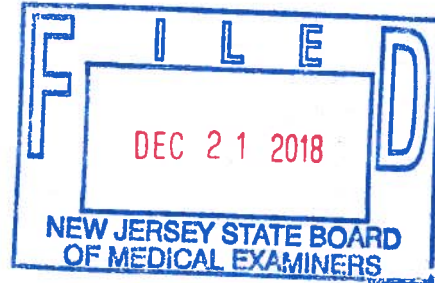


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STATE OF NEW JERSEY  
DEPARTMENT OF LAW & PUBLIC SAFETY  
DIVISION OF CONSUMER AFFAIRS  
STATE BOARD OF MEDICAL EXAMINERS

IN THE MATTER OF THE SUSPENSION  
OR REVOCATION OF THE LICENSE OF

**ANTHONY ANZALONE, M.D.**  
**LICENSE NO. 25MA04247500**

TO PRACTICE MEDICINE AND SURGERY  
IN THE STATE OF NEW JERSEY

Administrative Action

**VERIFIED COMPLAINT**

Gurbir S. Grewal, Attorney General of the State of New Jersey (“Attorney General”), by Michael Antenucci, Deputy Attorney General, with offices located at 124 Halsey Street, P.O. Box 45029, Newark, New Jersey 07101, by way of Verified Complaint says:

**GENERAL ALLEGATIONS**

1. Complainant, the Attorney General is charged with enforcing the laws of the State of New Jersey pursuant to N.J.S.A. 52:17A-4(h), and is empowered to initiate administrative disciplinary proceedings against persons licensed by the New Jersey State Board of Medical Examiners (“Board”) pursuant to N.J.S.A. 45:1-14 to -25.

2. The Board is charged with the duty and responsibility of regulating the practice of medicine and surgery in the State of New Jersey pursuant to N.J.S.A. 45:9-1 to -27.9.

**CERTIFIED TRUE COPY**

3. Anthony Anzalone, M.D. (“Respondent”), is a 66 year-old physician, who, at all times relevant hereto, has been licensed by the Board to practice medicine and surgery in the State of New Jersey, with License Number 25MA04247500. Respondent specializes in Obstetrics and Gynecology, and, since 2012, has been registered in this State’s Medicinal Marijuana Program (“MMP”), administered by the New Jersey Department of Health (“DOH”). Respondent’s medical license is currently “Active”, and as of the date of this filing, he maintains offices at 2 Austin Avenue Iselin, New Jersey 08830; The Suites at 17 North – Rutherford 301 NJ-17, Rutherford, New Jersey 07070; and 788 Shrewsbury Avenue, Tinton Falls, New Jersey 07724.

4. Starting in or about 2014, Respondent began evaluating patients’ eligibility for medicinal marijuana at various hotels throughout the State, including the Courtyard by Marriot Lyndhurst Meadowlands, 1 Polito Avenue, Lyndhurst, New Jersey 07071; Courtyard by Marriot Jersey City, 540 Washington Boulevard, Jersey City, New Jersey 07310; Renaissance Woodbridge, 515 US Highway Route 1 South, Iselin, New Jersey 08830; the Courtyard by Marriott Lincroft/Red Bank, 245 Half Mile Road, Red Bank, New Jersey 07701; and the Lakewood Marriott, 1885 Route 70 West, Lakewood, New Jersey 08701. (Certification of Anthony Anzalone, M.D. dated September 12, 2017, attached as Exhibit A to the Certification of Deputy Attorney General Michael Antenucci (hereinafter “Antenucci Cert.”). See also Transcript of Respondent’s June 6, 2018 Testimony before a Committee of the Board, attached as Exhibit B to the Antenucci Cert at 18:11 to 18:16; 24:8 to 25:3).

5. In or about March 2017, the Enforcement Bureau of the Division of Consumer Affairs (“DCA”) opened an investigation into Respondent and his medical practice,

NJGreenMD, based upon a referral from the DOH following the MMP's receipt of numerous consumer complaints.

6. Through the MMP, the DOH implements the "New Jersey Compassionate Use Medical Marijuana Act" (hereinafter "the Act"), as defined under N.J.S.A. 24:6I-1 to -16. The Board is further charged with implementing certain provisions of the Act as they relate to physicians who provide certification and written instructions to patients seeking medicinal marijuana through the MMP, pursuant to N.J.A.C. 13:35-7A.1 to -7A.6.<sup>1</sup>

7. The DOH currently has 843 active registered physicians in the MMP. (Certification of Susan Carson, Director of the MMP at p. 2, attached as Exhibit C to the Antenucci Cert.). To date, there are 38,155 active patients, and Respondent himself has enrolled a total of 3,237 patients with the MMP since he first registered with the program on April 12, 2012. Ibid. Respondent currently has 2,077 active patients registered or pending registration with the MMP, whereas the average patient population in the MMP is 45 patients per physician. Ibid.

8. Any physician may register in the MMP through the DOH's website so long as the physician holds an active medical license issued by the Board in good standing, and possesses an active CDS registration issued by the DCA that is not limited or restricted in any manner. N.J.A.C. 13:35-7A.3(a)(1). Once the physician is registered with the MMP, he or she may authorize medicinal marijuana for patients with whom he or she has developed a bona fide physician-patient relationship, and upon his or her determination that the patient suffers from a

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<sup>1</sup> Marijuana refers to "all parts of the plant Genus Cannabis L., whether growing or not; the seeds thereof; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant or its seeds, except those containing resin extract from the plant." N.J.S.A. 24:21-2. The United States Drug Enforcement Administration ("DEA") classifies Controlled Dangerous Substances ("CDS") in their respective schedules based on whether the CDS currently has an accepted medical treatment use in the United States, relative abuse potential, and the likelihood of causing dependence when abused. Marijuana is classified as a Schedule I CDS based upon its high potential for abuse and its lack of a generally accepted medical treatment use in the United States. See 21 C.F.R. § 1308.12; N.J.S.A. 24:21-5(a) and (e); N.J.A.C. 13:45H-10.1.

qualifying debilitating medical condition after conducting a comprehensive medical history and physical examination. N.J.A.C. 13:35-7A.3(a)(2) and -7A.4(a).

9. A bona fide physician-patient relationship, pursuant to N.J.A.C. 13:35-7A.2, is defined as a “relationship in which the physician has ongoing responsibility for the assessment, care and treatment of a patient’s debilitating medical condition, consistent with the requirements of N.J.A.C. 13:35-7A.5.” An ongoing responsibility is defined as:

- 1) The physician-patient relationship has existed for at least one year;
- 2) The physician has seen and/or assessed the patient for the debilitating medical condition on at least four visits; or
- 3) The physician assumes responsibility for providing management and care of the patient’s debilitating medical condition after conducting a comprehensive medical history and physical examination, including a personal review of the patient’s medical record maintained by other treating physicians reflecting the patient’s reaction and response to conventional medical therapies.

N.J.A.C. 13:35-7A.2.

10. Debilitating medical conditions that qualify for medicinal marijuana treatment within the MMP include, only:

- 1) One of the following conditions, if resistant to, or if the patient is intolerant to, conventional medical therapy: seizure disorder, including epilepsy; intractable skeletal muscular spasticity; post-traumatic stress disorder [(“PTSD”)<sup>2</sup>]; or glaucoma;
- 2) One of the following conditions, if severe or chronic pain, severe nausea or vomiting, cachexia or wasting syndrome results from the condition or its treatment: positive status for human immunodeficiency virus, acquired immune deficiency syndrome or cancer;

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<sup>2</sup> Effective September 14, 2016, the Act was expanded to include PTSD resistant to conventional medical therapies as a qualifying debilitating condition. (See Governor’s Statement Upon Signing Assembly Bill No. 457, attached as Exhibit D to the Antenucci Cert.).

3) Amyotrophic lateral sclerosis, multiple sclerosis, terminal cancer, muscular dystrophy or inflammatory bowel disease, including Crohn's disease;

4) Terminal illness, if the physician has determined a prognosis of less than 12 months of life; or

5) Any other medical condition or its treatment that is approved by the [DOH] by rule.<sup>3</sup>

N.J.A.C. 13:35-7A.2. See also N.J.S.A. 24:6I-3.

11. After establishing a bona fide physician-patient relationship and conducting a comprehensive medical history and physical examination to determine the existence of a qualifying debilitating medical condition, the physician must sign and date a certification, known as an Attending Physician Statement, attesting to his or her authorization for the patient to be registered with the MMP. N.J.A.C. 13:35-7A.4(b). This certification is then electronically transmitted to DOH. Ibid. Once a completed application is received by DOH, it must be approved, or denied, by the MMP within 30 days. N.J.A.C. 8:64-2.2(d). Following approval, DOH must issue a registry identification card within five business days to the qualifying patient. Ibid.

12. Following receipt of the State-issued identification card, the patient may purchase up to two ounces of medicinal marijuana, as determined by the authorizing physician, from a State-registered Alternative Treatment Center ("ATC") within a 30-day period.<sup>4</sup> N.J.A.C. 8:64-

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<sup>3</sup> Effective March 27, 2018, the DOH expanded the MMP to include chronic pain related to musculoskeletal disorders, migraine, anxiety, chronic pain of visceral origin, and Tourette syndrome, as conditions qualifying for the use of medicinal marijuana.

