

**PUBLIC**

STATE OF NEW YORK DEPARTMENT OF HEALTH  
STATE BOARD FOR PROFESSIONAL MEDICAL CONDUCT

**IN THE MATTER**

**OF**

**MICHAEL GEORGE ASHKAR, M.D.  
CO-02-09-5237-A**

**COMMISSIONER'S  
SUMMARY  
ORDER**

**TO: MICHAEL GEORGE ASHKAR, M.D.  
105 East 73<sup>rd</sup> Street  
New York, NY 10021**

**MICHAEL GEORGE ASHKAR, M.D.  
7 East 63<sup>rd</sup> Street  
New York, NY 10021**

The undersigned, Antonia C. Novello, M.D., M.P.H., Dr. P.H., Commissioner of Health, pursuant to N.Y. Public Health Law §230, upon the recommendation of a committee on Professional Medical Conduct of the State Board for Professional Medical Conduct, has determined that the duly authorized professional disciplinary agency of another jurisdiction, the State of New Jersey, Department of Law & Public Safety, Division of Consumer Affairs, State Board of Medical Examiners, (hereinafter "New Jersey Board") has made a finding substantially equivalent to a finding that the practice of medicine by MICHAEL GEORGE ASHKAR, M.D., Respondent, licensed to practice medicine in New York state on July 13, 1965, by license number 094802, in that jurisdiction constitutes an imminent danger to the health, safety, and welfare of its people, as is more fully set forth in documents of the New Jersey Board, attached hereto, as Appendix "A," and made a part hereof.

It is therefore:

ORDERED, pursuant to N.Y. Public Health Law Section 230(12)(b), that effective immediately, MICHAEL GEORGE ASHKAR, M.D., Respondent, shall not practice medicine in the State of New York or in any other jurisdiction where that practice is dependent on a valid New York State license to practice medicine.

Any practice of medicine in the State of New York or in any other jurisdiction where that practice is dependent on a valid New York State license to practice medicine in violation of this Commissioner's Summary Order shall constitute Professional Misconduct within the meaning of N.Y. Educ. Law §6530 and may constitute unauthorized medical practice, a felony defined by N.Y. Educ. Law §6512.

This Order shall remain in effect until the final conclusion of a hearing that shall commence within thirty (30) days after the final conclusion of the disciplinary proceeding in the State of New Jersey. The hearing will be held pursuant to the provisions of NY. Pub. Health Law §230, and N.Y. State Admin. Proc. Act §301-307 and 401. The hearing will be conducted before a committee on professional conduct of the State Board for Professional Medical Conduct, on a date and at a location to be set forth in a written Notice of Summary Hearing, together with a Statement of Charges, to be provided to the Respondent after the final conclusion of the New Jersey proceeding. Said written Notice may be provided in person, by mail or by other means. If Respondent wishes to be provided said written notice at an address other than those set forth above, Respondent shall so notify, in writing, both the attorney whose name is set forth on this Order, and the Director of the Office of Professional Medical Conduct, at the addresses set forth below.

**Respondent shall notify the Director of the Office of Professional Medical Conduct, New York State Department of Health, 433 River Street, Suite 303, Troy, NY 12180-2299 via Certified Mail, Return Receipt Requested, of the final conclusion of the Pennsylvania proceeding immediately upon such conclusion.**

**THESE PROCEEDINGS MAY RESULT IN A DETERMINATION THAT YOUR LICENSE TO PRACTICE MEDICINE IN NEW YORK STATE BE REVOKED OR SUSPENDED, AND/OR THAT YOU MAY BE FINED OR SUBJECT TO OTHER SANCTIONS SET FORTH IN NEW YORK PUBLIC HEALTH LAW SECTION 230-A. YOU ARE URGED TO OBTAIN AN ATTORNEY FOR THIS MATTER.**

DATE: Albany, New York

*November 27*, 2002

  
ANTONIA C. NOVELLO, M.D., M.P.H., Dr. P. H.  
Commissioner

Inquires should be addressed to:

