GURBIR S. GREWAL
ATTORNEY GENERAL OF NEW JERSEY
Division of Law
124 Halsey Street, 5th Floor
P.O. Box 45029
Newark, New Jersey 07101

By: Pavithra Angara
Deputy Attorney General
(973) 648-7457
Attorney ID: 001702012

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NEW JERSEY STATE BOARD OF MEDICAL EXAMINERS

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

IN THE MATTER OF THE LICENSE TO PRACTICE MEDICINE AND SURGERY AND NJ CDS REGISTRATION OF **Robert J. Dragert, D.O.** **LICENSE NO.:25MB08400400** **CDS REG. NO. D09299900** IN THE STATE OF NEW JERSEY	ADMINISTRATIVE ACTION **CONSENT ORDER**

This matter was opened to the New Jersey State Board of Medical Examiners ("Board") and the Director of the New Jersey Division of Consumer Affairs ("Director") upon receipt of information that Robert J. Dragert, D.O., License No. 25MB08400400, NJ Controlled Dangerous Substances ("CDS") Registration No. D09299900 ("Respondent") was alleged to be indiscriminately prescribing Controlled Dangerous Substances ("CDS") without the appropriate medical justification. As a result, on May 6, 2017, the

CERTIFIED TRUE COPY

Enforcement Bureau ("EB") of the Division of Consumer Affairs performed an inspection of Respondent's office and issued a subpoena for patient records. The EB inspection and record review revealed that Respondent shared an office only on Saturdays with Dr. John Wilkins and would receive half of the earnings of the practice, but did not have control over the staff or office infrastructure. The records revealed inadequate medical histories, prescribing of opiates without sufficient justification and sparse notes in terms of details of the patient visit.

On October 25, 2017, Respondent appeared before a Preliminary Evaluation Committee ("PEC") of the Board to discuss the findings of the inspection and record review. Based on the appearance, the Board determined that Respondent did not have sufficient control of the office or staff while in private practice with Dr. Wilkins. Additionally, the Board determined that despite inquiries from the police, recognition that patients were becoming aggressive and unwilling to follow appropriate CDS prescribing protocol and his own acknowledgement that he was not appropriately managing the opioid dependence of his patients, Respondent continued to prescribe CDS without the appropriate screening and/or medical justification. Additionally, the Board acknowledges that Respondent is no longer working in private practice and is exclusively working at Princeton House, under the appropriate supervision and office

infrastructure. Based on the information above, Respondent's conduct provides a basis for Board action under N.J.S.A. 45:1-21 and N.J.A.C. 13:45H-7.4, and also provides basis for the Director to suspend or revoke Respondent's NJ CDS registration under N.J.S.A. 24:21-12(a)(3).

The parties being desirous of resolving this matter, and the Board and the Director, being satisfied that entry of the within Order obviates the need for formal proceedings, and being further satisfied that good cause exists to support entry of the within Order,

IT IS, therefore, on this 26 day of September, 2018, ORDERED and AGREED that:

1. Respondent, Robert Dragert, D.O., shall be suspended from the practice of medicine for two (2) years, with one (1) year to be served as a period of active suspension, and the remainder to be served as a period of probation. Additionally, the period of active suspension will be tolled for any length of time that Respondent practices in another jurisdiction after the signing of this Order.

2. Respondent's New Jersey CDS Registration, pursuant to the authority of the Director under N.J.S.A. 24:21-9 et seq., is hereby suspended for two (2) years, with one (1) year to be served as a period of active suspension, and the remainder to be served as a period of probation. This CDS Registration suspension is

independent of any action taken by the Board, the United States Drug Enforcement Administration ("DEA") or any other law enforcement or licensing authority. A copy of this Consent Order, signed by the Director, will be filed with the Division's Drug Control Unit.

3. Respondent shall immediately return his original New Jersey medical license to William V. Roeder, Executive Director, New Jersey State Board of Medical Examiners, P.O. Box 183, Trenton, New Jersey 08625-0183. Respondent shall immediately return his original NJ CDS registration to Jessica Fiorilli, Executive Director, Drug Control Unit, New Jersey Division of Consumer Affairs, P.O. Box 45045, Newark, New Jersey 07101.

4. Respondent, if he has not already done so, shall immediately send all of his remaining prescription blanks, along with a cover memorandum indicating that he will no longer be writing prescriptions and asking that his prescription blanks be destroyed pursuant to standard operating procedures, to Jessica Fiorilli, Executive Director, Drug Control Unit, New Jersey Division of Consumer Affairs, P.O. Box 45045, Newark, New Jersey 07101.

5. 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

prescriptions for, or dispensation of, medications of any kind, including but not limited to Controlled Dangerous Substances.

6. During the period of active suspension, Respondent shall not enter the premises of his former medical practice during business hours when patients may be present.