<sup>4</sup> A MMP physician may issue multiple written instructions at one time authorizing the patient to receive a total of up to a 90-day supply of medicinal marijuana, provided that the following conditions are met: 1) each separate set of instructions is issued for the treatment of the patient's documented debilitating medical condition; 2) each separate set of instructions indicates the earliest date on which the ATC may dispense the marijuana, except for the first dispensation if it is to be filled immediately; and 3) the physician has determined that providing the patient with multiple instructions in this manner does not create an undue risk of diversion or abuse. N.J.A.C. 8:64-2.5(c); N.J.A.C. 13:35-7A.5(h).

2.5(a)(8); N.J.A.C. 13:35-7A.5(g). The physician may provide the written instructions by electronic, or other means, directly to the ATC on behalf of the qualifying patient. N.J.A.C. 8:64-2.5(d); N.J.A.C. 13:35-7A.5(a).

13. The authorizing physician must then review the patient's qualifying condition, at least every three months, to assess whether the patient is progressing towards treatment objectives, has developed any significant side effects, or is experiencing any physical or psychological problems associated with his or her medicinal marijuana use, and determine whether to continue or modify treatment. N.J.A.C. 13:35-7A.5(c).

14. Where a patient is not achieving treatment objectives and/or are suffering from negative side effects, the authorizing physician must consider modifying the dosage, undertaking a trial of other drugs or treatment modalities, discontinuing the use of medicinal marijuana, or referring the patient for an independent evaluation. N.J.A.C. 13:35-7A.5(d). A physician authorizing medicinal marijuana must further remain alert to its potential misuse or diversion, including enhanced monitoring for patients presenting with a history of substance abuse. N.J.A.C. 13:35-7A.5(e).

15. Additionally, pursuant to N.J.A.C. 13:35-7A.5(f), a physician authorizing medicinal marijuana "shall keep accurate and complete records" including:

- 1) The medical history and physical examination of the patient;
- 2) The diagnosis of the debilitating medical condition, including the patient's symptoms and their severity and the patient's reaction and response to conventional medical therapies, which qualify the patient for the medical use of marijuana;
- 3) Other evaluations and consultations;
- 4) Treatment plan objectives;

5) Evidence of informed consent. In obtaining informed consent, the physician shall advise the patient about the lack of scientific consensus for the medical use of marijuana, its sedative properties and the risks for addiction;

6) Treatments and other drugs prescribed or provided;

7) Any agreements with the patient; and

8) Periodic reviews conducted.

N.J.A.C. 13:35-7A.5(f).

16. On August 2, 2017, Catherine Butter, an investigator employed by the State of New Jersey, within the DCA's Enforcement Bureau, served Respondent with an Administrative Action Subpoena and Demand for Statement in Writing Under Oath (hereinafter "Subpoena and Demand"). (Attorney General's Subpoena and Demand, attached as Exhibit E to the Antenucci Cert.).

17. On September 12, 2017, Respondent, through legal counsel, submitted his certified statement, along with true copies of treatment records for patients R.C.; H.M.; J.L.; D.S.-N.; A.B.; K.F.; and J.N.<sup>5</sup>, in response to the Attorney General's Subpoena and Demand. (Antenucci Cert., Exhibits A, and F through L).

18. On June 6, 2018, Respondent appeared, with legal counsel, before a Committee of the Board, and agreed to provide testimony under oath, for an inquiry to establish facts concerning his medicinal marijuana practice and his treatment of several patients, as well as his overall practice of medicine. (Antenucci Cert., Exhibit B).

19. Respondent maintained his medicinal marijuana practice at several hotels throughout New Jersey, for approximately two years beginning in or about 2014, prior to

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<sup>5</sup> Respondent submitted a one-page treatment record for J.N. (Antenucci Cert., Exhibit L). He later reported to the State that he had lost J.N.'s entire treatment record but for the single page he submitted. (Antenucci Cert., Exhibit B at 74:1 to 75:1). Notwithstanding, J.N. was deceased as of October 18, 2016, and therefore was no longer being treated by Respondent at the time of the State's investigation.

obtaining his current office space in Iselin, New Jersey. Id. at 17:5 to 19:24. The hotel conference rooms, from which Respondent practiced, were not arranged with any barriers or curtains that would afford patients privacy. Id. at 20:6 to 21:10; 22:7 to 23:9.

20. Upon the arrival of patients, Respondent's staff would assist them with submitting their paperwork to the MMP and with online registration.<sup>6</sup> Id. at 20:6 to 20:12; 25:11 to 26:5. Respondent then made a group presentation generally explaining the history, risks, and benefits of medicinal marijuana. Id. at 20:6 to 20:23; 33:21 to 34:6.

21. Respondent does not conduct any physical examinations, nor does he conduct urine drug toxicology testing, at the initiation of his medicinal marijuana treatment, or at renewal appointments. Id. at 34:13 to 35:17; 41:23 to 42:11; 78:15 to 78:22. Instead, his decision to authorize medicinal marijuana, routinely in the maximum 90-day supply, relies primarily on a patient's presentation of proof of a qualifying debilitating condition, which could be an MRI or "something" on a physician's letterhead. Id. at 35:18 to 36:7; 40:5 to 40:19.

22. Respondent has also never consulted with a patient's treating physician regarding his treatment of the shared patient, either before or after authorizing medicinal marijuana. Id. at 44:5 to 44:17.

23. Respondent charges patients \$350 for their initial consultation and \$150 for their reassessment appointments at 90 days, which are typically paid in cash. Id. at 46:2 to 47:8. These costs are in addition to the MMP's registration fee, which, during the relevant period of this Complaint, was \$200, for a two year MMP registration.

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<sup>6</sup> Respondent has presented no evidence supporting or suggesting that any of his staff were professionally licensed and/or specially trained in the field of medicine, in any manner.



**COUNT I**  
**(Patient L.L.)**

24. The General Allegations are repeated and re-alleged as if set forth at length herein.

25. On or about August 30, 2018, patient L.L. filed an MMP Incident Report against Respondent with the DOH. (L.L.'s MMP Incident Report, attached as Exhibit M to the Antenucci Cert.).

26. On April 9, 2018, L.L. first met with Respondent, after she had been referred for medicinal marijuana by her primary care doctor for treatment of anxiety, migraine headaches, PTSD, and chronic pain related to a musculoskeletal disorder. (L.L.'s Sworn Statement dated October 4, 2018, attached as Exhibit N to the Antenucci Cert. at p. 1. See also Certified Treatment Documents provided to the State by L.L., at Bates Stamp 128, attached as Exhibit O to the Antenucci Cert.).

27. On that date, L.L. arrived at Respondent's office located at 1 Austin Avenue in Iselin, New Jersey. (Antenucci Cert., Exhibit N at p. 1). In a conference room, two of Respondent's employees were stationed at one of two long tables behind laptops, with Respondent seated between the tables. Id. at pp. 1-2. Respondent briefly reviewed L.L.'s paperwork only to ensure she had the correct documents, and then waited for more people to enter the room. Id. at p. 2. During this encounter, Respondent never discussed, nor did L.L. ever disclose, her diagnosis. Ibid.

28. Once the room filled with approximately 15 people, Respondent spoke generally to the group about medicinal marijuana, the law, and the dispensaries. Ibid. Respondent and an employee said everyone starts with the same prescription of 1.25 ounces. Id. at p. 3.

29. When L.L. later met with both female employees, she paid \$350 in cash and they scanned her paperwork. Ibid.

30. An employee named "April" then set up an application called "Virtual Care" on L.L.'s smartphone, and explained that she had to undergo three "telecommunication follow up visits" through the application. Ibid. L.L. reported that this initial in-person appointment with Respondent lasted between 10 to 15 minutes. Id. at p. 7.

31. On April 11, 2018, L.L. received her Attending Physician Statement, via email, which certified her for the MMP with the debilitating medical conditions of PTSD, anxiety, chronic pain related to musculoskeletal disorders, and migraine. (Antenucci Cert., Exhibit O at Bates Stamp 139-140). Respondent had authorized L.L. to receive a 90-day supply of medicinal marijuana, at 1.25 ounces, between April 11, 2018 and July 9, 2018. Ibid.

32. On April 16, 2018, L.L. had her first of three telecommunication "video visits" with Respondent through the Virtual Care application. (Antenucci Cert., Exhibit N at p. 3). This conversation consisted solely of Respondent asking L.L. if she was experiencing any problems, to which L.L. stated she was not. Ibid. L.L. and Respondent had two more follow up "video visits" through the Virtual Care application, on May 31, 2018 and June 4, 2018. Ibid. On each of those dates, Respondent only asked L.L. how she was, and she would say "fine". Id. at pp. 3-4.

33. On June 20, 2018, L.L. returned to Respondent's office, now at 2 Austin Avenue in Iselin, New Jersey, for her 90-day medicinal marijuana renewal appointment. Id. at p. 4. Respondent was not present in the office. Ibid. L.L. spoke with an employee named "Jessica", and asked that her medicinal marijuana authorization be increased above 1.25 ounces. Ibid. Without consulting Respondent, and based solely on L.L.'s subjective request for an increased

amount of medicinal marijuana, Jessica increased L.L.'s authorization to 2 ounces per month and had L.L. pay \$100 in cash. Id. at pp. 4-5.

