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FILED

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NEW JERSEY STATE BOARD
OF MEDICAL EXAMINERS

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

_____	:	
IN THE MATTER OF THE LICENSE OF	:	ADMINISTRATIVE ACTION
	:	
BARRY K. RAY, JR., M.D.	:	
LICENSE # 25MA07888100	:	FINAL CONSENT ORDER
	:	
TO PRACTICE MEDICINE	:	
IN THE STATE OF NEW JERSEY	:	
_____	:	

This matter was most recently opened to the New Jersey State Board of Medical Examiners ("Board") upon the request of Barry K. Ray, Jr., M.D., for reinstatement of his license to practice medicine. At present, Dr. Ray's license to practice medicine in the State of New Jersey is surrendered by an Interim Consent Order of Voluntary Surrender of Licensure ("Interim Consent Order") filed with the Board on September 14, 2010.

PROCEDURAL HISTORY

The Interim Consent Order was entered into following Dr. Ray's arrest on August 27, 2010 on charges of indiscriminate prescribing of controlled substances ("C.D.S.") and possession

of prohibited hollow point bullets. The arrest was a result of an investigation in which it was revealed that Dr. Ray was unlawfully issuing prescriptions for oxycodone during meetings with an informant at a restaurant in Neptune, New Jersey.

On February 7, 2011, Dr. Ray was indicted on charges of conspiracy to distribute C.D.S., falsification of records relating to medical care, possession of C.D.S. (cocaine), and possession of hollow point bullets. On December 13, 2011, a judgment of conviction was entered as a result of a plea agreement, in which Dr. Ray pled guilty to possession of the illegal bullets and the conspiracy and drug charges were dismissed. Dr. Ray was ordered to serve an eighteen month suspended sentence (non-custodial), five years of random urine testing, psychiatric treatment, and "Medical Board restrictions - 10 year prescription suspension: defendant to be monitored by Medical Board," plus miscellaneous court costs and fees. He entered the Professional Assistance Program of New Jersey ("P.A.P.") in October 2010, and has been compliant with treatment for cocaine and opiate abuse. He attends psychiatric therapy with James P. O'Neill, M.D., as well as meetings with Louis E. Baxter, M.D., Executive Medical Director of P.A.P.

On February 22, 2012, Dr. Ray appeared with Alton D. Kenney, Esq., and David I. Canavan, M.D., of P.A.P., before a Preliminary Evaluation Committee of the Board to discuss his

request for reinstatement of licensure. Proofs submitted to the Board by the P.A.P. on Dr. Ray's behalf, along with testimony by Dr. Ray and Dr. Canavan, demonstrated that since entering P.A.P., he has had no instances of drug abuse and has complied with all requirements of P.A.P. treatment and monitoring. Dr. Ray acknowledged his responsibility and error in unlawfully writing prescriptions for several acquaintances without having performed proper physical examinations or maintaining proper patient records. However, believes that he is now effectively resolving the personal psychiatric issues that led him to engage in such behavior in the first place. Upon reinstatement, Dr. Ray will seek to return to a strictly hospital-based anesthesiology practice and continue with P.A.P. monitoring. The Committee was satisfied that Dr. Ray's misconduct was not likely to recur.

ORDER

The Board, finding the within disposition to be adequately protective of the public health, safety and welfare, for the reasons expressed herein and other good cause having been shown,

IT IS on this 12th day of April, 2012,

ORDERED THAT:

1. The license of Barry K. Ray, Jr., M.D., to practice medicine in the State of New Jersey is hereby restored

but shall be suspended for four years, the first two years being an active suspension and following two years stayed as probation. The period of active suspension shall be retroactive to September 14, 2010.

2. Dr. Ray shall commence the stayed portion of licensure suspension no earlier than September 14, 2012, provided that he has satisfied all the conditions of this Final Consent Order and subject to the restrictions set forth herein.

3. Within six months of the effective date of this Final Consent Order, Dr. Ray shall demonstrate successful completion of a Board-approved remedial course in ethics. "Successful completion" means that Dr. Ray attended all sessions of the course, fully participated in the course, and received a final evaluation of an unconditional passing grade. Dr. Ray shall submit to the Executive Director of the Board written verification of said successful completion of the course.

4. Within six months of the effective date of this Final Consent Order, Dr. Ray shall demonstrate successful completion of a Board-approved remedial course in C.D.S. prescribing. "Successful completion" means that Dr. Ray attended all sessions of the course, fully participated in the course, and received a final evaluation of an unconditional passing grade. Dr. Ray shall submit to the Executive Director

of the Board written verification of said successful completion of the course.

