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By: Carla M. Silva
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STATE OF NEW JERSEY
DEPARTMENT OF LAW & PUBLIC SAFETY
DIVISION OF CONSUMER AFFAIRS
STATE BOARD OF MEDICAL EXAMINERS

IN THE MATTER OF THE SUSPENSION OR REVOCATION OF THE LICENSE OF	**Administrative Action**
ROGER LALLEMAND, JR., M.D. **LICENSE NO. 25MA07185000**	**ORDER TO SHOW CAUSE NOTICE OF HEARING AND NOTICE TO FILE ANSWER**
TO PRACTICE MEDICINE AND SURGERY IN THE STATE OF NEW JERSEY	

TO: Roger Lallemand, M.D.
c/o John R. Orlovsky, Esq.
Orlovsky, Moody, Schaaff & Conlon, LLC
187 Highway 36
West Long Branch, New Jersey 07764

This matter was opened to the New Jersey State Board of Medical Examiners (hereinafter the "Board") by Verified Administrative Complaint, supporting documents and Exhibits, copy attached, of Jeffrey Chiesa, Attorney General of New Jersey, by Carla M. Silva, Deputy Attorney General, on notice to Respondent, Roger Lallemand, M.D. (hereinafter "Respondent"), seeking the temporary suspension of the Respondent's license to practice

medicine and surgery and for such other relief deemed appropriate, pursuant to the authority conferred on the Board by N.J.S.A. 45:9-1 et seq. and N.J.S.A. 45:1-14 et seq. and related administrative regulations. It being alleged in the Verified Complaint that Respondent has committed serious violations of the statutes and regulations governing the practice of medicine, and it being further alleged that the continued practice of medicine by Respondent pending final disposition of the Verified Complaint represents a clear and imminent danger to the public health, safety, and welfare, in accordance with N.J.S.A. 45:1-22, accordingly, therefore, and for good cause shown,

IT IS ON THIS 1st **DAY OF** May , **2012**

ORDERED that the Respondent, Roger Lallemand, Jr., M.D., either in person or by attorney, show cause before a Committee of the New Jersey State Board of Medical Examiners at a scheduled meeting on Wednesday, May 9, 2012, at 9:00am or soon thereafter, to be held at the Hughes Justice Complex, 5th Floor, Trenton, New Jersey, why an Order should not be entered temporarily suspending his license to practice medicine and surgery in this State, and

IT IS FURTHER ORDERED that a copy of this Order, together with the Verified Complaint, Exhibits and materials in support thereof, be served upon Respondent and his attorney forthwith, and

IT IS FURTHER ORDERED that Respondent shall file a response to the Order to Show Cause by May 7, 2012, said responsive papers to

include a list of all potential witnesses to be presented by Respondent. Said responsive papers are to be delivered to the New Jersey Sate Board of Medical Examiners, P.O. Box 183, Trenton, New Jersey 08625-0183, with a copy delivered on that same date to Carla M. Silva, Deputy Attorney General, Division of Law, 124 Halsey Street, 5th Floor, P.O. Box 45029, Newark, New Jersey 07101, and

IT IS FURTHER ORDERED that separate from the response to the Order To Show Cause, Respondent shall file an Answer to the charges contained within the Verified Complaint not later than 35 days from receipt; said Answer to be delivered to the New Jersey State Board of Medical Examiners, P.O. Box 183, Trenton, New Jersey 08625-0183, with a copy delivered on that same date and time to Carla M. Silva, Deputy Attorney General, Division of Law, 124 Halsey Street, 5th Floor, P.O. Box 45029, Newark, New Jersey 07101, and

IT IS FURTHER ORDERED that failure to respond to this Order to Show Cause or failure to file an Answer to the Verified Complaint or failure to appear before the New Jersey State Board of Medical Examiners in person or through an attorney, as is herein required, will result in this matter being considered in Respondent's absence on the proofs presented and an Order may be entered against Respondent for any and all relief demanded in the Verified Complaint, and,

IT IS FURTHER ORDERED that an admission of the charges will indicate that Respondent does not wish to contest the charges

stated, rendering unnecessary hearings in this matter. The case will then be presented to the State Board of Medical Examiners within thirty (30) days of the receipt of Respondent's Answer or on an adjourned date, together with any written matter that Respondent may wish to submit with the Answer in alleged mitigation of penalty, for a determination as to whether disciplinary sanctions, including suspension or revocation of Respondent's license to practice medicine and surgery or other sanctions, should be imposed and whether monetary penalties and costs should be assessed and, if so, the amount thereof, pursuant to the authority conferred on the Board by N.J.S.A. 45:9-1 et seq. and N.J.S.A. 45:1-14 et seq., and

IT IS FURTHER ORDERED that a denial of the charges will result in a formal hearing which may be conducted by the Board or by an administrative law judge, who, upon notice to Respondent, will hear the Verified Complaint and consider the imposition of disciplinary sanctions. Respondent may appear at the hearing either in person or by attorney or both, and shall be afforded an opportunity at that time to make a defense to any and all charges.

STATE BOARD OF MEDICAL EXAMINERS

By: Paul T. Jordan, M.D.
President

JEFFREY S. CHIESA
ATTORNEY GENERAL OF NEW JERSEY
Division of Law
124 Halsey Street
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Newark, New Jersey 07101

By: Carla M. Silva
Deputy Attorney General
(973) 648-4741

STATE OF NEW JERSEY
DEPARTMENT OF LAW & PUBLIC SAFETY
DIVISION OF CONSUMER AFFAIRS
STATE BOARD OF MEDICAL EXAMINERS
Docket No.