34. On this same date, as she was exiting the office, L.L. encountered Respondent as he was walking in. Ibid. Respondent stated "Hi, how are you doing?" and L.L., as she continued to walk out, replied "fine, how are you?" Id. at p. 5. No further discussion occurred between L.L. and Respondent. Ibid. Respondent did not assess whether L.L. was progressing towards treatment objectives and/or had obtained any relief from the conditions which qualified her for medicinal marijuana, had developed any significant side effects, or was experiencing any physical or psychological problems associated with her medicinal marijuana use.

35. On October 4, 2018, L.L. again visited Respondent's office at 2 Austin Avenue in Iselin, New Jersey for her second 90-day renewal appointment. Ibid. L.L. was greeted by Jessica and another female employee. Ibid. During this visit, Respondent was again absent, yet up to 8 patients were present in the office. Ibid. (See also Floor Plan of Respondent's Office on October 4, 2018 as illustrated by L.L., at Bates Stamp 143-144, attached as Exhibit P to the Antenucci Cert.).

36. L.L. overheard Respondent's employees registering patients with the MMP, and, in doing so, openly discussing their personal information, including names, whether they were receiving State aid, and their phone numbers, among other items. (Antenucci Cert., Exhibit N at pp. 5-6). Moreover, all patients were in a single room with Respondent's staff, and neither privacy curtains, examination tables nor medical equipment were in the office. (Antenucci Cert., Exhibit P at Bates Stamp 144).

37. On this same date, L.L. again obtained a reauthorization for medicinal marijuana from Respondent's employee Jessica, without any consultation with Respondent, or discussion

of her progress towards treatment goals, or her development of significant side effects or physical or psychological problems. (Antenucci Cert., Exhibit N at pp. 6-7). Jessica simply asked L.L. if she completed “follow up questions”, which L.L. had done online; requested a cash payment of \$100; and advised L.L. when her reauthorization would begin and end. Ibid.

38. By submitting the Attending Physician Statement to the DOH on behalf of L.L., Respondent accepted the included “Physician Certification” which states in part that he has “a bona fide and ongoing relationship with this patient as defined by N.J.A.C. 8:64 et seq. and as such I have completed a comprehensive history and physical on this patient and have documented an assessment and treatment plan.” (Antenucci Cert., Exhibit O at Bates Stamp 139). The certification further states that the Respondent “will continue to follow this patient at minimum every three months and reassess the patient’s debilitating medical condition.” Ibid.

39. Moreover, pursuant to N.J.A.C. 8:64-2.5, Respondent must certify that he “has an ongoing responsibility for the assessment, care and treatment of the patient’s debilitating medical condition” and state that “the patient’s diagnosis qualifies as a debilitating medical condition that authorizes the patient to use medicinal marijuana pursuant to N.J.S.A. 24:6I-1 et seq.”

40. During the entirety of L.L.’s treatment, neither Respondent, nor any member of his staff, physically examined, assessed, evaluated, or discussed with her the medical diagnosis qualifying her for medicinal marijuana, her past or current medical history, her past or present medical treatment, or any medications, past or present, legal or illegal, prescribed or ingested. (Antenucci Cert., Exhibits M through P). Additionally, Respondent neither reviewed any medical records, aside from a single prescription blank listing L.L.’s qualifying conditions, nor did he request any information regarding L.L.’s reaction and response to conventional medical therapies, prior to authorizing medicinal marijuana. Lastly, Respondent failed to reassess L.L.’s

claimed debilitating medical conditions every three months or develop a treatment plan to address those medical conditions.

41. Respondent's actions described herein constitute: fraud, deception or dishonesty, in violation of N.J.S.A. 45:1-21(b); gross negligence which endangered the life, health, welfare, safety or property of a person, in violation of N.J.S.A. 45:1-21(c); repeated acts of negligence, in violation of N.J.S.A. 45:1-21(d); professional or occupational misconduct, in violation of N.J.S.A. 45:1-21(e); and a failure to comply with the provisions of an act or regulation administered by the Board, in violation of N.J.S.A. 45:1-21(h), by, more specifically, providing a certification and written instructions to a patient for the medical use of marijuana with whom he does not maintain a bona fide physician-patient relationship, in violation of N.J.A.C. 13:35-7A.2, failing to perform a comprehensive medical history and physical examination of the patient to determine if that patient suffers from a debilitating medical condition qualifying said patient to receive medicinal marijuana, in violation of N.J.A.C. 13:35-7A.4, failing to assess the patient's qualifying condition at least every three months, in violation of N.J.A.C. 13:35-7A.5(c), and failing to keep accurate and complete records pertaining to his medicinal marijuana treatment, in violation of N.J.A.C. 13:35-7A.5(f). Furthermore, Respondent's failure to abide by the Act and regulations promulgated thereunder demonstrates poor medical judgment that places the public's health, safety, and welfare in clear and imminent danger and warrants the temporary suspension of his license to practice medicine, pursuant to N.J.S.A. 45:1-22.

**COUNT II**  
**(Patient R.C.)**

42. The General Allegations and those of Count I are repeated and re-alleged as if set forth at length herein.

43. April Amisson is an investigator employed by the State of New Jersey, within the DCA's Enforcement Bureau. (Certification of Investigator April Amisson dated May 5, 2017 (hereinafter "Amisson Cert."), attached as Exhibit Q to the Antenucci Cert.).

44. On March 29, 2017, Investigator Amisson, using the covert identity of patient R.C., scheduled a new patient consultation appointment online with NJGreenMD for April 6, 2017, at Respondent's Courtyard by Marriott location, in Red Bank, New Jersey. Id. at ¶3-¶8.

45. On April 6, 2017, Investigator Amisson visited the Courtyard by Marriott hotel located at 245 Half Mile Road, Red Bank, New Jersey in a covert capacity, accompanied by Investigator John Bastardo, and was directed to the "Navesink Conference Room" by a hotel receptionist. Id. at ¶9.

46. The conference room had three tables arranged in a "U" shaped formation. Id. at ¶10. (See also "Diagram 1 Covert Visit 4-6-17", at Bates Stamp 151, attached as Attachment 1 to the Amisson Cert.). Two female employees were seated at computers meeting with individuals who appeared to be patients. Ibid. Respondent was also at the conference table, near a female employee, consulting with a male and a female, who appeared to be a couple, with a small child. Ibid.

47. Investigator Amisson was greeted by a man who identified himself solely as "Michael". (Antenucci Cert., Exhibit Q at ¶11). Investigator Amisson provided her covert identity to Michael, prompting him to request her required documents. Ibid. Investigator Amisson stated that she was not told what documents were required, and her attempts to contact Respondent's office before arriving for her new patient consultation appointment at the hotel were unsuccessful. Ibid. Michael provided Investigator Amisson with a tablet computer and

asked her to provide identifying information, including her name, email address and qualifying condition. Ibid.

48. While Investigator Amisson was completing the registration forms on the tablet computer, Respondent approached her and identified himself. Id. at ¶12. Respondent showed Investigator Amisson a list of documentation required for registration on his smartphone, and told her to make an appointment for the following week and return with the required documents. Ibid.

49. At no point during her 25 minute visit, on April 6, 2017, did Respondent conduct a physical examination of any patient. Ibid. There were neither privacy curtains separating patients, nor examination tables and medical equipment in the conference room. (Amisson Cert., at Bates Stamp 151, Attachment 1. See also covert photographs of the conference room taken on April 6, 2017, at Bates Stamp 153-154, attached as Exhibit 1 to the Amisson Cert.).

50. On April 20, 2017, Investigator Amisson conducted a second covert visit at Respondent's Red Bank location, again accompanied by Investigator Bastardo. (Antenucci Cert., Exhibit Q at ¶14). The investigator was directed to the same conference room as her previous visit, and was again confronted with a "U" shaped table. Id. at ¶14-¶15. (See also "Diagram 2 Covert Visit 4-20-17", at Bates Stamp 152, attached as Attachment 2 to the Amisson Cert).

51. Approximately 10 minutes after Investigator Amisson's arrival, Respondent entered the conference room. (Antenucci Cert., Exhibit Q at ¶16-¶17). Respondent stood at the end of the "U" shaped table and asked patients to identify whether they were new patients or renewing their medicinal marijuana authorization. Id. at ¶17. Investigator Amisson was able to hear other patients openly identifying themselves as either a new or renewal patient. Id. at ¶18.

There were no privacy curtains separating patients, nor were any examination tables or medical equipment visible in the conference room. (Amisson Cert., at Bates Stamp 152, Attachment 2. See also covert photographs taken on April 20, 2017, at Bates Stamp 155-161, attached as Exhibit 2 to the Amisson Cert.).

52. Respondent next announced, generally, from the center of the room that patients must immediately notify him of any problems with dosing or side effects. (Antenucci Cert., Exhibit Q at ¶19). Respondent also directly stated to a particular patient identified as “John”, in the presence of Investigator Amisson and others, that his “official diagnosis is intractable muscle spasticity, that’s what you have, come back here in thirty days.” Id. at ¶18-¶19.