5. Within six months of the effective date of this Final Consent Order, Dr. Ray shall demonstrate successful completion of a Board-approved remedial course in medical record-keeping. "Successful completion" means that Dr. Ray attended all sessions of the course, fully participated in the course, and received a final evaluation of an unconditional passing grade. Dr. Ray shall submit to the Executive Director of the Board written verification of said successful completion of the course.

6. Within six months of the effective date of this Final Consent Order, Dr. Ray shall provide to the Board documentation of his compliance with the continuing medical education ("C.M.E.") requirements for the biennial licensure period July 1, 2009 to June 30, 2011. Such documentation may include all Category I and up to 60 credit hours of Category II C.M.E. activities. Should Dr. Ray fail to demonstrate compliance with the C.M.E. requirements, the Board may impose a fine of \$50.00 per deficient credit hour, up to a maximum of 100 credit hours.

7. Dr. Ray shall continue to be enrolled in the Professional Assistance Program of New Jersey ("P.A.P.") and monitored for the following:

a. Absolute abstinence from all psychoactive substances, unless prescribed by a treating physician for a documented medical condition, with notification by the treating physician to the Executive Medical Director of P.A.P. of the diagnosis, treatment plan and medications prescribed;

b. Regular attendance at the support group Alcoholics Anonymous;

c. Random urine drug screenings at a frequency consistent with Dr. Ray's duration in recovery;

d. Continued individual therapy with Dr. James P. O'Neill, M.D., until such time as Dr. O'Neill in consultation with the Executive Medical Director of P.A.P. agrees that it is no longer required;

e. Face-to-face follow-up with a clinical staff member of P.A.P. at a frequency to be determined by the Executive Medical Director of P.A.P. that is consistent with Dr. Ray's duration in recovery;

f. Quarterly status reports from the P.A.P. to the Board and the Impairment Review Committee with immediate notification to the Board upon evidence that indicates Dr. Ray has relapsed into the unauthorized use of psychoactive substances or if he has become non-compliant with the monitoring requirements.

8. Dr. Ray's prescribing privileges are hereby restricted for a ten year period, effective December 13, 2011. Pursuant to those restrictions, his privileges are limited to the issuance of orders for the administration of prescription drugs in hospital operative and immediate post-operative (i.e., pending discharge from in-patient surgery) settings only. Under no conditions may Dr. Ray have access to prescription blanks. Dr. Ray shall provide the Board with proof that he has notified all of his employers of this restriction.

9. Dr. Ray expressly waives any privileges or confidentiality to the extent necessary for compliance with this Final Consent Order, and authorizes P.A.P., the Board, and the Attorney General to receive all information concerning his compliance with this Final Consent Order.

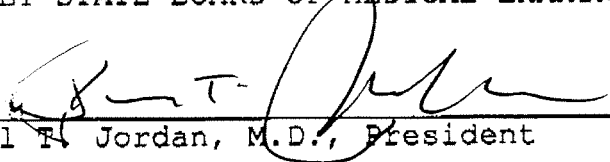
10. Dr. Ray expressly understands that, should the Board substantiate a violation of this Final Consent Order, the Board may refer the violation to the Monmouth County Probation Department and the Monmouth County Prosecutor's Office.

11. Dr. Ray shall be responsible for all costs associated with the remedial courses and monitoring program outlined herein.

12. Dr. Ray shall comply with all terms of the Board's "Directives Applicable to Any Medical Board Licensee Who

is Disciplined or Whose Surrender of Licensure Has Been Accepted," copy attached and incorporated by reference.

NEW JERSEY STATE BOARD OF MEDICAL EXAMINERS


By: 
Paul T. Jordan, M.D., President

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


Barry K. Ray, Jr., M.D.

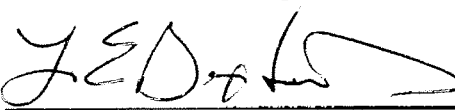
Dated: 3/22/2012

Consented to as to form.


Alton D. Kenney, Esq.
Attorney for Dr. Ray

Dated: 3/22/2012

Consented to on behalf of the Professional Assistance Program of New Jersey.


Louis E. Baxter, M.D., FASAM
Executive Medical Director

Dated: 4/3/12

**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.