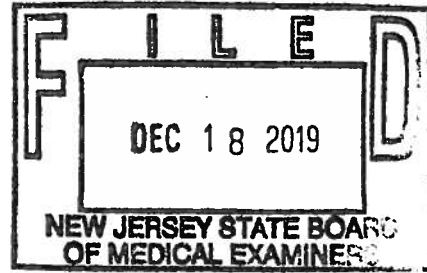


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STATE OF NEW JERSEY
 DEPARTMENT OF LAW & PUBLIC SAFETY
 DIVISION OF CONSUMER AFFAIRS
 BOARD OF MEDICAL EXAMINERS

IN THE MATTER OF THE SUSPENSION	:	
OR REVOCATION OF THE LICENSE OF	:	
	:	Administrative Action
ERIC K. YAHAV, M.D.	:	
LICENSE NO. 25MA08534300	:	CONSENT ORDER
	:	
TO PRACTICE MEDICINE AND SURGERY	:	
IN THE STATE OF NEW JERSEY	:	

This matter was opened to the New Jersey State Board of Medical Examiners ("Board") upon receipt of a complaint alleging indiscriminate prescribing of Controlled Dangerous Substances ("CDS") by Eric K. Yahav, M.D. ("Respondent"). It was alleged in the complaint that Respondent both prescribed to and used prescribed CDS with a friend.

Respondent appeared with counsel before a Preliminary Evaluation Committee ("Committee") on October 24, 2018, in order to answer questions regarding the allegations within the complaint and his care and treatment of patients to whom he prescribed CDS.

The Committee reviewed the cases of six people whom Respondent

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had prescribed to between 2014 and 2015 but for whom there was no patient record or no progress note corresponding to a date he prescribed. As to C.N. and J.G., Respondent admitted to prescribing CDS to both women despite the fact that they were not patients at the practices he worked at and there was no medical record for either of them. Respondent claimed that S.P and D.D. were in fact patients of his at either American Women's Services or CAMCare Health Corporation despite neither patient having a medical record at either of these practices.

Respondent had patient records for S.F. and M.T., but the records were not complete in that they did not have progress notes corresponding to dates when Respondent prescribed CDS. Respondent admitted that he did not perform physical examinations of C.N., did not confer with her treating physicians and did not check the Prescription Monitoring Program ("PMP") despite prescribing her Adderall for over a year. Respondent regularly prescribed J.G. various types of CDS from 2014-2015, yet he did not perform any drug screens and by his account failed to recognize that she had a substance abuse problem.

The Board finds that Respondent showed a blatant disregard for the standard of care by prescribing CDS to these six people, including lack of physical examinations, urine drug screens, and monitoring while prescribing to an individual with a substance

abuse problem. Records were either missing, did not have diagnoses warranting prescribing CDS or lacked notes for dates when CDS was prescribed. Respondent exhibited a lack of boundaries in prescribing CDS to friends and colleagues. The Committee did not observe signs of impairment on the date it met with Respondent and was satisfied that he was voluntarily complying with the physician Rule-Out protocol of the Professional Assistance Program ("PAP"). No subsequent complaints have been made to the Board regarding Respondent.

Respondent's actions constitute violations of N.J.S.A. 45:1-21 (b), (c), (d), (e) and (h), specifically N.J.A.C. 13:35-6.5(b) and 13:35-7.6(b), and are grounds for the suspension of Respondent's license.

The parties having agreed to the resolution of this matter without further formal proceedings, and Respondent having agreed and given his voluntary consent to the within Order and waiving any right to a hearing in this matter, and the Board finding the within disposition adequately protective of the public health, safety and welfare and other good cause having been shown;

IT IS, therefore on this 19th day of December, 2019

ORDERED AND AGREED THAT:

1. Respondent's license to practice medicine in the State of New Jersey shall be suspended for a period of two (2) years.

The first six (6) months of the suspension shall be served as a period of active suspension effective as of January 1, 2020. The remaining eighteen (18) months shall be stayed and served as a period of probation provided that Respondent provides proof to the Board's satisfaction that he has successfully completed all requirements outlined in this Order.

2. The period of suspension shall be tolled for any length of time that Respondent practices in another jurisdiction.

3. During the period of active suspension, Respondent shall cease and desist all patient contact at any location and the rendering of medical care, including the issuance of any prescription for, or dispensation of, medications of any kind, including but not limited to CDS.

4. During the period of active suspension, Respondent shall not charge, receive or share in any fee for professional services rendered by him or others. Respondent shall be permitted to collect account receivables with respect to professional services that he rendered prior to January 1, 2020.

5. During the period of active suspension, Respondent shall not enter the premises of his former medical practices at any time when patients may be present.

6. Respondent shall return his original New Jersey license to practice medicine and CDS registration to William V. Roeder,

Executive Director, State Board of Medical Examiners, 140 East Front Street, P.O. Box 183, Trenton, New Jersey 08625.

