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BDS 10905-99

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	STATE OF NEW JERSEY
	DEPARTMENT OF LAW AND PUBLIC SAFETY
IN THE MATTER OF THE	: DIVISION OF CONSUMER AFFAIRS
SUSPENSION OR REVOCATION OF	: STATE BOARD OF MEDICAL EXAMINERS
THE LICENSE OF	:
	:
LANCE L. GOOBERMAN, M.D.	:
LICENSE NO. MA-038191	:
	:
AND	:
	:
DAVID BRADWAY, M.D.	: <u>FINAL ORDER</u>
LICENSE NO. MA-034479	:
	:
TO PRACTICE MEDICINE AND	:
SURGERY IN THE STATE OF NEW	:
JERSEY	:

This matter was opened to the Board on the review of an Initial Decision dated November 15, 2002 issued by Jeff Masin, Chief Administrative Law Judge. On March 5, 2003, Lance Gooberman, M.D. and David Bradway, M.D. ("respondents" hereinafter) with the presence and assistance of counsel and after discussion with the Attorney General presented by way of offer of settlement of the matter the provisions hereinafter set forth. The Board having reviewed and approved said offer in final resolution of the matter

and without making any findings of fact or conclusions of law and hereby finding that good cause exists for the entry hereof.

IT IS ON THIS 13th day of May 2003, ORDERED and AGREED:

1. Respondents' licenses to practice medicine and surgery shall be suspended for a period of five (5) years commencing on the thirty-first (31st) day following the entry of this order. The first two(2) years of said suspensions shall be active, during which respondents shall not engage in the practice of medicine in any form or manner. The final three (3) years of said suspensions shall be served as periods of probation. During the period of active license suspension and the probation period, the respondents shall comply with the Board's directives relating to suspension of licensure which are attached hereto and made a part hereof. In the event that either respondent engages in the practice of medicine in any other state or jurisdiction during the period of active suspension imposed herein, the period of suspension herein imposed shall be tolled for the period of time during which the respondent(s) shall have practiced elsewhere. Prior to reinstatement to active licensure, respondent(s) shall give written notice of their intent to seek the same and shall appear before a

committee of the Board and provide such information as may be necessary and appropriate to allow for a determination as to their compliance with the terms hereof and their future practice plans, particularly with regard to the practice of addiction medicine and the provision of medical services involving the administration of anesthesia. Upon reinstatement to active licensure and during the probationary period, respondent(s) shall comply with all statutes and regulations applicable to the practice of medicine as well as with the general laws of the State of New Jersey, any other state and the United States.

Financial Obligations

2. Respondents shall, jointly and severally:
 - a. Within forty-five (45) days following entry hereof, pay to the Board as restitution and for distribution to patients or appropriate parties in interest the sum of Thirty Thousand Dollars (\$30,000) or such amount as may be necessary to restore those monies received from the ten (10) patients identified in the complaint and the proceedings herein. Where any patient cancelled payment such that respondent(s) did not in fact receive the same, or in the event that litigation

or any claim advanced, on behalf of a deceased patient involved in this case has been settled or finally resolved prior to the effective date of this subparagraph, on proof submitted to the Attorney General, restitution need not be made. An "appropriate party in interest" within the meaning of this subparagraph shall mean the estate of any mortality patient in this case, any person named as a beneficiary in such patient's will, any person entitled to receive an estate's distribution by operation of law in the patient-decedent's state of residence, or any person making payment on behalf of any patient for respondent's procedure in this case.

- b. Prior to reinstatement to active licensure or two (2) years from the entry hereof, whichever first occurs, pay civil penalties to the Board in the following amount(s):

Lance Gooberman, M.D. - \$11,500

David Bradway, M.D. - \$14,000

- c. On the thirtieth (30th) day following the termination of respondents' active suspensions of licensure or upon reinstatement to active licensure, whichever first occurs, and continuing

monthly thereafter, pay to the Board as costs the amount of Nine Thousand Seven Hundred Twenty-Two Dollars Twenty-Two Cents (\$9,722.22) such that the sum of Three Hundred Fifty Thousand Dollars (\$350,000) shall be satisfied not later than five (5) years following the date of entry hereof. In the event that either respondent practices medicine in any other state or jurisdiction during the period of active license suspension or fails to seek reinstatement to active licensure, the Board may, on written notice to the respondents of its intent, declare the total obligation of Three Hundred Fifty Thousand Dollars (\$350,000) to be immediately due and payable as to such respondent(s).

