

**NJ STATE BOARD OF MEDICAL EXAMINERS
OPEN DISCIPLINARY MINUTES**

- June 13, 2001

A meeting of the New Jersey State Board of Medical Examiners was held on Wednesday, June 13, 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, Criss, Desmond, DiFerdinando, Farrell, Haddad, Harrer, Lucas, Moussa, Perry, Reid, Ricketti, Robins, Rokosz, Trayner, Wallace and Walsh.

EXCUSED

Board Members Huston, Patel and Weiss.

ALSO PRESENT

Deputy Attorneys General Albertson, Dick, Flanzman, Gelber, Joyce, Kenny, Levine and Warhaftig; Executive Director Roeder and Medical Director Gluck, New Jersey State Board of Medical Examiners.

RATIFICATION OF MINUTES

The Minutes from the May 9, 2001 Board meeting were approved as submitted.

HEARINGS, PLEAS, RETURN DATES, APPEARANCES

KATZ, Michael M., M.D. (Counseling Deputy: FLANZMAN)
FRUCHTMAN, Susan, Esq., for Respondent
GELBER, Joan D., D.A.G., for Complainant

(Proceedings Recorded by Linda Mahoney, C.S.R., MERLINO & ASSOCIATES)

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

The Board returned to open session to hear legal argument on the Attorney General's Motion for Summary Decision. A Consent Order was filed by the Board on April 18, 2001 transmitting the allegations of Counts I through XV of the pending Administrative Complaint filed against Michael Katz, M.D., to the Office of Administrative Law. Pursuant to that Order, Dr. Katz is presently prohibited from practicing medicine in the State of New Jersey (pending final disposition of all counts of the filed Complaint). The Board has retained jurisdiction of Count XVI of the Complaint, and the Consent Order filed on April 18, 2001 had provided that the Attorney General's Motion for Summary Decision on that Count was to be rescheduled for the first available Board meeting date following issuance of a decision and order by the New York Administrative Review Board upon Dr. Katz' appeal of the action taken against him in New York. The New York Administrative Review Board issued the decision. Enclosed for Board consideration were a letter brief and appendix dated May 10, 2001 from Deputy Attorney General Gelber.

The Board also received a June 1, 2001 letter from Ms. Fruchtman enclosing a May 14, 2001 letter sent to D.A.G. Gelber. Her letter advised D.A.G. Gelber that Dr. Katz was requesting a stay of the recent decision issued by the New York Administrative Review Board. Ms. Fruchtman also provided to the Board a proposed copy of an Order to Show Cause with verified petition and affirmation in support of Dr. Katz' motion for a stay. Ms. Fruchtman requested, on behalf of Dr. Katz, an additional postponement of this matter in order to allow Dr. Katz to petition the New York Appellate Court to overturn or modify the two decisions issued by the Office of Professional Medical Conduct. As of June 7, 2001, the Administrative Office did not receive Ms. Fruchtman's June 1, 2001 letter with attachments. Therefore, the Administrative Office was unable to provide the Board with the Order to Show Cause Ms. Fruchtman filed with the New York Appellate Division. D.A.G. Flanzman had copies available at the meeting. Also enclosed for Board review were D.A.G. Gelber's June 4, 2001 response in opposition to the request for postponement and Ms. Fruchtman's June 4, 2001 response. The papers were provided to Vice President Harrer on June 7, 2001 to preliminarily consider whether or not to grant the request for adjournment, or whether Ms. Fruchtman should be offered the opportunity to renew her request before the full Board on June 13, 2001. On June 7, 2001, Vice President Harrer, in his executive capacity, reviewed the submissions and determined that Ms. Fruchtman's request for an additional postponement of this matter be denied. Ms. Fruchtman was offered the opportunity to renew her request before the full Board at the start of the proceeding.

The Board received as a handout Ms. Fruchtman's June 12, 2001 letter attaching a Motion for an Appearance Pro Hac Vice for John A. Tasolides, Esq., with Mr. Tasolides' certification in support of the motion along with a proposed Order.

Ms. Fruchtman asked that the Board hear the motion for a stay first and in the event the motion is denied, she would then make argument on the Pro Hac Vice application.

Counsel for Respondent reminded the Board that Dr. Katz had a disciplinary action against him in New York at the end of 2000. Based on that disciplinary action, the Attorney General's Office has sought to issue disciplinary action against him here. The Board previously had granted Dr. Katz a postponement of the New Jersey action in order to pursue his appeal in New York. That decision was issued in the spring and Dr. Katz immediately filed a motion for stay in court which was denied yesterday, but his motion to have the New York disciplinary action reviewed and hopefully overturned, will be before the New York Court. She informed the Board that this appeal may take up to a year to be heard. In the interim, she asked that the New Jersey Board stay hearing the Attorney General's Motion for Summary Judgment. Her request was based on the rationale that if the Board takes action based on what the decision is in New York and that decision is overturned, then Dr. Katz will have been irrefutably harmed because he would be disciplined in New Jersey based on something that did not occur in New York. She also explained that the citizens of New Jersey would be "protected" because Dr. Katz has consistently agreed not to practice in New Jersey until all the legal issues are resolved. She stressed that Dr. Katz again will enter into an Order to protect the public interest and the Board can be confident that it has fulfilled its responsibility to protect the public.

Deputy Attorney General Gelber began by reminding the Board that it has a long standing history in not granting a Motion for Stay when a case is on appeal. In particular, she pointed out that a grant to hear the appeal is almost automatic and quite telling in this case is that Respondent's Motion for a Stay was denied. She stated it appeared that after reviewing the submission made before the New York Court, that Court did not perceive a strong likelihood that Respondent would win on the merits. She continued by arguing that the Attorney General's Motion for Denial of the Stay is because the Attorney General believed that Count XVI of the Complaint, which deals with the New York conviction, is a finished matter, and it was deemed the equivalent of a Final Order at the original level. She stated that thereafter, the Administrative Review Board, which has the authority to modify or correct the initial decision, decided that it was a Final Order that was not stayed. Similarly, in Dr. Katz' appeal, the Court decided not to stay the decision. D.A.G. Gelber argued that for all intents and purposes, the process is complete, and this Board has the authority to decide Count XVI, as it does with any "Sister-State" action. D.A.G. Gelber urged the Board to conclude that there was no valid reason to delay.

