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FILED

JULY 13, 2011

**NEW JERSEY STATE BOARD
OF MEDICAL EXAMINERS**

STATE OF NEW JERSEY
DEPARTMENT OF LAW & PUBLIC SAFETY
DIVISION OF CONSUMER AFFAIRS
STATE BOARD OF MEDICAL EXAMINERS

IN THE MATTER OF THE SUSPENSION OR :
REVOCAION OF THE LICENSE OF : Administrative Action
: :
Aaron A. Gelfand, M.D. : **CONSENT ORDER OF**
License No. 25MA06290200 : **TEMPORARY SUSPENSION**
: :
TO PRACTICE MEDICINE AND SURGERY :
IN THE STATE OF NEW JERSEY :

This matter was opened to the New Jersey State Board of Medical Examiners ("Board") on July 7, 2011 by the Attorney General of New Jersey upon the filing of an Order to Show Cause and Verified Complaint seeking the temporary suspension of Aaron A. Gelfand, M.D.'s ("Respondent") license to practice medicine and surgery pursuant to N.J.S.A. 45:1-22. It is undisputed that Respondent was a participant in the Alternate Resolution Program which permits anonymous treatment of licensees under the auspices of the Professional Assistance Program of New Jersey ("PAP"). The Verified Complaint alleges that Respondent failed to comply with his Board-approved program of recovery, specifically by ingesting opiates absent any documented prescription(s). The Attorney

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General alleges that this is in direct violation of Respondent's PAP established treatment plan thereby rendering him presently incapable of discharging the functions of a licensee in a manner consistent with the public's health, safety and welfare, in violation of N.J.S.A. 45:1-21(i). The Verified Complaint further alleges violations of N.J.S.A. 45:1-21(l) and N.J.S.A. 45:1-21(e). To date Respondent has not filed an Answer to the allegations contained in the Verified Complaint.

The parties being desirous of resolving this matter without the necessity of further 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 it further appearing that the Board finds the within disposition to be adequately protective of the public health, safety and welfare,

IT IS, therefore, on this 13TH day of JULY, 2011,

ORDERED THAT:

1. The license of Respondent Aaron A. Gelfand, M.D. to practice medicine and surgery in the State of New Jersey is hereby temporarily suspended pending further order of the Board of Medical Examiners.

2. Respondent shall comply, at his own expense, with a monitoring program designed by the Professional Assistance Program of New Jersey ("PAP"). That program shall be designed by the PAP and shall include, but not be limited to, the following:

A. Respondent shall maintain absolute abstinence from all psychoactive substances, including alcohol, except upon prescription from a treating physician for a documented medical condition with advance notification to the Executive Medical Director of the PAP. Respondent shall cause any physician or dentist who prescribes medication which is a controlled dangerous substance to provide a written report to the PAP with patient records indicating the need for such medication. Such report shall be provided to the PAP no later than seven (7) days subsequent to the prescription in order to avoid any confusion which may be caused by a confirmed positive urine test as a result of such medication;

B. Respondent shall attend Alcoholics Anonymous, Narcotics Anonymous, and/or 12-Step meetings as directed by the PAP at a minimum frequency of three (3) times per week. Respondent shall continue to attend these meetings three (3) times per week until such time as the Executive Medical Director of the PAP determines that a modification to the frequency of the meetings is warranted consistent with Respondent's duration in recovery. Notification of any changes in Respondent's attendance at these

meetings shall be given to the Executive Director of the Board or his designee. Respondent shall provide evidence of attendance at such groups directly to the PAP on a form or in a manner as required by the PAP. The PAP shall advise the Board immediately in the event it receives information that Respondent has discontinued attendance at the support groups;

C. Respondent shall have his urine monitored under the supervision of the PAP on a random, unannounced basis at a minimum of twice per week, beginning immediately and continuing until the conclusion of the first six (6) months after Respondent's return to practice. Thereafter, Respondent's screens are to be at a frequency determined by the Executive Medical Director of the PAP but not less than once a week for the subsequent 18 months. Further reductions in screens shall be on a schedule determined by the Executive Medical Director of the PAP consistent with Respondent's duration in recovery. Notification of any changes in Respondent's urine monitoring shall be given to the Executive Director of the Board or his designee.

