

## February 2019 Public Board Actions List

Georgia Composite Medical Board  
Attn: **Ms. Latisha Bias**, Public Records Unit  
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Atlanta, Georgia 30303-3465  
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The Board issued **4** public orders in **February 2019**. To view each Board order, click on the licensee's name below.

**1. Aly Abbas Ahmed, M.D.**

39026  
Physician  
Order Extending Time for and Scheduling Review

**2. Aly Ahmed, M.D.**

39026  
Physician  
Initial Decision

**3. Mark Tanner, M.D.**

25677  
Physician  
Initial Decision

**4. Peter J. Ulbrich, M.D.**

28696  
Physician  
Final Order

FEB 18 2019

DOCKET NUMBER:  
10190043

BEFORE THE GEORGIA COMPOSITE MEDICAL BOARD

STATE OF GEORGIA

IN THE MATTER OF:

ALY ABBAS AHMED, M.D.,  
License No. 039026  
Respondent.

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DOCKET NO. 10190043

ORDER EXTENDING TIME FOR AND SCHEDULING REVIEW

COMES NOW, the Georgia Composite Medical Board ("Board") and hereby enters an Order extending the time for and scheduling a review in the above-referenced matter. An Initial Decision in this matter was docketed with the Office of State Administrative Hearings ("OSAH") on January 17, 2019 and served upon the parties on January 17, 2019. The Board received Respondent's request for a review hearing on or about February 14, 2019. The request for review was filed within the thirty (30) days to request a review as provided by O.C.G.A. §50-13-17(a), but not in time to hold the review within the first thirty (30) day period that the Board is permitted to modify an initial decision and hold a review under O.C.G.A. §50-13-41(e)(1).

O.C.G.A. §50-13-41(e)(1) provides that the Board "shall have a period of 30 days" from the docketing of an initial decision to reject or modify that decision, and that if the Board fails to reject or modify the decision within 30 days, the initial decision stands affirmed by operation of law. However, O.C.G.A. §50-13-41(e)(2) provides that the Board may enter an order extending the deadline when "unusual and compelling circumstances render it impracticable" for the Board to complete its review within 30 days of the docketing of the initial decision. In this case, such unusual and compelling circumstances make it necessary for the Board to extend the time in which it has to review this matter and render a final decision.

The Board, which is composed of members who live all over the State of Georgia, has scheduled monthly meetings primarily in Atlanta, Georgia. The Board held a meeting on February 7, 2019, at the Georgia Composite Medical Board office in Atlanta, Georgia, which the Board was not in receipt of the

Application for Review, and prior to the Board receiving the record of the proceedings from OSAH. The next Board meeting is scheduled to be held on March 7, 2019. In light of the Board's existing schedule and the filing date of Respondent's request for review, the Board could not have conducted and completed its review of this matter within the initial 30-day period.

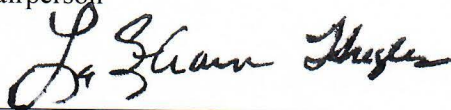
Accordingly, the Board hereby enters this Order extending the time for review due to the impossibility of conducting the review within the first thirty (30) day period. Consistent with the intent of O.C.G.A. §50-13-41(e) to have a review within ninety (90) days after the docketing of the Initial Decision, and in order to afford the Respondent the right to a review of the Initial Decision, the Board hereby extends the time for review until March 7, 2019 and hereby schedules the review of the Initial Decision for **Thursday, March 7, 2019, at 2:00 p.m., at the Georgia Composite Medical Board, 2 Peachtree Street, NW, 5<sup>th</sup> Floor, Atlanta, GA 30303.**

The review will be held pursuant to the provisions of the Georgia Administrative Procedure Act, O.C.G.A. Ch. 50-13, and the Rules of the Georgia Composite Medical Board, Chapter 360-26. The Board reserves the right to take the matter under advisement and continue the deliberations until a date certain if deemed necessary due to the Board's agenda or the complexity of the issues.

This 16<sup>th</sup> day of February, 2019.

**GEORGIA COMPOSITE MEDICAL BOARD**

J. JEFFREY MARSHALL, M.D.  
Chairperson



LASHARN HUGHES  
Executive Director

(BOARD SEAL)



CERTIFICATE OF SERVICE

This is to certify that I have on this day served the following parties in the foregoing matter with a copy of the "Order Extending Time For and Scheduling Review" by electronic mail and by US mail, postage prepaid addressed as follows:

Frances E. Cullen, Esq.  
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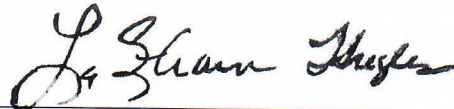
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This 18<sup>th</sup> day of February, 2019.



LaSharn Hughes  
Executive Director  
Georgia Composite Medical Board  
2 Peachtree Street, NW, 6<sup>th</sup> Floor  
Atlanta, GA 30303

BEFORE THE OFFICE OF STATE ADMINISTRATIVE HEARINGS  
STATE OF GEORGIA

GEORGIA COMPOSITE  
MEDICAL BOARD,

Petitioner;

  
FILED  
OSAH

Docket No.: 1838938  
1838938-OSAH-GCMB-PHY-75-Schroer

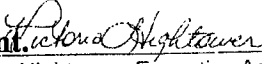
v.

JAN 17 2019

Agency Reference No.: 20161450

ALY AHMED, M.D.,

Respondent.

  
Victoria Hightower, Executive Assistant

INITIAL DECISION

The Georgia Composite Medical Board (“Petitioner” or “Board”) initiated this matter for the purpose of sanctioning Respondent’s medical license.<sup>1</sup> Specifically, the Board seeks the revocation of Respondent’s license or, at a minimum, a three-year suspension of Respondent’s license until such time that the Respondent complies with the required terms and conditions. An evidentiary hearing took place on October 24, 25, 29, and 30, 2018, before the undersigned administrative law judge. The Board was represented by Wylencia Hood Monroe, Assistant Attorney General. Respondent was represented by Frances E. Cullen, Esq., Susan Levy, Esq., and Kevin S. Kovalchik, Esq. Following the resolution of a post-hearing motion, the record in this matter closed on January 2, 2019. Ga. Comp. R. & Regs. 616-1-2-.26; 616-1-2-.16.

After careful consideration of the evidence of record in this case, and for the reasons stated below, the undersigned **RECOMMENDS** that Respondent’s license to practice medicine in Georgia be **SUSPENDED** for three years under the conditions set forth in Section IV of this

<sup>1</sup> The Board’s Matters Asserted and Statutes and Rules Involved (filed April 25, 2018), Amended Statement of Matters Asserted (filed July 16, 2018), and Second Amended Matters Asserted and Statutes and Rules Involved (filed July 23, 2018) include allegations regarding two patients, K.C. and M.B. At the hearing, the Board withdrew all allegations related to K.C. (Transcript (hereinafter, “T.”) at pp. 17, 73, 399.) Therefore, the undersigned has not made any findings of fact or conclusions of law regarding K.C. To protect the privacy of these patients, the Court refers to them using their initials.

decision.<sup>2</sup>

## I. FINDINGS OF FACT

1.

Respondent is a sixty-year-old psychiatrist who holds a license to practice as a physician in the State of Georgia, and he held such license at all times relevant to the issues presented for hearing. Respondent's license was originally issued on October 6, 1994, and is scheduled to expire on October 31, 2019. His license currently is active. (Matters Asserted ¶¶ 1-2; Response to Matters Asserted ¶¶ 1-2; Ex. R-3(g), Ex. P-5).<sup>3</sup>

2.

Previously, in 1999, Respondent's license was summarily suspended, and the suspension was later lifted with terms and conditions, including probation. *In the Matter of Aly Abbas Ahmed, M.D., Respondent*, Order of Summary Suspension, Docket No. 99-36 (Before the Composite State Board of Medical Examiners, Jan. 20, 1999); *In the Matter of Aly Abba Ahmed, M.D., Respondent*, Docket No. 99-36, Public Consent Order Reinstating License (Before the Composite State Board of Medical Examiners, June 18, 1999). In January 2003, a Consent Order was entered, finding that Respondent had violated his probation, and Respondent agreed to pay a \$5,000.00 fine. *In the Matter of Aly Abbas Ahmed, M.D., Respondent*, Public Consent

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<sup>2</sup> On October 11, 2018, Respondent filed Respondent's Motion Challenging the Constitutionality of Ga. Comp. R. & Regs. 360-3-.02(8). The Board filed a response on October 22, 2018. The parties recognize that this Court is not authorized to resolve constitutional challenges; therefore, as discussed prior to the hearing, the Court will not rule on the motion, and the motion and response will stand in the record to be preserved for appeal. See Ga. Comp. R. & Regs. 616-1-2-.22(3). (Transcript at p. 7.)

<sup>3</sup> Petitioner filed its Matters Asserted and Statutes and Rules Involved on April 25, 2018. Respondent filed a Response to the same on May 22, 2018. On July 16, 2018, Petitioner filed an Amended Matters Asserted and Statutes and Rules Involved to make changes to certain paragraphs within the original and to add new paragraphs. On July 23, 2018, Petitioner moved for leave to file a Second Amended Matters Asserted and Statutes and Rules Involved, seeking to include additional allegations. On July 24, 2018, Respondent filed a Response/Answer to Aly Abbas Ahmed, M.D. to the Georgia Composite Medical Board's Second and Third Matters Asserted and Statutes and Rules Involved. On August 3, 2018, the undersigned issued an Order Granting Board's Motion to File Second Amended Matters Asserted. Petitioner at no time filed a single document containing all of the current, relevant allegations. For ease of discussion herein, the Court therefore refers collectively to all of these documents filed by Petitioner as the "Matters Asserted" and the Respondent's responses thereto as the "Response to Matters Asserted."

Order, Docket No. 99-36 (Before the Composite Board of State Medical Examiners, Jan. 10, 2003.) In August 2004, Respondent's probation was terminated. *In the Matter of Aly Abbas Ahmed, M.D., Respondent*, Public Consent Order, Docket No. 99-36 (Before the Composite Board of State Medical Examiners, Aug. 6, 2004). (Matters Asserted ¶ 3; Response to Matters Asserted ¶ 3; Ex. P-1, P-2, P-3.)<sup>4</sup>

3.

In early 2016, patient M.B. filed a complaint against Respondent with the Board. Board Investigator Jonathan McGehee received the case file on March 2, 2016. (Testimony of Jonathan McGehee, T. 82.)

4.

M.B. was born in January 1992. The Court finds by a preponderance of the evidence that she began treatment with Respondent on August 31, 2012, when she was twenty years old. She saw Respondent for subsequent appointments on September 28, 2012; October 26, 2012; November 16, 2012; December 14, 2012; January 11, 2013; and February 22, 2013. On February 22, 2013, Respondent referred M.B. to another psychiatrist. (Testimony of M.B., T. 112, 118; Ex. R-1; Ex. ALJ-1.)<sup>5</sup>

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<sup>4</sup> The misconduct at issue in this previous suspension and probation is different from and unrelated to the conduct at issue in the instant case. The summary suspension of 1999 involved possession of and/or use of fraudulently obtained mood altering substances. (Ex. P-1.) Dr. Peter Graham testified that the issue was inappropriate prescriptions and self-medicating. (Testimony of Dr. Graham, T. 269-70.)

<sup>5</sup> At the hearing, M.B. testified that her treatment with Respondent began in early 2011, when she was nineteen. (T. 101) Regarding this timeline, she further testified, "It was so long ago. I'm really not sure," but she reasoned that since she moved to the area in 2011, "that's how I'm remembering it in my head." (T. 109, 127, 130-31.) Respondent's position was that he treated M.B. approximately seven times between August of 2012 and February 22, 2013. (Response to Statement of Matters Asserted ¶ 8.)

After the hearing, the parties filed letter briefs and Respondent submitted a Motion to Supplement the Record or, in the Alternative, Second Renewed Motion for Exculpatory Information and Brief in Support, which the Board opposed. After hearing oral arguments on December 13, 2018, the undersigned performed a limited *in camera* review of the Board's investigative file for the purpose of determining whether it contained any exculpatory information concerning the dates of treatment. The Court noted that the treatment dates, as found in M.B.'s medical

5.

M.B. testified that she spoke about her financial problems during her psychiatry sessions with Respondent. (Testimony of M.B., T. 100.)

6.