IN THE MATTER OF THE SUSPENSION OR REVOCATION OF THE LICENSE OF **ROGER LALLEMAND, JR., M.D.** **LICENSE NO. 25MA07185000** TO PRACTICE MEDICINE AND SURGERY IN THE STATE OF NEW JERSEY	Administrative Action **COMPLAINT** **VERIFIED AS TO** **COUNTS I, II & III**

Jeffrey S. Chiesa, Attorney General of the State of New Jersey, by Carla M. Silva, Deputy Attorney General, with offices located at 124 Halsey Street, Fifth Floor, Newark, New Jersey 07101, by way of Verified Complaint as to Counts I, II and III says:

GENERAL ALLEGATIONS

1. Complainant, Attorney General of New Jersey, is charged with enforcing the laws in the State of New Jersey pursuant to

N.J.S.A. 52:17A-4(h) and is empowered to initiate administrative disciplinary proceedings against persons licensed by the State Board of Medical Examiners (the "Board") pursuant to N.J.S.A. 45:1-14, et seq.

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

3. Roger Lallemand, M.D., ("Respondent") is licensed to practice medicine and surgery in the State of New Jersey and is the holder of License No. 25MA07185000.

4. Respondent obtained his medical degree from Duke University in 1999 and completed two years of an orthopedic residency at Robert Wood Johnson University Hospital in 2001. (Exhibit Z, Respondent's Curriculum Vitae)

5. During all times relevant to this Complaint, Respondent maintained offices for the practice of medicine at 59 Route 516 and 200 Perrine Road in Old Bridge, New Jersey.

COUNT I

6. The General Allegations are repeated and realleged as if set forth at length herein.

7. On Tuesday, December 6, 2011, a Drug Enforcement Administration ("DEA") Task Force Officer, [redacted] ("TFO [redacted]") appeared for his initial appointment at Respondent's medical practice at 59 Route 516 in Old Bridge, New Jersey, in an

undercover capacity as patient "[redacted]" seeking medical care for alleged lower back "discomfort". (See Exhibit H (DEA Report of Investigation for December 6, 2011)).

8. TFO [redacted] provided Respondent's staff with a completed fictitious medical background questionnaire, urine sample and an MRI report which he represented was prepared in Florida on May 12, 2010. (Exhibit I, T3:8-19[1] & 27:8-10 (December 6, 2012 Transcript); See Exhibit J (December 6, 2012 CD recording Undercover Investigation[2]); Exhibit H).

9. Respondent's staff asked TFO [redacted] additional medical background questions and took his blood pressure. (Exhibit I, T2:22-3:1; Exhibit J; Exhibit H).

10. TFO [redacted] was then seen by Respondent for approximately two (2) minutes and forty (40) seconds. (Exhibit J, 16:13:00-16:15:40).

11. TFO [redacted] informed Respondent that the "discomfort" was in his lower back and buttocks. (Exhibit I, T11:15-15:6; Exhibit J, 16:13:00-16:15:40; Exhibit H).

12. Respondent's only physical examination consisted of asking TFO [redacted] if he had feeling on the outer area of his knee when Respondent touched it. (Exhibit I, T13:17-14:2; Exhibit J, 16:13:00-16:15:40; Exhibit H).

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[1] Transcript(page):(line)
[2] All referenced CDs and DVDs will be made available to the Board.

13. Respondent noted in TFO [redacted]'s patient record that his general appearance was "well-nourished, well-developed, and in no acute distress." (Exhibit W (Patient record for [redacted])).

14. Respondent diagnosed TFO [redacted] with lumbar radiculopathy and chronic pain. (Exhibit W).

15. TFO [redacted] informed Respondent that he never received formal physical therapy for his condition and was not currently taking any medication for his lower back issues, though he had taken Oxycodone in the past. (Exhibit I, T13:12-14:16; Exhibit J, 16:13:00-16:15:40; Exhibit H).

16. TFO [redacted] then requested a prescription for Oxycodone from Respondent. (Exhibit I, T14:11-15:6; Exhibit J, 16:13:00-16:15:40; Exhibit H).

17. Respondent, or someone on his behalf, issued TFO [redacted] a prescription for a total of 56 pills of 30mg Roxicodone at the conclusion of his first appointment. (Exhibit H; Exhibit J; Exhibit X (MRI Report, Prescription Claims Detail and Prescriptions for [redacted]; Exhibit W).

18. Contrary to Respondent's December 6, 2011 patient record for [redacted], TFO [redacted] was not prescribed Motrin, Lorzone or Vimovo. (Exhibit W; Exhibit H; Exhibit I; Exhibit J).

19. TFO [redacted] appeared for subsequent appointments with Respondent at 200 Perrine Road in Old Bridge, New Jersey, on

January 3, 2012, January 31, 2012, February 27, 2012 and March 19, 2012. (Exhibit K (DEA Report of Investigation for January 3, 2012); Exhibit N (DEA Report of Investigation for January 31, 2012); Exhibit Q (DEA Report of Investigation for February 27, 2012); Exhibit T (DEA Report of Investigation for March 19, 2012)).

20. On January 3, 2012, TFO [redacted] was seen by Respondent for approximately three (3) minutes. (Exhibit M (January 3, 2012 DVD recording Undercover Investigation), 22:24-25:17).

21. TFO [redacted] provided Respondent with a fabricated Prescription Claims Detail for [redacted] which detailed that he last filled prescriptions for 60 pills of 30mg Oxycodone on June 28, 2011 and May 29, 2011. (Exhibit K; Exhibit L (January 3, 2012 Transcript), T3:5-14; Exhibit M, 22:24-25:17; Exhibit X).

