



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

IN THE MATTER OF THE LICENSE OF
JAY D. KURIS, M.D.
LICENSE NO. 25MA02542700

TO PRACTICE MEDICINE AND SURGERY
IN THE STATE OF NEW JERSEY

Administrative Action

**ORDER CONDITIONALLY
REINSTATING LICENSE**

Overview

This matter was returned to the New Jersey State Board of Medical Examiners (the "Board") on or about June 5, 2019, upon the filing of a motion by Stephen H. Schechner, Esq., on behalf of Dr. Kuris, to vacate the Board's December 18, 2018, and January 17, 2019, Orders, and to restore the license of Jay D. Kuris, M.D., to practice medicine.¹ For reasons set forth below, we find that Dr. Kuris may presently be authorized to return to practice with restrictions. Along with other provisions, Dr. Kuris shall continue to be to be prohibited from prescribing,

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At the Board's July 10, 2019, hearing, Mr. Schechner orally amended his motion, withdrawing the request that the Board vacate its prior Orders. Mr. Schechner clarified that he was then only seeking the reinstatement of Dr. Kuris' license to practice medicine, along with the restoration of Dr. Kuris' ability to prescribe CDS.

dispensing or administering any and all Controlled Dangerous Substances ("CDS") to all patients, pending the completion of all plenary proceedings, and shall be required to fully comply with all recommendations made in the Center for Personalized Education for Professionals ("CPEP") Educational Intervention Program Education Plan ("CPEP Education Plan").

Procedural History

By way of background, this matter was initially opened before the Board on July 24, 2017, upon the filing of an application seeking the temporary suspension of Dr. Kuris' license, based upon allegations that Dr. Kuris had engaged in inappropriate and indiscriminate prescribing of CDS and that he had engaged in gross or repeated acts of negligence and malpractice in his medical practice.² On September 1, 2017, we entered an Interim Order Imposing Limitations on Practice, which prohibited Dr. Kuris from prescribing any and all CDS to patients, and required him to submit to a comprehensive assessment of his practice skills.

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. ("2018 CPEP Report"). The 2018 CPEP report identified

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.

substantive deficiencies in Dr. Kuris' practice. Based thereon, CPEP opined that if Dr. Kuris were to continue practicing outpatient adult psychiatry, he would need to participate in an educational intervention to address identified areas of need, to include establishing a relationship with an educational preceptor in adult psychiatry.³

On November 2, 2018, the Attorney General filed a renewed petition for the temporary suspension of Dr. Kuris' license to practice medicine, predicated upon: 1) the concerns identified in the 2018 CPEP report, and 2) Dr. Kuris' failure to have complied with recommendations made in said report. Thereafter, on December 12, 2018, the parties agreed to terms memorialized in a December 18, 2018, Order, (hereinafter the "December 2018 Consent Order"), which included, among other provisions, a requirement that Dr. Kuris 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.

The matter again returned to the Board on January 7, 2019, upon the filing of a motion by the Attorney General, seeking the immediate suspension of Dr. Kuris' license to practice medicine.

³ The 2018 CPEP Report identified a pattern of deficiencies in the area of Dr. Kuris' CDS prescribing, and concluded that Dr. Kuris would need "100% supervision," such as the type found in a residency program, "while remediating his deficiencies" in CDS prescribing.

That action was predicated upon allegations Dr. Kuris violated the terms of the December 2018 Consent Order by continuing to practice medicine after December 19, 2018, without a Board-approved preceptor. At a hearing on January 9, 2019, Dr. Kuris conceded that he continued to practice medicine past the December 19, 2018, date, without the oversight of a Board-approved preceptor. Based thereon, we entered an Order temporarily suspending Dr. Kuris' license. See Order of Temporary Suspension of License, In the matter of Jay D. Kuris, M.D., filed January 17, 2019.

Following the suspension of his license, Dr. Kuris returned to CPEP for a re-evaluation that was expressly focused upon and limited to his practice of outpatient adult psychiatry. The new assessment ("2019 CPEP Report") once again identified areas of educational needs and recommended that Dr. Kuris participate in an education intervention, including compliance with an education preceptor, among other provisions. CPEP also developed an Education Plan to address deficiencies in Dr. Kuris' practice.

July 10, 2019, Hearing

A hearing on Dr. Kuris' motion seeking restoration of his license was held before the Board on July 10, 2019. Deputy Attorney General Kate Calendar appeared for the Attorney General. Mr. Schechner appeared on behalf of Dr. Kuris.

During oral argument, Mr. Schechner acknowledged Dr. Kuris' violation of the December 2018 Order, but argued that aside from that sole deviation, Dr. Kuris had been cooperative with the Board. Mr. Schechner urged that we find that the suspension of Dr. Kuris' license on January 9, 2019, constituted sufficient punishment for the violation committed by Dr. Kuris.