In response to opposing counsel's suggestion that Dr. Katz would suffer irrefutable harm because he is willing to sign a Consent Order not to practice in New Jersey until the appeal is decided, D.A.G. Gelber rebutted this argument by arguing that that reasoning was contradictory. She stated that any irrefutable harm has occurred as a result of actions taken by the Licensing Board in New York that already found him guilty of negligence. She argued it is the New York Board that found him guilty of fraudulent conduct and submitting wilfully false reports of patient MRI interpretations. She continued by stating that this Board, under statutory authority N.J.S.A. 45:1-21(g), has the basis for a "sister-State" disciplinary action which imposes a prohibition on practice by the doctor in the sister-State which automatically triggers a disciplinary action in this State. She argued that because it was a Final Order, not stayed, there was no reason this Board should not dispose of this issue.

Ms. Fruchtmann countered by arguing that D.A.G. Gelber's suggestion that the reason that New York denied the stay was because it did not perceive a likelihood of success on the merits, was a red herring. She agreed that the Board has the statutory authority to take disciplinary action, but urged the Board to place themselves in the doctor's position and stay any action until the appeal is completed. She stated the stay would afford Dr. Katz of his due process.

The Board voted to go into executive session for deliberation and 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, and announced the following motion:

THE BOARD, UPON MOTION MADE AND SECONDED, DETERMINED TO GRANT RESPONDENT'S REQUEST FOR ADJOURNMENT CONDITIONED ON DR. KATZ' CONTINUING REPRESENTATION THAT HE WILL NOT ENGAGE IN ANY PRACTICE OF MEDICINE AND SURGERY IN THE STATE OF NEW JERSEY UNTIL SUCH TIME AS THE JUDICIAL REVIEW OF THE FINAL DETERMINATION OF THE NEW YORK ADMINISTRATIVE REVIEW BOARD FOR PROFESSIONAL MEDICAL CONDUCT HAS BEEN CONCLUDED IN THE STATE OF NEW YORK, AND UNTIL SUCH TIME AS THE FINAL DISPOSITION HAS BEEN MADE BY THE NEW JERSEY BOARD INCLUDING COUNTS I TO XV FOLLOWING HEARING AT THE OFFICE OF ADMINISTRATIVE LAW. THE ATTORNEY GENERAL IS EXPRESSLY GRANTED LEAVE TO RENEW HER MOTION FOR PARTIAL SUMMARY DECISION BASED ON COUNT XVI OF THE COMPLAINT AT SUCH TIME AS THE FINAL DECISION IS RENDERED BY THE NEW YORK JUDICIARY ON THE DECISION OF THE NEW YORK ADMINISTRATIVE REVIEW BOARD.

Dr. Lucas abstained from vote in this matter.

Chairman Harrer asked Ms. Fruchtmann if she understood the motion and whether Dr. Katz agreed to comply. Ms. Fruchtmann responded in the affirmative and assured the Board that Dr. Katz has agreed to enter into a Consent Order in which he will agree not to practice in New Jersey according to the terms outlined by the Board in its motion.

SINHA, Binod P., M.D. (Counseling Deputy: JOYCE)
GORRELL, Joseph M., Esq., for Respondent
GELBER, Joan D., D.A.G.

(Proceedings Recorded by Linda Mahoney, C.S.R., MERLINO & ASSOCIATES)

Dr. Robins recused himself from discussion and vote in this matter.

Counsel for the Board discussed this matter in executive session prior to the proceeding.

With all parties present, counsel for Dr. Sinha was afforded ten minutes to speak in favor of Dr. Sinha's request for the termination of his active suspension and permission to resume active medical practice.

Enclosed for Board review and consideration were the Final Decision and Order filed November 22, 2000; correspondence from the University of California dated May 4 and May 7, 2001 with attachments concerning the PACE program which Dr. Sinha recently completed at the University; a Certificate issued to Dr. Sinha from the University of California certifying that Dr. Sinha has successfully completed the Physician Assessment and Clinical Education Program's Medical Recordkeeping Course from April 5 - 6, 2001, receiving 15 hours in Category I credit; Mr. Gorrell's May 8, 2001 letter; and D.A.G. Gelber's May 21, 2001 response. Under separate cover, the Board received from the Division of Law additional correspondence submitted by the parties. Other submissions in compliance with the terms of the Order were provided in the Closed Board packets.

The Board also received as handouts for consideration Mr. Gorrell's June 7, 2001 letter presented in support of the application of Dr. Sinha for reinstatement to practice medicine and surgery in the State of New Jersey. Mr. Gorrell outlined in the letter Dr. Sinha's compliance with the requirements of the November 11, 2000 Final Decision and Order and noted that Dr. Sinha has now served an active suspension of seven months, already one month more than was contemplated by the Board's Order. Mr. Gorrell stated in his letter that there was no reason not to permit Dr. Sinha to resume practice and requested that he be reinstated. The attachments to Mr. Gorrell's June 7, 2001 letter were provided to the Board as a Closed Agenda handout.

Mr. Gorrell began by informing the Board that this was Dr. Sinha's application to return to practice. He reminded the Board that Dr. Sinha was suspended pursuant to a Final Order effective November 11, 2000. There were various provisions to be satisfied prior to his return to practice. Dr. Sinha has complied with all of those provisions. Attorney Gorrell argued that Dr. Sinha has paid the penalties and costs; completed an ethics course which the Board has evidence of; and he continued by arguing that if the Board was concerned about punishment being meted out for Dr. Sinha, that has occurred. Dr. Sinha, aside from the penalty and cost, lost a salary in six figures, the effect of which has been devastating.

As Mr. Gorrell understood the issue, it was not whether Dr. Sinha completed the training course " this certainly was done in California " but rather the quality of the report prepared by that institution because it was not comparable to a Colorado report that is prepared by that program. While acknowledging that the report was not in the same format, Mr. Gorrell argued that the contents were similar. For example, the report does show the assessment Dr. Sinha underwent. This included an initial assessment in which Dr. Sinha did a history and physical of a live patient, as well as an interview. Also provided for the Board was a certificate of completion of a 40-hour program, which included ongoing case discussions and ongoing discussions about various clinical subjects. Mr. Gorrell argued this was an extensive program in which Dr. Sinha was questioned by an anesthesiologist, discussed cases which were given and had to explain how he would handle particular cases. Mr. Gorrell stated that overall, the program determined that Dr. Sinha's performance was good, that he was an enthusiastic learner, and that his fund of knowledge was excellent. Mr. Gorrell asked the Board to also consider this report in context with evidence that was before the Board during the October hearing. At that time, the Board heard testimony from Dr. Pancu in which he assured the Board that since 1997, when Dr. Sinha arrived at Jersey City, his performance was exemplary and that he was an excellent anesthesiologist. He stated the report from California confirmed that assessment and was consistent with the testimony and evidence. For those reasons, Dr. Sinha was asking the Board to allow him to resume his practice. Mr. Gorrell made a point that if and when Dr. Sinha returns to practice, it would not be the equivalent to an internist going into a private practice. As an anesthesiologist, Dr. Sinha is part of a supervised practice and in essence, there is supervision, ongoing quality assurance and ongoing utilization review. He stated the Board would have the assurance that when Dr. Sinha goes back into practice, he is in a clinical setting, part of a team and actively under supervision. Dr. Sinha, according to his attorney, would agree to have his Department Chair submit quarterly progress reports, if the Board deemed it necessary. Mr. Gorrell concluded by informing the Board that Jersey City has been holding a slot for Dr. Sinha, but he was not sure how long they would be able to hold, it since they have held it for six months.