22. When asked how the medication helped, TFO [redacted] responded that "It's good" and then proceeded to ask for a higher dosage. (Exhibit L, T3:20-25; Exhibit M, 22:24-25:17).

23. With no medical justification, Respondent increased the prescription to 120 pills of Roxicodone. (Exhibit K; Exhibit L, T5:21-24; Exhibit M, 22:24-25:17; Exhibit X)

24. Neither Respondent nor his staff conducted a physical examination of TFO [redacted] on January 3, 2012, other than that Respondent briefly touched his back and checked his knee reflexes. (Exhibit K; Exhibit L; Exhibit M, 22:24-25:17).

25. Respondent deleted or failed to make any note of TFO [redacted]'s January 3, 2012 appointment in his patient record for [redacted] (Exhibit W).

26. On January 31, 2012, TFO [redacted] was seen by Respondent for approximately four (4) minutes and seven (7) seconds. (Exhibit P (January 31, 2012 DVD recording Undercover Investigation), 19:28-23:35).

27. TFO [redacted] provided a urine sample on January 31, 2012. (Exhibit W; Exhibit N).

28. When asked by Respondent how his pain was, TFO [redacted] responded, "Good. Just - I mean maintain the same." (Exhibit O (January 31, 2012 Transcript), T3:10-12).

29. Contrary to Respondent's patient record for [redacted], TFO [redacted] never reported on January 31, 2012 that the "symptoms of pain in back [were] worse than leg pain," that "pain pattern is more referred than radicular", that he experienced "pain with movement," or that he experienced "muscle spasms." (Exhibit W; Exhibit O, T4:20-23; Exhibit P, 19:28-23:35)

30. On January 31, 2012, Respondent gave TFO [redacted] a prescription for Xanax with no medical justification. (Exhibit N; Exhibit O, T4:20-23; Exhibit P, 19:28-23:35).

31. Contrary to Respondent's patient record for [redacted], TFO [redacted] never complained on January 31, 2012 "of feeling anxious, tense, and worried." Nor did TFO [redacted] state

that he felt "irritable, agitated, restless and [had] trouble sleeping." Nor did Respondent ask any questions regarding "medication side effects or drug abuse." TFO [redacted] was also not instructed to "eliminate use of caffeine and other stimulants" or "encouraged to seek a psychiatrist if symptoms do not improve." Respondent [redacted] was also not questioned regarding "nervousness, fearfulness, suicidal ideation, anger, memory loss, hallucinations [or] drug abuse." (Exhibit W; Exhibit O; Exhibit P)

32. Respondent provided TFO [redacted] with three prescriptions on January 31, 2012, one for 120 pills of 30mg Roxicodone, the second for 60 pills of Xanax, and a third for Flexaril. (Exhibit N; Exhibit O, T4:16-23; Exhibit P, 19:28-23:35; Exhibit X).

33. Contrary to Respondent's January 31, 2012 patient record for [redacted], Respondent never provided TFO [redacted] with Cymbalta samples or a prescription for Motrin. Nor did he provide TFO [redacted] with any instructions regarding daily activities, potential exercises, proper posture and lifting technique, or sleeping posture. Nor was there any discussion regarding "pain medication side effects and any addiction potential" or the "risks and benefits of prescription medications." (Exhibit N; Exhibit O; Exhibit P)

34. Neither Respondent nor his staff conducted a physical examination of TFO [redacted] on January 31, 2012, other than that

Respondent briefly pinched TFO [redacted]'s neck. (Exhibit K; Exhibit L; Exhibit M).

35. On or about February 3, 2012, AEGIS Pain Medication Compliance Testing ("AEGIS") reported to Respondent that the urine specimen collected from "[redacted]" on January 31, 2012 was negative for the presence of the prescribed Oxycodone. (Exhibit W).

36. On February 27, 2012, TFO [redacted] was seen by Respondent for approximately nine (9) minutes. Five (5) minutes and thirty (30) seconds were spent discussing non-medical topics including prostitution and sports tickets. (Exhibit S (February 27, 2012 DVD recording Undercover Investigation), 14:26-23:23).

37. TFO [redacted] provided a urine sample on February 27, 2012. (Exhibit W; Exhibit Q).

38. With no prompting, Respondent suggested that TFO [redacted] begin a testosterone regime because "the longer …you take pain meds, it fucks your hormones." Respondent asserted that he "[does] it for all [his] patients." (Exhibit Q; Exhibit R (February 27, 2012 Transcript), T11:5-21; Exhibit S).

39. TFO [redacted] asked that Respondent give him two prescriptions for 120 pills of 30mg Oxycodone though he did not provide any explanation for the need for an additional prescription. Respondent complied. (Exhibit Q; Exhibit R, T12:16-24; Exhibit S, 14:26-23:23).

40. Contrary to Respondent's February 27, 2012 patient record for [redacted] TFO [redacted] never stated he would be traveling on vacation and would be unable to return to the clinic in twenty (20) days. Nor was a chronic care handout provided and discussed with TFO [redacted] as the record indicates. (Exhibit R; Exhibit S; Exhibit W).

41. Respondent provided TFO [redacted] with four prescriptions, one for 120 pills of 30mg Roxicodone dated February 27, 2012, one for 120 pills of 30mg Roxicodone dated March 16, 2012, one for 90 pills of Xanax, and one for Flexaril. (Exhibit Q; Exhibit R; Exhibit S; Exhibit X).

42. Contrary to Respondent's February 27, 2012 patient record for [redacted] Respondent never provided TFO [redacted] with a prescription for Motrin or even recommended that he try it. (Exhibit W; Exhibit R; Exhibit S).

