



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 REVOCATION OF THE LICENSE OF:

JAY D. KURIS, M.D.
License No. 25MA02542700

ORDER OF
TEMPORARY SUSPENSION
OF LICENSE

TO PRACTICE MEDICINE AND SURGERY
IN THE STATE OF NEW JERSEY

Overview

This matter was returned to the New Jersey State Board of Medical Examiners (the "Board") upon the January 7, 2019, filing of a motion to enforce litigant's rights by Deputy Attorney General Kate Calendar. The Attorney General sought the immediate suspension of the license of Jay D. Kuris, M.D. ("Respondent") to practice medicine and surgery in the State of New Jersey, pursuant to the Board's authority under N.J.A.C. 13:45C-1.4, N.J.S.A. 45:1-21(e) and (h), and the terms of a Consent Order filed on December 18, 2018 ("December Order"). The action is based upon allegations that Respondent continued to practice psychiatry, after he was unable to locate and secure Board approval for a preceptor to monitor his practice by the deadline established in the December Order, in violation of the agreed upon terms of the December Order.

The January 2019 application marks the third time that this matter has been scheduled for a hearing before the Board. Initially, in July 2017, the Attorney General sought the temporary suspension of Respondent's license, based upon a Verified Complaint alleging serious violations related to Respondent's prescribing of Controlled Dangerous Substances ("CDS") to certain identified patients and related to his general provision of medical and psychiatric care to patients. In lieu of conducting that hearing, we accepted Respondent's settlement offer to discontinue all CDS prescribing and to complete a post-licensure skills assessment. When doing so, we essentially gave Respondent the "benefit of the doubt," by allowing him to continue to engage in medical practice - - albeit limited by the prohibition on CDS prescribing -- while awaiting the results of the post-licensure assessment.

Following that assessment, the matter was scheduled to be heard before the Board a second time, on December 12, 2018, on a petition seeking the temporary suspension of Respondent's license. The Attorney General then alleged that the findings in the mandated assessment report [prepared by the Center for Personalized Education for Physicians ("CPEP")] demonstrated that Respondent had a multitude of serious and grave deficiencies in his underlying knowledge base, which in turn compromised his ability to safely engage in any further medical practice. Once again, in lieu of hearing that application, we gave Respondent "the benefit of the

doubt" by affording him an opportunity to resolve the matter by way of Consent Order. However, because his continued unmonitored practice presented substantial risks to his patients, we specified that he could continue to engage in unmonitored practice only for a very short window of time. The Order thus provided that Respondent was to cease and desist all practice at the close of business on December 19, 2018, unless, by that date, he had secured Board approval of a preceptor to monitor his practice.¹

The current application -- again seeking the temporary suspension of Respondent's license -- thus marks the third time that this matter has been brought back to us. The Attorney General herein alleges, and indeed Respondent concedes, that he continued to engage in unmonitored practice after December 19, 2018, even though he failed to meet the deadline for securing Board approval of a preceptor for his practice. Respondent's unilateral election to continue to practice without the agreed upon preceptor evinces his blatant and flagrant contempt for the authority of this Board. Even more significantly, however, it reflects Respondent's inability to appreciate the depths of his practice deficiencies, and the risks that his continued unmonitored practice poses to his

¹ Although the December Order was filed on December 18, 2018, the Order itself memorialized terms of an agreement which the parties reached on December 11, 2018. Respondent was thus afforded eight days to attempt to locate a suitable preceptor and secure Board approval of that individual.

patients. We unanimously conclude that a full temporary suspension of Respondent's license to practice is now necessary to protect the public health, safety and welfare. We set forth below a more detailed summary of the procedural history of this matter, the arguments made at the hearing conducted on January 9, 2019, and the rationale for our determination to presently order a full temporary suspension of Respondent's license.