The urine monitoring shall be conducted with direct witnessing of the taking of the samples by an individual designated by the PAP. The testing procedure shall include a forensic chain of custody protocol to ensure sample preservation and integrity, and to provide documentation in the event of a legal challenge. The PAP shall be responsible to assure that all urine samples are

handled by a laboratory competent to provide these services.

All test results shall be provided in the first instance directly to the PAP and any positive results shall be reported immediately by the PAP to the Executive Director of the Board or his designee. The Board also will retain sole discretion to modify the manner of testing in the event technical developments or individual requirements indicate that a different methodology or approach is required in order to guarantee the accuracy and reliability of the testing.

Any failure by Respondent to submit or provide a urine sample within twenty-four (24) hours of a request will be deemed to be equivalent to a confirmed positive urine test. In the event Respondent is unable to appear for a scheduled urine test or provide a urine sample due to illness or other impossibility, consent to waive that day's test must be secured from the Executive Medical Director of the PAP, or his designee. Neither a volunteer nor drug clinic staff shall be authorized to consent to waive a urine test. In addition, Respondent must provide the PAP with written substantiation of his inability to appear within two (2) days, e.g. a physician's report, attesting that Respondent was so ill that he was unable to provide the urine sample or appear for the test. "Impossibility" as employed in this provision shall mean an obstacle beyond the control of Respondent that makes appearance for a test or provision of the urine sample so infeasible that a

reasonable person would not withhold consent to waive the test on that day. The PAP shall immediately advise the Board of each instance where a request has been made to waive a urine test together with the PAP's determination in each such case.

Based upon Respondent's existing familiarity with the requirements of PAP monitoring, he is on notice that positive urine screens will be reported to the Board despite any claim by Respondent that the test results stem from his consumption of foodstuffs (such as poppy seed bagels) which he is required to be knowledgeable about and to avoid;

D. Weekly therapy sessions with a therapist acceptable to the PAP with the identity of the therapist made known to the Executive Director of the State Board of Medical Examiners within 15 days of the signing of the Order. Any changes in the frequency of sessions shall be subject to determination by the therapist in consultation with the PAP and any cessation of treatment shall be upon the authorization of both the therapist and the PAP;

E. Respondent shall attend monthly face-to-face meetings with a clinical representative of the PAP beginning immediately and continuing until the conclusion of the first year after Respondent's return to practice. The frequency of the face-to-face meetings thereafter shall be on a schedule determined by the Executive Medical Director of the PAP consistent with Respondent's duration in recovery and direction provided by the Impairment

Review Committee ("IRC"). Notification of any changes in Respondent's face-to-face followup with the PAP shall be given to the Executive Director of the Board or his designee.

F. The PAP shall provide quarterly status reports to the Board and the IRC in regard to its monitoring of Respondent as outlined herein including, but not limited to, the urine testing and attendance at support groups. The PAP shall attach to its quarterly reports any and all appropriate reports and/or documentation concerning any of the monitoring aspects of the within program. The PAP shall immediately notify the Board in the event that Respondent is non-compliant with the monitoring requirements and recommendations of the PAP or if there is any information received that indicates that Respondent has used any substance or engaged in any conduct unauthorized by the PAP and/or indicative of relapsed behavior;

3. All costs associated with the monitoring program as outlined herein shall be paid directly by Respondent.

4. Respondent shall provide appropriate releases to any and all parties who are participating in the monitoring program as outlined herein as may be required in order that all reports, records, and other pertinent information may be provided to the Board in a timely manner.

5. Respondent shall comply with the attached "Directives Applicable to any Medical Board Licensee who is Suspended, Revoked

or Whose Surrender of Licensure has been Accepted", attached hereto and made a part hereof.

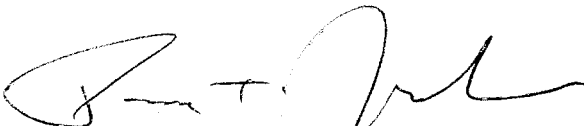
6. Respondent shall immediately return his original New Jersey license and current biennial registration to the New Jersey Board of Medical Examiners, Post Office Box 183, Trenton, New Jersey 08625-0183.

7. Respondent shall immediately return his original CDS registration to the New Jersey State Board of Medical Examiners, Post Office Box 183, Trenton, New Jersey 08625-0183.