43. Neither Respondent nor his staff conducted a physical examination of TFO [redacted] on February 27, 2012, other than that Respondent briefly pinched TFO [redacted]'s neck and pressed on his lower back. (Exhibit Q; Exhibit R; Exhibit S).

44. Contrary to Respondent's February 27, 2012 patient record for [redacted] TFO [redacted] never reported that he had "morning stiffness with decreased mobility due to pain" and he never denied having "depression and anxiety associated with this pain." Nor did TFO [redacted] discuss the nature, severity or

location of his alleged pain on that date. Respondent also did not review "motivational techniques", the "target pain level management of 3 to 4 in scale of 10," "pain medicine management agreements," or any other actions listed under "plan" in the patient record. (Exhibit R; Exhibit S, Exhibit W).

45. On or about March 3, 2012, AEGIS reported to Respondent that the urine specimen collected from [redacted] on February 27, 2012 was negative for the presence of the prescribed Oxycodone and Cyclobenzaprine which the lab described as "non-compliant" with his treatment plan. (Exhibit W).

46. On March 19, 2012, TFO [redacted] was seen by Respondent for approximately six (6) minutes. (Exhibit V (March 19, 2012 DVD recording Undercover Investigation), 2:40-8:30).

47. Contrary to Respondent's undated final entry in the patient record for [redacted], Respondent did not discharge TFO [redacted] at his last appointment. (Exhibit U (March 19, 2012 Transcript), Exhibit V, Exhibit W).

48. TFO [redacted] scheduled another appointment with Respondent and also made an appointment for his girlfriend. (Exhibit U, T10:11-T12:5; Exhibit V).

49. Respondent also issued TFO [redacted] a prescription for Xanax. (Exhibit U, T10:8-10; Exhibit V; Exhibit X).

50. Throughout his appointments with TFO [redacted] Respondent made multiple unprofessional comments.

51. Throughout the patient record for [redacted] [redacted] Respondent inserted or caused to be inserted fabricated and inaccurate information.

52. Respondent's medical practice as evidenced by his treatment of TFO [redacted] deviates from the accepted standards of medical practice. The deviations are demonstrated by the conduct alleged herein.

53. Respondent's conduct as alleged herein constitutes gross malpractice, gross negligence, and/or gross incompetence and thus constitutes a basis for disciplinary sanction pursuant to N.J.S.A. 45:1-21(c) and constitutes repeated acts of negligence, malpractice, and/or incompetence in violation of N.J.S.A. 45:1-21(d).

54. Respondent's conduct as alleged herein constitute dishonesty, fraud, deception or misrepresentation in violation of N.J.S.A. 45:1-21(b) and a failure to conform to the recordkeeping requirements set forth in N.J.A.C. 13:35-6.5(b)(2) and are thus a violation of N.J.S.A. 45:1-21(h).

55. Respondent's conduct as alleged herein further constitutes professional misconduct and thus constitutes a basis for disciplinary sanction pursuant to N.J.S.A. 45:1-21(e).

56. Respondent's conduct as alleged herein further constitutes the prescribing of CDS indiscriminately or without good cause in violation of N.J.S.A. 45:1-21(m).

57. Respondent's conduct as alleged herein palpably demonstrates that his continued practice of medicine and/or surgery in New Jersey presents a clear and imminent danger to the public health, safety, and welfare warranting the immediate temporary suspension of his license pursuant to N.J.S.A. 45:1-22.

COUNT II

58. The General Allegations and Count I are repeated and realleged as if set forth at length herein.

59. Respondent's routine pain management treatment of his patients C.P., P.B., M.R.J., A.E., M.J.(P.), T.Y. and D.E. deviated repeatedly from accepted standards of medical care.

60. Respondent failed to maintain patient medication contract agreements with each patient as recommended by the standard of care and under N.J.A.C. 13:35-7.6(f). (e.g., Exhibit A (Patient Record for P.B.), 2248-2353; Exhibit D (Patient Record for D.E.), p.S01826-S02093; Exhibit CC (Patient Record for T.Y.), p.S01774-S01775); Exhibit C (Expert Report of Gerard A. Malanga, M.D.), p. 3); Exhibit BB (Transcript of Respondent's April 6, 2011 Preliminary Evaluation Committee Appearance), T23:20-25 & T24:3-21).

61. Respondent failed to adequately document the effectiveness of the prescribed pain medication or, otherwise, adequately monitor whether there was improvement in pain, improvement in function or adverse effects from the pain

medications he prescribed to his patients. An example of this failure includes, but is not limited to, his treatment of patient P.B.:

a. Patient P.B., at age fifty-nine (59), commenced treatment with Respondent for complaints of low back, feet and hand pain on or about February 6, 2009. (Exhibit A (Patient Record for P.B.), p.02269).

b. Respondent was aware through a prior January 14, 2009 letter that P.B. had a history of diabetes and suffered from peripheral neuropathy in his hands and feet. (Exhibit A, p.2317-2319).

c. Beginning on February 6, 2009, Respondent prescribed P.B. one 80mg tablet of OxyContin twice a day and 30mg tablets of Roxicodone for breakthrough pain. (Exhibit A, p.02269-02271 & 02348).

d. Beginning March 17, 2009, Respondent increased the dosage to 80mg tablets of OxyContin four times a day. (Exhibit A, p.02264-02266 & 02348).

e. Between March 17, 2009 and October 2, 2009, Respondent prescribed P.B. 960 tablets of 80mg Oxycontin and 960 tablets of 30mg Roxicodone. (Exhibit A, p.02250-02266).