D.A.G. Gelber voiced her concerns with Dr. Sinha's reinstatement because there was no evidence that the

PACE program consisted of a sufficient exam to measure Dr. Sinha's competency to practice. She argued the report before the Board was seriously flawed and was not even remotely comparable to CPEP. D.A.G. Gelber provided the Board with examples of things that happened during the surgical procedures that formed the basis of the Board's action. She argued the report submitted by Dr. Sinha did not address the concerns about his practice. She continued by pointing out that while the report contained descriptions of what Dr. Sinha observed, it did not delineate information concerning problems he encountered or how he improved on how to deal with it. The Attorney General maintained that the evaluation that is needed in a case such as this must address the deficiencies first perceived by the Board and the remediation that has taken place to cure those deficiencies.

Finally, D.A.G. Gelber argued that because Dr. Sinha also has a pain management practice, outside the hospital setting, there was also concern about this aspect of his practice.

Mr. Gorrell countered the Attorney General's argument by referring to the report before the Board where it stated that Dr. Sinha was assessed by five different anesthesiologists as part of the program. He also pointed out that the forty hours of the program attended by Dr. Sinha was comparable to that as conducted by Colorado. He proffered that in some ways, the California program was better because it included not just an assessment, but training and teaching. The assessment of Dr. Sinha was that his fund of knowledge was excellent. Mr. Gorrell further pointed out that this was a program approved by the Board, and in light of the fulfillment of all of the conditions in the Consent Order, Dr. Sinha requests that he be permitted to return to practice.

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

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

UPON REVIEWING THE APPLICATION AND THE SUPPORTING MATERIALS SUBMITTED, THE BOARD, UPON MOTION MADE AND SECONDED, DETERMINED TO ACCEPT THE COMPETENCY ASSESSMENT AS CONDUCTED BY PACE AS REFLECTED IN THE MATERIALS DESCRIBING THE CONTENT OF THE REPORTS AS A SUPPLEMENT TO THE REPORTS PROVIDED. THE BOARD WILL THEN AUTHORIZE PRACTICE PRIVILEGES SUBJECT TO QUARTERLY REPORTS FROM THE DEPARTMENT CHAIRMAN PROVIDED TO THE BOARD FOR THE DURATION OF THE STAYED SUSPENSION WHICH CONCLUDES NOVEMBER 11, 2003, AND THE CONTENT OF THE REPORTS SHOULD BE FULLY DETAILED REGARDING PERFORMANCE AND QUALITY ASSURANCE THAT MAY ARISE. A FORMAL LETTER EXPLAINING WHAT IS REQUIRED IN THE QUARTERLY REPORTS WILL BE PROVIDED TO THE PARTIES FROM THE BOARD.

Dr. Robins recused himself from discussion and vote in this matter.

**LIEBOWITZ, Leonard J., M.D., Pro se (Counseling Deputy: LEVINE)
KENNY, Paul R., D.A.G., for Complainant**

(Proceedings Recorded by Linda Mahoney, C.S.R., MERLINO & ASSOCIATES)

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. Chairman Harrer announced that this matter was before the Board for an Application for Temporary Suspension hearing based on Dr. Liebowitz' alleged inability to practice medicine safely. All papers concerning this matter were submitted to the Board under separate cover by the Division of Law. The Chair understood Dr. Liebowitz was present without an attorney, and noted that Dr. Liebowitz was advised that he could proceed with an attorney, and he chose to proceed without an attorney.

Dr. Perry recused himself from discussion and vote in this matter.

Dr. Liebowitz was sworn.

D.A.G. Kenny made it clear for the record that he had conversations with Dr. Liebowitz during the course of the investigation concerning his right to an attorney and asked Dr. Liebowitz if he chose to proceed without an attorney today. Dr. Liebowitz responded in the affirmative.

D.A.G. Kenny began by stating that this was the Attorney General's application for temporary suspension of Dr. Liebowitz' license in accordance with N.J.S.A. 45:1-22. It was the Attorney General's contention that his continued practice posed a danger to the public health safety and welfare. D.A.G. Kenny reminded the Board that Dr. Liebowitz was known to this Board as an impaired physician for the last 20 years. The Attorney General planned on presenting evidence of the history of the Board's actions which dated back to 1983. D.A.G. Kenny stated that current information came to light which indicated "strange" behavior on the part of Dr. Liebowitz. Allegations included that Dr. Liebowitz wrote prescriptions for patients, had the patient fill it, and then return to his office with the medication. He stated this behavior was consistent with an impaired physician and, in fact, Dr. Liebowitz ignored recommendations by the Physicians' Health Program, as well as other physicians, to seek help. In addition, there was evidence that Dr. Liebowitz had breached the confidentiality of his patients. He argued that all in all, Dr. Liebowitz' is not currently competent to practice medicine and surgery.

In his opening remarks, Dr. Liebowitz informed the Board that he has not taken any medications either prescribed by himself or through any of his patients. He stated the last time he took medication was in December 1999 when he had quadruple bypass surgery. He was willing to answer any questions by the Board.

D.A.G. Kenny began his case by offering into evidence the following: S-1 - an Order of this Board dated February 27, 1991 of the temporary suspension of license that was issued by former Board President Grossman following a hearing by Dr. Liebowitz; S-2 - March 27, 1991, Board affirmed the decision of Dr. Grossman to temporarily suspend the license of Dr. Liebowitz; S-3 - 1991 Order wherein Dr. Liebowitz' license to practice medicine was restored with conditions; S-4 - Order of Unrestricted Licensure filed June 15, 1993 restoring Dr. Liebowitz' license to practice; S-5 - certification of patient S.H.