Robert Bogan  
Associate Counsel  
Office of Professional Medical Conduct  
433 River Street – Suite 303  
Troy, New York 12180  
(518) 402-0828

DAVID SAMPSON  
ATTORNEY GENERAL OF NEW JERSEY  
Division of Law and Public Safety  
124 Halsey Street - 5<sup>th</sup> Floor  
Post Office Box 45029  
Newark, New Jersey 07101  
Attorney for the  
New Jersey State Board of  
Medical Examiners

**FILED**  
AUGUST 1, 2002  
**NEW JERSEY STATE BOARD  
OF MEDICAL EXAMINERS**

By: Sandra Y. Dick  
Deputy Attorney General  
(973) 648-4738

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

IN THE MATTER OF TEMPORARY :  
SUSPENSION OF THE LICENSE :  
: Administrative Action  
MICHAEL ASHKAR, M.D. :  
: ORDER OF TEMPORARY  
TO PRACTICE MEDICINE AND SURGERY : SUSPENSION OF LICENSE  
IN THE STATE OF NEW JERSEY :  
:

This matter was opened to the New Jersey State Board of Medical Examiners on the application for temporary suspension of of respondent's license to practice medicine and surgery brought by Attorney General David Sampson, by Adriana Baudry, Deputy Attorney General. An Order to Show Cause was signed by William V. Harrer, M.D., B.L.D., Board President, by which a hearing was scheduled for 10:00 a.m., July 10, 2001. The Verified Complaint filed simultaneously, alleged in five (5) counts that respondent had engaged in an inappropriate sexual relationship with a female patient during the course of the physician/patient relationship,

**CERTIFIED TRUE COPY**

that respondent indiscriminately prescribed medication including controlled dangerous substances to the patient, and that he failed to document the majority of prescriptions in the patient's record. The Complaint also alleged that respondent prescribed medications including controlled dangerous substances to the patient's husband without maintaining any medical record for him, and that respondent fraudulently issued prescriptions in the name of the patient for controlled substances for his own use and for the use of his wife. Finally, the Complaint alleged that respondent performed silicone breast implant surgery on the patient, failed to have required consent forms signed to enroll the patient in an experimental study, for which respondent was an approved investigator with the McGann Medical Corporation, was accordingly suspended from the study, and that he failed to note consultations, examinations and prescriptions in the patient's chart.

On July 8, 2002 respondent filed an Answer to the Verified Complaint in which he essentially denied the allegations of the complaint except that he admitted he is a licensed physician and admitted that he had a sexual relationship with K.S., but denied she was a patient at the time. On July 9, 2002 respondent filed a Certification in which he provided explanations for most of the medications he prescribed for K.S.<sup>1</sup>

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<sup>1</sup> At the time of the filing of the Complaint the State filed numerous certifications and exhibits which are more fully described in the exhibit list attached hereto.

At the hearing on July 10, 2002, Adriana Baudry, Deputy Attorney General appeared on behalf of the State and respondent was represented by Richard Amdur, Esq. At the outset, Dr. David Wallace, Vice-President of the Board, chairing the proceeding,<sup>2</sup> asked the parties to address the sealing of the identity of the patient and her family both in the records and at the hearing. Without objection by either party, the Chair directed that all references to the name of the patient and her family, and any identifying information, be sealed as is the usual practice of the Board,<sup>3</sup> and that if at any time during the proceeding an identity is inadvertently revealed, the Court Reporter and all persons present were instructed not to further disclose the name, and to utilize initials only on the record.

By way of opening remarks the Attorney General argued that respondent engaged in an egregious pattern of conduct when he undertook a sexual liaison with patient K.S. while serving as her physician, that his medical judgment was so compromised that he prescribed Controlled Dangerous Substances to the patient without

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<sup>2</sup> The Chair disclosed his membership on the staff of Monmouth Hospital and brief prior representation by respondent's counsel several years ago, and noted his belief he could impartially participate in this matter. Neither of the parties voiced any objection to Dr. Wallace's service and thus he continued to chair the proceeding.