Respondent and M.B. eventually began a personal and, ultimately, sexual relationship. (Stipulation of Facts ¶ 3; Testimony of M.B., T. 99-101.) There is conflicting information in the record as to exactly how the relationship began. Respondent's position is that he and M.B. ran into each other coincidentally at a bookstore. (Response to Matters Asserted ¶ 8.) M.B. testified that after she told Respondent about her financial problems during her psychiatry sessions, he asked her to meet him at Books A Million, and stated that if she did, he would give her \$1,000. (Testimony of M.B., T. 100.)

7.

On or about August 16, 2014, Respondent and M.B. together signed an application to rent an apartment. (Ex. P-6.) An apartment rental contract for the same address includes the names of Respondent and M.B. as residents and provides a lease term beginning September 10, 2014,

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records, were as follows: August 31, 2012; September 28, 2012; October 26, 2012; November 16, 2012; December 14, 2012; January 11, 2013; and February 22, 2013. The undersigned then issued an Order on December 21, 2018 (subject to the Board's objection), for production of the medical records to Respondent, who no longer had access to the records after having moved his practice. In its subsequent Order Overruling Board's Objection on January 2, 2019, the Court considered that the Board's duty to disclose arguably exculpable material from the investigative file was both a statutory requirement under O.C.G.A. § 50-13-18 and a constitutional one. See Wills v. Composite State Bd. of Med. Exam'rs, 259 Ga. 549, 553 (1983). Because the Court found that the timing of the psychiatrist-patient relationship was material to the issue of the appropriate sanction, as discussed *supra*, the Court overruled the Board's objection.

The trier of fact determines the credibility of witnesses and the weight to be given their testimony; accordingly, the trier of fact is not obligated to accept a witness's testimony (even if it is uncontradicted), and it may accept or reject all or part of the testimony. O.C.G.A. § 24-6-620; Tate v. State, 264 Ga. 53, 56 (1994) (citing State v. Betsill, 144 Ga. App. 267 (1977); Scapa Dryers Fabrics v. Murphy, 228 Ga. App. 48, 50 (1997); Wilson v. Prof'l Ins. Corp., 151 Ga. App. 712, 714 (1979)). The Court does not suggest that M.B. was intentionally untruthful or misleading in her testimony regarding the dates of her treatment with Respondent. Rather, the Court believes that M.B. simply was mistaken when she testified that her treatment began in 2011 as opposed to 2012.



and ending March 31, 2015. (Ex. P-7; Stipulation of Facts No. 5.) M.B. stated that Respondent did not live with her, but he put his name on the lease because she was not earning enough money at the time to rent the apartment on her own. (Testimony of M.B., T. 103.)

8.

At some point in the course of their relationship, after he had referred M.B. to another psychiatrist, Respondent purchased a car for M.B.'s use and provided monetary assistance to M.B. (Stipulation of Facts No. 5.) Specifically, M.B. stated that Respondent helped her with bills, including rent and electricity. (Testimony of M.B., T. 103.)

9.

M.B. thought Respondent was "the one" because "I felt like I knew him better than anyone. I feel like he knew me. I just felt comfortable, felt safe." She was jealous when Respondent would go home to his live-in girlfriend. M.B. wanted to have Respondent to herself. M.B. stated that one evening she wanted Respondent to stay the night with her at her apartment, and when instead Respondent left to go home, M.B. went to Respondent's home at 11:00 p.m. and knocked on the door and windows. M.B. stated that Respondent's girlfriend pointed a pellet gun at her. The police were summoned. M.B. testified that she was angry because she believed Respondent was choosing his live-in girlfriend over her. (Testimony of M.B., T. 101-105, 110-111, 128.)

10.

M.B. stated that after the "police incident," she and Respondent broke up. At some point afterwards, she and Respondent communicated via text message regarding the complaint she had filed with the Board. She testified that she submitted the complaint when she was angry. M.B. further testified that in a text she told Respondent she would lie to protect him, and "[i]f there is

anything I can do to help, I really want to.” She testified that in response to Respondent’s texted question “Why’d you lie about me so viciously?” she texted, “Because I was angry, and I’m sorry.” (Testimony of M.B., T. 122, 126, 128.)

11.

Respondent acknowledges that he did not maintain proper boundaries with M.B when he engaged in a personal, sexual relationship with her and provided financial support in the form of the apartment rental, the car purchase, and the monetary assistance. (Stipulation of Facts Nos. 3-6.)

12.

In October 2016, Respondent completed a continuing medical education course on the topic of professional boundaries. (Ex. R-6.)

13.

In May 2017, the Board referred Respondent to Dr. Funmilayo Rachal, M.D., for an evaluation. Dr. Rachal is a psychiatrist with a subspecialty in forensic psychology. She practices at Atlanta Psychiatric Consultation Center, where she conducts professional sexual misconduct evaluations. Dr. Rachal and two other members of a multidisciplinary team, forensic psychologist Dr. Ron Herndon and psychiatric nurse Sarah Gregg, conducted the evaluation on May 16, 17, and 18, 2017. The evaluation consisted of interviews, psychological testing, cognitive testing, substance testing, and assessments related to mood and sexual behavior. (Testimony of Dr. Funmilayo Rachal, T. 28, 34, 36-37.)

14.

After the May 2017 evaluation, Dr. Rachal issued a report to the Board. She recommended that Respondent obtain treatment, and she provided a list of appropriate providers,

including the Acumen Institute.<sup>6</sup> She further recommended that Respondent implement accountability measures, such as chaperones for female patients and the use of chaperone logs. She determined that Respondent “was not an imminent risk or danger to patients, staff or the community and that, with safeguards in place and with treatment, his risk was decreased.” (Testimony of Dr. Rachal, T. 53.)

15.

As a result of Dr. Rachal’s recommendation, Respondent began treatment with Acumen Institute. His treatment team included Dr. Peter Graham (psychologist), Dr. Scott Stacy (psychologist), Dr. John Whipple (psychiatrist), Monica Soderberg (specialist in clinical social work), Sue Beckley (specialist in clinical social work), and Dr. Michael Seely (psychologist). (Testimony of Dr. Peter Graham, T.157, 170-71, 191.) Dr. Graham is Director of Clinical Services and Vice President of Acumen Institute. (Ex. R-4.) Dr. Whipple is the Medical Director. (Testimony of Dr. John Whipple, T. 283; Ex. R-5.)

16.

At Acumen Institute, which is located in Lawrence, Kansas, Respondent participated in a longitudinal treatment program that consisted of four visits over the course of a year. First, he attended a three-week immersion with group and individual treatment, education, and coaching. He returned for a week of follow-up treatment three months later, and again three months after that. The fourth visit, at the end of the year, lasted three days. In addition to this longitudinal treatment program, Respondent returned to Acumen on a monthly basis for practice supervision and ongoing psychotherapy, in accordance with the recommendation of Dr. Rachal. (Testimony of Dr. Graham, T. 172-173, 177-178, 198, 201.)

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<sup>6</sup> Dr. Rachal’s testimony refers to Acumen Assessments; however, it was later clarified that the correct entity name for the treatment provider is Acumen Institute. (Testimony of Dr. Graham, T. 155-56.)

17.

Respondent completed treatment with Acumen Institute and received a discharge report dated October 9, 2018. (Ex. R-3(g).) As explained in the discharge report, he was considered safe to practice with the implementation of certain safeguards. These safeguards included working with a supervising physician, using a chaperone for unaccompanied female patients, keeping a chaperone log, and taking maintenance polygraphs. (Testimony of Dr. Graham, T. 177-178, 196-197, 225; Testimony of Dr. Whipple, T. 301; Ex. R-3(g).) Dr. Whipple characterized the safeguards as “an ongoing return-to-work plan that holds the clinician accountable and gives the board enough information to feel assured that [ . . . ] there’s not an opportunity for the clinician to reoffend.” (Testimony of Dr. Whipple, T. 300.) The safeguards in the discharge report are recommended for the rest of Respondent’s career. (Testimony of Dr. Graham, T. 222; Testimony of Dr. Whipple, T. 302.) Dr. Graham explained further that standard practice would be to keep the safeguards in place for five years, at which point the Board could consider whether to relax or change the accountability structure. (Testimony of Dr. Graham, T. 223, 237-238, 244.) Additionally, the discharge report included a recommendation that Respondent focus his practice on psychopharmacology (*i.e.*, the provision of medication management) rather than psychotherapy. Because psychotherapy would not allow for a chaperone in the room, Respondent would refer patients needing psychotherapy to a different provider. (Testimony of Dr. Graham, T. 213-214, 218, 251-253.)

18.

Dr. Whipple has served as Respondent’s supervising physician for the past year. In that role, Dr. Whipple has discussed Respondent’s practice with him, from a business and management standpoint. He also has reviewed the population and volume of Respondent’s

patients in order to consider which patients would be better served by referral to another practice. Dr. Whipple characterized Respondent's risk of "reoffending" as "lower." (Testimony of Dr. Whipple, T. 294, 296-298.)

19.

Christy Turley is the practice manager at Ahmed Medical Center, where Respondent currently practices. She has worked with Respondent since July 2015. Regarding the office policy on chaperones, she explained that when female patients are unaccompanied, the staff records the patient's name on a list and puts a flower on the door to the examination room to indicate that a chaperone is needed. (Testimony of Christy Turley, T. 334, 336-337.)

20.

Jacqueline "Janine" Taylor is a licensed practical nurse at Ahmed Medical Center, where she has worked for three years. She explained similarly that when a female patient is unaccompanied, a flower is placed on the examination room door to indicate that a chaperone is needed. Ms. Taylor further explained that the chaperone log records the name of the patient and chaperone. There are four women in the office, including Ms. Taylor and Ms. Turley, who can serve as chaperones. (Testimony of Janine Taylor, T. 351-354, 357-358.)

21.

Dr. Rachal testified that in the field of psychiatry, "it is unethical to have sexual contact with a current or former patient." She stated that "[p]sychiatrists have a unique doctor-patient relationship in that, in a psychiatric encounter, patients are disclosing thoughts, feelings and behaviors that aren't typically disclosed in a typical medical encounter." She further testified that "it is believed that there is an inherent vulnerability in psychiatric patients." Dr. Rachal explained that, according to the ethical rules of the American Psychiatric Association and the

American Medical Association, “[i]n the field of psychiatry, it’s once a patient, always a patient.” (Testimony of Dr. Rachal, T. 44-46, 60-61.) Similarly, Dr. Graham testified that the American Psychiatric Association considers the doctor-patient relationship to be “a relationship that goes on over time.” He stated that the expectation in the subspecialty of psychiatry is “once a patient is a patient, they will always remain a patient.” An intimate relationship with a patient or former patient is “never going to be ethical according to the standards that exist in the field.” (Testimony of Dr. Graham, T. 163, 175, 209-210.) Dr. Whipple testified that psychiatric patients are “amongst the most vulnerable of our patients out there.” (Testimony of Dr. Whipple, T. 299.)

### **III. CONCLUSIONS OF LAW**

#### **A. Applicable Statutory and Regulatory Provisions**

1.

The Board bears the burden of proof in this matter. Ga. Comp. R. & Regs. 616-1-2-.07(1). The standard of proof is a preponderance of the evidence. Ga. Comp. R. & Regs. 616-1-2-.21(4).

2.

When a contested case is referred to the Office of State Administrative Hearings, the administrative law judge assigned to the case has “all the powers of the referring agency . . . .” O.C.G.A. § 50-13-41(b). The evidentiary hearing is *de novo*, and the administrative law judge “shall make an independent determination on the basis of the competent evidence presented at the hearing.” Ga. Comp. R. & Regs. 616-1-2-.21(1).

3.

Georgia Code Section 43-34-8(a), which is the specific licensing and disciplinary statute

for the medical profession, states, in relevant part, that the Board has the authority to discipline a licensee, upon a finding that the licensee has:

(7) Engaged in any unprofessional, unethical, deceptive, or deleterious conduct or practice harmful to the public, which need not have resulted in actual injury to any person [ . . . ];

[ . . . ]

(10) Violated or attempted to violate a law, rule, or regulation of this state, any other state, the board, the United States, or any other lawful authority without regard to whether the violation is criminally punishable, when such law, rule, or regulation relates to or in part regulates the practice of medicine, when the licensee or applicant knows or should know that such action violates such law, rule, or regulation [...];

(11) Committed any act or omission which is indicative of bad moral character or untrustworthiness;

[ . . . ]

(15) Committed an act of sexual abuse, misconduct, or exploitation of a patient including guardians and parents of minors[.]