Procedural History

By way of background, this matter was initially opened before the Board on July 24, 2017, upon the Attorney General's filing of an eight count Administrative Complaint against Respondent, and the simultaneous filing of an Order to Show Cause requiring Respondent to appear before the Board on August 9, 2017, and show cause why an order temporarily suspending, or otherwise conditioning or limiting his license, should not be entered by the Board.² That action was predicated upon Respondent's treatment of eight patients, seven of whom were prescribed CDS for chronic pain syndromes and/or for treatment of psychiatric conditions, for periods spanning multiple

² On August 7, 2017, the Board filed an Order which adjourned the return date for the Order to Show Cause to August 30, 2017. That Order included a provision prohibiting Dr. Kuris from prescribing any and all CDS pending the completion of the rescheduled hearing and further Order of the Board. See Interim Consent Order, In the matter of Jay D. Kuris, M.D., filed August 7, 2017.

years. In each Count, the Attorney General alleged that Respondent violated multiple provisions of the Uniform Enforcement Act, including, without limitation, N.J.S.A. 45:1-21(c) (engaging in gross negligence), N.J.S.A. 45:1-21(d) (engaging in repeated acts of negligence) and N.J.S.A. 45:1-21(m) (indiscriminate prescribing).

On August 30, 2017, the matter was presented to a Committee of the Board, which accepted, over the objection of the Attorney General, Respondent's settlement proposal. The Board thereafter entered an Interim Order Imposing Limitations on Practice on September 1, 2017, ("September 2017 Order") which continued to prohibit Respondent from prescribing, dispensing, and/or administering any and all CDS to patients, pending the completion of all plenary proceedings in this matter and/or further Order of the Board. Respondent was also ordered to submit to a comprehensive assessment of his practice skills, to be conducted by a Post-Licensure Assessment Program approved by the Medical Director of the Board (or her designee). Upon completion of the skills assessment, both parties were authorized to petition the Board for modification of the September 2017 Order. The matter was then referred to the Office of Administrative Law for plenary proceedings, with the Board explicitly reserving jurisdiction to consider any application(s), by either party, for modification of the terms of the September 2017 Order.

The skills assessment was conducted by CPEP on or about January 18 and 19, 2018, with a report produced on or about May 3, 2018. (Certification of Kate Calendar, DAG, dated January 7, 2019, Exhibit A). The CPEP report identified substantive deficiencies in Respondent's practice, to include an inability to recognize suicidal risk and formulate a suicide safety plan. The plan also identified substantial deficiencies with Respondent's knowledge base and ability to treat post-traumatic stress disorder, depression, substance abuse disorders, obsessive compulsive disorder, and clinical manifestations of personality disorders, and similarly identified substantial gaps in his knowledge of pharmacology. Further, CPEP found that Respondent had poor documenting and recordkeeping skills.

To address the identified deficiencies, CPEP recommended that Respondent participate in a structured, individualized education intervention to address the identified areas of need, by, among other provisions, establishing a relationship with an education preceptor in adult psychiatry. CPEP suggested that the relationship with the preceptor should include regularly scheduled meetings to review cases and documentation, discuss decisions related to those cases, review specific topics, and make plans for future learning. The preceptor was also to review all patient charts with Respondent, and develop a structured approach to suicidal patients.

Consistent with the terms of the September 2017 Order, on November 2, 2018, the Attorney General filed a petition for further limitations on Respondent's practice of medicine, again seeking the temporary suspension of Respondent's license to practice medicine pending the conclusion of the plenary proceedings in this matter. The petition was based upon the constellation of issues identified in the CPEP report, and upon Respondent's failure to have sought to comply with the recommendations that CPEP had made for him to attempt to address and remediate those concerns.

The matter was scheduled for a hearing before the Board on December 12, 2018. Prior to that hearing, however, the parties agreed to the terms memorialized in the December Order, which included, among other provisions:

1. Respondent shall find a Board-approved preceptor (the "Preceptor") before close of business on Wednesday, December 19, 2018. Respondent's chosen preceptor shall obtain approval from the Medical Director of the Board, or her designee. If Respondent fails to have a preceptor approved by the Medical Director of the Board, or her designee, by the close of business on December 19, 2018, he will immediately cease and desist the practice of medicine in the State of New Jersey until such time that he has obtained a Board-approved preceptor.

. . . .

7. The Board shall retain jurisdiction to enforce the terms of this Order. Upon receipt of any reliable information indicating that Respondent has violated any terms of this Order, the Board reserves the right to bring

further disciplinary action, including entering an Order of full temporary suspension of Respondent's medical license. In such event, the temporary suspension Order shall remain in full force and effect until the completion of all plenary proceedings in the matter. [emphasis added]

As noted above, on January 7, 2019, the Attorney General filed a motion to enforce litigant's rights, alleging that Respondent continued to practice medicine in violation of the December Order and seeking the immediate temporary suspension of Respondent's license to practice medicine, pursuant to the Board's authority under N.J.S.A. 45:1-14 et seq., N.J.A.C. 13:45C-1.4, and the explicit terms of the December Order.