<sup>3</sup> Additionally, the Chair noted that the documents filed contained several apparently inadvertent references to the name of the patient or that of her family, and that all such references should be redacted prior to any disclosure of the documents filed at the Board.

valid medical justification or recording such prescriptions in the patient's record, that he performed medical procedures without noting them in the chart including his diagnosis of complications, that his judgment was so impaired that he performed silicone breast implant surgery which can only be performed under the auspices of an adjunct medical study, yet did not even enroll the patient in the experimental study or have her sign specific informed consent documents necessary for that study. Further, the Deputy Attorney General argued that the lack of good sound medical judgment of respondent caused him to prescribe to the husband of patient K.S., who was his "golfing buddy," although he was never a patient and no chart was maintained for him. Finally, the State maintained that the evidence would show respondent to be so devoid of judgment that he presents a clear and imminent danger to the public health, safety and welfare.

Counsel for respondent, by way of his opening remarks, conceded that his client had made one mistake, that involving patient K.S., in thirty years of practice. He asserted that the doctor does not agree that K.S. was a patient, however, the doctor understands that he made a mistake but maintains he does not pose a threat to the public. He reminded the Board that respondent was a sixty-five year old man, asked the Board to look at his entire career and that although there may be a reason to punish him, taking away his license, the only way he has to make a living,

would be a draconian result. Counsel conceded respondent made a mistake in prescribing medication to K.S.'s husband, a "golfing buddy" without maintaining records, however he alleged there was no harm to the public. Respondent's counsel argued that nothing egregious occurred except perhaps a sexual relationship with K.S. while she technically " could be called a patient" and therefore asserted there was no threat to the public by allowing respondent to practice.

The Attorney General offered a number of exhibits which were all stipulated into evidence with the exception of those noted. These exhibits included:

- (S-A) respondent's complete patient records for K.S.
- (S-B) sworn statement of K.S. <sup>4</sup>
- (S-C) transcript of respondent's testimony before Preliminary Evaluation Committee.
- (S-D) certified copy of the pharmacy profile of K.S.
- (S-E) sworn statement and impact letter of K.S.'s husband G.S. <sup>5</sup>
- (S-F) certified pharmacy profile for K.S.'s husband G.S.

At the conclusion of the submission of evidence, the Attorney General rested.

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<sup>4</sup> The Board directed that S-B should be entered into evidence over respondent's objection that K.S. was not present to be cross-examined. The Board noted that upon an application for temporary suspension, all that is required is that the application be verified, and that sworn statements are acceptable at this juncture of the proceeding.

<sup>5</sup> This document was accepted into evidence over the objection of respondent that it was hearsay, the Board noting that hearsay is permissible at an administrative proceeding.

Respondent testified in his own behalf.<sup>6</sup> Respondent maintained that he had made one mistake, recognized and learned from it, and that his error would not be repeated. Respondent explained his version of the relationship he had with K.S. as follows - after he performed a second breast implant surgery on the patient, she started to volunteer in his office. Respondent alleged she became openly flirtatious which eventually developed into an affair. He claimed that he had finished her treatment when she started volunteering. He further asserted that many of the prescriptions that he gave her which were not written into the patient record were based on multiple horse-related injuries that the patient, an avid horsewoman, received. He acknowledged he could not recall any reason for prescribing about 5% of the medications including Xanax. As he did not consider K.S. a patient, he neglected to enter these items in writing in the patient record. Similarly, he explained the medications which were prescribed to the patient's husband, G.S., who was not a patient, as a result of his having pulled and strained numerous muscles and claimed that he examined G.S. to make sure that it was appropriate to prescribe. He recognizes that he should have maintained a record.

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<sup>6</sup> A certification of respondent as to his reasons for prescribing Controlled Dangerous Substances to K.S. was also considered by the Board.