D.A.G. Kenny moved to seal the following exhibits in this matter because they identify the names of the patients. The patient names have been redacted. He stated Dr. Liebowitz is aware of the names and the Attorney General asked the Board to rule on the patients' confidentiality to seal the evidence in these cases; S-6 - certification of patient S.S.; S-7 - certification of patient J.O. recounting his treatment by Dr. Liebowitz'; S-8 - certification of patient K.O. recounting her treatment by Dr. Liebowitz; S-9 - certification of patient N.W. recounting her treatment by Dr. Liebowitz; S-10 - certification of Stanley Tafil, Drug Control, Division of Consumer Affairs; S-11 - certified prescription profiles from Lexington Pharmacy January 2000 to 2001 which was a summary of prescriptions issued to Dr. Liebowitz; S-12 - police report of February 23, 2001 concerning an incident involving Dr. Liebowitz and his white Toyota; S-13 - certified report of a Spotswood patrolman; S-14 - certified hospital records of Robert Wood Johnson University Hospital concerning Dr. Liebowitz; S-15 - certified records of Centra State Hospital pertaining to treatment of Dr. Liebowitz; S-16 - certification of Dr. Baxter of the Physicians' Health Program; S-17 - affidavit with attachments of patient D.H. recounting her treatment by Dr. Liebowitz and an incident during a depression in April of this year. All of those exhibits were included with the exhibits to the temporary suspension application supplied to the Board. The following were not included as exhibits to the temporary suspension application; S-18 - the original patient records for S.H., the same patient as noted in S-5; S-19 - the original patient records for patient S.S.; S-20 - original patient records for patient K.O.; S-21 - the original patient records for patient J.O.; S-22 - the original patient records for patient M.W. Dr. Liebowitz had no objection to the entry of this evidence.

In response to Board Members' questions, Dr. Liebowitz explained that he has used Stadol for the treatment

of headaches and migraines after he attended a seminar on it approximately ten years ago. He had an occasion shortly after the seminar to treat a patient with acute cholecystitis. The use of Stadol was successful. Although he acknowledged the patient nearly passed out in the office, he learned that the patient needed to rest for a while afterwards and he always must administer it in a diluted state. He generally mixes it to a one-to-one ratio. Dr. Liebowitz admitted that he has never read the package insert, nor has he seen the video which comes with the bottle.

Dr. Liebowitz believed the bottle contained two or four fluid ounces, but he was not certain as to the amount. The bottles are half full and he fills up the bottle with a sterile saline. According to his testimony, he described the bottle as one with an applicator so that after it is diluted, the patient can shoot a fine mist through the capillaries of the nose. Dr. Liebowitz also stated that he prescribes Stadol approximately four to five times a week and has used virtually every pharmacy in his immediate area. No pharmacist has ever questioned the amount of Stadol prescribed by him. Generally, on the prescription he would write "Stadol nose spray as needed for pain." When the patient picked it up, it would be half full. He stated he does not write refills on Stadol. The pharmacies would not dilute the prescription, so each time the patient comes back Dr. Liebowitz dilutes it.

D.A.G. Kenny directed Dr. Liebowitz' attention to S-19. After review of the patient record for S.S., Dr. Liebowitz agreed that the patient record did not reflect the dosage, nor the fact that it was diluted. Similarly, in S-20, the record for K.O., the record did not reflect the dosage amount, nor the dilution. D.A.G. Kenny also brought to the Board's attention that in the case of S.H., according to her certification, Dr. Liebowitz gave the money to the patient to purchase the Stadol from across the street from his office. Dr. Liebowitz denied that this happened.

Dr. Liebowitz was again questioned by the Board.

In response, Dr. Liebowitz stated that he practices internal medicine, that he is Board eligible, but never took the Boards.

When questioned about the release of patient information for D.H. to her estranged husband, Dr. Liebowitz explained the he did not know the legality of the release of records. When originally requested by the husband, Dr. Liebowitz maintained that he would only release them if his attorney requested them. The attorney did request them, and Dr. Liebowitz sent the records. Dr. Liebowitz believed he was allowed to do this. Dr. Liebowitz, however, did not have any of the requests or forms with him to support his explanation.

Concerning his long relationship with the PHP, Dr. Liebowitz agreed that recently Dr. Baxter recommended a full evaluation and that he ignored this recommendation.

According to Dr. Liebowitz, his wife left him in February, and he found her in bed with his son's best friend's husband. The stress in his life was due to his marital problems, not his addiction. He did not agree with Dr. Baxter's evaluation. Although Dr. Liebowitz claimed that Dr. Baxter was not aware of his marital problems at the time of the evaluation, D.A.G. Kenny informed the Board that the PHP specifically requested that a PEC not address these issues with him during an appearance which was adjourned.

Dr. Liebowitz explained that the three recent hospital visits for him were the result of panic attacks. He declined any medical treatment, signed himself out and would not authorize any blood work to be done. Again, Dr. Liebowitz explained that he declined medical treatment because he knew what the cause of his problem was; that is, that it was caused by his marital problems and the stress that it created.

Dr. Liebowitz was also questioned about the contents of the Certification by Mr. Tafil which stated that he did not have a current CDS license. Dr. Liebowitz thought that he had renewed his CDS and could not offer any explanation as to why it was not current.

In summation, D.A.G. Kenny argued that he has been involved with disciplinary matters with Dr. Liebowitz for the past ten years and, consistently, it has been in the context of disciplinary action to protect

the citizens of New Jersey. He again stated this physician has been impaired for 20 years. He asked the Board to consider the pattern of behavior by reviewing the previous Orders. For example, in March 1991, "[t]he Board concluded that Dr. Liebowitz is suffering from severe problems affecting his ability to practice medicine. We conclude that the doctor's practice would pose a clear and imminent danger". D.A.G. Kenny stated the same conclusion was readily apparent now.

D.A.G. Kenny argued that Dr. Liebowitz ignored Dr. Baxter's recommendation and declined medical treatment. He noted that Dr. Liebowitz claimed that all the problems stemmed from his recent marital problems. To the contrary, D.A.G. Kenny stated Dr. Liebowitz' problem dated back ten years. He further noted that Dr. Liebowitz carelessly released confidential patient information because a friend of his asked him to, and he attempted to hide behind the fact that it was requested by an attorney. D.A.G. Kenny noted that Dr. Liebowitz claimed that he never asked someone to fill a prescription of Stadol for him. D.A.G. Kenny stated that although Dr. Liebowitz did not test positive for Stadol, there was no doubt that Dr. Liebowitz was not fit to practice. The Attorney General was concerned for Dr. Liebowitz, but more importantly, the Attorney General was concerned for Dr. Liebowitz' patients and the citizens of the State of New Jersey. D.A.G. Kenny argued it was clear Dr. Liebowitz' practice was a clear and imminent danger to the health, safety and welfare of the public. He urged the Board to tell Dr. Liebowitz he must go and find out what his problems are, and that maybe if he could be treated, he could safely practice. At this point, D.A.G. Kenny believed Dr. Liebowitz certainly was not safe to practice, and the Board had no choice but to grant the temporary suspension of his license.