O.C.G.A. § 43-34-8(a).

4.

Georgia Code Section 43-1-19(a) provides in relevant part that a professional licensing board may revoke a license upon a finding that the licensee:

(6) Engaged in any unprofessional, immoral, unethical, deceptive, or deleterious conduct or practice harmful to the public that materially affects the fitness of the licensee or applicant to practice a business or profession licensed under this title or is of a nature likely to jeopardize the interest of the public; such conduct or practice need not have resulted in actual injury to any person or be directly related to the practice of the licensed business or profession but shows that the licensee or applicant has committed any act or omission which is indicative of bad moral character or untrustworthiness. [ . . . ];

[ . . . ]

(8) Violated a statute, law, or any rule or regulation of this state, any other state, the professional licensing board regulating the business or profession licensed

under this title, the United States, or any other lawful authority without regard to whether the violation is criminally punishable when such statute, law, or rule or regulation relates to or in part regulates the practice of a business or profession licensed under this title and when the licensee or applicant knows or should know that such action violates such statute, law, or rule; or violated a lawful order of the board previously entered by the board in a disciplinary hearing, consent decree, or license reinstatement[.]

OCGA § 43-1-19(a)(6), (8).

5.

The Board's rule defining "unprofessional conduct" provides as follows, in relevant part:

Committing any act of sexual intimacy, abuse, misconduct, or exploitation of any individual related to the physician's practice of medicine regardless of consent. The rule shall apply to former patients where the licensee did not terminate in writing the physician patient relationship before engaging in a romantic or sexual relationship with the patient and/or where the licensee used or exploited the trust, knowledge, emotions or influence derived from the prior professional relationship. The Board will consider the physician patient relationship terminated if the physician has not evaluated or treated the patient for a period of at least two (2) years.

Ga. Comp. R. & Regs. 360-3-.02(8).

6.

Georgia Code Section 43-34-8(b)(1) provides in relevant part as follows:

When the board finds that any person is unqualified to be granted a license, certificate, or permit or finds that any person should be disciplined pursuant to subsection (a) of this Code section, the board may take any one or more of the following actions:

[. . .]

(B) Place the licensee, certificate holder, or permit holder on probation for a definite or indefinite period with terms and conditions;

[. . .]

(D) Suspend any license, certificate, or permit for a definite or indefinite period;

(E) Limit or restrict any license, certificate, or permit;



(F) Revoke any license, certificate, or permit;

(G) Impose a fine not to exceed \$3,000.00 for each violation of a law, rule, or regulation relating to the licensee, certificate holder, permit holder, or applicant;

(H) Impose a fine in a reasonable amount to reimburse the board for the administrative costs;

[. . .]

O.C.G.A. § 43-34-8(b)(1).

7.

Georgia Code Section 43-1-19(d) provides in relevant part that a professional licensing board may take any of the following disciplinary actions:

(3) Suspend any license for a definite period or for an indefinite period in connection with any condition which may be attached to the restoration of such license;

(4) Limit or restrict any license as the board deems necessary for the protection of the public;

(5) Revoke any license;

[. . .]

(7) Impose a fine not to exceed \$500.00 for each violation of a law, rule, or regulation relating to the licensed business or profession; or

(8) Impose on a licensee or applicant fees or charges in an amount necessary to reimburse the professional licensing board for the administrative and legal costs incurred by the board in conducting an investigative or disciplinary proceeding.

O.C.G.A. § 43-1-19(d).

**B. Respondent violated the laws governing the practice of medicine and his license is subject to sanction.**

8.

The Board has shown by preponderance of the evidence that Respondent violated Rule 360-3-.02(8), and therefore O.C.G.A. § 43-34-8(a)(10) (violation of a rule of the Board), when he engaged in a sexual relationship with M.B. This rule applies to former patients “where the licensee used or exploited the trust, knowledge, emotions or influence derived from the prior professional relationship.” The General Assembly has not defined the term “exploited” within the statutory and regulatory provisions that specifically pertain to the Board. See O.C.G.A. §§ 43-34-1 to -12; Ga. Comp. R. & Regs. 360-3-.01 to .07. Because the term “exploited” is not defined within the Board’s code of conduct or ethics, this tribunal must derive the definition in accordance with its plain and ordinary meaning. Collins v. J.C. Penney Co., 218 Ga. App. 405, 407 (1995) (“When a word in a statute is not defined, that word should be given its commonly understood meaning.”); see also Smith v. United States, 508 U.S. 223, 228 (1993) (“When a word is not defined by statute, we normally construe it in accord with its ordinary or natural meaning.”). As defined by Merriam-Webster’s online dictionary, *exploit* means “to make use of meanly or unfairly for one’s own advantage.” <https://www.merriam-webster.com/dictionary/exploit> (last visited January 17, 2019.)

9.

Even if the physician-patient relationship technically was terminated before the personal and sexual relationship began, Respondent, as M.B.’s psychiatrist, was privy to information about M.B., such as her financial troubles and other vulnerabilities. He used this information unfairly to his advantage. Whether wittingly or unwittingly, he exploited this knowledge and

M.B.'s trust when he gave her money for bills, helped her rent an apartment, provided a car for her, and had sex with her. Two expert witnesses in this case testified that psychiatric patients are uniquely vulnerable,<sup>7</sup> and the Court finds that M.B.'s actions during the relationship suggest her continued vulnerability. One example is when M.B., who was jealous of Respondent's girlfriend, showed up at his home at 11:00 at night and knocked on his windows and door, initiating an incident that culminated in a visit from the police.<sup>8</sup>

10.

The Board also has shown by preponderance of the evidence that Respondent's actions warrant sanctions pursuant to O.C.G.A. § 43-34-8(a)(7) (authority to discipline a licensee who has engaged in any unprofessional, unethical, deceptive, or deleterious conduct or practice harmful to the public, which need not have resulted in actual injury to any person) and O.C.G.A. § 43-34-8(a)(11) (authority to discipline a licensee who has committed an act indicative of bad moral character or untrustworthiness). Two of the expert witnesses in this case explained that, in the field of psychiatry, it is considered unethical to have a sexual relationship with a former patient.<sup>9</sup> Beyond the harm suffered by M.B. as an individual, Respondent's conduct "undermines public confidence in the integrity of the medical profession or otherwise shows a lack of good moral character," which in and of itself warrants sanctions. Weinberg v. Bd. of Registration in Med., 443 Mass. 679, 685 (2005) (physician had personal and sexual relationship with patient). When a physician's unethical conduct diminishes the profession in the eyes of the public and erodes the trust and confidence necessary for physicians to perform their duties effectively, the licensing board may discipline that physician. See Haley v. Med. Disciplinary

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<sup>7</sup> Testimony of Dr. Rachal, T. 45; Testimony of Dr. Whipple, T. 297, 299.

<sup>8</sup> Testimony of M.B., T. 104-105, 110-111.

<sup>9</sup> Testimony of Dr. Rachal, T. 46, 60-61; Testimony of Dr. Graham, T.163, 175, 209-210.

Bd., 818 P.2d 1062, 1070 (Wash. 1999) (“To perform their professional duties effectively, physicians must enjoy the trust and confidence of their patients. Conduct that lowers the public’s esteem for physicians erodes that trust and confidence, and so undermines a necessary condition for the profession’s execution of its vital role in preserving public health through medical treatment and advice.”); Finucan v. Md. Bd. of Physician Quality Assurance, 380 Md. 577, 601 (Ct. App. Md. 2003) (where physician had sex with current patients, the court explained that “[u]nethical conduct may indicate unfitness to practice if it raises reasonable concerns that an individual abused, or may abuse, the status of being a physician in such a way as to harm patients or diminish the standing of the medical profession in the eyes of a reasonable member of the general public.”); Kleier v. Tenn. Bd. of Med. Exm’rs, 2013 Tenn. App. LEXIS at \*11-12 (Tenn. Ct. App. Jan. 9, 2013) (where physician was convicted of DUI, such conduct may be indication of unfitness to practice “if the physician’s conduct lowers the medical profession’s standing in eyes of the public”) (citation omitted); El Gabri v. R.I. Bd. of Med. Licensure & Discipline, 1998 R.I. Super. LEXIS at \*48 (R.I. Sup. Ct. Dec. 30, 1998) (where physician had sex with patients and acted inappropriately toward a patient’s wife, the court explained that “Medical Boards have broad authority to regulate the medical profession, including the authority ‘to sanction physicians for conduct which undermines public confidence in the integrity of the medical profession.’ ” (quoting Sugarman v. Bd. of Registration in Med., 422 Mass. 338, 342-43 (1996)); McDonnell v. Comm’n on Med. Discipline, 301 Md. 426, 436 (1984) (“The purpose of disciplinary proceedings against licensed professionals is not to punish the offender but rather as a catharsis for the profession and a prophylactic for the public.”).

Georgia courts have not expressly addressed this common understanding regarding public confidence in the medical profession; however, it is undeniable that the state may regulate the conduct of those practicing medicine, in furtherance of the responsibility to protect the health and welfare of the public:

The right to practice medicine is a conditional right which is subordinate to the state's power and duty to safeguard the public health, and it is the universal rule that in the performance of such duty and in the exercise of such power, the state may regulate and control the practice of medicine and those who engage therein, subject only to the limitation that the measures adopted must be reasonable, necessary, and appropriate to accomplish the legislature's valid objective of protecting the health and welfare of its inhabitants.

Emory Univ. v. Porubiansky, 248 Ga. 391, 394 (1981) (quoting Geiger v. Jenkins, 316 F. Supp. 370, 373 (N.D. Ga. 1970)); cf. Ga. Real Estate Comm'n v. Peavy, 229 Ga. App. 201, 204 (1997) (“The focus of an administrative hearing [. . .] is to determine whether a violation occurred for the purpose of regulating a profession and protecting the public from those who fail to act in accordance with the standards adopted by that profession.”).<sup>10</sup> Additionally, in the context of attorney disciplinary matters, the Supreme Court of Georgia has opined that maintaining the public's confidence in the legal profession is a primary purpose of disciplinary action. See In the Matter of Adams, 291 Ga. 173, 174 (2012) (stating that the “primary purposes of the disciplinary process” of the State Bar of Georgia are “to protect the public from incompetent lawyers, and to maintain the public's confidence in the profession”) (citations omitted); In the Matter of Ortman, 289 Ga. 130, 130-31 (2011) (“The primary purpose of a disciplinary action [by the State Bar of

<sup>10</sup> The United States Supreme Court has similarly recognized the fundamental right of states to regulate the medical profession for the protection of their citizens. See Barsky v. Bd. of Regents, 347 U.S. 442, 449 (1954) (“It is elemental that a state has broad power to establish and enforce standards of conduct within its borders relative to the health of everyone there. It is a vital part of a state's police power. The state's discretion in that field extends naturally to the regulation of all professions concerned with health.”)

Georgia] is to protect the public from attorneys who are not qualified to practice law due to incompetence or unprofessional conduct,' but this Court is also concerned generally about the public's confidence in the profession.") (citations omitted). This Court is persuaded that the Board may similarly impose discipline in order to maintain the public's confidence in the medical profession.

12.

The Court also finds that the Board has proven, by preponderance of the evidence, violation of O.C.G.A. § 43-34-8(15), which prohibits sexual exploitation of a patient. The statute does not define "patient" or indicate whether that term should be understood to include a former patient. The commonly understood meaning of "patient" is "an individual awaiting or under medical care and treatment." <https://www.merriam-webster.com/dictionary/patient> (last visited January 17, 2019.) However, it is not necessary to rely on a dictionary definition here because the Board's Rule 360-3-.02(8) provides particular guidance for the conduct at issue in this case. As discussed above, the rule expressly encompasses former patients in situations, where, as here, "the licensee used or exploited the trust, knowledge, emotions or influence derived from the prior professional relationship." Ga. Comp. R. & Regs. 360-3-.02(8). Moreover, it is the undisputed testimony of experts on both sides in this case that, in the field of psychiatry, the physician-patient relationship is informed by the ethical tenet "once a patient, always a patient." The Court concludes that, at least for a psychiatrist, a "patient" under O.C.G.A. § 43-34-8(15) includes any person who was ever a patient. However, even if the Court were to find that Respondent had not violated O.C.G.A. § 43-34-8(15) because the physician-patient relationship had technically been terminated before the personal and sexual relationship began, and thus M.B. was not considered a "patient" within the meaning of the statute, the

violations of Rule 360-3-.02(8) and O.C.G.A. § 43-34-8-(a)(7),(10), and (11) are sufficient to warrant the sanction recommended herein.