In closing, respondent's counsel asserted his client was "stupid" on a few occasions, but that the question before the Board was whether his client constitutes a threat to the public, and asserted respondent had done nothing other than violate "some regulations." Deputy Attorney General Baudry asserted in closing that respondent's pervasive poor judgment posed a danger to the public. For example, respondent asserted the patient relationship only exists for the duration of treatment for each procedure - that the physician/patient relationship is turned on and off like a switch. His initiation and engaging in repeated sex with a patient, while clearly treating her for many months, violated basic tenets of the medical profession of which respondent admits he was fully aware. His complete lack of judgment in engaging in a relationship for his own physical or emotional needs, was compounded by his prescribing to K.S. and her husband, without adequate justification, and seemingly on demand. In some instances, he could not even tell the Board any reason for the prescribing. Respondent acknowledged to the Board he knew of multiple sources where K.S. could get medications, and knew she was seeing a psychiatrist, yet he continued to prescribe controlled drugs for her repeatedly through their sexual relationship. The Deputy Attorney General concluded that these lapses, coupled with his failure to follow experimental protocols in place to protect

the public, demonstrate not simply "one error," but medical judgment so poor, that respondent poses a danger to the public.

#### DISCUSSION

It has been accepted since the time of Hippocrates that sexual relations with a patient are improper. We have found frequently in the past that there is no such thing as a consensual sexual relationship between a physician and a patient. Such a relationship is inherently coercive as the physician is totally in control and empowered, by virtue of the superior knowledge of the physician and the needs of the patient, including the need for medication and treatment. Respondent appears to recognize the impropriety of a sexual relationship with a patient, but denies that there was a patient/physician relationship at the time he entered a sexual relationship with K.S. Respondent took the position at the time of hearing that a physician/patient relationship exists only from the time he performs surgery until he finishes treating a patient for that procedure. As to patient K.S., he asserted that after he finished treating her for the initial breast implant, she was no longer a patient until the time he performed the second silicone breast implant, and that she ceased being a patient when he finished treatment following the second surgery.

Respondent was vague and somewhat inconsistent in his accounts of when his sexual relationship began with K.S., once claiming it

did not begin until late Spring of 2001, but then asserting that it began at least several weeks after the second breast surgery, which all parties agreed occurred in early February of 2001. K.S. in her certification claims that the sexual relationship began in February 2001 during an office visit about 2 weeks after her second implant surgery and that repeated sexual activity occurred in the medical office, which respondent denies. While it is not necessary at this juncture in the proceeding to resolve the precise date of the beginning of the relationship, it is noteworthy that during his appearance before a Committee of the Board, respondent acknowledged that the sexual relationship began "a couple of weeks" after he and his family returned from a vacation with K.S. and her family in March of 2001 (S-C at page 72).

The significant point however, is that there is no question that K.S. was a patient of respondent at the time the sexual relationship began and continued, despite his claims to the contrary. First, respondent performed several surgical procedures and other medical treatment for K.S. after the time he acknowledges the relationship began. For example, K.S. had a revision of her breast scar on May 24, 2001 (S-C at page 69), had surgery by respondent to repair her earlobe in July of 2001, and several other medical treatments and procedures such as microdermabrasion,<sup>7</sup> and

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<sup>7</sup> The Board specifically rejects respondent's contention at the hearing that microdermabrasion is not a medical procedure and therefore K.S. was not a patient, he could perform this on K.S. as a friend. Microdermabrasion is clearly a medical procedure which

controlled drugs (including Percocet, Valium, Roxicet, Xanax and Vicodin), were repeatedly prescribed. Most significantly, respondent acknowledged he performed experimental breast implant surgery on K.S., which was only available if the patient was in a clinical study for which respondent was an investigator. Respondent claims he gave her fully informed consent (which she denies receiving), and a mere clerical error occurred in that she did not actually sign the informed consent documents. As K.S. was to be a clinical study participant, respondent had a duty to follow her as a patient regarding short, medium and long-term complications of the procedure, in other words to maintain a physician/patient relationship for a number of years. Therefore his claim that she was no longer a patient a mere few weeks after the silicone breast implant surgery is frivolous. This is a dramatic example of respondent's seeming cavalier attitude towards the practice of medicine, as it is incomprehensible that he can claim she was no longer a patient when he performed an experimental procedure for which he owed the patient a continuing duty of care.