Hearing on January 9, 2019

The hearing on the State's application for the temporary suspension of Respondent's license was held before the Board on January 9, 2019. Deputy Attorney General Kate Calendar presented the case on behalf of the Attorney General. Michael J. Keating, Esq., of Dughi, Hewit & Domalewski, PC, and Stephen H. Schechner, appeared on behalf of Respondent.

Motion to Adjourn

At the outset of the January 9, 2019, hearing, Respondent, through his counsel, requested to be heard on a motion to adjourn the hearing to a later date. In support, Mr. Schechner first argued that he was provided with inadequate notice of the hearing, as he was served with the Attorney General's Motion at 4:34 p.m. on

January 7, 2019. Further, because of personal and professional reasons, counsel asserted that he was not able to properly review the over one hundred and twenty pages of documents until January 8, 2019.

Mr. Schechner further argued that the Attorney General's Motion was not of an emergent nature, as the Attorney General was in receipt of the CPEP report since at least sometime in August 2018, and was aware that Respondent was practicing medicine, in violation of the December Order, since at least December 20, 2018. He suggested that while Respondent did agree to cease and desist practice in the December Order, he had done so only at the insistence of the Attorney General, and with the expectation that the approval of a preceptor by the Board's Medical Director, or her designee, was imminent. Counsel then concluded, arguing that there was no blatant violation of the December Order, as Respondent made a good faith effort to comply with the December Order by making a "herculean" effort to obtain a preceptor prior to December 19, 2018, by contacting over twenty possible preceptors, three of whom were formally proposed to the Board's Medical Director.

In response, DAG Calendar urged the Board to deny Respondent's request for an adjournment. She pointed out that, although the CPEP report issued in July 2018, Respondent had not sought to remediate any of the concerns found in said report. DAG Calendar next argued that pursuant to the terms of the December Order, Respondent agreed

to cease and desist from the practice of medicine in New Jersey if he was unable to find a Board-approved preceptor before the close of business on Wednesday, December 19, 2018, and until such time that he did obtain a Board-approved preceptor. Respondent did not secure approval for a preceptor by December 19, 2018, and he still did not have a Board-approved preceptor in place as of the date of the hearing. Yet, despite that fact, Respondent practiced medicine on December 20, 2018, and continued to do so until at least January 4, 2019.

DAG Calendar pointed out that the December Order explicitly stated that the Board reserved the right to temporarily suspend Respondent's medical license. She suggested that the Order would have allowed the Board to do so without a hearing, but that, to provide Respondent due process, the Attorney General instead elected to proceed by way of motion and thereby afford Respondent an opportunity to be heard.

DAG Calendar concluded by urging the Board to reject Respondent's argument that he had inadequate time to prepare for the hearing, as all of the documents supporting this application were available to Respondent before the filing of the motion on January 7, 2019, and as all parties were aware that any continued practice after December 19, 2018 without a Board approved preceptor would have been in violation of the terms of the December Order.

At the conclusion of arguments of counsel, the Board denied Respondent's motion for an adjournment. In its denial, the Board noted the very limited scope of the hearing -- specifically, that the lone issues presented were: (1) whether Respondent violated the December Order by practicing past the December 19, 2018, date without a Board-approved preceptor, and, (2) if so, whether that conduct now warranted the temporary suspension of his license. Given that limited scope, the Board found no basis to grant any further adjournments.

Summary of Evidence Presented at Hearing

Following an introductory statement made by the hearing chair, Paul J. Carniol, M.D., F.A.C.S., both parties made opening statements. In her opening statement, DAG Calendar focused on the fact that the Board was only considering this matter for the very limited purpose of determining whether Respondent violated the terms of the December Order. DAG Calendar pointed out that Respondent's appointment schedule not only showed that he had continued to treat established patients, but also that he may have been treating new patients and covering for another physician. Above all, DAG Calendar reiterated that Respondent unquestionably failed to comply with the terms of the Order by continuing to actively practice.