53. Investigator Amisson was eventually called to a registration area and gave Respondent’s employee, “April”, her required documents, including a cellular telephone bill with her fictitious address and a physician’s referral written on a New Jersey Prescription Blank, indicating a diagnosis of Crohn’s disease, which the employee scanned into a portable scanner. Id. at ¶21-¶22. Investigator Amisson then paid \$350 in cash, upon request, and received a digital receipt. Id. at ¶22. (See also the digital receipt provided by Respondent’s staff, at Bates Stamp 160, attached as Exhibit 2 to the Amisson Cert.).

54. While meeting with April, Investigator Amisson was able to overhear another patient providing her personal information to Respondent’s staff, including the patient’s name and email address. (Antenucci Cert., Exhibit Q at ¶23). April later directed Investigator Amisson to another member of Respondent’s staff, identified as a “receptionist” named “Janine”. Id. at ¶24.

55. Janine obtained Investigator Amisson’s contact information and the ATC she planned to use to purchase medicinal marijuana, which Janine then entered into the MMP



website. Id. at ¶26. Janine provided Investigator Amisson with instructions on the use of medicinal marijuana and told her that she would receive an email from the State directing her to register with the MMP. Ibid. However, Investigator Amisson was told that she should not complete the registration form, as the Respondent's staff would register her instead. Ibid.

56. Investigator Amisson was informed that she would then receive an email from the State in thirty business days asking her to make a payment and to provide a reference number. Id. at ¶27. Janine told Investigator Amisson to make the payment and gave her a reference number to provide to the State, and explained that her State identification card would follow within 7 to 10 business days. Id. at ¶27-¶28.

57. Once she received her card, Investigator Amisson was told she could obtain her 90-day supply of medicinal marijuana, from her chosen ATC, in monthly 1.25 ounce allotments. Id. at ¶28-¶30. Janine also provided Investigator Amisson with further instruction on the storage and use of medicinal marijuana, and explained that she would need to be seen every 90 days for reauthorization, which she could complete telephonically. Id. at ¶29-¶30. Neither Respondent, nor anyone on his staff physically examined and/or discussed, in any detail, with Investigator Amisson her diagnosis or medical history. prior to authorizing medicinal marijuana for her. Id. at ¶33.

58. Investigator Amisson then told Janine of a friend who was suffering severe pain from "hardware" in her back caused by an injury, but that the friend did not otherwise have a diagnosis qualifying her for medicinal marijuana. Id. at ¶32. Janine advised that if the friend brought in an MRI showing her "hardware", Respondent would register her with the MMP under a diagnosis of intractable muscle spasticity. Ibid. Janine also provided Investigator Amisson

with a “handful of business cards” and encouraged her to refer others to Respondent in exchange for a discount on her next visit. Ibid.

59. By submitting an Attending Physician Statement to the DOH on behalf of Investigator Amisson as patient R.C., Respondent accepted the included “Physician Certification” which states in part that he has “a bona fide and ongoing relationship with this patient as defined by N.J.A.C. 8:64 et seq. and as such I have completed a comprehensive history and physical on this patient and have documented an assessment and treatment plan.” (Sample MMP Attending Physician Statement, attached as Exhibit Y to the Antenucci Cert.).<sup>7</sup> The certification further states that the Respondent “will continue to follow this patient at minimum every three months and reassess the patient’s debilitating medical condition.” Ibid.

60. Moreover, pursuant to N.J.A.C. 8:64-2.5, Respondent must certify that he “has an ongoing responsibility for the assessment, care and treatment of the patient’s debilitating medical condition” and state that “the patient’s diagnosis qualifies as a debilitating medical condition that authorizes the patient to use medicinal marijuana pursuant to N.J.S.A. 24:6I-1 et seq.”

61. During the entirety of Investigator Amisson’s covert appointments as patient R.C., neither Respondent, nor any member of his staff, physically examined, assessed, evaluated, or discussed with her the medical diagnosis qualifying her for medicinal marijuana, her past or current medical history, her past or present medical treatment, or any medications, past or present, legal or illegal, prescribed or ingested. (Antenucci Cert., Exhibit B at 73:13 to 73:25; Exhibit Q at ¶33). Additionally, prior to authorizing medicinal marijuana for R.C., Respondent did not request any information regarding the severity of R.C.’s Crohn’s disease symptoms, and

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<sup>7</sup> Although a copy of the Attending Physician’s Statement is absent from Respondent’s treatment record for R.C., his submission of it to the DOH is a prerequisite for the patient’s receipt of medicinal marijuana through the MMP.

her reaction and response to conventional medical therapies, nor did he attempt to develop any treatment plan to address this debilitating condition. Ibid.

62. Respondent, as a physician authorizing medicinal marijuana for Investigator Amisson as patient R.C., further did not keep accurate and complete records for her treatment, including, among other items, medical history and physical examination notes; identification of her symptoms, their severity and her response to conventional medical therapies; and treatment plan objectives, as required by N.J.A.C. 13:35-7A.5(f). (Respondent's Treatment Record for R.C., attached as Exhibit F to the Antenucci Cert. See also Exhibit B at 73:1 to 73:12).

63. Respondent's actions described herein constitute fraud, deception or dishonesty, in violation of N.J.S.A. 45:1-21(b); gross negligence which endangered the life, health, welfare, safety or property of a person, in violation of N.J.S.A. 45:1-21(c); repeated acts of negligence, in violation of N.J.S.A. 45:1-21(d); professional or occupational misconduct, in violation of N.J.S.A. 45:1-21(e); and a failure to comply with the provisions of an act or regulation administered by the Board, in violation of N.J.S.A. 45:1-21(h), by, more specifically, providing a certification and written instructions to a patient for the medical use of marijuana with whom he does not maintain a bona fide physician-patient relationship, in violation of N.J.A.C. 13:35-7A.2, failing to perform a comprehensive medical history and physical examination of the patient to determine if that patient suffers from a debilitating medical condition qualifying said patient to receive medicinal marijuana, in violation of N.J.A.C. 13:35-7A.4, and failing to keep accurate and complete records pertaining to his medicinal marijuana treatment, in violation of N.J.A.C. 13:35-7A.5(f). Furthermore, Respondent's failure to abide by the Act and regulations promulgated thereunder demonstrates poor medical judgment that places the public's health,

safety, and welfare in clear and imminent danger and warrants the temporary suspension of his license to practice medicine, pursuant to N.J.S.A. 45:1-22.

**COUNT III**  
**(Patient H.M.)**

64. The General Allegations and those of Counts I and II are repeated and re-alleged as if set forth at length herein.

65. Heather Ollendorf is an investigator employed by the State of New Jersey, within the DCA's Enforcement Bureau. (Certification of Investigator Heather A. Ollendorf dated June 27, 2017 (hereinafter "Ollendorf Cert."), attached as Exhibit R to the Antenucci Cert.).

66. On April 25, 2017, Investigator Ollendorf, using the covert identity of patient H.M., scheduled a new patient consultation appointment online with NJGreenMD for May 4, 2017, at Respondent's Renaissance Woodbridge location in Iselin, New Jersey. Id. at ¶3.

67. On May 4, 2017, Investigator Ollendorf, accompanied by Investigator Amisson, visited the Renaissance Woodbridge at 515 US Highway Route 1 South, Iselin, New Jersey. Id. at ¶6. Upon arrival, a hotel receptionist directed the investigators to the "Ruby" conference room for NJGreenMD. Ibid.

68. Inside the Ruby conference room, there was one long table with two females, who appeared to be employees of the Respondent, seated with a laptop computer. Id. at ¶7. Neither privacy curtains, examination tables nor medical equipment were in the conference room. Ibid.

69. The two women seated at the conference table were identified as "Jessica" and "April", and appeared to be speaking with patients, who were also scheduled for appointments. Ibid. A male, later identified as "Michael", spoke with patients who were seated around the table while the Respondent stood at the end of the table speaking with another patient. Id. at ¶8-¶9.

Michael approached the investigators, having recognized Investigator Amisson from her previous covert visit as patient R.C. Id. at ¶10. See Count II, *infra*.

70. Investigator Ollendorf visited one of the stations to check in with the employee identified as April. Id. at ¶11. While waiting to check in, Investigator Ollendorf overheard other patients providing personal identifying information. Ibid. Investigator Ollendorf checked in using her covert identity, and returned to the table where she was again approached by Michael. Id. at ¶12.

71. Michael requested that Investigator Ollendorf show him the documents required for the appointment, which she provided to him, including a fictitious MRI report of the thoracic spine, dated February 16, 2017, along with a cellular telephone bill showing her fictitious address. Ibid.

72. The MRI report indicated an impression of “mild degenerative disc disease T4-T5.” Ibid. Michael reviewed the documentation and advised Investigator Ollendorf that he would need to show it to Respondent. Ibid. Mild degenerative disc disease<sup>8</sup> is a not a qualifying illness or condition permitting a patient to enroll in the MMP. See N.J.A.C. 13:35-7A.2.

73. Respondent reviewed Investigator Ollendorf’s paperwork at the other end of the table from where she was seated. (Antenucci Cert., Exhibit R at ¶13). She observed him briefly review the MRI report, and stated to Michael, “its fine.” Ibid.

