

# FILED

AUGUST 18, 2011

## NEW JERSEY STATE BOARD OF MEDICAL EXAMINERS

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

IN THE MATTER OF THE SUSPENSION OR REVOCATION OF THE LICENSE OF	:	Administrative Action
	:	
SYLVIA S. LEE, M.D.	:	ORDER OF TEMPORARY
LICENSE NO. MA05331700	:	SUSPENSION AND REPORT
	:	OF HEARING COMMITTEE
TO PRACTICE MEDICINE AND SURGERY	:	TO THE BOARD
IN THE STATE OF NEW JERSEY	:	

This matter was opened to the New Jersey State Board of Medical Examiners (the "Board") by a July 29, 2011 Order to Show Cause, Verified Complaint and supporting documentation of Paula T. Dow, Attorney General, by Wendy Leggett Faulk, Deputy Attorney General. By that application, respondent was required to show cause why an order should not be entered temporarily suspending or otherwise limiting her license to practice medicine and surgery in this State pending final disposition of all charges in the Administrative Complaint. The return date for the Order to Show Cause was scheduled for August 10, 2011. The Verified Complaint in this matter alleges inter alia, in one count that Dr. Lee engaged in acts constituting a crime or offense involving moral turpitude and evidencing incapacity to discharge the functions of a licensee in a manner consistent with the public's health, safety and welfare, in violation of N.J.S.A. 45:1-21(f) and (i) and that her

continued practice of medicine and surgery absent treatment constitutes a clear and imminent danger to the public, warranting temporary suspension of her license pursuant to N.J.S.A. 45:1-22. Specifically the complaint and application alleged that Dr. Lee engaged in a repeated physical assault of a 13 year old child, T.K., in her home on July 3, 2011, striking the minor in the face, including punching her in the ear, and stabbing her with the flat metal end of a screw driver at least 100 times, including on her arms, torso, and buttocks causing dark bruises and bleeding cuts. The complaint alleged that T.K. ran from the house to a neighbor after Dr. Lee threatened to stab her more if T.K. did not stop crying. Respondent's conduct as alleged in the complaint was claimed to palpably demonstrate a clear and imminent danger to the public so as to warrant temporary suspension of her license.<sup>1</sup>

The hearing on the State's application for temporary suspension was held before a Committee of the Board at its meeting of August 10, 2011. Deputy Attorney General Jeri Warhaftig

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<sup>1</sup>An Answer to the Complaint, which was apparently sent to the Board at 4:44 p.m. on August 8, 2011 had not been received by the State at the time of hearing. Nonetheless, the Committee accepted a copy from respondent's counsel, and considered the Answer, which neither admitted nor denied the essential allegations, indicated that "defendant" [sic-Respondent] shall rely on all of the documents and information submitted to investigative police officers, and left the State to its proofs. Respondent's answer does identify her relationship to T.K., which in accord with the motion of the State, and concurrence of respondent, shall be redacted from the Answer in any public distribution of the document.

presented the case on behalf of the Attorney General. Respondent appeared represented by Jay Friederich, Esq. Numerous documents were offered into evidence by the Attorney General<sup>2</sup> as more fully set forth in the Table of Exhibits attached hereto.

Initially, respondent objected to the hearing proceeding before a Committee of the Board comprised of ten members.<sup>3</sup> The Committee considered the arguments of the parties, and its longstanding policy, first formally adopted by motion of the Board in 1979, which delegated the authority of the Board to its president, even acting alone, to make interim decisions with respect to orders relating to Board licensees whose conduct appears to pose a clear and imminent danger to the public. Such actions by

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<sup>2</sup>At the outset of the proceeding the Attorney General represented that when the Order To Show Cause was filed there was a representation that photographs attached were to be "sealed," and she indicated to the Board that the State utilized initials on its application to protect the identity of the minor child. It was pointed out that on certain certifications the name of the minor was used inadvertently. Respondent's attorney had no objection to the redaction of the identity of the minor child nor to the sealing of photos (P-5), which were accepted into evidence over respondent's objection that they were not properly identified based on statements of a police officer contained in a certified true copy of an official document on file - a police report (P-4) that the officer observed and photographed the injuries on the 13 year old child on the date of the incident, together with a stipulation identifying the child given in closed session. The Board accepted the photographs into evidence. Certified true copies of police department crime/incident reports (P-1, P-2, P-4) and a certified true copy of a recorded interview of Dr. Lee (P-3), all official records of the Emerson Police Department, were entered into evidence, over similar objections.

<sup>3</sup>It had been anticipated that eleven members of the Board, a quorum, would be present for the hearing.

Committee are subject to ratification by the Board.<sup>4</sup> The Board has many times acted in such matters through a Board officer with a committee in exigent circumstances. Therefore the members present, with the concurrence and approval of the Board Vice President, who is authorized by the aforementioned policy to hear the matter alone, determined to continue the hearing via committee.