13.

Given the impossibility of articulating every possible instance of misconduct, professional licensing statutes and regulations allow the Board broad discretion in determining whether a physician's behavior has violated professional standards.<sup>11</sup> Here, the Court finds that Respondent's actions warrant discipline pursuant to O.C.G.A. §§ 43-34-8 and 43-1-19. As outlined above, disciplinary sanctions may include license revocation, license suspension, administering a reprimand or fine, or limiting or restricting any license, *inter alia*. Respondent's conduct constitutes more than sufficient grounds to sanction his medical license.

**C. The appropriate sanction for Respondent's violations is a three-year suspension with conditional reinstatement.**

14.

In determining the appropriate sanction, the Court is mindful of Respondent's disciplinary history with the Board. Regardless of whether the previous misconduct was similar to or related to the conduct at issue here, Respondent has now violated the rules of his profession twice. Such disrespect for the rules and the integrity of his profession indicates that Respondent should be closely monitored going forward.

15.

The Court also is concerned that, with the exception of the maintenance polygraph, the safeguards currently in place (and proposed to remain in place), which serve to protect current

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<sup>11</sup> See generally *Barsky*, 347 U.S. at 452 ("Realizing the importance of high standards of character and law observance on the part of practicing physicians, the State has adopted a flexible procedure to protect the public against the practice of medicine by those convicted of many more kinds and degrees of crime than it can well list specifically. It accordingly has sought to attain its justifiable end by making the conviction of any crime a violation of its professional medical standards, and then leaving it to a qualified board of doctors to determine initially the measure of discipline to be applied to the offending practitioner.")

patients, would not have prevented this relationship with a former patient. The Court therefore believes that the appropriate sanction should stress the seriousness of the offense and include a period of time where Respondent is barred from the practice of medicine completely. Finally, given the uncontested recommendations of the experts from both sides, the Court concludes that any reinstatement of Respondent's privilege to practice should not include the unchaperoned treatment of female patients.

16.

Nevertheless, despite the serious breach of Respondent's professional obligations, the Court has determined that revocation of Respondent's license is not the most appropriate sanction based on the evidence in the record of this case. First, the Court has taken into account the Board's withdrawal of all allegations relating to K.C., and therefore has considered Respondent's professional boundary violation, although flagrant and persistent, to be limited to one female patient. Second, the Court has considered the testimony of the expert witnesses, none of whom opined that Respondent's past unprofessional conduct mandates a lifetime ban on Respondent's practice of medicine in order to protect the public from the risk of future misconduct. Finally, the Court concludes, based on the preponderance of evidence, that Respondent has been cooperative and forthright in his ongoing treatment with Acumen Institute,<sup>12</sup> and that with proper safeguards,<sup>12</sup> Respondent may resume the practice of psychiatry after an appropriate period of suspension.

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<sup>12</sup> If the preponderance of the evidence in the record had proven that Respondent had lied to Drs. Whipple, Graham, or Rachal regarding the circumstances surrounding the termination of his patient relationship with M.B. and the commencement of their personal relationship, revocation would have clearly been the only appropriate sanction. Consequently, in weighing whether revocation or a lengthy suspension with conditional reinstatement was the most appropriate sanction, the Court considered that the evidence, including M.B.'s medical records, supported Respondent's position that his personal relationship with M.B. began after he had referred her to another psychiatrist. Without disputing the principle of "once a patient, always a patient," as it applies to the psychiatrist-patient relationship, the Court concludes that a psychiatrist's violation of the prohibition against engaging in sexually intimate relationships with a patient is even more egregious when the relationship occurs while the psychiatrist is actively treating the patient.



#### **IV. DECISION**

For the reasons herein and based on the evidence of record in this case, the undersigned **RECOMMENDS** that Respondent's license to practice medicine in the State of Georgia be **SUSPENDED** for a period of three years. After three years, Respondent may petition the Board to lift the suspension. Should the Board decide to lift the suspension, Respondent's license to practice medicine in Georgia may be placed on probation under such terms and conditions as the Board deems necessary for the protection of the public. At a minimum, the undersigned recommends that such probation should include the safeguards recommended in the discharge report prepared by the Acumen Institute—specifically, that Respondent shall continue the use of chaperones with all unaccompanied female patients, continue use of a chaperone log, continue to consult with a supervising physician, ensure that his office staff provides feedback as requested by Acumen Institute regarding the compliance with chaperone structures, and consent to maintenance polygraphs on the schedule proposed in the discharge report. Furthermore, this Order shall be considered a **PUBLIC REPRIMAND** of Respondent by the Board, and may be disseminated as such.

**SO ORDERED**, this 17<sup>th</sup> day of January, 2019.

**Kimberly W. Schroer**  
**Administrative Law Judge**



**BEFORE THE COMPOSITE STATE BOARD OF MEDICAL EXAMINERS**  
**STATE OF GEORGIA**

**Composite State Board  
of Medical Examiners**

AUG 06 2004

**DOCKET NUMBER**  
Docket No. 99-36

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**IN THE MATTER OF:**

**Aly Ahmed, MD**  
License No. 39026  
Respondent

**PUBLIC CONSENT ORDER TERMINATING PROBATION**

WHEREAS, the Composite State Board of Medical Examiners ("Board") entered a Consent Order in the above styled matter on January 10, 2003 which placed Respondent's license to practice medicine in Georgia on probation; and

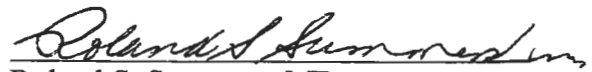
WHEREAS, Respondent has petitioned to have the probation terminated; and

WHEREAS, the Board has determined that the Respondent has complied with all the terms and conditions of the probation,

NOW, THEREFORE, IT IS HEREBY ORDERED that the probation of Respondent's license to practice medicine in the State of Georgia be TERMINATED.

SO ORDERED, this **6th** day of **August** 2004.

COMPOSITE STATE BOARD OF  
MEDICAL EXAMINERS

  
\_\_\_\_\_  
Roland S. Summers, MD  
President

(BOARD SEAL)

ATTEST:   
\_\_\_\_\_  
LaSharr Hughes  
Executive Director

BEFORE THE COMPOSITE STATE BOARD OF MEDICAL EXAMINERS

STATE OF GEORGIA

Composite State Board  
of Medical Examiners

JAN 10 2003

IN THE MATTER OF:

\*

ALY ABBAS AHMED, M.D.

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DOCKET NO. 99-36

DOCKET NUMBER

99-36

License No. 039026.

PUBLIC CONSENT ORDER

By agreement of the Composite State Board of Medical Examiners and ALY ABBAS AHMED, M.D., Respondent, the following disposition of this matter is entered pursuant to O.C.G.A. § 50-13-13(a)(4).

FINDINGS OF FACT

1.

At all relevant times, Respondent was licensed to practice medicine in the State of Georgia.

2.

On or about June 18, 1999, the Board by a Public Consent Order sanctioned the Respondent for unprofessional conduct. The Board by letter dated January 10, 2001, informed the Respondent that he was in violation of the terms of the Consent by not getting prior Board approval of a supervising physician and for prescribing controlled substances without a Board approved supervising physician. The Board in the letter also acknowledged that the Respondent agreed to voluntarily close his practice.

3.

On December 28, 2001, the Respondent caused Dr. Philip O. Wilson, M.D. to write a letter to the Board informing the Board that the Respondent was employed at the McIntosh Trail Treatment Program and was closely supervised.

4.

Respondent waives any further findings of fact with respect to the above matter. However, Respondent shall be allowed to submit a supplemental statement for the investigative file in explanation and mitigation of the matters stated herein for consideration by the Board prior to its review of this Consent Order.

#### CONCLUSIONS OF LAW

Respondent's condition and/or prior conduct constitute sufficient grounds for the Board to impose conditions upon Respondent's license to practice medicine in the State of Georgia under O.C.G.A. Chs. 1 and 34, T. 43, as amended. Respondent hereby waives any further conclusions of law with respect to the above-styled matter.

#### ORDER

The Composite State Board of Medical Examiners, having considered the particular facts and circumstances of this case, hereby orders, and Respondent hereby agrees to the following:

1.

Respondent reaffirms all the terms and conditions of the Public Consent Order for Reinstatement docketed on June 18, 1999.

2.

Respondent shall advise the Board in writing by certified mail of any change in address of record or employment status within twenty-four hours of the change.

3.

This Consent Order shall constitute a public order of the Board and may be disseminated by the Board as a public record.

4.

In addition to and in conjunction with any other sanction contained herein, Respondent shall pay a fine to the Board in the amount of five thousand dollars (\$5,000.00), payable by certified check or money order to the Composite State Board of Medical Examiners. This receipt of the fine is hereby acknowledged.

5.

Respondent acknowledges that Respondent has read this Consent Order and understands its contents. Respondent understands that he has a right to appear before the Board, and freely, knowingly, and voluntarily waives that right. Respondent understands that this Consent Order will not become effective until approved and docketed by the Composite State Board of Medical Examiners. He further understands and agrees that a representative of the Department of Law may be present during presentation of this Consent Order to the Board and that the Board shall have the authority to review the investigative file and all relevant evidence in considering this Consent Order. Respondent further understands that this Consent Order, once approved, shall constitute a public order of the Board, which may be disseminated as a disciplinary action of the Board. However, if the Consent Order is not approved, it shall not constitute an admission against interest in this proceeding, or prejudice the right of the Board to adjudicate this matter. Respondent consents to the terms and conditions contained herein.

Approved, this 10<sup>th</sup> day of January, 2003

(SIGNATURES ON NEXT PAGE.)

COMPOSITE STATE BOARD OF MEDICAL  
EXAMINERS

(BOARD SEAL)

BY: Eddie R. Cheeks, M.D.

EDDIE R. CHEEKS, M.D.  
President

ATTEST: Karen Mason

KAREN MASON  
Executive Director

CONSENTED TO: Ally A. Ahmed M.D.

ALY ABBAS AHMED, M.D.

Respondent

Sworn to and Subscribed

before me this 23 day

of December, 2002

Lynette J. Odetree

NOTARY PUBLIC

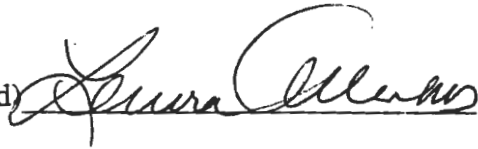
My Commission Expires: 9-23-04

**SUPERVISING PHYSICIAN STATEMENT**

I, the undersigned supervising physician acknowledge that I have read the attached Consent Order and the original Consent Order Reinstating License and agree to serve as Respondent's supervising physician.

Sworn to and subscribed

(Signed)



before me this 6<sup>th</sup> day

of January, 2002

Name (please print):

LENDRA ALLEN, M.D.

Supervising (Workplace) Physician

Georgia Medical License Number: 021473

Telephone: 770-358-8252

**JANE G. KUPRIAN**  
Notary Public Pike County, Georgia  
My Commission Expires February 10, 2004



**ATTACHMENT:**

**GEORGIA COMPOSITE STATE BOARD OF MEDICAL EXAMINERS**

**IN THE MATTER OF:**

\*  
\*

**ALY ABBAS AHMED, M.D.,  
License No. 039026,**

\*  
\*  
\*

**DOCKET NO. 99-36**

**Respondent.**

\*

**MATTERS ASSERTED AND  
STATUTES AND RULES INVOLVED**

Pursuant to O.G.G.A. § 50-13-13, the Composite State Board of Medical Examiners hereby provides Respondent with the matters asserted and the statutes and rules involved for purposes of disciplinary action against Respondent and his license. The matters asserted below, if correct, constitute sufficient grounds for the imposition of sanctions against Respondent's license to practice medicine. The specific violations of these laws and rules are outlined below.

1.

At all relevant times, Respondent was licensed to practice medicine in the State of Georgia.

2.