The Board voted to go into executive session for advice of counsel and deliberations. 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, and announced the following motion:

THE BOARD, UPON MOTION MADE AND SECONDED, VOTED TO FIND THAT THE ATTORNEY GENERAL MET HIS BURDEN AS TO ALL COUNTS THAT RESPONDENT'S PRACTICE PRESENTS A CLEAR AND IMMINENT DANGER TO THE HEALTH, SAFETY AND WELFARE OF THE PUBLIC. THEREFORE, RESPONDENT'S LICENSE IS TEMPORARILY SUSPENDED PENDING DISPOSITION OF THE PLENARY HEARING IN THIS MATTER EFFECTIVE IMMEDIATELY. A DETAILED ORDER WILL FOLLOW.

Dr. Perry was recused from discussion and vote in this matter. Upon questioning from the Chair, Dr. Liebowitz stated that he understood the motion that he is not able to practice medicine starting immediately.

OLD BUSINESS

1. BERMAN, Victor M., M.D., License #20086 (Without Appearance) LEWIS, Brenda Talbot, D.A.G., for Complainant (Counseling Deputy: DICK)

A Provisional Order of Discipline (POD) was filed December 16, 1997, which would suspend the above physician's license. Enclosed for Board consideration were D.A.G. Lewis' May 31, 2001 letter to the Board; Executive Director Roeder's May 16, 2001 Affidavit with attachments; and the POD with attachments filed December 16, 1997. Dr. Berman did not respond to the POD. It was noted that D.A.G. Lewis' memo suggests revocation, however, the POD is for suspension.

THE BOARD, UPON MOTION MADE AND SECONDED, VOTED TO APPROVE FINALIZATION OF THE POD WITH A FINAL ORDER SUSPENDING DR. BERMAN'S LICENSE.

2. LAHIRI, Swapnadip, M.D., License #63136 (Without Appearance) BLASS, Robert A., Esq., for Respondent LEWIS, Brenda Talbot, D.A.G., for Complainant (Counseling Deputy: DICK)

A Provisional Order of Discipline (POD) was filed March 14, 2001, which would suspend the above physician's license for three years. Enclosed for Board consideration were D.A.G. Lewis' June 1, 2001 letter to the Board; Dr. Lahiri's response dated April 19, 2001 with attachments from the Commonwealth of Pennsylvania; Mr. Blass' May 16, 2001 letter supplementing Dr. Lahiri's response with background; and the POD with attachments filed March 14, 2001.

THE BOARD, UPON MOTION MADE AND SECONDED, VOTED TO APPROVE FINALIZATION OF THE POD WITH A FINAL ORDER AND WITH AN AMENDMENT THAT THE SIX-MONTH ACTIVE SUSPENSION IS TO RUN CONCURRENTLY WITH THE NEW YORK ACTION.

3. FINALIZATION OF PROVISIONAL ORDERS OF DISCIPLINE (PODs) TO BECOME FINAL ORDERS

PHAM, Jacqueline, D.A.G.

LAPOLA, Darlene, D.A.G.

LEWIS, Brenda Talbot, D.A.G. (Counseling Deputy: ALBERTSON)

Under separate cover, D.A.G. Joyce provided the Board with the PODs, responses to the PODs and Deputy Attorneys General Pham, Lapola and Lewis' letters to the Board concerning the following physicians for Board approval to finalize the PODs with Final Orders:

1. BERONILLA, Hilarion A., Jr., M.D.

(D.A.G. PHAM)

THE BOARD, UPON MOTION MADE AND SECONDED, VOTED TO FINALIZE THE POD WITH A FINAL ORDER OF DISCIPLINE WHICH WOULD REVOKE DR. BERONILLA'S LICENSE.

2. CAUSTON, Ronald, M.D.

(D.A.G. LAPOLA)

THE BOARD, UPON MOTION MADE AND SECONDED, VOTED TO FINALIZE THE POD WITH A FINAL ORDER OF DISCIPLINE SUSPENDING DR. CAUSTON'S LICENSE FOR FIVE YEARS.

3. EPSTEIN, Salomon, M.D.

(D.A.G. PHAM)

THE BOARD, UPON MOTION MADE AND SECONDED, VOTED TO FINALIZE THE POD WITH A FINAL ORDER OF DISCIPLINE WITH THE AMENDMENT TO CHANGE THE DISPOSITION TO A FIVE-YEAR STAYED SUSPENSION TO BE SERVED AS PROBATION WITH TOLLING. DR. EPSTEIN MUST ALSO TAKE A RECORDKEEPING COURSE ACCEPTABLE TO THE BOARD PRIOR TO ACTIVE PRACTICE IN NEW JERSEY AND MAKE AN APPEARANCE BEFORE A COMMITTEE OF THE BOARD PRIOR TO PRACTICING IN NEW JERSEY. THE BOARD RESERVED THE RIGHT TO PLACE RESTRICTIONS ON RESPONDENT'S PRACTICE SHOULD HIS LICENSE BE REINSTATED AT THAT TIME. FINALIZATION OF PROVISIONAL ORDERS OF DISCIPLINE (PODs) TO BECOME FINAL ORDERS

4. ESTERMAN, Sidney N., D.P.M.

(D.A.G. LEWIS)

THE BOARD, UPON MOTION MADE AND SECONDED, VOTED TO FINALIZE THE POD WITH A FINAL ORDER OF DISCIPLINE WHICH WOULD SUSPEND DR. ESTERMAN'S LICENSE FOR THREE YEARS.

4. BAIRD, David B., M.D., Lic. #29835 (Counseling Deputy: FLANZMAN)

LEWIS, Brenda-Talbot, D.A.G. (Without Appearance)

The Board received as handouts materials submitted by Dr. Baird in support of his claim that he has complied with the Board's Order Granting Limited Reinstatement of Licensure filed June 23, 2000. The Board was asked to decide whether Dr. Baird's practice plan was acceptable for him to resume practice.