f. Patient P.B. notified Respondent on December 16, 2009 that at some point since his last appointment on

October 2, 2009 he was hospitalized for jaundice. (Exhibit A, p.02248-02249 & 02348).

g. Respondent was also aware that P.B. had a history of liver disease related to alcohol use and jaundice through an October 8, 2009 consultation report. (Exhibit A, p.02345-02346).

h. While Respondent knew or should have known that P.B.'s liver would be less able to metabolize medication, Respondent made no appropriate adjustment to the prescriptions for high-dose OxyContin and Roxicodone. Instead, on December 16, 2009, Respondent again prescribed P.B. 120 tablets of 80mg Oxycontin and 120 tablets of 30mg Roxicodone. (Exhibit A, p.02248, 02346, 02348 & 02289, 02321-02322; Exhibit B, p.4; Exhibit C, p.3 & 6).

i. Respondent refilled P.B.'s prescriptions for high-dose OxyContin and Roxicodone without learning more about the cause of the jaundice or whether the narcotics played a role thus increasing the risk of harm to P.B.'s liver. Oxycontin and Roxicodone can cause "spasm in the biliary system resulting in more liver impairment and increasing jaundice." Also, "in a patient that has significant liver disease along with renal impairment, there would likely an accumulation of

these medications that can result in respiratory suppression and death." (Exhibit B (Expert Report of Louis F. Amorosa, MD), p.4; Exhibit C, p.6)

62. Respondent continued to provide Controlled Dangerous Substances to patients even though urine drug testing results repeatedly indicated improper medication use or substance abuse. An example of this deviation from accepted standards of medical practice includes, but is not limited to, his treatment of patient D.E.:

a. Patient D.E., at age forty-four (44), commenced treatment with Respondent for knee pain on or about October 15, 2007. (Exhibit D (Patient Record for D.E.), p.S01826-S02093).

b. Toxicology tests performed on specimens collected from D.E. between May 1, 2008 and December 22, 2008 yielded six positive lab results for the presence of cocaine which were indicative of cocaine abuse or consumption of medications not prescribed by the Respondent. (Exhibit D, S02003, S02006, S02016, S02018, S02021, & S02026; Exhibit C, p.3).

c. Toxicology tests performed on specimens collected from D.E. between May 1, 2008 and December 22, 2008 revealed negative results for benzodiazepine,

proxyphene, Oxycodone, and tramadol which indicated she was not consuming her prescribed medications. (Exhibit D, p.S02002-S02028; Exhibit C, p.3).

d. The absence of prescribed medications in the toxicology results "suggest[s] the potential for diversion" of these "powerful opioid medications." (Exhibit C, p.3).

63. Respondent failed to timely refer patients to addiction specialists. An example of this deviation from accepted standards of medical practice includes, but is not limited to, his treatment of patient T.Y.:

e. Patient T.Y., at age forty-six (46), commenced treatment with Respondent for low back pains, knee pains and an evaluation of vertigo on or about August 16, 2006. (Exhibit CC, p.S01774-S01775).

f. Toxicology tests performed on a specimen collected from T.Y. on May 25, 2007 yielded a positive lab result for the presence of cocaine and a positive lab result for the presence of opiates. (Exhibit CC, p.S01808).

g. Respondent continued to prescribe T.Y. increasing narcotic pain medications; in March of 2008, Respondent documented three prescriptions of

Roxicodone 30mg in T.Y.'s patient record, totaling 200 tablets. (Exhibit CC, p.S01513-S01510).

h. Respondent prescribed T.Y. Suboxone from April 16, 2008 until September of 2008 whereupon he resumed prescribing T.Y. Roxicodone and other narcotic medications. (Exhibit CC, p.S01510-S01508).

i. The next toxicology test was performed on a specimen collected from T.Y. on November 23, 2009 and reported on November 30, 2009. It again revealed positive results for the presence of a metabolite of Cocaine. It also revealed negative results for the presence of benzodiazepines indicating he was not consuming his prescribed medications. (Exhibit CC, p.01795-01796).

j. A toxicology test was performed on a specimen collected from T.Y. on December 21, 2009 and reported on December 29, 2009. It revealed negative results for the presence of morphine and benzodiazepines which indicated he was not consuming his prescribed medications. It also revealed a positive result for the presence of Gabapentin which indicated consumption of medications not currently prescribed by the Respondent. (Exhibit CC, p.S01793-1794).

k. According to his patient record, Respondent issued T.Y. prescriptions for 405 tablets of 30mg Roxicodone, among other medications, between November 23, 2009 and January 26, 2010. (Exhibit CC, p.S01505).

l. Though Respondent noted on January 26, 2010 that T.Y. was discharged due to the November 30, 2012 positive cocaine result, there was no documentation of a referral to an addiction specialist as would be appropriate under the standard of care. (Exhibit CC, p.S01505; Exhibit C, p.3-4)

64. Respondent's medical practice as evidenced by his treatment of patients C.P., P.B., M.R.J., A.E., M.J.(P.), T.Y. and D.E. deviates from the accepted standards of medical practice. The deviations are demonstrated by the conduct alleged herein and as analyzed in Exhibits B and C.

65. Respondent's conduct as alleged herein constitutes gross malpractice, gross negligence, and/or gross incompetence and thus constitutes a basis for disciplinary sanction pursuant to N.J.S.A. 45:1-21(c) and constitutes repeated acts of negligence, malpractice, and/or incompetence in violation of N.J.S.A. 45:1-21(d).

66. Respondent's conduct as alleged herein further constitutes professional misconduct and thus constitutes a basis for disciplinary sanction pursuant to N.J.S.A. 45:1-21(e).