On or about May 21, 1998, Respondent while on duty as a physician at Georgia Regional Hospital displayed signs of impairment including but not limited to failing field sobriety tests.

3.

On or about October 23, 1998, Respondent while on duty as a physician at Georgia Regional Hospital displayed signs of impairment, including but not limited to the following:

- (a) diminished motor skills;
- (b) inability to focus eyes;

- (c) change in demeanor; and
- (d) slurred speech

4.

Between 1996 and 1998, Respondent fraudulently obtained prescriptions by accepting controlled substances from Cheryl Jordan, a pharmacist, without a legitimate prescription.

5.

Specifically, Respondent obtained the following controlled substances from Cheryl Jordan without a legitimate prescription on the following dates:

<u>Controlled Substance</u>	<u>Date of Prescription/ Date Prescription filled</u>
Butorphanol Tartrate aka "Stadol" Schedule IV	4/6/97; 7/20/97; 8/12/97; 8/29/97; 11/23/97; 12/7/97; 12/28/97; 12/31/97; 2/5/98; 2/19/98; 3/5/98; 3/14/98; 4/6/98; 4/21/98; 4/26/98; 5/11/98; 6/1/98; 6/13/98; 7/4/98; 7/26/98; 8/27/98; 9/27/98; 10/9/98; 10/23/98; 11/3/98; 11/29/98; and approximately 100 additional vials.
Fenfluramine aka Pondomin Schedule IV	9/11/97
Phentermine Schedule IV	9/11/97
Chloral Hydrate Schedule IV	5/21/98; and 7/4/98
Clonazepam a/k/a "Klonopin" Schedule IV	11/29/96; 11/29/96 (refill); 1/5/97; 2/15/97; and 4/19/97
Butalbital Compound a/k/a "Fiorinal" Schedule III	3/29/97; 9/30/98

6.

Between 1996 and 1998, Respondent wrote prescriptions for controlled substances in the name of Luz Ahmed, a/k/a Luz Vargas, a/k/a Luz Irzarry, his wife, and consumed the controlled substances for his personal use.

7.

Specifically, Respondent wrote the following prescriptions in the name of Luz Ahmed a/k/a Luz Vargas a/k/a Luz Irzarry for controlled substances on the following dates for his personal consumption:

<u>Controlled Substance</u>	<u>Date of Prescription/ Date Prescription filled</u>
Ambien Schedule IV	2/20/96; 9/18/96
Butorphanol Tartrate aka "Stadol" Schedule IV	10/05/96; 6/28/97; 7/27/97; 8/30/97; 1/22/98; 2/19/98; 3/29/98; 6/16/98
Clonazepam a/k/a "Klonopin" Schedule IV	8/31/96; 11/20/96

8.

Between 1996 and 1998 Respondent repeatedly prescribed controlled substances for personal use.

9.

Specifically, Respondent prescribed the following controlled substances on the following dates for himself:

<u>Controlled Substance</u>	<u>Date of Prescription/Date Prescription Filled</u>
Butorphanol Tartrate aka "Stadol" Schedule IV	7/20/97; 1/30/98; 2/3/98; 2/28/98; 5/1/98; 5/2/98; 6/16/98; 9/19/98;
Fenfluramine aka Pondomin Schedule IV	9/11/97;
Phentermine Schedule IV	12/27/96; 5/2/98;
Butalbital Compound a/k/a "Fiorinal" Schedule III	7/20/97; 8/12/97; 9/22/97; 10/27/97; and 4/21/98

10.

In addition to the above-described controlled substances received by the Respondent, Respondent also received prescriptions from Dr. Reddy and Dr. Kissinger between 1996 and 1998.

11.

Respondent's conduct enumerated in paragraphs 2-9 above demonstrates that Respondent has become unable to practice medicine with reasonable skill and safety to patients by reason of illness or use of alcohol drugs, narcotics, chemicals, or any other type of material, or as a result of any mental or physical condition.

#### **STATUTES AND RULES INVOLVED**

Sanction of the Respondent's license is sought pursuant to the following provisions of O.C.G.A. § 43-34-37:

(a) The Board shall have authority to refuse to grant a license to an applicant or to discipline a physician licensed under this chapter or any antecedent law upon a finding by the Board that the licensee or applicant has:

- (7) Engaged in any unprofessional, unethical, deceptive, or deleterious conduct or practice harmful to the public, which conduct or practice need not have resulted in actual injury to any person. As used in this paragraph, the term "unprofessional conduct" shall include any departure from, or failure to conform to, the minimal standards of acceptable and prevailing medical practice and shall also include, but not be limited to, the prescribing or use of drugs, treatment, or diagnostic procedures which are detrimental to the patient as determined by the

minimal standards of acceptable and prevailing medical practice or by rule of the Board;

- (10) Violated or attempted to violate a law, rule, or regulation of this state, any other state, the Board, the United States, or any other lawful authority without regard to whether the violation is criminally punishable, which law, rule, or regulation relates to or in part regulates the practice of medicine, when the licensee or applicant knows or should know that such action is violative of such law, rule, or regulation; or violated a lawful order of the Board, previously entered by the Board in a disciplinary hearing;
- (13) Become unable to practice medicine with reasonable skill and safety to patients by reason of illness or use of alcohol, drugs, narcotics, chemicals, or any other type of material, or as a result of any mental or physical condition.

(A) In enforcing this paragraph the board may, upon reasonable grounds, require a licensee or applicant to submit to a mental or physical examination by physicians designated by the board. The results of such examination shall be admissible in any hearing before the board, notwithstanding any claim of privilege under a contrary rule of law or statute, including, but not limited to, Code Section 24-9-21. Every person who shall accept the privilege of practicing medicine in this state or who shall file an application for a license to practice medicine in this state shall be deemed to have given his consent to submit to such mental or physical examination and to have waived all objections to the admissibility of the results in any hearing before the board, upon the grounds that the same constitutes a privileged

communication. If a licensee or applicant fails to submit to such an examination when properly directed to do so by the board, unless such failure was due to circumstances beyond his control, the board may enter a final order upon proper notice, hearing, and proof of such refusal. Any licensee or applicant who is prohibited from practicing medicine under this paragraph shall at reasonable intervals be afforded an opportunity to demonstrate to the board that he can resume or being the practice of medicine with reasonable skill and safety to patients.

Sanction of the Respondent's license is sought pursuant to the following provisions of O.C.G.A. § 43-1-19:

(a) A state examining board shall have the authority to refuse to grant a license to an applicant therefor or to revoke the license of a person licensed by that Board or to discipline a person licensed by that board, upon a finding by a majority of the entire board that the licensee or applicant has:

- (6) Engaged in any unprofessional, immoral, unethical, deceptive, or deleterious conduct or practice harmful to the public, which conduct or practice materially affects the fitness of the licensee or applicant to practice a business or profession licensed under this title, or of a nature likely to jeopardize the interest of the public, which conduct or practice need not have resulted in actual injury to any person or be directly related to the practice of the licensed business or profession but shows that the licensee or applicant has committed any act or omission which is indicative of bad moral character or untrustworthiness; unprofessional conduct shall also include any departure from, or the failure to conform to, the

minimal reasonable standards of acceptable and prevailing practice of the business or profession licensed under this title;

- (8) Violated a statute, law, or any rule or regulation of this state, any other state, the state examining Board regulating the business or profession licensed under this title, the United States, or any other lawful authority (without regard to whether the violation is criminally punishable), which statute, law, or rule or regulation relates to or in part regulates the practice of a business or profession licensed under this title, when the licensee or applicant knows or should know that such action is violative of such statute, law, or rule; or violated a lawful order of the Board previously entered by the Board in a disciplinary hearing, consent decree, or license reinstatement.

Sanction of the Respondent's license is sought pursuant to the following provisions of Title 16, Chapter 13, Article 2,:

O.C.G.A. § 16-13-41(d)(1) Except when dispensed directly by a practitioner, other than a pharmacy or pharmacist, to an ultimate user, a controlled substance included in Schedule III, IV, V, which is a prescription drug as determined under any law of this state or the Federal Food, Drug and Cosmetic Act, 21 U.S.C. Section 301, 52 Stat. 1040 (1938), shall not be dispensed without a written or oral prescription of a registered practitioner. The prescription shall not be filled or refilled more than six months after the date on which such prescription was issued or be refilled more than five times.

O.C.G.A. § 16-13-43(a) provides that [i]t is unlawful for any person:

(3) To acquire or obtain possession of a controlled substance by misrepresentation, fraud, forgery, deception, subterfuge, or theft;

Sanction of the Respondent's license is sought pursuant to the following provisions of Board Rule 360-2-.09:

The Board has the authority to refuse to grant a license to an applicant, or to discipline a physician licensed in Georgia if that physician has engaged in unprofessional conduct. For the purpose of the implementation and enforcement of this rule, unprofessional conduct is defined as, but not limited to, participating in or aiding the following:

- (f) Any departure from, or the failure to conform to, the minimal standards of acceptable and prevailing medical practice. Guidelines to be used by the Board in defining such standards may include, but are not restricted to:
  - 1. Diagnosis. Evaluation of a medical problem using means such as history, physical examination, laboratory, and radiographic studies, when applicable.
  - 2. Treatment. Use of medications and other modalities based in generally accepted and approved indications, with proper precautions to avoid adverse physical reactions, habituation or addiction.
  - 3. Records. Maintenance of records to furnish documentary evidence of the course of the patient's medical evaluation, treatment and response.
- (g) Repeated prescribing of controlled drugs for personal or family use;
- (k) Violating statutes and rules relating to or regulating the practice of medicine including but not limited to the following:
  - 1. The Georgia Medical Practices Act (O.C.G.A. T.43, Ch. 34);
  - 2. The Georgia Controlled Substances Act (O.C.G.A. T. 16, Ch. 13, Art. 2)
  - 5. Rules of the Composite State Board of Medical Examiners, Ch. 360. Rules and Regulations of the State of Georgia, particularly Rule 360-2-.09;



Pursuant to O.C.G.A. § 43-34-37(b)(1), when the Board finds that any person is unqualified to be granted a license or finds that any person should be disciplined pursuant to subsection (a) of this Code section, the board may take any one or more of the following actions:

- (A) Refuse to grant a license to an applicant;
- (B) Administer a public or private reprimand, provided that a private reprimand shall not be disclosed to any person except the licensee;
- (C) Suspend any license for a definite period;
- (D) Limit or restrict any license;
- (E) Revoke any license; or
- (F) Condition the penalty, or withhold formal disposition, upon the physician's submission to the care, counseling, or treatment of physicians or other professional persons, and the completion of such care, counseling, or treatment, as directed by the board.

**COMPOSITE STATE BOARD OF  
MEDICAL EXAMINERS**

SHIELA SMITH, D.O.  
President

Prepared by:  
KIRSTEN L. SEARLE  
Assistant Attorney General  
40 Capitol Square, SW  
Atlanta, Georgia 30334-1300  
(404) 656-0014

BEFORE THE COMPOSITE STATE BOARD OF MEDICAL EXAMINERS JUN 18 1999

STATE OF GEORGIA

DOCKET NUMBER

99-36

IN THE MATTER OF:	*	OSAH-SEB-MED-9901691-60-LFO
	*	
ALY ABBAS AHMED, M.D.	*	SEB DOCKET NO. 99-36
License # <del>018211</del> 039026	*	
Respondent.	*	

PUBLIC CONSENT ORDER REINSTATING LICENSE

By agreement of the Composite State Board of Medical Examiners and ALY ABBAS AHMED, M.D., Respondent, the following disposition of this matter is entered pursuant to O.C.G.A. § 50-13-13 (a) (4).

FINDINGS OF FACT

1.

Respondent is licensed to practice medicine in the State of Georgia and was licensed at all times relevant to the matters stated herein.

2.

On or about January 28, 1999, a Notice of Hearing was docketed in the above-referenced matter.

3.

On or about January 20, 1999, a Summary Suspension was served on Respondent.

4.

Respondent admits to engaging in unprofessional conduct as alleged in paragraphs 8 and 10 of the Notice and Hearing, and agrees that the Board may enter a Consent Order based upon these allegations without the necessity of receiving evidence.

Respondent waives any further findings of fact with respect to this matter.

CONSLUSIONS OF LAW

Respondent's actions constitute sufficient grounds for the Board to exercise its disciplinary authority and to impose sanctions on Respondent as a licensee under O.C.G.A. Ch. 34, T. 43, as amended, O.C.G.A. § 43-1-19(a) and the Rules of the Composite State Board of Medical Examiners. Respondent waives any further findings of law with respect to this matter.