In his opening statement, Mr. Schechner sought to critique the CPEP report. Mr. Schechner conceded that Respondent continued to

practice past December 19, 2018, but asserted that Respondent had not taken on new patients after that date.

In support of the State's application, DAG Calendar entered into evidence, over Respondent's objection, her certification, and nineteen exhibits attached thereto. She also entered into evidence the certification of Enforcement Bureau Investigator Thomas Bryant, and the one exhibit attached to his certification.

Respondent objected to the entry of DAG Calendar's certification into evidence, arguing that because she was the attorney of record in the matter and not a testifying witness, she should be precluded from entering a certification into evidence.³ Respondent similarly objected to Investigator Bryant's certification, arguing that Investigator Bryant was not present to be cross-examined regarding the statements made in his certification.⁴ The Board overruled Respondent's objections,

³ That objection is counterintuitive to Rule 1:6-6, which permits consideration of facts contained in "affidavits made on personal knowledge, setting forth only facts which are admissible in evidence to which the affiant is competent to testify and which may have annexed thereto certified copies of all papers or parts thereof referred to therein." DAG Calendar's certification was offered for the sole purpose of authenticating documents, limited to Board Orders, the CPEP report, and communications between DAG Calendar and Respondent's counsel. Notwithstanding his objection, Mr. Schechner subsequently entered into evidence his own certification as Exhibit D-4.

⁴ Pursuant to N.J.S.A. 52:14B-10(a)(1), all relevant evidence is admissible, although the Board has discretion to exclude any evidence whose probative value is substantially outweighed by the risk that its admission will either necessitate undue consumption

finding that the evidence was being introduced for a very limited purpose and would be provided with the appropriate weight.

Documents attached to DAG Calendar's certification included the December Order, the CPEP Assessment Report for Jay D. Kuris, M.D., the September 2017 Order, and correspondence exchanged between DAG Calendar and Respondent's counsel regarding the possible resolution of this matter.⁵

Of particular import was Exhibit Q to DAG Calendar's certification, a December 18, 2018, letter from Mr. Schechner.⁶ In said letter, sent to DAG Calendar, DAG Guzik, and the Board, Mr.

of time or create substantial danger of undue prejudice or confusion. In emergent proceedings, the Board often accepts certifications in lieu of live testimony, and gives those certifications appropriate weight (recognizing that the individual offering the certification cannot be cross-examined), as it did in this matter.

Here, the Board did not find that the admission of said evidence would create a substantial danger of undue prejudice or confusion, and gave the evidence the appropriate weight it required. Significantly, Respondent himself certified that the appointment schedule attached to Investigator Bryant's certification was a true, accurate, and complete copy of the original on file in his office, and confirmed the authenticity of the appointment schedule during his testimony under oath before the Board. Additionally, both Respondent and Respondent's counsel admitted in their respective certifications that Respondent had continued to practice past December 19, 2018. Finally, Respondent affirmed multiple times in his testimony that he was still practicing, past December 19, 2018.

⁵ A complete list of all evidence entered at the January 9, 2019 hearing is appended to this Order.

⁶ The December 18, 2018, letter was subsequently also entered into evidence as Respondent's exhibit D-3.

Schechner affirmed that Respondent had not obtained a Board-approved preceptor. Mr. Schechner articulated the efforts undertaken by Respondent, and his counsel, to obtain the preceptor, but thereafter failed to address the issue whether Respondent would cease and desist from practice if he did not obtain a Board-approved preceptor prior to December 19, 2018. Most significantly, in all of the correspondence exchanged between the parties, Respondent never sought any relief from having to comply with the terms of the December Order, nor did he request additional time to obtain the preceptor or otherwise extend the deadline by which he was required to cease and desist from practice.

In his certified statement, Investigator Bryant reported that on two separate occasions, first on December 20, 2018, and then on January 4, 2019, he visited Respondent's office in a covert capacity. (Certification of Thomas Bryant, Investigator, dated January 7, 2019, at ¶2-8). On December 20, 2018, Investigator Bryant was informed by Respondent's administrative assistant that Respondent was in the office, awaiting the arrival of a patient scheduled for a 2:30 p.m. appointment. (Certification of Thomas Bryant, Investigator, dated January 7, 2019, at ¶4-5). When Investigator Bryant returned to Respondent's office on January 4, 2019, Respondent was again present. On that date, Respondent confirmed that he did not yet have a Board-approved preceptor, and stated, "the doctor's [sic] names I submitted don't want the job."