The Attorney General argued in opening remarks that the proofs would demonstrate that Dr. Lee's dangerous conduct had erupted in at least one instance in horrible violence against a 13 year old child. In response, Dr. Lee's counsel asserted that the State's application, based on one occurrence, was devoid of proof that patients treated by Dr. Lee are in any jeopardy.

The Attorney General relied upon exhibits introduced into evidence supportive of its application. Specifically, P-5 (Ex. D) consists of 10 photographs of the minor child following the alleged assault, and P-3 (Ex. C) is a certified true copy of a transcription of a recorded interview of Dr. Lee on July 3, 2011 at the Emerson Police Department, on which date she was arrested following the alleged assault. In P-3 Dr. Lee describes the circumstances which led to her hitting, then "poking" or stabbing" the 13 year old child with a screwdriver in her home numerous times

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<sup>4</sup>A copy of the Board's 1979 motion delegating such authority, as well as its motion of July 11, 1984 authorizing the Board Vice President to so act in absence of the President, is attached.

on July 3, 2011. According to Dr. Lee,

Because we do this every week on Sunday. We wash the dirty clothes-doggie clothes first. Then we wash the not so dirty dog clothes, the towel. She should--I think she should know that she's been doing it every week that since she didn't give the dog a bath yet that we don't have--she should not have washed doggie clothes yet. Doggie towel yet.

After acknowledging that she "got upset" right away and lost her temper, and "I got angry and I hit her," Dr. Lee also admitted in response to a question that this is not the first time she had a problem with anger (p.12 L. 21-24 to p.13 L.6). She recounted that she hit T.K. in the past (p.16, L.2-4) and explains such an episode a few days before the July 3<sup>rd</sup> incident as follows:

Usually after she makes several mistakes afterwards. Like, the other day I ask her for some tape, Scotch tape, and she hands me the masking tape (p.16 L.11-14).

Dr. Lee later acknowledged that she used a screwdriver before to discipline T.K. in the several days prior to the incident "screwdriver punching (sig) [sic] was just last several days" (p.30 L.2-3). After explaining that she was trying to scare T.K. so she would not repeat her mistake, Dr. Lee explained stabbing the minor child so many times with a flat head screwdriver in the following exchange with a police officer.

**Sergeant Mazzeo:** Okay. Okay. In this incident where was she stabbed? Was it multiple times? Was it one time?

**Ms. Lee:** Probably multiple times.

**Sergeant Mazzeo:** Multiple times, Okay. Where would she have marks from that screwdriver?

Ms. Lee: Probably all over her body.  
Sergeant Mazzeo: Arms, back?  
Ms. Lee: Her arms and torso.  
Sergeant Mazzeo: Anything on the face?  
Ms. Lee: No  
Sergeant Mazzeo: Nothing on her face?  
Ms. Lee: No.  
Sergeant Mazzeo: Okay, So her arms?  
Ms. Lee: And torso.  
Sergeant Mazzeo: Okay. Why was it multiple times? Do you think it was necessary multiple times to get her to learn? Like, have you had problems with her learning from one time? Why was it so many times? Were you in a rage and not, you know?  
Ms. Lee: Well, I was wrong and that's why I stabbed her so many times (p.32 L.16 to p. 33 L.12).

Later, Dr. Lee acknowledged she jabbed herself with the screwdriver the day before the assault, claiming it was "as hard as I jabbed T.K." (P.44 L.24-5) yet acknowledged she didn't think she injured herself.

Following presentation of the evidence<sup>5</sup> the State in its closing remarks argued that despite the lack of any patient complaints in this matter, the doctor's continued licensure poses a clear and imminent danger to the public, because her judgment, as demonstrated in the incidents which escalated from hitting the child with an open hand for minor mistakes, escalating to the

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<sup>5</sup>Respondent argued but presented no evidence, claiming she could not do so due to an ongoing criminal investigation. Applications for temporary suspension of license have necessarily been heard by this Board during criminal investigations many times in the past with respondent's providing documentary evidence, testimony or other defenses.

sustained and violent attack with a metal screwdriver on July 3, 2011, goes with Dr. Lee wherever she goes including to her patient practice. Further that the anger displayed is a disorder, and that all rational people would agree that no amount of anger justifies repeatedly stabbing a child with a screwdriver. The State asserted that the Board has found clear and imminent danger arises even without patient complaints such as in matters in which the Board has imposed a temporary suspension involving impairment, whether due to substance abuse or a medical condition. Finally the State argued that a physician capable of such an irrational act as that involved here should be temporarily suspended as the capacity for irrational conduct has not yet been properly assessed and could not yet have been treated, and thus it is unsafe to leave respondent clothed with her license based upon the degree of her irrational behavior and admitted poor judgment.