67. Respondent's conduct as alleged herein further constitutes a violation of the Board's record keeping regulation and thus constitutes a basis for disciplinary sanction pursuant to N.J.S.A. 45:1-21(h).

68. Respondent's conduct as alleged herein further constitutes the prescribing of CDS indiscriminately or without good cause in violation of N.J.S.A. 45:1-21(m).

69. Respondent's conduct as alleged herein palpably demonstrates that his continued practice of medicine and/or surgery in New Jersey presents a clear and imminent danger to the public health, safety, and welfare warranting the immediate temporary suspension of his license pursuant to N.J.S.A. 45:1-22.

COUNT III

70. The General Allegations, Count I and Count II are repeated and realleged as if set forth at length herein.

71. Respondent's treatment of his patients with testosterone deviates from accepted standards of medical practice as demonstrated by his treatment of patients C.G., C.P. and S.G. (Exhibit E (Patient Profile for C.P.), p.S0030-S0035; Exhibit F (Office Prescription Record for C.P.), p.S0050-S00057; Exhibit G (Patient Record for C.P.), p.S00058-S00183; Exhibit DD (Patient

Record for C.G.), p.02095-02246); Exhibit EE (Patient record for S.G.), p. S02608-S02660; Exhibit B, p.3-7).

72. A female patient, C.P., commenced treatment at age thirty-four (34) with Respondent on or about May 4, 2006 for low back pain, leg pain and anxiety. On or about August 11, 2006 Respondent also assessed C.P. as having hypogonadism. (Exhibit G, p.S00181-S00183 & S0015-S00156; Exhibit AA (Transcript of Respondent's November 3, 2010 Preliminary Evaluation Committee Appearance), T46:22-T47:4).

73. Between August of 2008 and October 2010, Respondent treated C.P. with 24 prescriptions for the Androgel pump at two pumps per day. (Exhibit E, p.S0030-S0035; Exhibit F, p.S0050-S00057; Exhibit G, p.S00058-S00183) Exhibit B, p.3-4).

74. A male patient, C.G., commenced treatment at age thirty-four (34) with Respondent on or about November 8, 2007 for low back pain. On or about May 8, 2008 Respondent assessed C.G. as having hypogonadism. C.G. had a history of chronic opiate abuse. (Exhibit DD, p.02205-02207 & 02175-02177).

75. Respondent treated C.G., who also exhibited "marked psychiatric symptoms," with testosterone between May of 2008 and May of 2009 with prescriptions for 1cc of 200mg testosterone cypionate every seven days. (Exhibit DD, p. 02125-02177; Exhibit B, p.5).

76. A male patient, S.G., commenced treatment at age thirty-three (33) with Respondent on or about June 23, 2009 for fatigue, hypogonadism, insomnia and anxiety among other conditions. (Exhibit EE, S02608 & S02644).

77. Respondent treated S.G. with testosterone between July of 2009 and February of 2011 with prescriptions for 1cc to 1.6cc of 200mg testosterone cypionate every seven days.

78. Respondent's patient records fail to reflect relevant differential diagnoses and/or careful consideration of less risky or potentially harmful treatments. Testosterone treatment can lead to aggressive behavior, polycythemia (which can lead to strokes), liver damage and/or prostate cancer. Instead, it is Respondent's routine practice to prescribe testosterone to patients also being prescribed narcotic pain medication or have experienced chronic narcotic use. (e.g., Exhibit G, p.S00058-S00183; Exhibit DD, 02094-02246; Exhibit EE, S02608-S02660; Exhibit B, p.2-7; Exhibit BB, T36:3-38:19; Exhibit R, 4T11:5-21).

79. Respondent routinely prescribes testosterone to his patients in dosages which are excessively high and at a level that is medically unnecessary. High testosterone levels can exacerbate psychiatric disease, cause male breast enlargement, clitormegaly in women, personality changes and/or aggressive behavior. (e.g., Exhibit G, S00058-S00183; Exhibit DD, 02094-02246; Exhibit B, p.2-7). For example:

a. C.P.'s testosterone jumped dangerously from 37ng/dl in August of 2008 to 551ng/dl in November of 2008 and 434ng/dl in November of 2009 where the upper limit for females is approximately 82. (Exhibit G, S00229, S00243, and S00253; Exhibit B, p.3-4).

b. C.G.'s testosterone jumped dangerously from 97ng/dl in April of 2008 to 968ng/dl in August of 2008 and 1010ng/dl in November of 2008 where the upper limit for males is approximately 800. This increased the estradiol level to 54pg/ml with an upper limit of 42 in men. (Exhibit DD, S0225, S02234, and S02239; Exhibit B, p.5).

c. S.G.'s testosterone jumped dangerously from 748ng/dl in August 2009 to 1435ng/dl in January 2010 and 1257ng/dl in August 2010 where the upper limit for males is approximately 800. (Exhibit EE, p. S02625, S02630, S02635: Exhibit B, p.5).

80. Respondent failed to adequately monitor improvement in function or adverse effects experienced by his patients receiving testosterone treatment. This failure is demonstrated by the missing and/or paltry entries in the patient records reflecting such indicators, including but not limited to, the presence or absence of acne, lost body fat, body weight or impact on libido

or mood. (Exhibit G, p.S00058-S00183; Exhibit DD, p.02095-02246; Exhibit EE, p.S02608-S02660; Exhibit B, p.3-4).

