

BEFORE THE COMPOSITE STATE BOARD OF MEDICAL EXAMINERS

STATE OF GEORGIA

**Composite State Board
of Medical Examiners**

IN THE MATTER OF:

AUG 06 2004

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

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

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

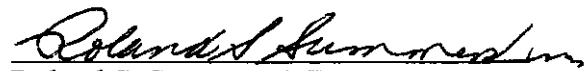
WHEREAS, Respondent has petitioned to have the probation terminated; and

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: LaSharn Hughes
Executive Director

BEFORE THE COMPOSITE STATE BOARD OF MEDICAL EXAMINERS

STATE OF GEORGIA

Composite State Board
of Medical Examiners

IN THE MATTER OF:

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JAN 10 2003

ALY ABBAS AHMED, M.D.

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DOCKET NUMBER

License No. 039026.

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DOCKET NO. 99-36

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99-36

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 10th 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 MD.

ALY ABBAS AHMED, M.D.

Respondent

Sworn to and Subscribed

before me this 23 day

of December, 2002

Lynette J. Oglethorpe

NOTARY PUBLIC

My Commission Expires: 9-23-04

BEFORE THE COMPOSITE STATE BOARD OF MEDICAL EXAMINERS JUN 18 1999

STATE OF GEORGIA

DOCKET NUMBER

99-36

IN THE MATTER OF:

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OSAH-SEB-MED-9901691-60-LFO

*

ALY ABBAS AHMED, M.D.

*

SEB DOCKET NO. 99-36

*

License ~~000000~~ 039026

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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 Medical 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,

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

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.

(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 6th 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:

Sworn to and Subscribed

Ally A. Ahmed, M.D.
ALY ABBAS AHMED, M.D.
Respondent

Before me this 6th day
of May, 1999.

Peggy L. Jones
NOTARY PUBLIC
My Commission Expires

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



BEFORE THE COMPOSITE STATE BOARD OF MEDICAL EXAMINERS
STATE OF GEORGIA

DOCKET NUMBER

IN THE MATTER OF:

ALY ABBAS AHMED, M.D.

License No. 039026,

Respondent.

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*DOCKET NO. 29-3629-36

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 20th day of January, 1999.

COMPOSITE STATE BOARD OF MEDICAL
EXAMINERS

SHEILA SMITH, M.D.
President

(BOARD SEAL)

William G. Miller, Jr.
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

ATTACHMENT:

GEORGIA COMPOSITE STATE BOARD OF MEDICAL EXAMINERS

IN THE MATTER OF:

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

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DOCKET NO. 99-36

*

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Respondent.

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**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

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