D.A.G. Flanzman reminded the Board that last month, it had a copy of the letter from Dr. Baird where he outlined a proposed form of practice under Dr. Dellacroce, Chief of Surgery at Mercer. At that time, the Board decided it was not going to pass upon Dr. Baird's proposal because the Board was not convinced he was seeing a psychotherapist twice weekly. The Board now has the report from Dr. Pedigo, who says Dr. Baird recently began to comply with the requirement to meet twice weekly, and it is presumed that he will be in compliance with that requirement. The Board asked that they come back before it approved the practice setting he proposed. Now that the Board has been shown and has some material that he is complying with the Consent Order, the issue before the Board was whether to approve the practice plan that would put Dr. Baird back into practice for the one-year period required by the Consent Order.

The Board had some concerns that the therapy sessions, which are only twenty-five minutes in duration, may not be long enough. After discussing this at length, the Board decided that forty-five minutes were more appropriate.

THE BOARD, UPON MOTION MADE AND SECONDED, VOTED TO SEND DR. BAIRD AND DR. PEDIGO A LETTER STATING THAT THE PRACTICE PLAN WOULD BE APPROVED CONDITIONED ON DR. BAIRD ATTENDING PSYCHOTHERAPY SESSIONS FOR FORTY-FIVE MINUTES IN LENGTH, TWICE A WEEK. ADDITIONALLY, THE BOARD EXPECTED IMMEDIATE NOTIFICATION IF DR. BAIRD MISSED ANY SCHEDULED SESSIONS AND THAT DR. PEDIGO PROVIDE THE BOARD WITH A STATUS REPORT OF THE SESSIONS EVERY TWO MONTHS.

**5. SARNER, Steven W., M.D. (Counseling Deputy: DICK)
GREENBERG, Carl, Esq.
GELBER, Joan D., D.A.G.**

The Board received for consideration in its supplemental packets a May 31, 2001 letter with attachments from Mr. Greenberg petitioning the Board, on behalf of Dr. Sarner, for the full and complete reinstatement of Dr. Sarner's license. Also enclosed for Board review were a June 1, 2001 letter from Mr. Greenberg's law firm enclosing a June 1, 2001 quarterly report from William Linden, Ph.D., Dr. Sarner's treating psychotherapist; D.A.G. Gelber's June 4, 2001 response to the petition; information concerning the monies owed to the Board; and a June 6, 2001 letter from Mr. Greenberg's law firm.

The Board also received as handouts the March 8, 2000 and May 10, 2000 Open Disciplinary Minutes concerning Dr. Sarner's prior petitions and a June 11, 2001 letter from Mr. Greenberg's law firm requesting that all exhibits annexed to Dr. Sarner's application to the Board be sealed due to the highly private and sensitive nature of their content. D.A.G. Gelber had no objection to the sealing of the exhibits. The Board was advised that the exhibits should be moved into closed.

The Board voted to go into executive session for advice of counsel.

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

AFTER REVIEW OF THE MATERIALS, IT APPEARED THAT THE PROVISIONS OF THE PRIOR BOARD ORDER HAVE BEEN SATISFIED. THEREFORE, THE BOARD, UPON MOTION MADE AND SECONDED, VOTED TO GRANT DR. SARNER A LIMITED LICENSE WITH THE CONDITIONS OF PARAGRAPHS THREE AND SEVEN REMAINING IN PLACE. SPECIFICALLY, PARAGRAPH THREE REQUIRED THAT THE BOARD KNOW THE STRUCTURAL SETTING, THE IDENTITY OF HIS SUPERVISOR AND THE SUPERVISOR MUST BE MADE AWARE OF THE TERMS OF THE ORDER, AS WELL AS THE CONTINUED PARTICIPATION IN PSYCHOTHERAPY, AND THAT PARAGRAPH SEVEN WOULD REQUIRE THAT A CHAPERONE BE PRESENT WHENEVER A FEMALE PATIENT IS EXAMINED. THE BOARD ALSO, UPON

MOTION MADE AND SECONDED, VOTED TO WAIVE THE \$200 DISCREPANCY OF COSTS.

REPORT OF INTERIM AND FINAL ORDERS FILED WITH THE BOARD

1. ACOSTA, Ramon, M.D., License #51166 (Camden, NJ)

CONSENT ORDER filed June 12, 2000 with an effective date NUNC PRO TUNC March 1, 2000 (Joint Consent Order of the Board of Medical Examiners and the NJ Medicaid Program). An Administrative Complaint filed in July 1997 alleged that on four separate occasions, undercover investigators posing as patients were treated by Dr. Acosta for routine medical ailments. Bills submitted to Medicaid as a result of his treatment reflected charges for both psychological and pure tone audiometry testing which were never performed. The Complaint also alleged that patient records for two undercover investigators posing as patients recite clinical findings of breast and genital examinations which were never performed. Dr. Acosta denied the charges and the matter was transferred to the Office of Administrative Law for hearing. Dr. Acosta desired to resolve this matter without further formal proceedings and entered into an agreement with the Board of Medical Examiners and the Division of Medical Assistance wherein his license to practice medicine and surgery in the State of New Jersey was suspended for a total of five years effective March 1, 2000. The first year was served as an active suspension and the remaining four years were to be stayed and served as probation. He was debarred from participation in the Medicaid Program for five years commencing May 13, 1997. He must pay \$12,500 to the Board of Medical Examiners in full satisfaction of the penalties. He must pay \$49,000 restitution to the Division of Medical Assistance and Health Services (DMAHS) for his billings on the CPT codes. Within twelve months, he must successfully complete Board-approved courses in ethics and recordkeeping. After he has satisfied all the requirements of the Consent Order, he may reapply to participate in the Medicaid Program. He agrees to cease and desist in perpetuity from billing irregularities which were the focus of this action. This settlement agreement does not waive any claims or other actions that are being taken or may be taken by any other Federal or State agency including agencies having jurisdiction over Medicaid issues. Nothing in this agreement waives the right of DMAHS to conduct an audit or investigation for prior or future years for improper submission of claims or related conduct not covered by this agreement, and to take any action civilly or criminally for such conduct. EFFECTIVE DATE: March 1, 2000