81. Respondent prescribed testosterone to patients taking other hormone-impacting medications with no discussion or monitoring of the potential drug interactions. Specifically, Respondent prescribed testosterone to patients receiving arimidex and/or triphasal 28 birth control. (Exhibit E, p.S0030-S0035; Exhibit F, p.S0050-S00057; Exhibit G, p.S00058-S00183; Exhibit EE, p.S02608-S02660; Exhibit DD, p.02095-02246; Exhibit B, p.5-7).

82. Respondent's patient records fail to reflect that he has adequately informed his patients of the serious risks of testosterone treatment. (e.g., Exhibit G, S00058-S00183; Exhibit EE, p.S02608-S02660; Exhibit DD, p.02095-02246; Exhibit B).

83. Respondent's medical practice as evidenced by his treatment of patient C.G., C.P. and S.G. deviates from the accepted standards of medical practice. The deviations are demonstrated by the conduct alleged herein and as analyzed in Exhibit B and Exhibit C.

84. Respondent's conduct as alleged herein constitutes gross malpractice, gross negligence, and/or gross incompetence and thus constitutes a basis for disciplinary sanction pursuant to N.J.S.A. 45:1-21(c) and constitutes repeated acts of

negligence, malpractice, and/or incompetence in violation of N.J.S.A. 45:1-21(d).

85. Respondent's conduct as alleged herein further constitutes professional misconduct and thus constitutes a basis for disciplinary sanction pursuant to N.J.S.A. 45:1-21(e).

86. Respondent's conduct as alleged herein further constitutes a violation of the Board's record keeping regulation and thus constitutes a basis for disciplinary sanction pursuant to N.J.S.A. 45:1-21(h).

87. Respondent's conduct as alleged herein palpably demonstrates that his continued practice of medicine and/or surgery in New Jersey presents a clear and imminent danger to the public health, safety, and welfare warranting the immediate temporary suspension of his license pursuant to N.J.S.A. 45:1-22.

COUNT IV

88. The General Allegations, Count I, Count II and Count III are repeated and realleged as if set forth at length herein.

89. Respondent improperly performed electrodiagnostic testing on patients P.B., D.E., A.E. and R.J.

90. Respondent made unsupported and unsubstantiated diagnoses based on his improperly performed nerve conduction studies.

91. Respondent failed to provide a summary in the patient records of the observational findings of nerve conduction testing

resulting in a risk of medically unnecessary treatment such as spinal injections or surgical intervention.

92. Respondent's medical practice as evidenced by his treatment of patients P.B., D.E., A.E. and R.J. deviates from the accepted standards of medical practice. The deviations are demonstrated by the conduct alleged herein and as analyzed in Exhibit C.

93. Respondent's conduct as alleged herein constitutes gross malpractice, gross negligence, and/or gross incompetence and thus constitutes a basis for disciplinary sanction pursuant to N.J.S.A. 45:1-21(c) and constitutes repeated acts of negligence, malpractice, and/or incompetence in violation of N.J.S.A. 45:1-21(d).

94. Respondent's conduct as alleged herein further constitutes professional misconduct and thus constitutes a basis for disciplinary sanction pursuant to N.J.S.A. 45:1-21(e).

95. Respondent's conduct as alleged herein further constitutes a violation of the Board's record keeping regulation and thus constitutes a basis for disciplinary sanction pursuant to N.J.S.A. 45:1-21(h).

COUNT V

96. The General Allegations, Count I, Count II, Count III and Count IV are repeated and realleged as if set forth at length herein.

97. Respondent improperly performed manipulation under anesthesia ("MUA") on patients A.S., D.R. and P.H.

98. Respondent failed to re-assess each patient on each day following the MUA treatments and prior to performing another session of MUA.

99. Respondent performed MUA with no medical necessity as demonstrated by the lack of specific physical exam findings and generic manipulation performed on each patient.

100. Patient records indicate that Respondent failed to have an anesthesiologist present when he performed MUA using general anesthesia.

101. Respondent's medical practice as evidenced by his treatment of patients A.S., D.R. and P.H. deviates from the accepted standards of medical practice. The deviations are demonstrated by the conduct alleged herein and as analyzed in Exhibit C.

102. Respondent's conduct as alleged herein constitutes gross malpractice, gross negligence, and/or gross incompetence and thus constitutes a basis for disciplinary sanction pursuant to N.J.S.A. 45:1-21(c) and constitutes repeated acts of negligence, malpractice, and/or incompetence in violation of N.J.S.A. 45:1-21(d).

103. Respondent's conduct as alleged herein further constitutes professional misconduct and thus constitutes a basis for disciplinary sanction pursuant to N.J.S.A. 45:1-21(e).

104. Respondent's conduct as alleged herein further constitutes a violation of the Board's record keeping regulation and thus constitutes a basis for disciplinary sanction pursuant to N.J.S.A. 45:1-21(h).

COUNT VI

105. The General Allegations, Count I, Count II, Count III, Count IV and Count V are repeated and realleged as if set forth at length herein.

106. Respondent's treatment of patients C.P., M.R.J., A.E., M.J.(P.), T.Y., D.E., C.D., P.B., M.G., P.H., W.L., D.R. and A.S. demonstrates that he lacks adequate training to perform services related to neurology, psychiatry, anesthesiology, pain management, physical medicine and rehabilitation, spinal manipulative therapy, Manipulation Under Anesthesia, peripheral neuromuscular anatomy, physiology, testosterone treatment and/or electrodiagnostic testing.

107. Respondent's patient records for patients C.P., M.R.J., A.E., M.J.(P.), T.Y., D.E., C.D., P.B., M.G., P.H., W.L., D.R. and A.S. contain contradictory and inaccurate information, are deficient as to patient histories and physical exams and lack Respondent's signature at the end of each entry.