Respondent's counsel argued that the hearing didn't include information which cannot be discovered at this juncture possibly including that T.K. had problems, and that possibly the Committee would have heard that respondent tried and tried again to resolve certain issues. Respondent asserted due to the ongoing investigation that information is not available, and therefore we don't have the entire picture of what happened, such as medical records or an evaluation of T.K. Further respondent asserted that we don't know whether her conduct was irrational because the

Committee doesn't know whether Dr. Lee was attacked. Respondent's counsel asked the Committee to consider her past history in the medical profession, that she has treated thousands of patients without incident, and suggested that was a guide as to what would happen in the future. Counsel essentially asserted that the Committee should not take Dr. Lee's license away based on one incident of conduct which he argued may not have been irrational as the full picture of what was occurring at the time is not known at this time.

#### DISCUSSION

Upon review of the materials presented at this juncture, including Dr. Lee's own statements, 10 photographs of T.K. taken on the day of, and after the incident occurred, and T.K.'s statements to police officers, the Committee is concerned with the profound lack of judgment, loss of impulse control and impaired cognition evidenced on the record before us. Based on an objectively trivial incident that a child washed a "doggie" towel with dog clothes in the incorrect order, respondent became so angry that she began a violent attack with the metal tip of a screwdriver upon a 13 year old child in her household who she had an obligation to protect. Respondent's assertions that there may "possibly" have been problems with T.K. are belied by her statements to the police that she was the problem, not the 13 year old child, and denied that the child rebelled, acted out or showed signs of anger or violence



(p.55&56). Although we agree with the State that no amount of anger could justify the repeated stabbing of a child with a screwdriver, Dr. Lee admitted to planning the attack by trying the screwdriver on herself to see how painful it was the day before the incident, and although initially claiming she only hit T.K. with her hand, she eventually told the police that she "poked" T.K., finally acknowledging that she "stabbed" the child about 20 times on the back, torso and buttocks. We have viewed the photographs and they demonstrate that there appear to be close to 50 bruises and small bleeding punctures or other wounds on the buttocks alone, with a similar number on other parts of the body. Incredibly, Dr. Lee, a trained physician, claimed to be unaware that the attack caused bleeding, despite acknowledging that she saw blood on her hand as she claimed she thought her hand was bleeding. She admitted that she had first used the screwdriver on T.K. three days prior to this incident, and had also hit T.K. for providing the incorrect tape to Dr. Lee. While Dr. Lee claimed to have stopped stabbing T.K. after a while, T.K. reported that the stabbing with the screwdriver began again when slippers she was wearing tracked some dog hair onto a newly vacuumed rug, and that she ran from the home when the attack did not stop.

We agree with the State that this matter involves impaired judgment on the part of Dr. Lee which she brings with her wherever she goes, but in our view and given our medical expertise, it goes

further than that. Having used a screwdriver once to discipline a child for a mistake or series of mistakes, and then jabbing herself to gauge how painful it was, Dr. Lee engaged in a violent and sustained attack that she had planned, not even recognizing that she was causing bleeding wounds, and not ending, according to T.K. until the child fled. Respondent also believed she caused 20 wounds when there were 100. The evidence before us forms a palpable demonstration of a clear and imminent danger to the public health, safety and welfare. There has been demonstrated such a degree of violence, significant lack of impulse control, impaired judgment and cognition that coupled with the trivial nature of the incident which gave rise to the attack, we can have no assurance that respondent's lack of control will not carry over to the workplace where stressful situations are commonplace with patients and staff, such that we find no measure short of the temporary suspension of respondent's license will suffice.

IT IS THEREFORE ON THIS *17<sup>th</sup>* DAY OF *August* 2011,

**ORDERED:**

1. The license of Sylvia Lee, M.D. is temporarily suspended effective one week after the date of the hearing that is on August 18, 2011, in order to permit an orderly wind down of practice for the benefit of patients. The suspension shall continue until such time as the Board reviews the results of the plenary proceedings in this matter.

2. Respondent's original medical license, current biennial registration, New Jersey Controlled Dangerous Substances (CDS) registration and Drug Enforcement Administration (DEA) registration shall be surrendered to the office of the Board of Medical Examiners, 140 East Front Street, 2<sup>nd</sup> Floor, P.O. Box 183, Trenton, New Jersey 08608, pending further order of the Board.

3. This Order is subject to review and ratification by the full Board of Medical Examiners at its next meeting currently scheduled for September 14, 2011.

4. Respondent shall comply with the Directives Regarding Licensees who have been disciplined, which is attached hereto and made a part hereof.

NEW JERSEY STATE BOARD OF MEDICAL EXAMINERS

By: Kathryn Lambert  
Kathryn Lambert, D.O.  
Vice President