ORDER

The Board having considered the particular facts and circumstances of this case, it is hereby ordered, and the Respondent hereby agrees, as follows:

1.

Respondent's license to practice medicine shall be reinstated and placed on probation subject to the following conditions and terms:

(a) Evaluation. Respondent agrees to undergo a physical and mental evaluation by a board approved facility within thirty (30) days of the docket date of this Consent Order. Respondent agrees to provide the Board with a copy of the results of the evaluation within 24 hours after his receipt of the results. Additionally, Respondent agrees to sign such releases as may be required for the Board to obtain the results and records of such evaluation. Respondent agrees to abide by any and all recommendations of the evaluators.

(b) Treatment/Aftercare. Respondent shall provide the Board with a copy of his continuing aftercare contract if one is required by his monitoring physician or as a result of the evaluation. Respondent shall abide by all terms of his continuing aftercare contract, if applicable.

(c) Participation in Support Group. Respondent shall affiliate with and regularly participate in meetings of Alcoholics Anonymous, Narcotics Anonymous, Caduceus Club or

another similar support group acceptable to the Board if deemed necessary by his monitoring physician.

(d) Supervision. Respondent shall designate an acceptable supervising ("workplace") physician, who will practice in the same physical location as Respondent. The Supervisor shall sign a statement within 24 hours of Respondent practicing in a facility indicating that he/she has read the consent order and agrees to submit statements on the Respondent's behalf. The statement must be faxed within 24 hours of Respondent practicing in any facility to Dr. Jim McNatt, or the current Medical Coordinator, at (404) 656-9723. Within 24 hours of Respondent's last day of practicing at a facility, the Supervisor must submit a statement indicating the following information: (1) the beginning date when Respondent practiced at the facility; (2) the dates when Respondent practiced at the facility; (3) **a statement that the Supervisor physically observed Respondent on all of the dates when Respondent practiced at the facility and that Respondent's practice and behavior were acceptable and appropriate;** and (4) the date of Respondent's last day of practice at the facility. The Supervisor also agrees that in the event that Respondent's practice and/or behavior are not appropriate, he/she will immediately contact the Board by either phone at (404) 657-6496 or by facsimile at (404) 656-9723.

(e) Respondent shall designate an acceptable ("monitoring") physician licensed in Georgia and trained in addictionology with whom he will engage in therapeutic care, if deemed necessary by the Monitoring Physician, and who will monitor any medications he is prescribed. Respondent shall provide a copy of this Consent Order to his Monitoring Physician. The Monitoring Physician shall sign a statement to be submitted in conjunction with this Consent Order, as evidence of having read and understood same and having agreed to serve as Respondent's Monitoring physician. Respondent understands that he will not be reinstated until such time as the Board, through the Medial Coordinator, has accepted a proposed Monitoring Physician.

(f) Quarterly Reports. Respondent shall submit or cause to be submitted quarterly reports from his monitoring physician regarding his performance and mental/physical condition by March 31, June 30, September 30 and December 31, including a report on any medication being prescribed to Respondent. Failure to submit or have such reports submitted in a timely manner shall be considered a violation of this Consent Order. It is expected that the Monitoring Physician will immediately report any change in Respondent's condition, which would render Respondent unable to practice with reasonable skill and safety to patients. By executing this Consent Order, Respondent specifically consents to such Supervising and Monitoring Physicians or any other facility where Respondent obtains medical treatment reporting upon Respondent's condition, notwithstanding any privilege provided by state or federal law. Respondent shall obtain prior Board approval through the medical coordinator or executive director for any change in monitoring physicians.

(g) Random Drug/Alcohol Screens. The Board or its representative or Respondent's supervising or monitoring physicians shall have the authority at any time to order Respondent to undergo random witnessed and immediate drug/alcohol urine, biological fluid or blood screen analysis at Respondent's expense. Proper chain of custody shall be maintained and positive results shall be confirmed by such means as may be required to ensure the validity of such screening.

(h) Further Evaluation. At any time during the period of probation, the Board shall also have the authority to order Respondent to undergo a physical or mental evaluation by physicians designated by the Board. Respondent shall execute such releases as may be required for the Board to obtain the results of such evaluations.

(i) Periods of Residency Outside Georgia. In the event Respondent should leave Georgia to reside or practice outside of Georgia for periods longer than thirty (30) consecutive days, Respondent shall notify the Board in writing of the dates of departure and return. Periods of residency or practice outside of Georgia as well as periods when Respondent is not actively engaged in practicing as a physician will not apply to the reduction of Respondent's probationary

period, except as authorized by the Board. **Respondent shall advise the Board of any change in address of record or employment status.**

(j) DEA Utilization. During the period of probation, Respondent may use his DEA registration for institutional use only. Institutional use is defined as prescribing or ordering medication for institutionalized patients for consumption on the institutional premises only. Respondent's office expressly does not constitute an institutional premise. Respondent's DEA use shall in all other respects be governed by the remaining portions of this Consent Order. Respondent may not petition for modification of this restriction until at least three (3) months from the effective date of this Consent Order. At the time Respondent petitions, he must provide documentation that his Monitoring Physician approves and supports lifting of this restriction. This restriction will remain in effect until Respondent receives written notification that it has been lifted or modified. In the event that this restriction is lifted or modified, Respondent shall comply with the following requirements:

(1) Triplicate prescriptions. Respondent shall utilize a triplicate prescriptions system for all controlled substances prescribed by him in a setting other than an institutional setting, including outpatient settings and a private office. Each prescription for such a controlled substance written by Respondent shall be sequentially numbered and the copies distributed as follows: original to patient, one copy to the Board, and one copy to the patient's chart. Respondent shall not begin renumbering when he reaches 1000, but shall continue to number sequentially. The copies for the Board shall be mailed or delivered to the Board by Respondent once per quarter. A copy of Respondent's dispensing records shall be provided to the Board upon request for all controlled substances dispensed by his or on his order.

(2) Prescription log. Respondent shall personally maintain for inspection a contemporaneous log (separate from his clinical records or

the clinical records of other health care providers) of all controlled substances and dangerous drugs prescribed, administered, dispensed, or ordered by her. The log shall include the date, patient name, drug, strength, quantity, and refill status, on a form approved by the Board. The log shall also include the diagnosis and the reasons for prescribing, administering, dispensing, or ordering each drug. The Board shall be authorized to inspect Respondent's prescription log. If Respondent's prescription log fails to comply with the requirements of this Consent Order, the Board is authorized to summarily suspend Respondent's license, pending a hearing.

(3) Record keeping. Prior to prescribing, administering, ordering or dispensing any controlled substance, Respondent shall detail fully the examination performed and diagnosis reached in the particular patient's file. Respondent shall specifically record all physical data of the patient and detail the exact nature of Respondent's evaluation of the patient. In addition to this requirement, Respondent agrees to comply with all record keeping requirements of the Board.

(k) Prohibition of Prescribing for Self, Family, and Friends. Respondent shall only prescribe for patients of record. Respondent shall not prescribe any controlled substance or dangerous drug, as defined by the Georgia Controlled Substances Act, for himself, any family member or any friend.

(l) Use of Physician's Assistant or Nurse Practitioner. Respondent shall not employ a physician's assistant or nurse practitioner in his practice. Respondent shall be allowed to petition for lifting of this restriction one (1) year from the effective date of this order. In the event this restriction is lifted and Respondent employs a physician's assistant and/or nurse practitioner in his practice, Respondent shall not utilize the physician's assistant and/or nurse practitioner to perform tasks which are otherwise prohibited by the terms of this Consent Order,

consumption of mood altering substances, except as prescribed by a duly licensed practitioner for a legitimate medical purpose. If such treatment entails the use of narcotics or other potentially addictive substances, a consultation with Respondent's Monitoring Physician may be required at the direction of the medical coordinator.

(p) Disclosure. In addition to other disclosures required by this Consent Order, Respondent shall supply a copy of this Consent Order, once approved and docketed, and within ten (10) days from receipt of the docketed copy by Respondent, to each hospital or other institution where Respondent maintains staff privileges of any kind, and to any person with whom Respondent is associated in practice, including other physicians or physician's assistants or to any person or entity for whom Respondent is employed as a physician. Respondent shall also be required to disclose the existence of and provide a copy of this Consent Order to such individuals or entities in connection with any future application for institutional appointment, associated practice, utilization of a physician's assistant, or employment as a physician while this Consent Order is in effect. By executing this Consent Order, Respondent specifically consents to any such individuals or entities reporting to the Board information which would affect Respondent's ability to practice medicine with reasonable skill and safety to patients, notwithstanding any privilege provided by state or federal law.

(q) Inspections/Interviews. During the probationary period, the Medical Coordinator or another Board representative may periodically review and inspect Respondent's records. The representative is authorized to review and inspect these records at any reasonable time and as often as the representative deems necessary. The Respondent shall have the right to be present during such inspection of records and the patients' privacy and confidentiality rights shall be maintained. The Respondent shall be available, upon reasonable notice, for personal interviews with the Medical Coordinator or other representative of the Board. Failure of the Respondent to be reasonably available for inspection of his records or for personal interviews with a Board representative shall be considered a violation of this Consent Order.



or otherwise utilize the services of the physician's assistant and/or nurse practitioner in such a way as to circumvent any restriction, term or condition outlined herein. Respondent expressly agrees to disclose this consent order to any physician's assistant or nurse practitioner with whom Respondent employs or associates.

(m) Continuing Medical Education. Within 1 year of the effective date of the Consent Order, Respondent shall attend and successfully complete the Mini-Residency entitled "Appropriate Prescribing of Controlled Substances" sponsored by The Mercer University Southern School of Pharmacy in Atlanta. Upon successful completion of the Mini-Residency program, the Respondent shall submit documentation thereof to the Board. This requirement shall be in addition to the continuing education requirements set forth in O.C.G.A. § 43-34-3.

(n) Abide by All Laws. Respondent shall abide by all State and Federal laws regulating the practice of medicine or relating to drugs, the Rules and Regulations of the Composite State Board of Medical Examiners, the terms of any order issued by another lawful licensing authority or consent agreement entered between Respondent and another lawful licensing authority and the terms of this Consent Order. If Respondent shall fail to abide by such laws, rules, terms or orders, or if it should appear from monitoring reports submitted to the Board that Respondent is otherwise unable to practice medicine with reasonable skill and safety to patients, Respondent's license shall be subject to further discipline, including revocation, upon substantiation thereof after notice and hearing, and if revoked the Board in its discretion may determine that the license should be permanently revoked and not subject to reinstatement. Should another lawful licensing authority or court of competent jurisdiction enter an order revoking Respondent's license or revoking Respondent's probationary status while Respondent is subject to this Consent Order, Respondent's Georgia license shall stand automatically suspended, effective on the date of such action, pending proceedings for revocation or other action by the Georgia Board.

(o) Abstain from Mood Altering Substances. Respondent shall completely abstain from the consumption of alcohol. Respondent shall also completely abstain from the

(r) Termination of Probation. Respondent may petition for termination of probation five (5) years from the docket date of this Order. At the time Respondent petitions for lifting of this termination, Respondent shall provide a notarized statement that that Respondent has complied with all conditions of probation and by providing documentation supporting discharge from probation, including written advocacy for termination by his monitoring and supervising physicians, if applicable. The Composite State Board of Medical Examiners shall review and evaluate the practice of Respondent prior to lifting the probation. At such time, the Board shall be authorized to restore all rights and privileges to Respondent's license, unless the Board has received information that Respondent has not complied with the terms of the probation or has otherwise failed to comply with the laws and rules regulating his practice as a physician. Should the Board determine that reasonable cause exists for maintaining Respondent's license on probationary status, the Board shall notify Respondent of its intent to extend the probationary period, and Respondent may respond to such notice in writing or request an appearance before the Board as in a non-contested case. In any event, this Consent Order shall remain in effect pending a final determination by the Board and notification that the probationary period has terminated.

3.

If any of the findings of fact referenced in the Notice of Hearing docketed January 28, 1999, result in incarceration or felony conviction, Respondent will immediately notify the Board. Respondent's license will stand suspended for anytime in which he is incarcerated. This Consent Order shall constitute the final disposition of any of the allegations enumerated in the Notice of Hearing.