2. BLAIR, Georgia Rose, CNM, License #325 (Shrewsbury, NJ)

CONSENT ORDER filed May 7, 2001. In lieu of proceeding on an application for temporary suspension, Georgia Blair voluntarily agreed to enter into an Interim Consent Order on or about July 13, 2000 and, subsequently, a Second Interim Consent Order on or about August 9, 2000, including provisions for the temporary limitation of her nurse midwifery practice by practicing only under the supervision of a certified nurse midwife approved by the Board. From August 2000 to the present time, she has been entirely compliant with all provisions of the Board's Orders and, during the period of limitation of licensure, has, at the Board's suggestion, implemented many positive changes in record documentation, communication practices with patients, elements of informed consent, general antenatal health screening and diagnostic and clinical approaches during the home-birth process. The Board has ordered and Ms. Blair agreed that effective immediately, her license to practice nurse midwifery in the State of New Jersey is placed on probationary status for Board review of changes in her practice for a period of one year following entry of this Order. She is relieved of the obligations of the prior Interim Orders. She must meet with the Board's Medical Director within thirty days of entry of this Order to formulate a plan for quarterly meetings and review of her practice including, but not limited to, all records of home births. The Medical Director will report to the Certified Nurse Midwifery Committee and the Board after each quarterly meeting. At the end of the review period, she must meet with the CNM Committee to demonstrate her fitness to practice without restrictions. In light of her cooperation in the modification of her nurse midwifery practice, the Board approved waiving civil penalties. She is assessed investigative costs, expert witness fees and court reporter fees in the amount of \$6,644.69. A Certificate of Debt will be filed. She shall make monthly installment payments of \$50 per month throughout the period of probation with the balance of costs due at the conclusion of the Board review period. However, she may then make further application to the Board to

pay the remaining balance in installments. EFFECTIVE DATE: May 7, 2001

3. CIFALDI, Ralph J., Jr., D.O., License #59663 (Edison, NJ)

CONSENT ORDER filed May 9, 2001. The Board received information from the Physicians' Health Program (PHP) of the New Jersey Medical Society that Dr. Cifaldi had admitted to relapsing into a prior substance abuse problem involving Vicodin. In the Spring of 1999, while practicing in New York, he suffered a relapse and was admitted into a treatment program. In or around May 2000, he relapsed again, and in or around September 2000, he again entered into a treatment program which he completed on December 21, 2000. The Board has ordered that his license to practice medicine and surgery in the State of New Jersey be suspended for twelve months, retroactive to September 1, 2000, with six months active suspension and six months stayed suspension. He must refrain from taking psychoactive substances unless prescribed by a treating physician for a documented medical condition and reported to the PHP. He must submit to random urine monitoring, twice weekly, conducted by the PHP, during the stayed portion of his suspension, and also during his first full year of employment, at the completion of his suspension. He must attend Alcoholics Anonymous meetings and continue in his formal aftercare program until discharged. The Board must consent to any changes made to his aftercare program. He must refrain from engaging in any solo practice. The Board's records reflect he is not currently employed. He must notify the Board in advance should he wish to commence or change employment. The PHP is to report quarterly to the Board concerning his compliance with the treatment plan and immediately notify the Board if Dr. Cifaldi suffers a relapse or fails to comply with his aftercare program. Prior to any restoration of license, he must appear before a Committee of the Board, no earlier than September 1, 2001, to discuss his professional activities, provide reports from the PHP and each and every mental health professional participating in his treatment, and provide a full account of his activities from entry of this Order until his appearance. EFFECTIVE DATE: September 1, 2000

4. DiBLASIO, Libico Mario, M.D., License #34552 (Yonkers, NY)

ORDER filed May 9, 2001. The Physicians' Health Program petitioned the Board on behalf of Dr. DiBlasio seeking change in his licensure status with the Board from inactive to active. In June 2000, Dr. DiBlasio voluntarily agreed to cease and desist from practicing medicine and surgery in New Jersey pending resolution of the summary suspension of his license in the State of New York. Subsequent to the entry of this cessation order, the New York case was completely dismissed on January 26, 2001. The Board ordered that the status of Dr. DiBlasio's license to practice medicine and surgery in the State of New Jersey be changed from inactive to active, thereby vacating its June 26, 2000 Consent Order of Voluntary Cessation. EFFECTIVE DATE: May 9, 2001

5. EBERT, Ellen, MD, License #MA43699 (Westfield, NJ)

CONSENT ORDER GRANTING RESTRICTED LICENSURE filed May 15, 2001. By Consent Order filed August 28, 2000, Dr. Ebert voluntarily surrendered her license to practice medicine and surgery based on a relapse into substance abuse. On February 7, 2001, she testified before a Committee of the Board pursuant to her petition for reinstatement of her license subject to conditions. Her petition for reinstatement was supported by the Physicians' Health Program (PHP). She testified that she had participated in an eight-week in-patient program and had consistently tested negative for any psychoactive substances, including alcohol. Based on her testimony and the recommendation of the PHP, the Board has ordered that she be granted a limited license to practice medicine and surgery in the State of New Jersey pursuant to conditions listed. She must maintain absolute abstinence from all psychoactive substances unless prescribed by a treating physician for a documented medical condition with immediate notification to the Medical Director of the PHP. She must attend support groups at least three times per week and submit to twice-weekly random urine monitoring for the first six months of her return to practice and then on a random weekly basis for the next year. She must meet face-to-face monthly with a representative of the PHP for the next year and then on a schedule to be determined. She must ensure her employer/ supervisor, her therapist and the PHP reports quarterly and immediately notifies the Board of any evidence of relapse or non-

compliance. Dr. Ebert consents to the entry of an Order of Automatic Suspension without notice upon the Board's receipt of a confirmed positive urine. Prior to the removal of any restrictions set forth in this Consent Order, she must appear before a Committee of the Board. EFFECTIVE DATE: May 15, 2001

6. KORZENIOWSKI, Philip A., M.D., License #59875 (Absecon, NJ)

CONSENT ORDER OF VOLUNTARY SURRENDER filed May 9, 2001. The Board received information indicating that during the period of March 26, 2001 to April 23, 2001, Dr. Korzeniowski had obtained over 400 units of Lortab, a controlled dangerous substance, through prescriptions authorized by him and issued in the name of his wife. Dr. Korzeniowski personally retrieved all of the medication dispensed by various pharmacies. The Physicians' Health Program (PHP) has now notified the Board that Dr. Korzeniowski had admitted a relapse into a prior substance abuse problem, had voluntarily agreed to immediately cease practice, and had agreed to enter an in-patient treatment program no later than May 4, 2001. The Board ordered that he be granted leave and must immediately surrender his license to practice medicine and surgery in the State of New Jersey for a minimum of six months from entry of this Order. Prior to any restoration of his license, he must appear before the Board to discuss his readiness to re-enter the practice of medicine, provide evidence he is capable of discharging the functions of a licensee in a manner consistent with the public's health, safety and welfare, and that he is not then suffering any impairment or limitation which could affect his practice. At that time, he must provide the Board with reports from every mental health professional or facility that has participated in his treatment from his entry into treatment to his appearance. He must also provide a report from the PHP detailing the nature and extent of his involvement with that entity. Entry of this Order is without prejudice to further action by this Board or other law enforcement entities resulting from his conduct prior to entry into any treatment facility pursuant to this Order. EFFECTIVE DATE: May 9, 2001.