7. During the period of active suspension, Respondent shall not charge, receive or share in any fee for professional services rendered by others. Respondent shall be permitted to collect accounts receivable with respect to professional services that he rendered prior to his active suspension.

8. Respondent is hereby assessed a civil penalty pursuant to N.J.S.A. 45:1-25 in the amount of $30,000.

9. For any penalty payments not paid in full within 10 days of the entry of this Order, a Certificate of Debt reflecting the $30,000 currently due and owing shall be filed pursuant to N.J.S.A. 45:1-24 to protect the judgment. In addition but not in lieu of the filing of the Certificate of Debt, Respondent may request, and the Board will allow the penalty to be paid over the course of 24 consecutive months in monthly installments of $1,250.00. The first payment of $1,250.00 shall be due on or before October 1, 2018, with each subsequent payment due on the first business day of each of the following 23 months. Failure to make any payment timely shall result in the entire balance being due and owing. Respondent

may prepay at any time. Interest on all financial assessments shall accrue in accordance with Rule of Court 45:42-11. All payments shall be made by certified bank check, certified check, money order, wire transfer or credit card payable to the State of New Jersey and sent to **William V. Roeder, Executive Director, New Jersey State Board of Medical Examiners, Post Office Box 183, Trenton, New Jersey 08608.** Any other form of payment will be rejected and will be returned to the party making payment. In the event that a monthly payment is not received within five days of its due date, the entire balance of the civil penalty shall become due and owing. Subsequent violations of Board statutes, regulations, or orders, including this Consent Order, will subject Respondent to enhanced penalties pursuant to N.J.S.A. 45:1-25.

10. Respondent shall immediately advise the DEA of this Order, specifically the surrender of his physician license and NJ CDS Registration and take all steps necessary to comply with any surrender of his DEA CDS Registration for the suspension period of his license and NJ CDS registration.

11. Respondent is hereby permanently barred from the practice of medicine as a solo practitioner and further agrees to employ the services of an office management company should Respondent ever be employed within a group practice with any ownership or management interest.

12. Within six (6) months of the entry of this Consent Order Respondent shall fully attend, successfully complete, and pass the ProBE (Professional/Problem Based Ethics) course offered by CPEP, the Center for Personalized Education for Physicians, 7351 Lowry Boulevard, Suite 100, Denver Colorado 80230 (303) 577-3232, ext. 207, www.cpepdoc.org (course is offered in New Jersey); or the PRIME (Professional Renewal in Medicine through Ethics) course offered by the Center for Continuing Education in the Health Professions at Robert Wood Johnson Medical School, 97 Paterson Street, Room 124, New Brunswick, New Jersey 08903; or other ethics course of similar content that is pre-approved by the Board. Documentation of full attendance and successful completion of the course shall be provided to the Board within twenty-one days of completion of the course. "Successful completion" means that Respondent attended all sessions of the course, fully participated in the course and received a final evaluation of an unconditional pass for the course. Respondent shall be entirely responsible for any and all costs or expenses relating to the course. This course is in addition to the regularly required continuing medical education ("CME") hours and may not be counted towards satisfying CME obligations.

13. Respondent shall successfully complete Board approved education courses in CDS prescribing and record keeping. These

courses shall be completed within six (6) months of the entry of this Consent Order and shall be approved by the Board in writing prior to attendance. Please note that these courses are in addition to the regularly required continuing education hours, and may not be counted towards satisfying any CME obligations. "Successful completion" means that Respondent attended all sessions of the aforementioned courses, fully participated in the courses, and received a final evaluation of an unconditional pass for each course. Respondent shall provide proof of successful completion of the required coursework. Respondent shall be entirely responsible for any and all costs or expenses relating to each course.

14. 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 as Exhibit 1 and incorporated herein.

15. Failure to comply with any provision of this Order will result in subsequent disciplinary proceedings for failure to comply with an Order of the Board.

15. The parties hereby stipulate that entry of this Order is without prejudice to further action, by this Board or any other Professional Board of New Jersey, 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 if different from the conduct that precipitated this Order.

NEW JERSEY STATE BOARD OF MEDICAL EXAMINERS

Paul Carniol, M.D.
Board President

NEW JERSEY DIVISION OF CONSUMER AFFAIRS

Paul R. Rodriguez
Director

I have read and understood the within Order and agree to be bound by its terms.

Robert Dragert, D.O.

9/7/18
Date

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

Rich West, Esq.
Counsel for Respondent

9/10/18
Date

Exhibit 1

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 her 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 her/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 her/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 her/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 her/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 her/her eligibility to practice is represented. The licensee must also take steps to remove her/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 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(c). 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 her/her attorney) assuming custody of the records. The same information

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[1] 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.

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 her/her telephone number shall be promptly reported to the Board. When a patient or her/her representative requests a copy of her/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 her or her payment plans.

NOTICE OF REPORTING PRACTICES OF BOARD REGARDING DISCIPLINARY ORDERS/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://www.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 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 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.