Moreover, respondent's conduct was inappropriate repeatedly regarding his medical judgment as to K.S. For example, ordinarily there must be clear clinical indications for the performance of experimental silicone breast implant surgery such as breast reconstruction after cancer. Respondent claims K.S. had capsular

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was performed by respondent in his medical office on K.S.

contractures from her saline breast implants, yet there is no indication of such difficulties in her patient record nor of any exam to evaluate such a problem (S-A at pp. 6 and 7), and the patient certification never mentions such a complaint. The patient indicates the discussion of a second implant surgery began because she thought her breasts could be larger, and respondent raised the use of silicone implants explaining he could use them as this was a second surgery (S-B at page 2). Secondly, there was a complete failure to follow the protocol for the adjunct medical study, there is no documentation of informed consent, it was not signed, and the patient was not properly formally enrolled in the study.

Third, respondent's pervasive poor medical judgment extended also to his prescribing of medications including some controlled substances on a repeated basis such as Percocet, Valium, Xanax, Vicodin, and Roxicet, at a time when he takes the position K.S. was not a patient. Respondent could not even recall why he prescribed Xanax, a controlled substance utilized in the treatment of anxiety disorders, and could account only for some of the medication he prescribed, none of which appear in K.S.'s patient record. His explanation at the hearing for many of the prescriptions, that she was repeatedly injured by her horse, ring hollow, and the prescriptions and claims of injury serve only to underscore the fact that K.S. remained a patient of respondent.

Respondent's conduct in this matter appears all the more untenable as K.S. appears to have been a vulnerable patient, who respondent was aware was under psychiatric treatment, (indeed her initial anesthesia record for the first breast augmentation surgery indicates she was taking Prozac at the time), respondent was aware she was seeing a psychiatrist and respondent acknowledges that she claimed to him that she was abused by her father as a child. There was also a suicide attempt by K.S. near the end of the sexual relationship, in which she took an overdose of Valium, a medication he prescribed repeatedly to her. Respondent claimed he did not take the suicide attempt seriously. Respondent will not be heard at this juncture, to minimize the patient's vulnerability by claiming he thought she ended her psychiatric treatment and medications and did not believe her claim she was abused. He was aware of her psychiatric treatment, repeatedly prescribed Xanax, an anti-anxiety medication to her, and as a medical professional, must be aware there are effects on a person who believes he or she was abused in childhood, of having sexual relations as an adult with an authority figure.

Respondent's poor medical judgment also extends to his prescribing of drugs to K.S.'s husband, "a golfing buddy," for whom no patient record was maintained whatsoever. Respondent claims that he was a heavily muscled man and he prescribed for injuries, claiming he examined G.S., but did not consider him a patient.

This is yet another example of respondent's failure to practice medicine appropriately. Respondent even acknowledges prescribing medication for G.S.'s mother in her son's name as the mother (who had been a plastic surgery patient), could not come in. No explanation was given as to why respondent could not write the prescription in the name of the mother.<sup>8</sup>

Finally, respondent showed no real appreciation of what it means to be in a clinical trial, as he claims he had no obligation to this patient, that indeed she was no longer a patient, despite the fact that the medical trial in which he believed he was enrolling her, requires a relationship with her for a substantial period of time to follow-up short, medium or long-term complications for a number of years.

Based on the record before us today, including the doctor's own testimony, the doctor exhibits a pattern of such flawed medical and ethical judgment that there is a palpable demonstration of a clear and imminent danger so that his continued practice cannot be permitted. The clear evidence before us at this juncture indicates for example that:

- He had a sexual relationship with a vulnerable patient with whom there is no question that he had a physician/patient relationship, as he owed a duty of follow-up on a long-term basis due to his status as an

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<sup>8</sup> While making no conclusions in this regard, aside from the completely inappropriate prescribing, the Board notes that G.S. was a pharmaceutical representative, while his mother was apparently a medicare patient, and would not have been covered for the medication herself.