74. At this time, Respondent came over to Investigator Ollendorf and introduced himself. Id. at ¶14. Respondent informed Investigator Ollendorf that her condition would be

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<sup>8</sup> Degenerative disc disease results from the natural break down of spinal disks over time, which generates pain, and in some cases numbness and/or tingling, in the arms and legs when damaged discs affect nerves near the spine. Over-the-counter pain relievers like aspirin and ibuprofen, physical therapy, and/or steroidal injections can assist in easing the pain caused by this disease. In severe cases, patients may undergo discectomy, where part of the injured disc is removed to help relieve pressure on spinal nerves. See “Degenerative Disk Disease: Symptoms, Causes, Diagnosis, Treatment”, WebMD, <https://www.webmd.com/back-pain/degenerative-disk-disease-overview#1> (last visited Dec 10, 2018).

monitored by her regular physician while he would monitor the dosing and side effects of the medicinal marijuana. He then began telling her about his company in general. Ibid.

75. Investigator Ollendorf never disclosed, nor did Respondent seek to discuss, the results of patient H.M.'s MRI, her diagnosis, the severity of her symptoms, her prior medical history and/or past treatments. Ibid. Nor did he seek to develop any treatment plan for her claimed debilitating condition. Ibid. Notwithstanding, after briefly speaking with Respondent, Investigator Ollendorf was called over by a staff member named "April" to complete her intake and make payment for the services rendered. Id. at ¶15. April scanned copies of Investigator Ollendorf's covert driver's license and paperwork, and entered her personal demographic information into the computer. Ibid. Investigator Ollendorf then provided a \$350 cash payment, and was told that Jessica would complete her registration process. Ibid.

76. Jessica registered Investigator Ollendorf into the MMP online with a diagnosis of "Intrinsic Muscle Spasticity"<sup>9</sup> and authorized a 90-day supply of medicinal marijuana. (Antenucci Cert., Exhibit R at ¶17). Specifically, Jessica explained to Investigator Ollendorf that, upon receipt of her "card", she was authorized to receive 1.25 ounces of medicinal marijuana from her chosen ATC, per month, for three months. Ibid. Jessica further incorrectly stated that Investigator Ollendorf could obtain her 90-day supply (i.e., 3.75 ounces) "all at once" from the ATC, but would then have to wait until August to renew her prescription.<sup>10</sup> Ibid.

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<sup>9</sup> Spasticity is a muscle control disorder generated by imbalances of signals from the central nervous system ("CNS") to muscles, and is characterized by tight or stiff muscles and painful spasms of the extremities, and in some cases low back pain, and/or pain or tightness around joints. This CNS signal imbalance is commonly diagnosed in people with cerebral palsy, traumatic brain injury, stroke, multiple sclerosis, or spinal cord injuries. See "Spasticity Causes, Symptoms, and Treatments", WebMD, <https://www.webmd.com/pain-management/pain-management-spasticity#1> (last visited Dec 10, 2018).

<sup>10</sup> Jessica's assertion is contrary to N.J.A.C. 13:35-7A.5(g), which provides that "a physician shall not issue written instructions authorizing a patient to receive more than two ounces of marijuana in a 30-day period."

77. On May 23, 2017, Jessica emailed a copy of the Attending Physician Statement generated by Respondent to Investigator Ollendorf, and instructed her to use the reference number listed thereon to complete the purchase of her “card”. Id. at ¶23. In addition to her reference number, the statement further listed her debilitating medical condition as “Intractable skeletal spasticity . . . resistant to conventional therapy”, and authorized her receipt of a 90-day supply of medicinal marijuana, at 1.25 ounces monthly. Ibid. (See also H.M.’s May 4, 2017 Attending Physician Statement, at Bates Stamp 181, attached as Exhibit 6 to the Ollendorf Cert.).

78. By submitting an Attending Physician Statement to the DOH on behalf of Investigator Ollendorf as patient H.M., Respondent accepted the included “Physician Certification” which states in part that he has “a bona fide and ongoing relationship with this patient as defined by N.J.A.C. 8:64 et seq. and as such I have completed a comprehensive history and physical on this patient and have documented an assessment and treatment plan.” (Antenucci Cert., Exhibit R at Bates Stamp 181). The certification further states that the Respondent “will continue to follow this patient at minimum every three months and reassess the patient’s debilitating medical condition.” Ibid.

79. Moreover, pursuant to N.J.A.C. 8:64-2.5, Respondent must certify that he “has an ongoing responsibility for the assessment, care and treatment of the patient’s debilitating medical condition” and state that “the patient’s diagnosis qualifies as a debilitating medical condition that authorizes the patient to use medicinal marijuana pursuant to N.J.S.A. 24:6I-1 et seq.”

80. During the entirety of Investigator Ollendorf’s covert appointment as patient H.M., neither Respondent, nor any member of his staff, physically examined, assessed, evaluated, or discussed with her the medical diagnosis qualifying her for medicinal marijuana, her past or current medical history, her past or present medical treatment, or any medications,

past or present, legal or illegal, prescribed or ingested. (Antenucci Cert., Exhibit B at 64:13 to 65:24; Exhibit R at ¶21). Additionally, prior to authorizing medicinal marijuana for intractable skeletal spasticity resistant to conventional therapy, Respondent neither reviewed any medical records, aside from a single fictitious imaging report indicating a diagnosis of mild degenerative disc disease, nor did he request any information regarding the severity of H.M.'s symptoms and her reaction and response to conventional medical therapies, or attempt to develop any treatment plan. Ibid.

81. Respondent, as a physician authorizing medicinal marijuana for Investigator Ollendorf as patient H.M., further did not keep accurate and complete records for her treatment, including, among other items, medical history and physical examination notes; identification of her symptoms, their severity and her response to conventional medical therapies; and treatment plan objectives, as required by N.J.A.C. 13:35-7A.5(f). (Respondent's Treatment Record for H.M., attached as Exhibit G to the Antenucci Cert. See also Antenucci Cert., Exhibit B at 62:12 to 63:6).

82. Respondent's actions described herein constitute fraud, deception or dishonesty, in violation of N.J.S.A. 45:1-21(b); gross negligence which endangered the life, health, welfare, safety or property of a person, in violation of N.J.S.A. 45:1-21(c); repeated acts of negligence, in violation of N.J.S.A. 45:1-21(d); professional or occupational misconduct, in violation of N.J.S.A. 45:1-21(e); and a failure to comply with the provisions of an act or regulation administered by the Board, in violation of N.J.S.A. 45:1-21(h), by, more specifically, providing a certification and written instructions to a patient for the medical use of marijuana with whom he does not maintain a bona fide physician-patient relationship, in violation of N.J.A.C. 13:35-7A.2, failing to perform a comprehensive medical history and physical examination of the patient to



determine if that patient suffers from a debilitating medical condition qualifying said patient to receive medicinal marijuana, in violation of N.J.A.C. 13:35-7A.4, and failing to keep accurate and complete records pertaining to his medicinal marijuana treatment, in violation of N.J.A.C. 13:35-7A.5(f). Furthermore, Respondent's failure to abide by the Act and regulations promulgated thereunder demonstrates poor medical judgment that places the public's health, safety, and welfare in clear and imminent danger and warrants the temporary suspension of his license to practice medicine, pursuant to N.J.S.A. 45:1-22.

**COUNT IV**  
**(Patient J.L.)**

83. The General Allegations and those of Counts I through III are repeated and re-alleged as if set forth at length herein.

84. On or about February 6, 2017, patient J.L. filed a MMP Incident Report against Respondent with the DOH. (J.L.'s MMP Incident Report, attached as Exhibit S to the Antenucci Cert.).

85. Respondent first authorized medicinal marijuana for J.L. in 2013 for treatment of his chronic back, leg and neck pain.<sup>11</sup> (J.L.'s Sworn Statement, attached as Exhibit T to the Antenucci Cert., at p. 1). After his first, in-person appointment, Respondent allowed J.L. to seek his 90-day renewal authorizations through email and telephone, since he lived in Atlantic County and had difficulty travelling to Respondent in Rutherford, New Jersey. Ibid.

86. Through the entirety of 2013 to 2015, J.L.'s medicinal marijuana 90-day renewal appointments were primarily completed by his submission of an online questionnaire. Ibid.

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<sup>11</sup> Chronic pain relating to musculoskeletal disorders or of a visceral origin was not a qualifying illness or condition permitting a patient to enroll in the MMP in 2013. See N.J.A.C. 13:35-7A.2.

87. Notwithstanding receiving approximately three years of treatment from Respondent, J.L. received only a two page medical record, upon his request for his treatment record, in or about February 2017. Ibid.

88. Respondent's treatment record for J.L., which was submitted to the State on September 12, 2017 in his response to the Attorney General's Subpoena and Demand, contains only five pages. (Antenucci Cert., Exhibit A. See also Respondent's Treatment Record for J.L., attached as Exhibit H to the Antenucci Cert.).

89. One page of J.L.'s treatment record, authored by Respondent and titled "Patient Report", documents J.L.'s initial April 6, 2013 appointment, and indicates his "Chief Complaint" as "Back Pain". (Antenucci Cert., Exhibit H at Bates Stamp 060). However, the Patient Report does not include any treatment plan, comprehensive medical history and/or any physical examination notes supporting Respondent's conclusion that J.L. suffered from a MMP qualifying debilitating medical condition. Ibid. Moreover, the Patient Report does not include any evidence supporting that Respondent, prior to authorizing medicinal marijuana for J.L., reviewed medical records maintained by any other treating physician and/or gathered any information regarding the severity of J.L.'s symptoms and his reaction and response to conventional medical therapies, including prior medications or CDS used to control his pain symptoms. Ibid.