(Certification of Thomas Bryant, Investigator, dated January 7, 2019, at ¶11). Respondent then affirmed that he had a copy of the December Order, and that he continued to practice past the December 19, 2018, date. (Certification of Thomas Bryant, Investigator, dated January 7, 2019, at ¶12). Investigator Bryant was then provided the patient appointment schedule for December 20, 2018, to January 4, 2019. Photographs of the appointment book were taken and additional photocopies were provided by Respondent's administrative assistant. Respondent certified the copies of the patient schedule. (Certification of Thomas Bryant, Investigator, dated January 7, 2019, at ¶15; Certified copy of Respondent's patient appointment schedule for December 20, 2018, to January 4, 2019, attached to Certification of Thomas Bryant, Investigator, at Exhibit 1).

Following the presentation of the Attorney General's evidence, Respondent testified in his defense. Respondent admitted that he continued to practice past December 19, 2018, but stated that he did so to provide continuity to his patients, and because he believed that obtaining a Board-approved preceptor was imminent. Respondent also testified that he "took on the responsibility of being [his] own preceptor," by signing himself up for continuing education courses.⁷ While Respondent conceded that the findings of the CPEP report were "quite bad," according to Respondent, that

⁷ Paragraph 5 of the December Order required Respondent to immediately register for continuing education courses consistent with the recommendations found within the CPEP report.

finding was an anomaly, and not representative of his practice. Respondent then stated that he had lived up to all the terms of the December Order, aside from obtaining the Board-approved preceptor. Respondent denied taking on new patients during the December 20, 2018, to January 4, 2019, time period, and reiterated that he kept seeing patients during that time because of his sincere belief that obtaining a Board-approved preceptor was imminent.

During cross-examination, Respondent again denied seeing new patients during the time-period in question, but conceded that he did cover for another psychiatrist. Specifically, Respondent admitted that he covered for Ricardo J. Fernandez, M.D., during the Christmas holiday time-period. Respondent asserted that he had covered for Dr. Fernandez for approximately forty-years, and Dr. Fernandez had covered Respondent's practice for the same amount of time.

At the conclusion of Respondent's testimony, his counsel submitted into evidence exhibits D-1 through D-6. Included in the exhibits was the certification on Mr. Schechner, Exhibit D-4, wherein Mr. Schechner confirmed that Respondent continued practicing past December 19, 2018. Similarly, within his certification, Exhibit D-5, Respondent admitted to practicing past December 19, 2018.

Closing Arguments

In his summation, Respondent's counsel, Mr. Keating, conceded that there was "no question" that Respondent continued to practice past December 19, 2018, but argued that there was no "blatant disregard" for the Board's Order. Counsel asserted that while Respondent agreed to the terms of the December Order, he only did so to avoid having to defend against the Attorney General's petition for suspension of Respondent's license. And, although Mr. Keating suggested that, in hindsight, Respondent should have come before the Board to seek modification of the December Order, he conceded that he did not do so.

Counsel further argued that Respondent was a well-trained and highly thought of physician who made diligent efforts to comply with the December Order, and that the only thing Respondent had failed to do was to timely obtain a Board-approved preceptor, which Respondent only had one week to find. Counsel further argued that the December Order was signed during the holiday season, which stymied attempts by Respondent and his counsel to obtain a preceptor in a timely manner. Counsel asserted that although no Board-approved preceptor was in place, Respondent had already started working with a physician who had been proposed to the Board's Medical Director as a possible preceptor. Respondent's counsel also pointed out that although issues regarding the CPEP evaluation were no longer before the Board, Respondent had

scheduled an appointment to undergo an updated evaluation with CPEP on January 28 and 29, 2019. Respondent's counsel concluded by requesting that the Board extend the December Order for two weeks, to allow Respondent additional time to obtain a Board-approved receptor.

In rebuttal, DAG Calendar first noted the Respondent and his counsel did not have only a week to obtain a Board-approved preceptor. Rather, Respondent had been aware since he received the CPEP report in July 2018 that a need existed for him to remediate the deficiencies found in the CPEP report, among which was a need to obtain a preceptor. She pointed out that the Attorney General had been ready to proceed to a hearing before the Board on December 12, 2018, and only deferred from doing so when Respondent agreed to each and every term of the December Order.