- investigator and due to the experimental protocol regarding surgery he performed on the patient.
- There were questionable indications for silicone implants in this patient.
  - His prescribing of controlled drugs was often without documented medical need not only as to K.S., but as to G.S., and he engaged in other drug improprieties including prescription of medication for G.S.'s mother by writing a prescription in the name of her son.
  - Respondent failed to follow the protocol for an investigational study despite his status as an investigator. He had the responsibility to obtain proper informed consent for silicone implants, yet there was a lack of a signed consent form, and a failure to initially enroll the patient.
  - Respondent's medical records are totally incomplete and inadequate, not even including the complications of surgery he performed, for which he subsequently treated the patient.

This pattern of practice evidences flawed judgment which is irremediable by any measure we might institute, such that nothing short of a temporary suspension could adequately protect the public at this point in time. Even today the doctor remains uninformed of his responsibilities and duties as a physician.

Therefore we conclude that we have no choice but to temporarily suspend respondent's license pending review of the result of the plenary hearing in this matter. In order to permit an orderly transition of respondent's patients, although this Order was effective when orally announced on the record on July 10, 2002, respondent was permitted to remain in practice for one additional week to ensure continuity of patient care. He was permitted to see post-operative patients only and the temporary suspension was fully effective one week following the hearing date, that is on July 17,

2002. As of the date of hearing however, respondent was prohibited from seeing new patients or performing surgery, and he was to arrange for an orderly transfer of patients.

Following deliberations and announcement of the Board's determination in the matter on the record, respondent's attorney requested an expedited hearing at the OAL. The Board encouraged the parties to make an application for an accelerated hearing, noting that both parties must agree in order for a matter to be expedited pursuant to N.J.A.C. 1:1-9.4.

**IT IS THEREFORE ORDERED:**

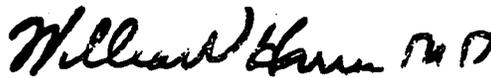
ON THIS **31<sup>st</sup>** DAY OF JULY, 2002,

1. As of the oral announcement of the Order on the record on July 10, 2002, respondent shall not see any new patients, shall not perform any surgery and shall arrange for the orderly transfer of his current patients.

2. Respondent's license to practice medicine and surgery in the State of New Jersey shall be and hereby is temporarily suspended NUNC PRO TUNC JULY 17, 2002, pending consideration of the review of plenary proceedings in this matter by the Board.

3. Respondent shall deliver his license, biennial registration and State and Federal Controlled Dangerous Substance registrations to the Board of Medical Examiners within fifteen (15) days of service of the within Order.

NEW JERSEY STATE BOARD OF MEDICAL EXAMINERS



By: \_\_\_\_\_  
William Harrer, M.D., B.L.D., President

**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.

**Michael Ashkar, M.D.**  
**NJ License #MA43615**

**ADDENDUM**

Any licensee who is the subject of an order of the Board suspending, revoking or otherwise conditioning the license, shall provide the following information at the time that the order is signed, if it is entered by consent, or immediately after service of a fully executed order entered after a hearing. The information required here is necessary for the Board to fulfill its reporting obligations:

Social Security Number<sup>1</sup>: \_\_\_\_\_

List the Name and Address of any and all Health Care Facilities with which you are affiliated:

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List the Names and Address of any and all Health Maintenance Organizations with which you are affiliated:

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Provide the names and addresses of every person with whom you are associated in your professional practice: (You may attach a blank sheet of stationery bearing this information).

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<sup>1</sup> Pursuant to 45 CFR Subtitle A Section 61.7 and 45 CFR Subtitle A Section 60.8, the Board is required to obtain your Social Security Number and/or federal taxpayer identification number in order to discharge its responsibility to report adverse actions to the National Practitioner Data Bank and the HIP Data Bank.