90. Notwithstanding, J.L.'s Attending Physician Statement indicates that he was qualified for the MMP, on April 6, 2013, with a diagnosis of intractable skeletal spasticity resistant to conventional therapy. Ibid.

91. By submitting the Attending Physician Statement to the DOH on behalf of J.L., Respondent accepted the included "Physician Certification" which states in part that he has "a bona fide and ongoing relationship with this patient as defined by N.J.A.C. 8:64 et seq. and as

such I have completed a comprehensive history and physical on this patient and have documented an assessment and treatment plan.” Ibid. The certification further states that the Respondent “will continue to follow this patient at minimum every three months and reassess the patient’s debilitating medical condition.” Ibid.

92. Moreover, pursuant to N.J.A.C. 8:64-2.5, Respondent must certify that he “has an ongoing responsibility for the assessment, care and treatment of the patient’s debilitating medical condition” and state that “the patient’s diagnosis qualifies as a debilitating medical condition that authorizes the patient to use medicinal marijuana pursuant to N.J.S.A. 24:6I-1 et seq.”

93. During the entirety of J.L.’s treatment, neither Respondent, nor any member of his staff, physically examined, assessed, evaluated, or discussed with him the medical diagnosis qualifying him for medicinal marijuana, his past or current medical history, his past or present medical treatment, or any medications, past or present, legal or illegal, prescribed or ingested. (Antenucci Cert., Exhibit B at 67:19 to 69:17; Exhibit H). Additionally, Respondent neither reviewed any medical records, aside from “some sort of . . . radiologic proof”, nor did he request any information regarding J.L.’s reaction and response to conventional medical therapies, prior to authorizing medicinal marijuana. (Antenucci Cert., Exhibit B at 68:2 to 68:16; Exhibit H). Lastly, Respondent failed to reassess J.L.’s claimed debilitating medical condition every three months or develop any treatment plan to address this medical condition. Ibid.

94. Respondent, as a physician authorizing medicinal marijuana for patient J.L., further did not keep accurate and complete records for his medicinal marijuana treatment, including, among other items, medical history and physical examination notes; identification of his symptoms, their severity and his response to conventional medical therapies; and treatment plan objectives, as required by N.J.A.C. 13:35-7A.5(f). (Antenucci Cert., Exhibit H).

95. Respondent's actions described herein constitute fraud, deception or dishonesty, in violation of N.J.S.A. 45:1-21(b); gross negligence which endangered the life, health, welfare, safety or property of a person, in violation of N.J.S.A. 45:1-21(c); repeated acts of negligence, in violation of N.J.S.A. 45:1-21(d); professional or occupational misconduct, in violation of N.J.S.A. 45:1-21(e); and a failure to comply with the provisions of an act or regulation administered by the Board, in violation of N.J.S.A. 45:1-21(h), by, more specifically, providing a certification and written instructions to a patient for the medical use of marijuana with whom he does not maintain a bona fide physician-patient relationship, in violation of N.J.A.C. 13:35-7A.2, failing to perform a comprehensive medical history and physical examination of the patient to determine if that patient suffers from a debilitating medical condition qualifying said patient to receive medicinal marijuana, in violation of N.J.A.C. 13:35-7A.4, failing to assess the patient's qualifying condition at least every three months, in violation of N.J.A.C. 13:35-7A.5(c), and failing to keep accurate and complete records pertaining to his medicinal marijuana treatment, in violation of N.J.A.C. 13:35-7A.5(f). Furthermore, Respondent's failure to abide by the Act and regulations promulgated thereunder demonstrates poor medical judgment that places the public's health, safety, and welfare in clear and imminent danger and warrants the temporary suspension of his license to practice medicine, pursuant to N.J.S.A. 45:1-22.

**COUNT V**  
**(Patient D.S.-N.)**

96. The General Allegations and those of Counts I through IV are repeated and alleged as if set forth at length herein.

97. D.S.-N., suffering from neck pain caused by a herniated disc, as well as PTSD and anxiety, sought out Respondent's services for an alternative to treatment with pain medication. (D.S.-N.'s Sworn Statement, attached as Exhibit U to the Antenucci Cert. at p. 1).

98. On April 1, 2017, D.S.-N. had her first, and only, appointment with Respondent at his Renaissance Woodbridge location. Ibid. Upon arrival, a hotel employee directed D.S.-N. to an upstairs conference room. Ibid. There were at least 12 other people in the conference room. Id. at pp. 1-2. Respondent instructed D.S.-N. to sit at a table with the other patients. Id. at p. 2.

99. Respondent later walked over to D.S.-N., introduced himself, and asked for her documents. Ibid. Upon presentation of a letter from her psychiatrist and proof of identification, Respondent approved D.S.-N. for medicinal marijuana. Id. at pp. 2, 4. Respondent did not conduct any physical examination on D.S.-N., nor did he obtain any information regarding her past or present medical history, to include but not be limited to, the severity of her symptoms, as well as prior or present medications, treatments, and reactions to conventional medical therapies. Ibid.

100. Notwithstanding, Respondent then directed D.S.-N. to a female employee, who scanned her paperwork and began registering her in the MMP. Id. at pp. 2-3. As she was being registered, D.S.-N. mentioned to the employee that she had overheard another patient sitting across from her discussing his herniated disc pain, and her concern that this condition was not listed as a qualifying condition on the DOH's website.<sup>12</sup> Id. at p. 4. The employee told D.S.-N. that "chronic pain can fall under 'spasticity disorder'." Ibid.

101. The employee provided D.S.-N. with a code to enter when she received an email, but did not explain who would be sending the email. Id. at p. 3. Nor did the employee, or Respondent, register D.S.-N. with an ATC, advise her of the dosage she would be given or provide any instructions on how to use or not use the product. Id. at pp. 3-4.

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<sup>12</sup> D.S.-N.'s understanding is accurate insofar as chronic pain relating to musculoskeletal disorders or of a visceral origin was not a qualifying illness or condition permitting a patient to enroll in the MMP in 2017. See N.J.A.C. 13:35-7A.2.

102. D.S.-N. paid \$375 and received her Attending Physician Statement via email that same day. Id. at p. 3. (See also Certified Treatment Documents provided to the State by D.S.-N., at Bates Stamp 192, attached as Exhibit V to the Antenucci Cert.).

103. D.S.-N. was authorized to receive a 90-day supply of medicinal marijuana, at 1.25 ounces per month, for her diagnosis of PTSD. (Antenucci Cert., Exhibit U at p. 4. See also Exhibit V at Bates Stamp 194).

104. By submitting the Attending Physician Statement to the DOH on behalf of D.S.-N., Respondent accepted the included "Physician Certification" which states in part that he has "a bona fide and ongoing relationship with this patient as defined by N.J.A.C. 8:64 et seq. and as such I have completed a comprehensive history and physical on this patient and have documented an assessment and treatment plan." Ibid. The certification further states that the Respondent "will continue to follow this patient at minimum every three months and reassess the patient's debilitating medical condition." Ibid.

105. Moreover, pursuant to N.J.A.C. 8:64-2.5, Respondent must certify that he "has an ongoing responsibility for the assessment, care and treatment of the patient's debilitating medical condition" and state that "the patient's diagnosis qualifies as a debilitating medical condition that authorizes the patient to use medicinal marijuana pursuant to N.J.S.A. 24:61-1 et seq."

106. During the entirety of D.S.-N.'s treatment, neither Respondent, nor any member of his staff, physically examined, assessed, evaluated, or discussed with her the medical diagnosis qualifying her for medicinal marijuana, her past or current medical history, her past or present medical treatment, or any medications, past or present, legal or illegal, prescribed or ingested. (Antenucci Cert., Exhibits B at 59:9 to 62:7. See also Exhibits I, U, and V). Additionally, prior to authorizing medicinal marijuana for PTSD resistant to conventional

medical therapies, Respondent failed to review any medical records, aside from one psychiatrist's letter and D.S.-N.'s proof of identification. Ibid. Nor did Respondent request any information regarding the severity of D.S.-N.'s PTSD symptoms and her reaction and response to conventional medical therapies, or develop any treatment plan to address this medical condition. Ibid.

107. Respondent, as a physician authorizing medicinal marijuana for patient D.S.-N., further did not keep accurate and complete records for her treatment, including, among other items, medical history and physical examination notes; identification of her symptoms, their severity and her response to conventional medical therapies; and treatment plan objectives, as required by N.J.A.C. 13:35-7A.5(f). (Respondent's Treatment Record for D.S.-N., attached as Exhibit I to the Antenucci Cert. See also Antenucci Cert., Exhibit B at 58:11 to 59:8).