4.

In addition to any other sanction contained herein, this Consent Order shall constitute a public reprimand by the Board to Respondent in connection with the conduct alleged.

5.

In addition to and in conjunction with any other condition imposed by this Consent Order, Respondent shall submit to the Composite State Board of Medical Examiners a fine in the amount of \$500 within 30 days of the docket date of this Order.

6.

Nothing in this Consent Order shall be construed as approval by the Board of Respondent's conduct, and shall not be construed as a waiver of any of the lawful rights possessed by the Board. This Consent Order shall not become effective until approved by the Board and docketed by the Joint Secretary.

7.

Respondent acknowledges that he has read this Consent Order and that he understands the contents of the Consent Order. Respondent understands that he has the right to a hearing in this matter, and Respondent freely, knowingly and voluntarily waives such right by entering into this Consent Order. Respondent understands that this Consent Order will not become effective until approved by the Composite State Board of Medical Examiners and docketed by the Joint Secretary, State Examining Boards. Respondent further understands and agrees that a representative of the Department of Law may be present during the presentation of this Consent Order and that the Board shall have the authority to review the investigative file and all relevant evidence in considering this Consent Order. Respondent further understands that this Consent Order, once approved, shall constitute a public record, which may be disseminated as a disciplinary action of the Board. However, if this Consent Order is not approved, it shall not constitute an admission against interest in this proceeding, or prejudice the right of the Board to adjudicate this matter. Respondent consents to the terms of discipline contained herein.

Approved this 6<sup>th</sup> day of May, 1999.

**COMPOSITE STATE BOARD OF  
MEDICAL EXAMINERS**

(BOARD SEAL)

BY: *Sheila J. Smith D.O.*  
SHEILA SMITH, D.O.  
President

ATTEST: *William G. Miller, Jr.*  
WILLIAM G. MILLER, JR.  
Joint Secretary  
State Examining Board

CONSENTED TO: *Aly A. Ahmed, M.D.*  
ALY ABBAS AHMED, M.D.  
Respondent

Sworn to and Subscribed

Before me this 6<sup>th</sup> day  
of May, 1999.

*Peggy L. Jones*  
NOTARY PUBLIC  
My Commission Expires

*Robert G. Rubin*  
ROBERT G. RUBIN  
Attorney for the Respondent



SUPERVISING PHYSICIAN STATEMENT

The undersigned supervising physician acknowledges that he/she has read the attached Consent Order and agrees to serve as Respondent's supervising physician, while Respondent is practicing at \_\_\_\_\_ located at \_\_\_\_\_.  
(name of facility) (address (including state and zipcode))

Respondent began working at \_\_\_\_\_ on \_\_\_\_\_.  
(facility) (date)

Sworn to and subscribed  
before me this \_\_\_\_ day  
of \_\_\_\_\_, 19\_\_.

(Signed) \_\_\_\_\_

Name (**please print**):  
Supervising (Workplace) Physician  
Medical License Number: \_\_\_\_\_  
Address:

\_\_\_\_\_  
NOTARY PUBLIC

My commission expires:

State:  
Telephone:

**\*\*PLEASE FAX THIS TO (404) 656-9723 WITHIN 24 HOURS AFTER  
RESPONDENT'S FIRST DAY OF PRACTICE AT YOUR FACILITY\*\***

MONITORING PHYSICIAN STATEMENT

The undersigned monitoring physician acknowledges that he/she has read the attached Consent Order and agree to serve as Respondent's and monitoring physician.

Sworn to and subscribed

before me this \_\_\_\_ day  
of \_\_\_\_\_, 19\_\_.

\_\_\_\_\_  
NOTARY PUBLIC  
My commission expires:

(Signed) \_\_\_\_\_  
Name (**please print**):  
Monitoring Physician/Therapist  
Program:  
Georgia Medical License Number: \_\_\_\_\_  
Address:  
  
Telephone:

BEFORE THE COMPOSITE STATE BOARD OF MEDICAL EXAMINERS  
STATE OF GEORGIA

JAN 20 1999

DOCKET NUMBER

IN THE MATTER OF:

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\*

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\*

\*

\*

ALY ABBAS AHMED, M.D.

License No. 039026,

Respondent.

DOCKET NO. 99-36 ~~99-36~~

ORDER OF SUMMARY SUSPENSION

1.

Respondent is licensed by the Composite State Board of Medical Examiners ("Board") to practice as a physician in the State of Georgia.

2.

The Board has received reliable information and evidence indicating that Respondent has become unable to practice as a physician with reasonable skill and safety to the public by reason of the possession of and/or use of fraudulently obtained mood altering substances.

3.

The Board finds that Respondent's practice of medicine poses a threat to the public health, safety and welfare and imperatively requires emergency action. Therefore, it is hereby ORDERED that Respondent's license to practice as a physician in the State of Georgia be and is hereby SUMMARILY SUSPENDED pursuant to O.C.G.A. § 50-13-18(c)(1), pending further proceedings on behalf of the Board, which shall be promptly instituted and determined. It is further ORDERED that:

(a) The Board shall promptly request that the Office of State Administrative Hearings issue an official Notice of Hearing, an unofficial copy of which the Board shall serve upon Respondent contemporaneously with this Order. The Board shall request that the Office of State Administrative Hearings assign the matter to an Administrative Law Judge and schedule the matter for a hearing. Should Respondent request an expedited hearing, the date for the hearing is subject to change in the discretion of the Administrative Law Judge.

(b) If Respondent wishes to avail himself of the opportunity for an expedited hearing under O.C.G.A. § 50-13-18(c)(1), Respondent shall execute and file with the Docket Clerk of the Office of State Administrative Hearings, the original and one copy of the attached "Request for Expedited Hearing." Respondent shall also mail a copy to the attorney for the Board, whose name and address is listed on the Notice of Hearing.

This Order is signed and attested by the Joint Secretary of the State Examining Boards on behalf of the Composite State Board of Medical Examiners.

This 20 day of January, 1999.

COMPOSITE STATE BOARD OF MEDICAL  
EXAMINERS

SHEILA SMITH, M.D.  
President

(BOARD SEAL)

Will G. Miller  
WILLIAM G. MILLER, JR.  
Joint Secretary  
State Examining Boards

Counsel:

KIRSTEN L. SEARLE  
Assistant Attorney General  
40 Capitol Square, S.W.  
Atlanta, Georgia 30334  
Telephone: (404) 656-0014



BEFORE THE STATE OFFICE OF ADMINISTRATIVE HEARINGS

On Behalf of the Composite State Board of Medical Examiners

IN THE MATTER OF:

ALY ABBAS AHMED, M.D.,  
License No. 039026,

Respondent.

\*  
\*  
\*  
\*  
\*  
\*

Docket No. 99-36

REQUEST FOR EXPEDITED HEARING

I, Ally Abbas Ahmed, M.D., having been served with the Order of Summary Suspension by the Composite State Board of Medical Examiners ("Board"), do hereby request an expedited hearing. I reserve the right to file a response to the Notice of Hearing in this matter.

This \_\_\_\_ day of \_\_\_\_\_, 1999.

\_\_\_\_\_  
ALLY ABBAS AHMED, M.D.  
Respondent

( ) I am/will be represented by counsel:  
Name of counsel if known at this time:

\_\_\_\_\_  
Attorney for Respondent

THIS RESPONSE MUST BE FILED AT THE OFFICE OF STATE  
ADMINISTRATIVE HEARINGS, SUITE 700, GAS LIGHT TOWER, 235  
PEACHTREE STREET, N.E., ATLANTA, GEORGIA 30303.

**BEFORE THE OFFICE OF STATE ADMINISTRATIVE HEARINGS  
STATE OF GEORGIA**

**GEORGIA COMPOSITE MEDICAL  
BOARD,**

**Petitioner,**

v.

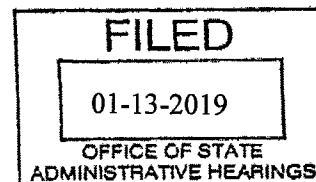
**MARK TANNER,**

**Respondent.**

**Docket No.: 1916553**

**1916553-OSAH-GCMB-PHY-60-Fry**

**Agency Reference No.: 20101566**



**INITIAL DECISION**

This matter was scheduled for hearing on December 10, 2018, at 9:00 a.m. The Respondent failed to appear at the call of the case without good cause. Therefore, the Respondent is in default. O.C.G.A. § 50-13-13(a)(4); Ga. Comp. R. & Regs. 616-1-2-.30. The Petitioner requested that the ALJ find Respondent, Dr. Mark Tanner in violation of a March 1, 2012 Consent Order and that for such violation, Dr. Tanner's license be suspended indefinitely pending completion of the Mercer Mini-Residency required under the Consent Order, Dr. Tanner receive a public reprimand and Dr. Tanner be fined \$3000.00 and be assessed the costs of this action. For the reasons set forth below, Petitioner has shown by a preponderance of the evidence that the requested relief should be **GRANTED**

**FINDINGS OF FACT**

1.

Karl Reimers, Director of Investigations and Enforcement for the Board, testified at the hearing. Respondent was properly served at his address of record. Respondent is required to keep the Georgia Composite Medical Board (the "Board") current as to an address of record where he can receive correspondence from the Board. Mr. Reimers testified that Petitioner's

Exhibit 3 accurately depicts the address information contained in the Board's records that Respondent is required to keep current. Respondent holds a current active license as a Physician from the Board. (See Petitioner's Exhibit 1) In 2012, Respondent was the subject of a disciplinary proceeding concerning his prescribing narcotics under circumstances that failed to conform to the minimal standards of acceptable and prevailing medical practice. The proceeding culminated in Respondent's entering into a Consent Order dated March 1, 2012. (Petitioner's Exhibit 2) That Consent Order required, *inter alia*, that within six months of the Consent Order, Respondent complete the Mini-Residency entitled "Appropriate Prescribing of Controlled Substances" sponsored by the Mercer University Southern School of Pharmacy in Atlanta, Georgia. (Pet. Exh. 2, Order, ¶ 1(b)) As of the date of the hearing, Respondent has not advised the Board that he has completed this requirement or that he needs an extension to complete this requirement. Mr. Reimers personally contacted the Assistant General Counsel, Becky Meyers, at Mercer and received an email communication from her stating that Respondent has never taken the Mercer course. In 2016, the Board requested that Respondent come in for a voluntary interview, which he declined to attend. (Testimony of Karl Reimers, Director of Investigations and Enforcement for the Georgia Composite Medical Board)

#### CONCLUSIONS OF LAW

1.

The undersigned Administrative Law Judge ("ALJ") stands in the shoes of the referring agency and "has all the powers of the referring agency with respect to a contested case." O.C.G.A. § 50-13-41(b). Further, the ALJ "shall make an independent determination on the basis of the competent evidence presented at the hearing" and "may make any disposition of the matter available to the Referring Agency." Ga. Comp. R. & Regs. r. 616-1-1-.21(1).

2.

O.C.G.A. § 43-1-19(a) provides that a professional licensing board shall have the authority to revoke the license of a person licensed by that board or to discipline a person licensed by that board, upon a finding by a majority of the entire board that the licensee has:

(6) Engaged in any unprofessional, immoral, unethical, deceptive, or deleterious conduct or practice harmful to the public, which conduct or practice materially affects the fitness of the licensee or applicant to practice a business or profession licensed under this title, or of a nature likely to jeopardize the interest of the public, which conduct or practice need not have resulted in actual injury to any person or be directly related to the practice of the licensed business or profession but shows that the licensee or applicant has committed any act or omission which is indicative of bad moral character or untrustworthiness; unprofessional conduct shall also include any departure from, or the failure to conform to, the minimal reasonable standards of acceptable and prevailing practice of the business or profession licensed under this title;

...

(8) Violated a statute, law, or any rule or regulation of this state, any other state, the professional licensing board regulating the business or profession licensed under this title, the United States, or any other lawful authority ..., or violated a lawful order of the board previously entered by the board in a disciplinary hearing, consent decree, or license reinstatement; ...

3.