7. LEVINE, Marc M., M.D., License #52070 (Manalapan, NJ)

CONSENT ORDER filed May 14, 2001. The Board received information that Dr. Levine had been arrested on one count of obtaining controlled dangerous substances by misrepresentation. He admitted writing approximately eighteen prescriptions for injectable Demerol in his mother's name, although the Demerol he obtained was administered to his patient, the mother of a close friend for a bona fide medical condition. He obtained the Demerol improperly to assist the patient in avoiding embarrassment over her need for narcotic pain relief. Although his treatment was appropriate, he acknowledged his failure to coordinate his treatment with the patient's other treating physicians which was not in the patient's best interest. The criminal charges have been resolved through entry into Pretrial Intervention. The Board ordered he be reprimanded for engaging in acts of dishonesty and that his license be suspended for one year. The entire suspension is stayed to be served as probation. He must enter into a therapeutic relation with a psychologist for a minimum of one year with his psychologist reporting quarterly to the Board and immediately reporting any information indicating Dr. Levine may have engaged in conduct in violation of Board statutes or regulations. He was assessed a \$5,000.00 penalty and investigative costs of \$5,395.67. He was ordered to take ethics and record-keeping courses. He must appear before a Committee of the Board at the conclusion of the stayed suspension to discuss his professional activities and his compliance with the requirements of this Order. At that time, he must provide proof that he has satisfied all of the requirements of the Pretrial Intervention Program. EFFECTIVE DATE: May 14, 2001

8. LEVINSON, Benjamin, M.D., License #39835 (Belle Mead, NJ)

CONSENT ORDER REINSTATING LICENSURE filed May 22, 2001. Dr. Levinson petitioned the Board for reinstatement of his license to practice medicine. His license had been suspended in October 1991 for a minimum of five years based on his being found guilty of eight counts of sexual misconduct. He seeks reinstatement only to allow him to practice administrative medicine in connection with his position at Raritan Bay Medical Center. His petition was supported by the Physicians' Health Program (PHP). The Board has ordered that his license to practice medicine in New Jersey be reinstated in a limited basis, contingent upon his compliance with all terms and conditions specified in this Order. He may practice only

under supervision at Raritan Bay Medical Center and only in an administrative capacity. He is expressly precluded from having any patient contact or any responsibility for any patient care. His supervisor and the PHP must report quarterly to the Board and immediately report any information suggesting he has had patient contact or responsibility for patient care or any information that his continued practice would present any danger to the public health, safety or welfare. He must continue to attend support group meetings and continue to participate with the (PHP). Dr. Levinson agrees that the Board's receipt of any report that he has failed to comply or any breach of the terms of this Order shall provide cause for entry of an immediate order suspending his licensure. EFFECTIVE DATE: May 22, 2001

9. PATTERSON, George A., M.D., License #33627 (Somerset, NJ)

CONSENT ORDER filed May 17, 2001. The matter was opened before the Medical Practitioner Review Panel upon receipt of a report from St. Peter's University Hospital in New Brunswick, New Jersey that Dr. Patterson's privileges were summarily suspended based on determinations that he did not hold medical malpractice insurance, had submitted an altered and false certificate purporting to show that he held malpractice insurance to St. Peter's, and that he falsified information concerning malpractice insurance on an application for renewal of hospital privileges. It was determined that he had practiced without medical malpractice insurance between July 1996 and December 1999. Dr. Patterson conceded he engaged in similar deceptive misconduct at Somerset Medical Center. The Board found he also filed a biennial renewal licensure application with the State Board of Medical Examiners on June 20, 1999 wherein he falsely represented he held malpractice insurance in the amount of \$3/\$5 million, when he did not hold such coverage and knew his response was false. The Board ordered his license to practice medicine and surgery in the State of New Jersey be suspended for three years with the entirety stayed to be served as probation contingent upon his compliance with all terms and conditions contained in this Order. He must perform 300 hours of Board-approved community service. He must submit proof yearly that he holds malpractice insurance coverage. Within twelve months, he must successfully complete a Board-approved ethics course. He was assessed a civil penalty of \$1,000.00 and investigative costs of \$898.24. Should he fail to comply with any term/condition of this Order, said failure shall provide sufficient cause for the Board to rescind the entirety of the three-year probation and require he serve a full three-year active suspension. EFFECTIVE DATE: May 17, 2001

10. VICKERS, Erin Elizabeth, A.T., License #MT1020(West Long Branch, NJ)

FINAL DECISION & ORDER filed May 1, 2001. In connection with Ms. Vickers' application for registration to practice athletic training in the State of New Jersey, the Board received information alleging that she had been practicing athletic training from January 2000 to January 2001 at Monmouth University without having first obtained registration. The Board ordered that she be reprimanded for the unregistered practice of athletic training and assessed a penalty of \$250.00. EFFECTIVE DATE: May 1, 2001.

11. VINING, Donna Boles, D.O., License # MB52062 (Chatham, NJ)

FINAL ORDER OF DISCIPLINE filed May 7, 2001. Dr. Vining surrendered her New York license on October 19, 2000 after being found guilty on 5/9/2000 and convicted in US District Court, Southern District of NY of one count of healthcare fraud, one count of false statements relating to healthcare matters and five counts of false claims for physician services under the Medicare program. She did not contest these facts. Based on the surrender of her license in New York, a Provisional Order of Discipline was filed with this Board. In her response to the Provisional Order, she did not refute her conviction, but argued she was an "accidental criminal, duped into participating in a geriatric and medically under-served patient community by others." She also argued that there were issues within the New York Statement of Charges that could have been contested. The Board ordered Dr. Vining's license to practice medicine and surgery in the State of New Jersey be revoked. She may seek reinstatement of her license no sooner than two years after entry of this Order. Any application for reinstatement shall be supported by documentation that her license in New York has been reinstated and will require an appearance before a Committee of the Board to demonstrate fitness to practice. Any practice in this State prior to said appearance shall constitute grounds for the filing

of an unlicensed practice action. The Board reserves the right to place a restriction on her license should it be reinstated. EFFECTIVE DATE: May 7, 2001

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

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

Respectfully submitted,

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