108. Respondent's actions described herein constitute fraud, deception or dishonesty, in violation of N.J.S.A. 45:1-21(b); gross negligence which endangered the life, health, welfare, safety or property of a person, in violation of N.J.S.A. 45:1-21(c); repeated acts of negligence, in violation of N.J.S.A. 45:1-21(d); professional or occupational misconduct, in violation of N.J.S.A. 45:1-21(e); and a failure to comply with the provisions of an act or regulation administered by the Board, in violation of N.J.S.A. 45:1-21(h), by, more specifically, providing a certification and written instructions to a patient for the medical use of marijuana with whom he does not maintain a bona fide physician-patient relationship, in violation of N.J.A.C. 13:35-7A.2, failing to perform a comprehensive medical history and physical examination of the patient to determine if that patient suffers from a debilitating medical condition qualifying said patient to receive medicinal marijuana, in violation of N.J.S.A. 13:35-7A.4, and failing to keep accurate and complete records pertaining to his medicinal marijuana treatment, in violation of N.J.A.C.

13:35-7A.5(f). Furthermore, Respondent's failure to abide by the Act and regulations promulgated thereunder demonstrates poor medical judgment that places the public's health, safety, and welfare in clear and imminent danger and warrants the temporary suspension of his license to practice medicine, pursuant to N.J.S.A. 45:1-22.

**COUNT VI**  
**(Patient A.B.)**

109. The General Allegations and those of Counts I through V are repeated and re-alleged as if set forth at length herein.

110. On November 24, 2015, A.B. first saw Respondent to obtain medicinal marijuana treatment for a herniated disc, nerve damage and muscle spasms resulting from a motor vehicle accident, and endometriosis diagnosed by her obstetrician/gynecologist ("OB/GYN"). (A.B.'s Sworn Statement, attached as Exhibit W to the Antenucci Cert. at p. 1. See also Respondent's Treatment Record for A.B., attached as Exhibit J to the Antenucci Cert.).

111. At that initial appointment, Respondent met with A.B. in a cafeteria of an office building in Neptune, New Jersey. (Antenucci Cert., Exhibit W at p. 1). Respondent explained to A.B. that he was not a "normal doctor" and wished to make people feel more comfortable by consulting with them in locations unlike a typical doctor's office. Ibid.

112. A.B. presented documents to Respondent, including an MRI, EEG report and a letter from her OB/GYN. After asking questions only about her diagnosis and why she was seeking medicinal marijuana, Respondent concluded, without any physical examination, that A.B. qualified for the MMP due to "muscular/skeletal spasticity". Id. at pp. 1-2.

113. Respondent's staff then registered A.B. in the program with an authorization for a 90-day supply of medicinal marijuana. Id. at p. 2.



114. Documents labeled “Patient Intake” and “First Visit Summary” in Respondent’s treatment record for A.B., exclude any indication that he completed a physical examination or took a detailed medical history supporting A.B.’s diagnosis of intractable skeletal muscular spasticity, and her resistance or intolerance to, conventional medical therapy for this condition, as required by the Act. (Antenucci Cert., Exhibit J at Bates Stamp 084-086). Also absent from the record is an Attending Physician Statement, and any detailed progress notes documenting A.B.’s reaction to medicinal marijuana treatment at her follow up appointments. Ibid.

115. In or about April 2016, A.B. visited Respondent at the same office building in Neptune, New Jersey for her 90-day renewal appointment. Ibid. Upon arrival, she noticed that Respondent was “scattered all over the place” and asked if she could help him. Ibid. Respondent agreed, and requested that she take photographs of the individuals present on her smartphone. Ibid.

116. On that same date, after all other patients were seen, A.B. met with Respondent in person for her 90-day renewal consultation. Ibid. Respondent asked A.B. to complete a “90-day intake” form and proceeded to provide her with all of the answers necessary to continue receiving medicinal marijuana. Ibid.

117. On this same date, A.B., who had been searching for a job, offered her services to Respondent, and he agreed to employ her. Ibid.

118. On April 20, 2016, A.B. began her employment with Respondent at the Hilton in East Rutherford, New Jersey at 1 Meadowlands Plaza. Id. at pp. 2-3. From then on, she accompanied Respondent, on Tuesdays and Thursdays, to locations in East Brunswick, Red Bank, and Eatontown. Id. at p. 3. A.B.’s responsibilities included scheduling patient appointments, providing patients with intake forms, scanning and uploading patient documents,

registering patients with the DOH, and generating Attending Physician Statements. Id. at pp. 3-5.

119. A.B. also worked from home up to seven days a week, which included corresponding with patients by email and telephone, and uploading patient documents to an online application called “Dropbox”, which she occasionally completed through her personal computer. Ibid. As his employee, Respondent paid A.B. \$500 weekly by personal check.<sup>13</sup> Id. at p. 4.

120. After witnessing Respondent openly consulting with patients regarding their medical care in hotel conference rooms, A.B. cautioned Respondent several times to conduct his patient discussions in private, outside of the presence of others. Ibid.

121. By submitting the Attending Physician Statement to the DOH on behalf of A.B., Respondent accepted the included “Physician Certification” which states in part that he has “a bona fide and ongoing relationship with this patient as defined by N.J.A.C. 8:64 et seq. and as such I have completed a comprehensive history and physical on this patient and have documented an assessment and treatment plan.” (Antenucci Cert., Exhibit Y).<sup>14</sup> The certification further states that the Respondent “will continue to follow this patient at minimum every three months and reassess the patient’s debilitating medical condition.”

122. Moreover, pursuant to N.J.A.C. 8:64-2.5, Respondent must certify that he “has an ongoing responsibility for the assessment, care and treatment of the patient’s debilitating medical condition” and state that “the patient’s diagnosis qualifies as a debilitating medical condition that authorizes the patient to use medicinal marijuana pursuant to N.J.S.A. 24:6I-1 et seq.”

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<sup>13</sup> A.B. further identified “Michael Gambale” as an employee of Respondent, beginning in or about September 2016, who Respondent allegedly agreed to pay under the name of “Michael Williams” so that he would not jeopardize his receipt of disability benefits. Id. at p. 4.

<sup>14</sup> Although a copy of the Attending Physician’s Statement is absent from Respondent’s treatment record for A.B., his submission of it to the DOH is a prerequisite for the patient’s receipt of medicinal marijuana through the MMP.

123. During the entirety of A.B.'s treatment, neither Respondent, nor any member of his staff, physically examined, assessed, evaluated, or discussed with her the medical diagnosis qualifying her for medicinal marijuana, her past or current medical history, her past or present medical treatment, or any medications, past or present, legal or illegal, prescribed or ingested. (Antenucci Cert., Exhibits J and W). Additionally, Respondent neither reviewed any medical records, aside from an MRI, EEG report, and an OB/GYN's letter, nor did he request any information regarding A.B.'s reaction and response to conventional medical therapies, prior to authorizing medicinal marijuana. Lastly, Respondent failed to reassess A.B.'s claimed debilitating medical condition every three months or develop a treatment plan to address this medical condition.

124. Respondent, as a physician authorizing medicinal marijuana for patient A.B., further did not keep accurate and complete records for her treatment, including, among other items, medical history and physical examination notes; identification of her symptoms, their severity and her response to conventional medical therapies; and treatment plan objectives, as required by N.J.A.C. 13:35-7A.5(f). (Antenucci Cert., Exhibit B at 75:19 to 75:22; Exhibit J).

125. Respondent's actions described herein constitute fraud, deception or dishonesty, in violation of N.J.S.A. 45:1-21(b); gross negligence which endangered the life, health, welfare, safety or property of a person, in violation of N.J.S.A. 45:1-21(c); repeated acts of negligence, in violation of N.J.S.A. 45:1-21(d); professional or occupational misconduct, in violation of N.J.S.A. 45:1-21(e); and a failure to comply with the provisions of an act or regulation administered by the Board, in violation of N.J.S.A. 45:1-21(h), by, more specifically, providing a certification and written instructions to a patient for the medical use of marijuana with whom he does not maintain a bona fide physician-patient relationship, in violation of N.J.A.C. 13:35-7A.2,

failing to perform a comprehensive medical history and physical examination of the patient to determine if that patient suffers from a debilitating medical condition qualifying said patient to receive medicinal marijuana, in violation of N.J.A.C. 13:35-7A.4, failing to assess the patient's qualifying condition at least every three months, in violation of N.J.A.C. 13:35-7A.5(c), and failing to keep accurate and complete records pertaining to his medicinal marijuana treatment, in violation of N.J.A.C. 13:35-7A.5(f). Furthermore, Respondent's failure to abide by the Act and regulations promulgated thereunder demonstrates poor medical judgment that places the public's health, safety, and welfare in clear and imminent danger and warrants temporary suspension of his license to practice medicine, pursuant to N.J.S.A. 45:1-22.

**COUNT VII**  
**(Patient K.F.)**

126. The General Allegations and those of Counts I through VI are repeated and re-alleged as if set forth at length herein.

127. Respondent provided K.F. medicinal marijuana treatment from February 18, 2016 through September 7, 2017. (Respondent's Treatment Record for K.F., attached as Exhibit K to the Antenucci Cert.).

128. K.F.'s treatment record consists of 23 pages, nine of which are photographs of K.F., proof of her identification (e.g., her insurance card, driver's license, and a bank statement), and copies of a letter dated January 18, 2017 written by Respondent on K.F.'s behalf attesting to her enrollment in the MMP. (Antenucci Cert., Exhibit K at Bates Stamp 95-98, 102-103, 107-108, and 113). Eleven pages, less than half the record, consist of a single Attending Physician Statement and NJGreenMD intake documents, as well as single-page "re-evaluation" questionnaires dated March 31, 2017, June 15, 2017 and September 7, 2017. (Antenucci Cert., Exhibit K at 099-101, 104-106, 111-112, and 115-117).