O.C.G.A. § 43-34-8 (a) further provides that the Board shall have authority to discipline a person regulated under this chapter or any antecedent law upon a finding by the Board that the licensee has:

(7) Engaged in any unprofessional, unethical, deceptive, or deleterious conduct or practice harmful to the public, which conduct or practice need not have resulted in actual injury to any person. As used in this paragraph, the term "unprofessional conduct" shall include any departure from, or failure to conform to, the minimum standards of acceptable and prevailing medical practice and shall also include, but not be limited to, the prescribing or use of drugs, treatment, or diagnostic procedures which are detrimental to the patient as determined by the minimum standards of acceptable and prevailing medical practice or by rule of the board;

...

(10) Violated or attempted to violate a law, rule, or regulation of this state, any other state, the board, the United States, or any other lawful authority without regard to whether the violation is criminally punishable, when such law, rule, or regulation relates to or in part regulates the practice of medicine, when the licensee or applicant knows or should know that such action violates such law, rule, or regulation; or violated a lawful order of the board previously entered by the board in a disciplinary hearing;

(11) Committed any act or omission which is indicative of bad moral character or untrustworthiness;

...

(17) Entered into conduct which discredits the profession ...

4.

O.C.G.A. § 43-1-19(d) provides that when the board finds that any person should be disciplined pursuant to subsection (a) of this Code section, the board may take anyone or more of the following actions:

(2) Administer a public or private reprimand, but a private reprimand shall not be disclosed to any person except the licensee;

(3) Suspend any license for a definite period or for an indefinite period in connection with any condition which may be attached to the restoration of such license;

(4) Limit or restrict any license as the board deems necessary for the protection of the public;

(5) Revoke any license;

(8) Impose on a licensee or applicant fees or charges in an amount necessary to reimburse the professional licensing board for the administrative and legal costs incurred by the board in conducting an investigative or disciplinary proceeding ...

5.

O.C.G.A. § 43-34-8(b)(1) provides that when the board finds that any person should be disciplined pursuant to subsection (a) of this Code section, the board may take anyone or more of the following actions:

(B) Place the licensee, certificate holder, or permit holder on probation for a definite or indefinite period with terms and conditions;

(C) Administer a public or private reprimand, provided that a private reprimand shall not be disclosed to any person except the licensee, certificate holder, or permit holder;

(D) Suspend any license, certificate, or permit for a definite or indefinite period;

- (E) Limit or restrict any license, certificate, or permit;
- (F) Revoke any license, certificate, or permit;
- (G) Impose a fine not to exceed \$3,000.00 for each violation of a law, rule, or regulation relating to the licensee, certificate holder, permit holder, or applicant;
- (H) Impose a fine in a reasonable amount to reimburse the board for the administrative costs;
- (L) Require a board approved mental and physical evaluation of all licensees, certificate holders, or permit holders.

6.

Ga. Compo R. & Regs. R. 360-3-.01 provides:

The Georgia Composite Medical Board ("Board") is authorized to deny, revoke, suspend, fine, reprimand or otherwise limit the license of a physician or physician assistant for all the grounds set forth in O.C.O.A. § 43-34-8 and to deny, revoke, suspend, fine, reprimand or otherwise limit the license of a physician pursuant to O.C.G.A. § 43-34-8  
....

7.

Ga. Compo R. & Regs. R. 360-3-.03 provides:

The Georgia Composite Medical Board is authorized to take disciplinary action for violations of laws and rules and regulations which relate to or in part regulate the practice of medicine. These laws, rules and regulations include, but are not limited to, the following:

(1) The Georgia Medical Practice Act (O.C.G.A. T. 43, Ch. 34);

...

(6) The Rules of the Georgia Composite Medical Board, Ch.360, Rules and Regulations of the State of Georgia;

8.

Respondent received proper notice of the hearing at his address of record and failed to appear at the appointed place and time. Respondent is in default and Petitioner has shown by a preponderance of the evidence that the Board is entitled to the relief it has requested.

9.

Respondent is in violation of the March 1, 2012 Consent Order, Pet. Exh. 2, by failing to complete the Mini-Residency entitled "Appropriate Prescribing of Controlled Substances" sponsored by the Mercer University Southern School of Pharmacy in Atlanta, Georgia. As a result, pursuant to O.C.G.A. §§ 43-1-19(a) and 43-34-8(a), cited above, Respondent is subject to discipline for failure to complete the Mini-residency.

**DECISION**

Accordingly, pursuant to O.C.G.A. §§ 43-1-19(d) and 43-34-8(b)(1), Ga. Compo R. & Regs. R. 360-3-.01 and R. 360-3-.03, Petitioner is entitled to the disciplinary relief requested for Respondent's violation of O.C.G.A. §§ 43-1-19(a) and 43-34-8(a) that (1) Respondent's, license be **SUSPENDED INDEFINITELY** pending completion of the Mercer Mini-Residency required under the March 1, 2012 Consent Order; (2) Respondent **RECEIVE A PUBLIC REPRIMAND**; and (3) Respondent be **FINED \$3000.00** and be **ASSESSED THE COSTS OF THIS ACTION**.

**SO ORDERED**, this 13th day of January, 2019.

  
\_\_\_\_\_  
**John Fry**  
**Administrative Law Judge**



IN THE SUPERIOR COURT OF FULTON COUNTY  
STATE OF GEORGIA

PETER J. ULBRICH, M.D,

Petitioner,

v.

GEORGIA COMPOSITE MEDICAL  
BOARD,

Respondent.

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CIVIL ACTION  
FILE NO. 2018CV306589

**FINAL ORDER**

The above-captioned matter is before the Court on Petitioner Peter J. Ulbrich, M.D.'s ("Petitioner") Petition for Judicial Review. After allowing the parties an opportunity to submit briefs in support of their positions, the Court held a hearing on Petitioner's Petition for Judicial Review on November 20, 2018. Colette Resnik Steel, Esq. appeared on behalf of Petitioner, and Betsy D. Cohen, Esq. appeared on behalf of Respondent Georgia Composite Medical Board ("Respondent" or "Board"). Both sides were given an opportunity for oral argument. Now, after reviewing and considering the entire record before the Court, including all evidence and applicable Georgia law, the Court herein finds as follows:

The Court's review of this matter is authorized and governed by O.C.G.A. Section 50-13-19. In Petition for Judicial Review cases like the one presently before the Court, the Court's review of the Board's decision is very limited. The Court's review is confined to the record below and is limited to: (1) a determination of whether there is sufficient evidence under the appropriate standard to support the Board's findings of fact, and (2) an examination of the soundness of the conclusions of law drawn from the findings of fact supported by any evidence. O.C.G.A. § 50-13-19(g); Pruitt Corp. v. Ga. Dept. of Community Health, 284 Ga. 158, 160 (2008).



Additionally, in accordance with O.C.G.A. Section 50-13-19, the Court “shall not substitute its judgment for that of the agency as to the weight of the evidence on questions of fact.” O.C.G.A. § 50-13-19(h). The Court may only “reverse or modify the decision if substantial rights of the appellant have been prejudiced because the administrative findings, inferences, conclusions, or decisions are: (1) In violation of constitutional or statutory provisions; (2) In excess of the statutory authority of the agency; (3) Made upon unlawful procedure; (4) Affected by other error of law; (5) Clearly erroneous in view of the reliable, probative, and substantial evidence on the whole record; or (6) Arbitrary or capricious or characterized by abuse of discretion or clearly unwarranted exercise of discretion.” Id.

As established by the record before the Court, Petitioner was issued a license to practice medicine in the State of Georgia on August 6, 1986.

On April 1, 2010, Petitioner’s medical license was suspended by a Consent Order following the Board’s review of a mental/physical examination of Petitioner by a Board-approved provider. The results of the examination included Petitioner’s admission to having engaged in boundary violations with patients, as well as a recommendation by the provider that prior to returning to the practice of medicine, Petitioner complete a treatment program in a facility familiar with professionals who have engaged in sexual misconduct.

On March 10, 2011, the Board entered a Public Consent Order lifting the suspension of Petitioner’s license and placing his license in a period of probation, subject to certain terms and conditions which included, among other things, that Petitioner continue to participate in outpatient treatment and utilize female chaperones with all female patients.

On May 8, 2015, the Board terminated Petitioner’s probation after determining that Petitioner had complied in all respects with the terms of his probation.

On June 21, 2017, the Board issued a confidential order to Petitioner to undergo a mental and physical examination. The Board issued this order after reviewing the results of an

investigation into an incident that occurred on or about September 6, 2016 when Petitioner allegedly made inappropriate comments to and inappropriately touched a female patient during an office visit. This incident, coupled with Petitioner's history of prior sexual misconduct with patients, formed the basis for the examination in question.

Petitioner was examined by Funmilayo Rachal, M.D. ("Dr. Rachal"). On August 11, 2017, the Board received the results of the examination, which concluded that Petitioner posed a significant safety threat to his patients and/or staff.

On or about August 22, 2017, the Board issued an Order of Summary Suspension, summarily suspending Petitioner's medical license pursuant to O.C.G.A. § 50-13-18(c) on the basis that Petitioner's continued practice of medicine posed a threat to the public health, safety, and welfare and imperatively required emergency action.

Thereafter, Petitioner requested an administrative review of and hearing on the Board's decision.

On November 14, 2017, a hearing was held before the Office of State Administrative Hearings ("OSAH"). Dr. Rachal offered expert testimony at the hearing, to which Petitioner did not object, on the fields of medicine, professional sexual boundaries, and forensic psychiatry. Dr. Rachal also testified about her mental and physical examination of Petitioner in August 2017, which included disclosures by Petitioner that after completing treatment in 2015, he had sexual relationships with at least four (4) women he had provided medical care to either before or after the sexual encounter. Dr. Rachal testified that following her examination, she concluded, based upon a reasonable degree of medical certainty, that Petitioner had relapsed, was at high risk for engaging in sexual misconduct, and that without further treatment, Petitioner posed a significant safety threat to his patients and/or his staff.

Three (3) witnesses also testified on behalf of Petitioner at the hearing before OSAH – two former patients of Petitioner and an office manager at a facility where Petitioner formerly

practiced. The former patients testified to sexual relationships they had with Petitioner either after they had been his patient (Patient G.C.) or before they began receiving medical care from Petitioner (Patient D.W.).

On February 9, 2018, OSAH issued an Initial Decision, finding that the Board had reasonable grounds to order Petitioner to undergo a mental/physical examination and affirming the Board's action in summarily suspending the Petitioner's license to practice medicine in the State of Georgia. OSAH further found that the Board was authorized to sanction the license of Petitioner on the basis that Petitioner had become unable to practice medicine with reasonable skill and safety to patients by reason of illness, or use of alcohol, drugs, narcotics, chemicals, or any other type of material, or as a result of any mental or physical condition pursuant to O.C.G.A. §§ 43-34-8(a)(13) and 43-1-19(a)(10).

On the basis of these findings, OSAH recommended that Petitioner's medical license be indefinitely suspended until Petitioner undergoes any treatment ordered by the Board and the Board determines that Petitioner can practice with reasonable skill and safety. OSAH further recommended that should the Board decide to lift the Petitioner's suspension, his license could be placed on probation under such terms and conditions as the Board deemed necessary for the protection of the public.

On March 13, 2018, Petitioner filed an Application for Agency Review with the Board. On April 12, 2018, the Board held a review hearing. On May 17, 2018, the Board issued a Final Decision, adopting the findings of fact, conclusions of law, and recommendations of OSAH and indefinitely suspending Petitioner's medical license, including terms as to Petitioner's ability to petition to lift the suspension.

On June 15, 2018, Petitioner initiated this action, seeking judicial review of the Board's May 17, 2018 Order indefinitely suspending his license to practice medicine in the State of Georgia.

After applying the requisite standard of review, considering the pleadings and evidence of record, and reviewing the record below, the Court finds that the evidence supports the Board's decision to indefinitely suspend Petitioner's medical license, and the Board's decision complies in all respects with applicable Georgia law. *See* O.C.G.A. § 50-13-19(g) and (h); Pruitt Corp., 284 Ga. at 160.

Accordingly, IT IS HEREBY ORDERED AND ADJUDGED that the decision of Respondent Georgia Composite Medical Board is AFFIRMED, and Petitioner Peter J. Ulbrich, M.D.'s Petition for Judicial Review and the request for relief therein is DENIED.

SO ORDERED this the 30<sup>th</sup> day of Jan, 2019.

  
SHAWN ELLEN LAGRUA, JUDGE  
Fulton County Superior Court  
Atlanta Judicial Circuit

**Filed and served electronically via Odyssey eFileGA**