DAG Calendar then addressed Respondent's request to extend the December Order for another two weeks to allow additional time to obtain a Board-approved receptor. DAG Calendar argued that Respondent was in violation of the December Order and extending the time period would only allow Respondent more time to keep violating that Order. She argued that Respondent had failed to remediate the deficiencies of the CPEP report, failed to obtain a preceptor, and failed to cease and desist from the practice of medicine, despite having explicitly agreed that he would do so in the event he could not obtain a Board-approved preceptor by December 19, 2019. DAG

Calendar noted that Respondent testified under oath that he was not in compliance with the December Order, and that there was no indication that he intended to stop practicing. DAG Calendar concluded by urging that the Board temporarily suspend Respondent's license to practice medicine.

Discussion, Conclusions of Law and Order

As noted above, the limited issue before us is whether Respondent violated the terms of the December Order. The evidence offered, along with Respondent's own testimony, his certification, and the certification of his counsel, conclusively establish that Respondent continued to practice medicine and surgery in the State of New Jersey beyond December 18, 2018, notwithstanding his failure to have then secured a Board-approved preceptor. Respondent's conduct clearly was in violation of the terms of the December Order. Respondent made a conscious and unilateral choice to violate the terms of his agreement with the Board. It is beyond dispute that Respondent continuously treated patients during the time period from December 20, 2018 through at least January 4, 2019, as evidenced by the entries in his appointment book, and that he even covered for another physician during that time period.⁸

⁸ We find it unnecessary to make any finding whether Dr. Kuris did or did not treat any "new" patients during the time period, as his decision to continue to treat established patients was a clear violation of the terms of the December Order, and provides a more than adequate predicate to presently support entry of an Order temporarily suspending his license.

We reject Respondent's suggestion that his actions can be justified by a need for his patients to continue receiving psychiatric care. It is clear that Respondent neither understands nor appreciates the depth and magnitude of the practice deficiencies which were identified in the CPEP report, nor the risks that are inherent in his continued, unmonitored practice. Indeed, his testimony that he acted as his "own preceptor" during this time period evinces his failure to understand his own shortcomings. Thus, rather than providing any justification for his conduct, the need to protect the interests of Respondent's patients accentuates the need for this Board to suspend any further practice by Respondent at this time.

Respondent's conduct also shows a flagrant disregard for the Board's Order and for the inherent authority of the Board. Respondent clearly had options available to him when he realized that he may not secure Board approval of a preceptor prior to the close of business on December 18, 2018. He could have made an application to the Board, through the agency head, for a limited extension of time to obtain a preceptor, but he elected not to do so. He could have elected to discontinue practice until a preceptor was approved, and then resume practice, but he also eschewed that option. Respondent's demonstrated track record of unilaterally ignoring recommendations made by CPEP, and then ignoring the very terms of his consent agreement with the Board, demonstrates that he

simply cannot be trusted to comply with any conditions or limitations the Board might presently attempt to craft in an effort to limit his practice pending a full hearing before the OAL.

As we noted at the outset, we twice before provided Respondent with opportunities to remain in practice with limitations short of a full temporary suspension. However, his own actions now militate against our continuing to afford him any further opportunities. We conclude that we therefore have no option other than to order the full temporary suspension of Respondent's license, as nothing less will suffice to protect the public interest.⁹

WHEREFORE it is on this 17th day of January, 2019

ORDERED, effective immediately upon its oral announcement on the public record on January 10, 2019:

1. The license of Respondent Jay D. Kuris, M.D., to practice medicine and surgery in the State of New Jersey is hereby temporarily suspended. Respondent shall, not later than January 10, 2019, fully cease and desist from all practice of medicine and surgery in the State of New Jersey. The temporary suspension shall

⁹ We note that the authority to enter a full temporary suspension of Respondent's license at this time derives fully and directly from the terms of the December Consent Order, and thus does not necessarily require a finding that Respondent's continued practice would present clear and imminent danger to the public health, safety and welfare (as might otherwise be required in an application brought directly under the authority of N.J.S.A. 45:1-22). While we thus find it unnecessary to directly reach that issue, we point out that the findings made herein would provide a more than ample predicate upon which to rest such a conclusion were it in fact necessary to do so.

continue until the conclusion of plenary proceedings in this matter (specifically, following the issuance of an Initial Decision by the Office of Administrative Law and the Board's subsequent adoption, rejection or modification of such Decision).