129. On February 18, 2016, following her first consultation, Respondent qualified K.F. for medicinal marijuana with diagnoses of inflammatory bowel disease (“IBD”). Ibid. (See also Antenucci Cert., Exhibit B at 70:9 to 70:23). However, the record contains no evidence of any physical examination, or comprehensive medical history, supporting this medical conclusion. Ibid.

130. Respondent relied on a one page report from K.F.’s gastroenterologist, Sandhya Shukla, M.D., dated January 15, 2016, setting forth that K.F. had been under her care for approximately three days, and that, while Dr. Shukla was “aware that this patient has Irritable Bowel Syndrome (“IBS”) . . . We have no records or relationships prior to [January 12, 2016] for her.” (Antenucci Cert., Exhibit K at Bates Stamp 109-110). IBS is not a qualifying illness or condition permitting a patient to enroll in the MMP. See N.J.A.C. 13:35-7A.2.

131. Although Respondent later diagnosed K.F. with PTSD, her treatment record lacks any documentation explaining her resistance or intolerance to conventional therapy for PTSD, as required by the Act. K.F.’s diagnosis of PTSD is referenced in a single letter by a psychiatric nurse practitioner, dated January 18, 2017, indicating only that K.F. had been receiving care at “Advanced Behavioral Care Services” in Lakewood, New Jersey. (Antenucci Cert., Exhibit K at Bates Stamp 114).

132. By submitting the Attending Physician Statement to the DOH on behalf of K.F., Respondent accepted the included “Physician Certification” which states in part that he has “a bona fide and ongoing relationship with this patient as defined by N.J.A.C. 8:64 et seq. and as such I have completed a comprehensive history and physical on this patient and have documented an assessment and treatment plan.” (Antenucci Cert., Exhibit K at Bates Stamp 111-112). The certification further states that the Respondent “will continue to follow this

patient at minimum every three months and reassess the patient's debilitating medical condition." Ibid.

133. Moreover, pursuant to N.J.A.C. 8:64-2.5, Respondent must certify that he "has an ongoing responsibility for the assessment, care and treatment of the patient's debilitating medical condition" and state that "the patient's diagnosis qualifies as a debilitating medical condition that authorizes the patient to use medicinal marijuana pursuant to N.J.S.A. 24:6I-1 et seq."

134. During the entirety of K.F.'s treatment, neither Respondent, nor any member of his staff, physically examined, assessed, evaluated, or discussed with her the medical diagnosis qualifying her for medicinal marijuana, her past or current medical history, her past or present medical treatment, or any medications, past or present, legal or illegal, prescribed or ingested. (Antenucci Cert., Exhibit B at 69:18 to 72:8; Exhibit K). Additionally, Respondent neither reviewed any medical records, aside from a two letters from prior health care providers, nor did he request any information regarding the patient's reaction and response to conventional medical therapies, prior to authorizing medicinal marijuana. Lastly, Respondent failed to reassess K.F.'s claimed debilitating medical conditions every three months or develop a treatment plan to address those medical conditions.

135. Respondent, as a physician authorizing medicinal marijuana for patient K.F., further did not keep accurate and complete records for her treatment, including, among other items, medical history and physical examination notes; identification of her symptoms, their severity and her response to conventional medical therapies; and treatment plan objectives, as required by N.J.A.C. 13:35-7A.5(f). (Antenucci Cert., Exhibit B at 69:18 to 70:8; Exhibit K).

136. Respondent's actions described herein constitute fraud, deception or dishonesty, in violation of N.J.S.A. 45:1-21(b); gross negligence which endangered the life, health, welfare,

safety or property of a person, in violation of N.J.S.A. 45:1-21(c); repeated acts of negligence, in violation of N.J.S.A. 45:1-21(d); professional or occupational misconduct, in violation of N.J.S.A. 45:1-21(e); and a failure to comply with the provisions of an act or regulation administered by the Board, in violation of N.J.S.A. 45:1-21(h), by, more specifically, providing a certification and written instructions for a patient for the medical use of marijuana with whom he does not maintain a bona fide physician-patient relationship, in violation of N.J.A.C. 13:35-7A.2, failing to perform a comprehensive medical history and physical examination of the patient to determine if that patient suffers from a debilitating medical condition qualifying said patient to receive medicinal marijuana, in violation of N.J.A.C. 13:35-7A.4, failing to assess the patient's qualifying condition at least every three months, in violation of N.J.A.C. 13:35-7A.5(c), and failing to keep accurate and complete records pertaining to his medicinal marijuana treatment, in violation of N.J.A.C. 13:35-7A.5(f). Furthermore, Respondent's failure to abide by the Act and regulations promulgated thereunder demonstrates poor medical judgment that places the public's health, safety, and welfare in clear and imminent danger and warrants temporary suspension of his license to practice medicine, pursuant to N.J.S.A. 45:1-22.

**COUNT VIII**  
**(False Statements)**

137. The General Allegations and Counts I through VII are repeated and re-alleged as if set forth at length herein.

138. On June 6, 2018, Respondent appeared, and agreed to provide testimony under oath, before a Committee of the Board for an inquiry to establish facts concerning allegations surrounding his MMP practice. (Antenucci Cert., Exhibit B at 7:20 to 8:13).

139. When discussing the structure of his practice and his employees, Respondent denied that he had ever employed an individual by the name of “Michael Gambale” or “Michael Williams”. Id. at 26:6 to 26:19.

140. In his September 12, 2017 response to a question in the State’s Subpoena and Demand asking him to identify “all individuals employed” by him or “NJGreenMD from January 1, 2015 through present[,]” Respondent excluded, from that list, any employee by the name of “Michael”, let alone Michael Gambale or Michael Williams. (Antenucci Cert., Exhibit A at Bates Stamp 003).

141. Michael Gambale had been employed by Respondent, beginning in September 2016. (Antenucci Cert., Exhibit W at p. 4). Respondent and Mr. Gambale agreed that Respondent would pay Mr. Gambale’s wages by check under the name “Michael Williams”, so as to not jeopardize his receipt of disability benefits. Ibid.

142. On April 6, 2017, Investigator Amisson encountered an employee of Respondent identified only as “Michael” in her covert capacity at his Courtyard by Marriott location in Red Bank, New Jersey. (Antenucci Cert., Exhibit Q at ¶3-¶11). Michael requested Investigator Amisson’s identity, required documents, and provided her with a tablet computer to complete Respondent’s registration process. Id. at ¶11.

143. On May 4, 2017, Investigator Ollendorf encountered an employee of Respondent identified as “Michael” in her covert capacity at his Renaissance Woodbridge location in Iselin, New Jersey. (Antenucci Cert., Exhibit R at ¶6-¶9). Michael approached Investigator Ollendorf requesting her required documents, which she provided to him. Id. at ¶10-¶12. Michael reviewed the documentation and later consulted with Respondent over the paperwork. Id. at ¶13.



144. On August 2, 2017, Investigator Butter encountered an employee of Respondent identified as “Michael” when serving the State’s Subpoena and Demand. (Report of Service & Document Procurement, attached as Exhibit X to the Antenucci Cert.). Investigator Butter served the documents on Respondent, who then called out to a male employee identified as “Michael”. Ibid. Respondent asked Michael to provide the documents to another individual named “Carin”. Ibid.

145. Respondent testified under oath in a manner plainly contrary to the observations of a former employee and three State investigators, during his June 6, 2018 appearance before the Board’s Committee.

146. Moreover, Respondent’s September 12, 2017 response to the State’s Subpoena and Demand includes a sworn certification signed by Respondent affirming that the information being furnished to the State is true. (Antenucci Cert., Exhibit A at Bates Stamp 005). Above Respondent’s handwritten signature is a disclaimer, which states “I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment.” Ibid.

147. Respondent’s actions described herein constitute the use or employment of dishonesty, fraud, deception, or misrepresentation in violation of N.J.S.A. 45:1-21(b); professional or occupational misconduct in violation of N.J.S.A. 45:1-21(e); and the failure to be of good moral character as required pursuant to N.J.S.A. 45:9-6.

WHEREFORE, Complainant demands the entry of an Order:

1. Temporarily suspending Respondent’s license to practice medicine and surgery in the State of New Jersey pending the disposition of a plenary hearing on this Verified Complaint;
2. Temporarily disqualifying Respondent from the MMP;

3. Suspending or revoking Respondent's license to practice medicine and surgery in the State of New Jersey pursuant to N.J.S.A. 45:1-21, and in so doing disqualifying Respondent from the MMP, following a plenary hearing;

4. Assessing civil penalties against Respondent for each and every separate unlawful act as set forth in the individual counts above, pursuant to N.J.S.A. 45:1-21;

5. Requiring Respondent to pay costs, including investigative costs, attorney's fees and costs, expert and fact witness fees and costs, costs of trial, and transcript costs, pursuant to N.J.S.A. 45:1-25; and

6. Ordering such other and further relief as the Board shall deem just and appropriate under the circumstances.

GURBIR S. GREWAL  
ATTORNEY GENERAL OF NEW JERSEY

By: 

Michael Antenucci  
Deputy Attorney General

Dated: December 20, 2018