group on charges of drug distribution, financial facilitation and gun possession, among other accusations.

On May 27, 2016, Respondent appeared before the Honorable Wendel E. Daniels, P.J. Cr. P., for a plea hearing in his criminal case. On that date, Respondent pleaded guilty to Distribution of Controlled Dangerous Substances in the Third Degree in violation of N.J.S.A. 2C:35-5 et seq. and Financial Facilitation of Criminal Activity in the Third Degree in violation of N.J.S.A. 2C:21-

25 et seq. Judge Daniels sentenced Respondent to three (3) years of probation; 1,000 hours of community service; \$1,000 in fines and costs; and required the forfeiture of \$291,919.

On June 21, 2016, Judge Kerins issued an Order reclassifying the matter as “Active” and instructing the parties to commence settlement negotiations.

Upon review of the information submitted and considering each of the allegations, including Respondent’s denial of the allegations, the Board hereby finds that Respondent engaged in the use or employment of dishonesty, fraud, deception, or misrepresentation in violation of N.J.S.A. 45:1-21(b); was grossly negligent in a manner that endangered the life, health, welfare, or safety of a person in violation of N.J.S.A. 45:1-21(c); engaged in repeated acts of negligence in violation of N.J.S.A. 45:1-21(d); engaged in acts constituting a crime or offense involving moral turpitude or relating adversely to the practice of medicine and surgery in violation of N.J.S.A. 45:1-21(f); failed to comply with the provisions of an act or regulation administered by the board in violation of N.J.S.A. 45:1-21(h)(specifically, preparation of a patient record in violation of N.J.A.C. 13:35-6.5; failure to properly examine a patient prior to issuing a prescription in violation of N.J.A.C. 13:35-7.14; and failure to comply with certain limitations on prescribing controlled substances in violation of N.J.A.C. 13:35-7.6); indiscriminately prescribed CDS without good cause or where Respondent knew or should have known that the substances were to be used for unauthorized consumption or distribution in violation of N.J.S.A. 45:1-21(m); and failed to be of good moral character as is required for licensing as a physician pursuant to N.J.S.A. 45:9-6.

The parties being desirous of resolving this matter without the necessity of further legal proceedings, and it appearing that Respondent has read the terms of the within Order and understands their meaning and effect and consents to be bound by same, and the Board finding

that the within disposition adequately protects the public health, safety and welfare, and for good cause shown,

IT IS, THEREFORE, ON THIS 1st DAY OF OCTOBER, 2019,

ORDERED AND AGREED THAT:

1. Effective nunc pro tunc April 8, 2014, ("Effective Suspension Date"), Respondent's license to practice medicine and surgery in the State of New Jersey shall be, and hereby is, suspended for a period of five (5) years.

2. The period of suspension will be tolled for any length of time that Respondent practices in another jurisdiction.

3. Respondent's New Jersey CDS Registration, pursuant to the authority of the Director of the New Jersey Division of Consumer Affairs (the "Director") under N.J.S.A. 24:21-9 et seq., is permanently revoked nunc pro tunc April 8, 2014. This CDS Registration revocation 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 Consent Order, signed by the Director, will be filed with the Division's Drug Control Unit.

4. Respondent shall return his original New Jersey license, current biennial registration and his CDS registration to William V. Roeder, Executive Director, New Jersey State Board of Medical Examiners, P.O. Box 183, Trenton, New Jersey 08625-0183.

5. Respondent shall continue to be barred from engaging in the practice of medicine and surgery in this State until such time as he seeks and is granted reinstatement. This means that the Respondent shall, among other things, refrain from all patient contact and shall not issue any prescriptions for, or dispense, medications of any kind, including but not limited to CDS.

6. Respondent shall comply with N.J.A.C. 13:35-6.5(h), the Board regulation for practice closure. Within ten (10) days of the filing of this Consent Order, Respondent is to notify William V. Roeder, Executive Director, State Board of Medical Examiners, 140 East Front Street, PO Box 183, Trenton, New Jersey 08625-0183 as to where his patient records are secured, and how patients may obtain them.

7. Respondent shall be precluded from managing, overseeing, supervising or influencing the practice of medicine or the provision of health care services to patients in the State of New Jersey.

8. 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 the effective date of the Interim Consent Order temporarily suspending his license.

9. Before Respondent's suspension shall be lifted he shall provide the Board with proof that he has taken and successfully completed courses in (i) medical ethics; and (ii) medical recordkeeping which are approved in advance by the Board. Successful completion means that all sessions were attended, all assignments were properly and appropriately completed and a passing grade was achieved which was unconditional and without reservation. Respondent shall bear the cost of the courses and shall not use any credits obtained through the courses towards the fulfillment of his biennial continuing medical education requirement.

10. Respondent is assessed a civil penalty of \$100,000 pursuant to N.J.S.A. 45:1-25. In light of the significant criminal forfeiture resulting from his guilty plea, the entirety of the penalty shall be stayed provided Respondent complies with the terms of this Consent Order.

11. Respondent is assessed \$35,695 in attorney's fees in this matter pursuant to N.J.S.A. 45:1-25.

12. Payment of costs pursuant to Paragraph eleven (11) of this Consent Order, in the total amount of \$35,695, shall be made via four quarterly payments of \$8,923.75. The first payment shall be due on December 1, 2019, with the remaining three payments due every three months thereafter. All payments shall be by certified bank check, certified check, money order, wire transfer or credit card payable to the State of New Jersey and sent to the State Board of Medical Examiners, c/o Mr. William Roeder, Executive Director, New Jersey Board of Medical Examiners, P.O. Box 183, Trenton, New Jersey 08625. Any other form of payment will be rejected and will be returned to the party making payment. In the event that a monthly payment is not received within five days of its due date, the entire balance of the civil penalty and costs shall become due and owing. For any costs or penalty payments not paid in full within 10 days of the entry of this Order, a Certificate of Debt shall be filed pursuant to N.J.S.A. 45:1-24 to protect the judgment.

13. As part of his return to the active practice of medicine, Respondent shall appear before a Committee of the Board to demonstrate his fitness to resume practice, at a minimum demonstrating his compliance with all of the terms contained herein or subsequently ordered as a condition of any return to practice, successful completion of the agreed upon coursework and payment of all penalties and costs. The Board expressly reserves the right to impose additional restrictions and/or limitations if a return to active practice is approved.

14. The terms of the "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," attached hereto as Exhibit 1, are expressly incorporated herein by reference.

15. The parties hereby stipulate that entry of this Consent Order is without prejudice to further action by this Board, the Attorney General, the Drug Control Unit, the Director of the Division of Consumer Affairs or any other law enforcement entities resulting from Respondent's conduct prior or subsequent to entry of this Order. The parties also stipulate that the entry of this Consent Order is without any admissions by Respondent.

16. This Consent Order shall be a final disposition of the Verified Administrative Complaint filed in this matter and docketed by the Office of Administrative Law as BDS 02860-2015 S. The Board shall retain jurisdiction to enforce the terms of this Order.

NEW JERSEY STATE BOARD OF MEDICAL EXAMINERS

By: 

Dr. Scott Metzger
Scott E. Metzger, M.D.,
Board President

NEW JERSEY DIVISION OF CONSUMER AFFAIRS

By: 

Paul R. Rodriguez,
Acting Director

EXHIBIT 1

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 her 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 her/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 her/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 her/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 her/his 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 her/his eligibility to practice is represented. The licensee must also take steps to remove her/his 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.

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

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.

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 her/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 her/her telephone number shall be promptly reported to the Board. When a patient or her/her representative requests a copy of her/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 her 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.