Mr. Schechner continued, arguing that if Dr. Kuris was granted reinstatement of his license, he should likewise be granted the ability to prescribe CDS. Mr. Schechner contended that the 2019 CPEP Report superseded the 2018 CPEP Report, and he suggested that the 2019 CPEP Report did not raise any concerns regarding Dr. Kuris' ability to prescribe CDS. Mr. Schechner further argued that Dr. Kuris' practice would be overseen by CPEP and a preceptor, and suggested that the oversight would allay concerns regarding Dr. Kuris' prescribing of CDS.

Following Mr. Schechner's presentation, Dr. Kuris made a statement on his own behalf. Dr. Kuris apologized for his violation of the December 2018 Order, and accepted responsibility for his actions. Dr. Kuris represented that the violation was not made with disrespect and disregard for the Board's authority. Dr. Kuris asked that we take into account that he has paid a "substantial price" for his violation of the Order.

In her rebuttal, DAG Calendar first conceded that it was within the Board's discretion to determine whether Dr. Kuris'

approximately six-month suspension for his violation of the December 2018 Order was a sufficient penalty. DAG Calendar urged that even if we were to reinstate licensure, Dr. Kuris should only be allowed to return to practice with a requirement that he comply with the recommendations made by CPEP, and with oversight by a Board-approved preceptor.

DAG Calendar vehemently objected to Dr. Kuris' request that he presently be permitted to prescribe CDS. She recounted that the current matter was commenced upon the filing of an eight-count, thirty-six page Verified Complaint, which sought the temporary suspension of Dr. Kuris' license, based, in large part, upon Dr. Kuris' indiscriminate prescribing of CDS.⁴

At the time the Verified Complaint was filed, we determined that Dr. Kuris' cessation from prescribing CDS would adequately protect the public until we were able to hear the matter. See Interim Consent Order, In the matter of Jay D. Kuris, M.D., filed August 7, 2017.

DAG Calendar also pointed out that while the 2018 CPEP Report made specific findings and recommendations regarding Dr.

⁴ The resolution of the allegations made in the Verified Complaint remain pending at the Office of Administrative Law ("OAL"). The provisions of this Order are intended to address Dr. Kuris' practice solely for the period of time until the pending Verified Complaint is tried before the OAL. The issue of whether Dr. Kuris should be subject to additional penalties - to include possible suspension or revocation of license - must await the conclusion of the forthcoming OAL hearing.

Kuris' CDS prescribing, his opiate prescribing, and his practice of outpatient adult psychiatry, the 2019 CPEP Report was far narrower in scope and specifically "limited to outpatient adult psychiatry." DAG Calendar argued that because of the narrower scope, the 2019 CPEP Report did not, in any way, support Dr. Kuris' request for any relaxation of the present complete prohibition on CDS prescribing.

Discussion

The issue before us is narrow. Specifically, we are asked to consider whether to presently reinstate Dr. Kuris' license to practice medicine based on the new findings made in the 2019 CPEP report, pending the forthcoming hearing at the OAL on the Administrative Complaint.

We conclude that satisfactory cause exists to enter an Order that will reinstate Dr. Kuris' license. We are satisfied that the approximate six-month suspension of Dr. Kuris' license (i.e., the time which elapsed between the entry of the January 17, 2019, Order and now) is a sufficient penalty for his unilateral decision to ignore the terms of the December 2018 Consent Order. When appearing before us presently, Dr. Kuris accepted responsibility for his decisions and acknowledged that he now recognizes that significant issues exist with his practice which require remediation. The Board recognizes that Dr. Kuris was previously allowed to continue to practice psychiatry for

seventeen months without any CDS prescribing - and that the temporary suspension of his license was based upon his election to continue practicing without the oversight of a preceptor, rather than upon any specific negative finding related to the manner in which he conducted his CDS-less practice between July 2017 and December 2018.

On the issue of restoration of CDS privileges, however, we find nothing before us that presently supports Dr. Kuris' request that he be authorized to resume prescribing CDS. As noted above, the 2018 CPEP Report identified a pattern of deficiencies in the area of Dr. Kuris' CDS prescribing, and concluded that Dr. Kuris would need "100% supervision," such as that found in a residency program, "while remediating his deficiencies" in CDS prescribing. The 2019 CPEP Report in no way addresses Dr. Kuris' ability to prescribe CDS, as it is specifically limited in scope to outpatient adult psychiatry. Accordingly, there is nothing before us that allays our prior concerns that Dr. Kuris' patients would be at risk, were he to be allowed to presently prescribe CDS, and we therefore find it necessary to continue the complete prohibition on CDS prescribing.

Conclusion and Order

Upon consideration of Dr. Kuris' testimony and the documentation provided, the Board has concluded that good cause exists to grant Dr. Kuris' request for reinstatement of his

license, expressly subject to Dr. Kuris' compliance with each and every term and condition set forth below. The Board further having determined that the within Order is adequately protective of the public health, safety, and welfare;

It is on this 2nd day of August, 2019

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

1. The license of Jay D. Kuris, M.D., to practice medicine in the State of New Jersey is hereby reinstated, pursuant to the terms and conditions set forth in Paragraphs 2-12 below. The terms and conditions of this Order shall 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. Dr. Kuris shall continue to be prohibited from prescribing, dispensing or administering any and all CDS to all patients, pending the completion of all plenary proceedings in this matter or further Order of this Board.