8. Respondent shall immediately advise the DEA of this Order.

9. The parties hereby stipulate that entry of this Order is without prejudice to further action by this Board or other law enforcement entities resulting from Respondent's conduct prior to the entry of this Order, and without prejudice to the further prosecution of the allegations contained in the Verified Administrative Complaint filed with the Board of Medical Examiners on July 7, 2011.

NEW JERSEY STATE BOARD OF MEDICAL EXAMINERS



Paul T. Jordan, M.D.
President

I have read and understood the
within Consent Order and agree
to be bound by its terms. I
understand that this Order has
serious legal consequences and
have decided to enter into this
agreement with the Board without
counsel. Consent is hereby given
to the Board to enter this Order.

Aaron Gelfand
Aaron A. Gelfand, M.D.

Date 7-12-11

**DIRECTIVES APPLICABLE TO ANY MEDICAL BOARD LICENSEE
WHO IS DISCIPLINED OR WHOSE SURRENDER OF LICENSURE
HAS BEEN ACCEPTED**

APPROVED BY THE BOARD ON MAY 10, 2000

All licensees who are the subject of a disciplinary order of the Board are required to provide the information required on the addendum to these directives. The information provided will be maintained separately and will not be part of the public document filed with the Board. 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 license is suspended or revoked or permanently surrendered, with or without prejudice. Paragraph 5 applies to licensees who are the subject of an order which, while permitting continued practice, contains a probation 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. 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 or surrender, the licensee must truthfully disclose his/her licensure status in response to inquiry.) The disciplined licensee is also prohibited from occupying, sharing or using office space in which another licensee provides health care services. The disciplined licensee may contract for, accept payment from another licensee for or rent at fair market value office premises and/or equipment. In no case may the disciplined licensee 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 suspended 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, for the payment of salaries for office staff employed at the time of the Board action.)

A licensee whose license has been revoked, suspended for one (1) year or more or permanently surrendered must 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 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. 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 action.

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 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 licensee who is a member of a limited liability company organized pursuant to N.J.S.A. 42:1-44, shall divest him/herself of all financial interest. Such divestiture shall occur within 90 days following the 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 Secretary of State, Commercial Reporting Division, demonstrating that the interest has been terminated. If the licensee is the sole shareholder in a professional service corporation, the corporation must be dissolved within 90 days of the licensee's disqualification.

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 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. 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.

**NOTICE OF REPORTING PRACTICES OF BOARD
REGARDING DISCIPLINARY ACTIONS**

Pursuant to N.J.S.A. 52:14B-3(3), all orders of the New Jersey State Board of Medical Examiners are available for public inspection. Should any inquiry be made concerning the status of a licensee, the inquirer will be informed of the existence of the order and a copy will be provided if requested. All evidentiary hearings, proceedings on motions or other applications which are conducted as public hearings and the record, including the transcript and documents marked in evidence, are available for public inspection, upon request.

Pursuant to 45 CFR Subtitle A 60.8, the Board is obligated to report to the National Practitioners Data Bank any action relating to a physician which is based on reasons relating to professional competence or professional conduct:

- (1) Which revokes or suspends (or otherwise restricts) a license,
- (2) Which censures, reprimands or places on probation,
- (3) Under which a license is surrendered.

Pursuant to 45 CFR Section 61.7, the Board is obligated to report to the Healthcare Integrity and Protection (HIP) Data Bank, any formal or official actions, such as revocation or suspension of a license (and the length of any such suspension), reprimand, censure or probation or any other loss of license or the right to apply for, or renew, a license of the provider, supplier, or practitioner, whether by operation of law, voluntary surrender, non-renewability, or otherwise, or any other negative action or finding by such Federal or State agency that is publicly available information.

Pursuant to N.J.S.A. 45:9-19.13, if the Board refuses to issue, suspends, revokes or otherwise places conditions on a license or permit, it is obligated 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 are provided to that organization on a monthly basis.

Within the month following entry of an order, a summary of the order will appear on the public agenda for the next monthly Board meeting and is forwarded to those members of the public requesting a copy. In addition, the same summary will appear in the minutes of that Board meeting, which are also made available to those requesting a copy.

Within the month following entry of an order, a summary of the order will appear in a Monthly Disciplinary Action Listing which is made available to those members of the public requesting a copy.

On a periodic basis the Board disseminates to its licensees a newsletter which includes a brief description of all of the orders entered by the Board.

From time to time, the Press Office of the Division of Consumer Affairs may issue releases including the summaries of the content of public orders.

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