The Board shall, in order to secure the financial obligations imposed herein, file certificates of debt with the Clerk of the Superior Court. Execution or enforcement of any right created by said filings shall be stayed provided the respondents satisfy the obligations imposed herein.

Respondents shall, on written demand of the Attorney General, disclose all of their assets and liabilities and shall provide all facts and pertinent information to allow for full and accurate assessment of their current financial ability to satisfy the

obligations imposed herein. Should assets sufficient to meet the financial obligations contained herein become identified without rendering the respondents insolvent, the Attorney General shall have leave to move before the Board to modify the dates by which payments are to be made and/or to dissolve the stay on collection and enforcement. For the purpose of this paragraph, "insolvent" shall mean either a respondent's liabilities exceeds his assets or an inability to satisfy liabilities as they become due.

Remediation

3. Prior to reinstatement to active licensure, respondents shall enroll and successfully complete such classes or courses as may be designated by the Board in the following subject matter areas: informed patient consent, patient confidentiality, screening procedures for anesthesia procedures, and record keeping requirements. Not later than six (6) months following the entry hereof, the Board shall identify the courses to be taken and their location and shall give written notice thereof to respondents. For good cause shown, the Board may relax or waive any of the stated remediation requirements.

Procedure Limitation

4. Respondents shall not offer to provide, directly or indirectly provide, or advertise the provision of the procedure which they heretofore denominated "UROD," its

substantial equivalent or any variation thereof unless and until they submit a detailed, written protocol for said procedure to the Board and receive express written Board approval to perform such procedure. In the event a protocol is submitted to the Board for approval, respondent(s) shall provide such information as the Board may require to allow for an informed review of said protocol. The Board in its sole discretion may condition its approval of said protocol as it may find necessary and appropriate in the interest of patient protection. "UROD" shall mean the administration of any substance, including any opiod antagonist, to any patient where said patient is under the effect of any anesthetic drug or substance and where the purpose of such procedure is to detoxify the patient from the effects of any opiod or any other substance.

As To The Initial Decision


5. Nothing herein contained shall be deemed to be the Board's acceptance of, or acquiescence in, the Initial Decision rendered herein as to any finding of fact or conclusion of law contained therein. Rather, the Board hereby expressly rejects any precedential import or implication in said decision as regards N.J.S.A. 45:1-21(c), (d) or (e) which would preclude the imposition of

disciplinary sanctions, or any other Board action authorized by law, involving licensee conduct which deviates from recognized standards of medical practice including, but not limited to, those cases where such misconduct results in actual or possible patient harm or the endangerment of a patient or the public in any manner.

William V. Harrer M.D.


William V. Harrer, M.D., B.L.D.
President
State Board of Medical Examiners

I have read and understand the
terms and conditions of this order.
I agree to be bound by them, and
I hereby give my consent to the
Board to enter this order.



Lance Gooberman, M.D.

Dated: 5/12/03

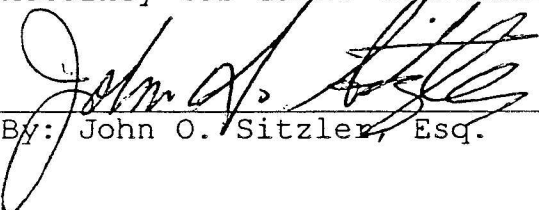


David Bradway, M.D.

Dated: 5/12/03

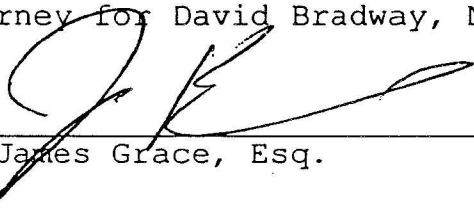
Consented as to form:

Sitzler & Sitzler
Attorney for Lance Gooberman, M.D.



By: John O. Sitzler, Esq.

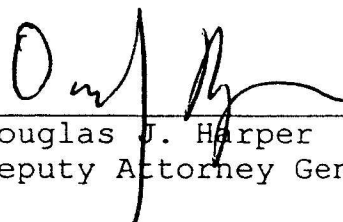
Grace and Petrovic
Attorney for David Bradway, M.D.



By: James Grace, Esq.

Consented as to form and entry:

Peter C. Harvey
Acting Attorney General
Attorney for State Board of Medical Examiners
(in his prosecutorial capacity)

By: 

Douglas J. Harper
Deputy Attorney General

**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.)

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.

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

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.

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 Number¹: _____

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

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

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).

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.