3. Dr. Kuris is also expressly prohibited from directing any other health care professional with prescriptive authorization to prescribe, administer, or dispense CDS to any patient.

4. Prior to resuming the active practice of medicine, Dr. Kuris shall engage an educational preceptor who shall be pre-approved by the Acting Medical Director of the Board. Dr. Kuris shall submit the curriculum vitae of the proposed preceptor and a written statement from the proposed preceptor, attesting that the preceptor has read all prior Board Orders, the 2018 and 2019 CPEP Reports, and the CPEP Education Plan, to the Board's Acting Medical Director, or his designee, for review. Dr. Kuris shall not practice medicine in New Jersey until he receives written approval from the Acting Medical Director of the Board, or his designee, expressly approving of the proposed preceptor. In the event Dr. Kuris practices medicine without a Board-approved preceptor, such conduct shall constitute grounds upon which the Board may enter an Order of Automatic Suspension (See ¶12 herein).

5. The preceptor shall be responsible for preparing and submitting a monthly written progress report to the Board to be sent to the attention of the Acting Medical Director of the Board or his designee, attesting that Dr. Kuris has practiced in

a manner consistent with the standard of care, and detailing the results of all record reviews. The preceptor shall also provide immediate reports ("immediate" shall mean a written report within 24 hours) to the Board in the event that he or she becomes aware of any significant issue(s) concerning the quality of care being provided by Dr. Kuris, any gross deviations from the standard for care by Dr. Kuris, any prescribing of CDS by Dr. Kuris and/or in the event that he or she were to become aware that Dr. Kuris engaged in any activity in violation of this Order.

6. The preceptor's monthly report shall specify the time frame covered in the report; include the date the report was written; and state how many patients were seen by Dr. Kuris in the designated timeframe. Within the monthly report, the preceptor shall consider and address the quality and sufficiency of documentation; the adequacy of documentation of past medical history and relevant family and social history; the appropriateness and sufficiency of the initial evaluation of the patient; the extent to which Dr. Kuris' diagnoses are consistent with and adequately supported by the recorded medical data; the adequacy and appropriateness of Dr. Kuris' treatment plan; the adequacy of Dr. Kuris' re-evaluation of a patient's response to treatment and modification of treatment; and the adequacy and

appropriateness of billing. The report shall additionally advise if any non-psychiatric patients were seen by Dr. Kuris, and if so, describe the case and explain why the patient was treated for non-psychiatric reasons.

7. Dr. Kuris shall fully and satisfactorily follow and complete any and all recommendations which may be made by the Board approved preceptor, to include without limitation any recommendations that might be made for additional evaluations or additional targeted education to remediate any aspect of Dr. Kuris' practice that the preceptor may identify as deficient. Dr. Kuris shall ensure that all necessary releases are executed with the preceptor so that the Board will have access to any communications between Dr. Kuris and the preceptor, as well as any reports or recommendations whether issued by the preceptor or any consultant recommended by the preceptor. In addition, the Board, its agents and employees, including but not limited to the Medical Director of the Board, may communicate directly with the preceptor.

8. Dr. Kuris shall bear the cost of the preceptor. Dr. Kuris shall ensure that the preceptor has access to all necessary information and documentation to issue timely reports.

9. In the event that the approved preceptor ceases, for any reason, to serve as Dr. Kuris' preceptor, Dr. Kuris shall immediately cease and desist from any further practice of medicine in New Jersey until such time as a successor practice preceptor is expressly approved in writing.

10. Dr. Kuris shall fully comply with all recommendations and/or requests made by CPEP as part of its Educational Intervention Program Education Plan. Said compliance shall include participating in regularly scheduled meetings with his preceptor.

11. In the event that the Board's Acting Medical Director, or his designee, CPEP, and the approved preceptor all determine that Dr. Kuris has adequately remediated the deficiencies found in the 2019 CPEP assessment, Dr. Kuris may petition for modification of the terms of this Order. In such event, Dr. Kuris shall undergo an updated assessment, to be conducted by CPEP, or another Board-approved PLAP assessment provider.

12. Dr. Kuris shall be subject to an Order of Automatic Suspension of his license upon the Board's receipt of any information that the Board, in its sole discretion, deems reliable, demonstrating that Dr. Kuris has violated any of the terms or conditions of this Order. In the event an Order of

Automatic Suspension is entered, Dr. Kuris may seek to challenge the Board's entry of that Order on not less than ten days' written notice to the Attorney General and the Board. The Board may hold a hearing on that application before the full Board or before a committee of the Board. At such hearing, Dr. Kuris may only seek to challenge the factual basis upon which any Order of Automatic Suspension was entered and/or otherwise demonstrate that no violation of the terms or conditions of this Order has occurred. In the event a committee hears the application, its action shall be effective immediately and subject to ratification of the full Board at its next scheduled meeting.

NEW JERSEY STATE BOARD OF MEDICAL EXAMINERS



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