2. Respondent shall comply with the attached Directives applicable to disciplined licensees of the Board.

NEW JERSEY STATE BOARD OF MEDICAL EXAMINERS

By:



Paul J. Carniol, M.D., F.A.C.S.
President

Evidence List

Submitted on behalf of the Attorney General

Exhibit 1: Certification of Kate Calendar, DAG, dated January 7, 2019:

- Exhibit A: Consent Order filed on December 18, 2018.
- Exhibit B: CPEP Assessment Report for Jay D. Kuris, M.D.
- Exhibit C: Interim Order Imposing Limitations on Practice, filed September 1, 2017.
- Exhibit D: Letter from DAG Calendar, dated July 23, 2018.
- Exhibit E: Letter from Stephen Schechner, Esq., dated August 3, 2018.
- Exhibit F: Letter from DAG Calendar, dated August 20, 2018.
- Exhibit G: Letter from DAG Calendar, dated October 26, 2018.
- Exhibit H: Letter from DAG Calendar, dated November 2, 2018.
- Exhibit I: Letter from Stephen Schechner, Esq., dated November 5, 2018.
- Exhibit J: Email from SDAG Steve Flanzman, dated November 13, 2018.
- Exhibit K: Email from DAG Calendar, dated November 29, 2018.
- Exhibit L: Letter from Stephen Schechner, Esq., dated December 4, 2018.
- Exhibit M: Letter from DAG Calendar, dated December 5, 2018.

- Exhibit N: Email from Michael J. Keating, Esq., dated December 7, 2018.
- Exhibit O: Email from DAG Calendar, dated December 11, 2018.
- Exhibit P: Email from DAG Calendar, dated December 14, 2018.
- Exhibit Q: Letter from Stephen Schechner, Esq., dated December 18, 2018.
- Exhibit R: Email from DAG Calendar, dated January 2, 2018.
- Exhibit S: Demand for Inspection of the Professional Premises, dated January 4, 2019.

Exhibit 2: Certification of Thomas Bryant, Investigator, dated January 7, 2019:

- Exhibit 1: Certified patient schedule for Jay D. Kuris, M.D., from December 20, 2018, to January 4, 2019.

Submitted on behalf of Respondent

- Exhibit D-1: Letter from Neal B. Schofield, M.D., dated November 26, 2018.
- Exhibit D-2: Letter from Richard Wohl, MSW, MBA, dated November 26, 2018.
- Exhibit D-3: Letter from Stephen Schechner, Esq., dated December 18, 2018.
- Exhibit D-4: Certification of Stephen Schechner, Esq., dated January 8, 2019:
- Exhibit D-5: Certification of Jay D. Kuris, M.D., dated January 8, 2019:
- Exhibit D-6: Letter from Jay D. Kuris, M.D., dated January 2, 2019.

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

APPROVED BY THE BOARD ON AUGUST 12, 2015

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

1. Document Return and Agency Notification

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

2. Practice Cessation

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

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

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

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

A licensee subject to the order shall not charge, receive or share in any fee for professional services rendered by him/herself or others while barred from engaging in the professional practice.¹ The licensee may be compensated for the reasonable value of services lawfully rendered and disbursements

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

incurred on a patient's behalf prior to the effective date of the Board order.

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

4. Medical Records

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

At the end of the three month period, the licensee shall file with the Board the name and telephone number of the contact person who will have access to medical records of former

patients. Any change in that individual or his/her telephone number shall be promptly reported to the Board. When a patient or his/her representative requests a copy of his/her medical record or asks that record be forwarded to another health care provider, the licensee shall promptly provide the record without charge to the patient.

5. Probation/Monitoring Conditions

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

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

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

6. Payment of Civil and Criminal Penalties and Costs.

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

its discretion may grant installment payments for not more than a 24 months period.)

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

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

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

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

Copies of disciplinary Orders entered by the Board are additionally posted and available for inspection or download on the Board of Medical Examiners' website. See <http://njconsumeraffairs.gov/bme>.

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

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

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

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

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