7. Respondent shall immediately advise the Drug Enforcement Agency (the "DEA") of this Order, specifically the suspension of his medical license, and provide the Board within five days of proof of said notification to the DEA.

8. Respondent shall be precluded from managing, overseeing, supervising or influencing the practice of medicine or provision of healthcare activities, including by testifying as an expert witness, in the State of New Jersey during the active period of suspension.

9. Respondent shall successfully complete Board approved courses in Boundaries, Record Keeping, CDS Prescribing and Ethics¹. "Successful completion" of the required courses means that Respondent attended all sessions of the courses, fully participated in the courses, and received a final evaluation of an unconditional pass. The required coursework is in addition to the regularly required continuing medical education ("CME") hours and may not be counted towards satisfying CME obligations. Respondent shall bear the cost of these courses.

¹ The Ethics course requirement has been satisfied.

10. Respondent is hereby assessed a civil monetary penalty, pursuant to N.J.S.A. 45:1-22, in the amount of \$20,000.00, of which \$10,000.00 shall be stayed.

11. Respondent shall reimburse the Board for its investigatory costs of \$16,116.79 pursuant to N.J.S.A. 45:1-25(d).

12. Respondent shall satisfy the full amount owed of \$26,116.79 no later than three years from August 1, 2020. All payments shall be made by bank check, money order, wire transfer or credit card payable to the State of New Jersey, and forwarded to William Roeder, Executive Director, New Jersey Board of Medical Examiners, 140 East Front Street, P.O. Box 183, Trenton, NJ 08625-0183. If a form of payment is presented other than the form of payment noted above, it will be rejected and will be returned to the Respondent.

13. Respondent may pay the amount owed in thirty-six equal monthly installments of \$725.46. Each payment shall be due on the first business day of each month, commencing on August 3, 2020. In the event that a monthly payment is not received within five days of its due date, the entire balance shall become due and owing. Respondent may prepay at any time. Interest on all financial assessments shall accrue in accordance with Rule of Court 4:42-11.

14. Notwithstanding the preceding paragraph and/or payment plan, a Certificate of Debt reflecting the \$26,116.79 currently due and owing shall be filed with the New Jersey Superior Court.

15. Prior to resumption of practice, Respondent shall have in place a Board approved practice monitor who shall review Respondent's CDS prescribing. The monitor shall be in place for at least the eighteen (18) month period of probation following Respondent's active suspension. The monitor shall conduct a medical record review, of no less than twenty patient charts each month, for appropriateness of CDS prescribing, proper documentation and compliance with Board regulations. The monitor shall choose the patients whose charts he/she will review from a complete Prescription Monitoring Program ("PMP") printout provided by Respondent. The monitor shall submit reports directly to the Medical Director of the Board on a quarterly basis. The monitor shall provide immediate written notification to the Board in the event that: (1) Respondent fails to provide the monitor with the requested medical records within three (3) days of their request, (2) the monitor determines that Respondent's prescribing is an imminent danger to the patient or the public or (3) the monitor is no longer able to continue in his/her role. The monitor shall sign and provide a copy of this Order to the Medical Director of the Board indicating understanding of his/her responsibilities.

Respondent shall be solely responsible for all costs associated with the monitor's duties.

16. In the event that the approved monitor (and/or any successor Board approved monitor) ceases, for any reason, to serve as Respondent's approved monitor, Respondent shall, within thirty days, secure a replacement Board approved monitor.

17. Upon receipt of any reliable information indicating that Respondent has violated the terms of this Consent Order, the total amount owed, including the stayed amount of \$10,000.00, shall become due and owing immediately.

18. Respondent shall comply with the 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 which are attached hereto and incorporated herein.

19. The parties hereby stipulate that entry of this Consent Order is without prejudice to further action, investigation, and prosecution by this Board, the Attorney General, the Drug Control Unit, the Director of the Division of Consumer Affairs or other law enforcement entities resulting from Respondent's conduct prior to the entry of this Order.

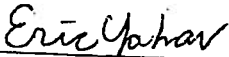
20. Failure to comply with any of the terms of this Consent Order may result in further disciplinary action.

STATE BOARD OF MEDICAL EXAMINERS



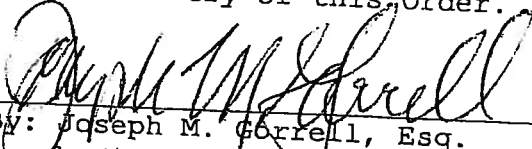
BY: **METZGER, Scott E., M.D.**
Board President

I have read and understood the
within Consent Order and agree
to be bound by its terms.
Consent is hereby given to the
Board to enter this Order.


Eric K. Yahav, M.D.

12/15/2019
Date

Consent is hereby given as to the
form and entry of this Order.


By: Joseph M. Correll, Esq.
Brach Eichler, LLC
Attorney for Respondent
Eric K. Yahav, M.D.

12/17/19
Date

**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.