108. Respondent's conduct as alleged herein constitutes gross malpractice, gross negligence, and/or gross incompetence and thus constitutes a basis for disciplinary sanction pursuant to N.J.S.A. 45:1-21(c) and constitutes repeated acts of negligence, malpractice, and/or incompetence in violation of N.J.S.A. 45:1-21(d).

109. Respondent's conduct as alleged herein further constitutes professional misconduct and thus constitutes a basis for disciplinary sanction pursuant to N.J.S.A. 45:1-21(e).

110. Respondent's conduct as alleged herein further constitutes a violation of the Board's record keeping regulation and thus constitutes a basis for disciplinary sanction pursuant to N.J.S.A. 45:1-21(h).

WHEREFORE, the Attorney General of New Jersey demands the entry of an Order against the Respondent Roger Lallemand, M.D.:

1. For the immediate temporary suspension of Respondent's license to practice medicine and surgery in the State of New Jersey pending a full plenary hearing pursuant to N.J.S.A. 45:1-22;

2. For the suspension or revocation of Respondent's license to practice medicine, and surgery pursuant to N.J.S.A. 45:1-21;

3. Directing Respondent to cease and desist the practice of medicine and surgery in the State of New Jersey, pursuant to N.J.S.A. 45:1-22(c);

4. Imposing such limitations on Respondent's CDS registration as would be required by the Board or the Office of Drug Control;

5. Imposing penalties upon the Respondent for each separate offense set forth herein, pursuant to N.J.S.A. 45:1-22(b) and N.J.S.A. 45:1-25;

6. Imposing costs upon the Respondent, including investigative costs, fees for expert witnesses, attorney's fees and costs of hearing, such as transcript costs, pursuant to N.J.S.A. 45:1-25(d); and

7. For such other and further relief as the Board shall deem just and appropriate.

JEFFREY S. CHIESA
ATTORNEY GENERAL OF NEW JERSEY

By: 
Carla M. Silva
Deputy Attorney General

Date: April 30, 2012

State of New Jersey

CHRIS CHRISTIE
Governor

KIM GUADAGNO
Lt. Governor

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Director

April 30, 2012

State Board of Medical Examiners
P.O. Box 183
Trenton, New Jersey 08625-0183

Re: Roger Lallemand, Jr., M.D.

Honorable Members of the Board:

Please accept this letter brief in lieu of a more formal brief in support of the Attorney General's emergent application for the immediate temporary suspension of the license of Roger Lallemand, Jr., M.D. (hereinafter "the Respondent" or "Dr. Lallemand") to practice medicine and surgery in the State of New Jersey. The Attorney General's application is premised upon the allegations in the Verified Counts of the Administrative Complaint, the supporting Exhibits thereto, the Order to Show Cause, and the Certification of Counsel that accompany this letter brief.

PRELIMINARY STATEMENT

Respondent's conduct demonstrates that nothing short of a temporary suspension will protect the public. As described in the detailed expert reports rendered by Dr. Gerard A. Malanga and Dr. Louis F. Amorosa, Respondent engages in numerous dangerous deviations from the standard of care in his medical practice. Specific to the application for the temporary suspension of his license are his deficient Controlled Dangerous Substances ("CDS") and testosterone prescribing practices as well as fraudulent medical recordkeeping. When initially

questioned by a Preliminary Evaluation Committee ("PEC") of the Board regarding his prescribing practices, Respondent asserted that any deficiencies and inaccuracies were due to his transition to electronic medical records. He also claimed that his pain management practice was evolving and that he had begun to institute additional safeguards such as pain management contracts.

Yet, the DEA's undercover investigation which occurred after the Respondent's PEC testimony demonstrated that Respondent continues to prescribe CDS and testosterone to his patients in an indiscriminate and reckless manner. Respondent's subsequent supplementation and alteration of [redacted] (the fictitious name used by the DEA agent) patient record reveals that he is aware of his deficient practices but chooses not to correct them. Respondent's conduct in the DEA's undercover investigation and subsequent supplementation and alteration of the patient record demonstrates that Respondent can not be trusted to abide by any limitations that this Board may impose on his practice of medicine. Respondent's unfettered ability to practice medicine poses a danger to both his current patients and the public at large. Thus, his continued practice as a physician poses a clear and imminent danger to the public's health, safety, and welfare.

STATEMENT OF FACTS

Respondent obtained his medical degree from Duke University in 1999 and completed two years of an orthopedic residency at Robert Wood Johnson University Hospital in 2001. (Exhibit Z, Respondent's Curriculum Vitae). He has medical practices at 59 Route 516 and 200 Perrine Road in Old Bridge, New Jersey. (Exhibit H (DEA Report of Investigation for December 6, 2011); Exhibit K (DEA Report of Investigation for January 3, 2012)). Respondent's practice focuses on multiple areas including pain management and testosterone treatments though he received no significant formal education in these areas subsequent to medical school.

DEA Investigation

On Tuesday, December 6, 2011, the Drug Enforcement Administration ("DEA") commenced an undercover investigation of Respondent's CDS prescribing practices. (Exhibit H). On December 6, 2011, DEA Task Force Officer, [redacted] ("TFO [redacted]") appeared for his initial appointment at Respondent's

medical practice at 59 Route 516 in Old Bridge in an undercover capacity as patient "[redacted]." (Exhibit H). He sought medical care for alleged lower back "discomfort". (See Exhibit H). TFO [redacted] appeared at Respondent's office as a new patient and provided Respondent's staff with a completed fictitious medical background questionnaire, urine sample and an MRI report which he represented was prepared in Florida on May 12, 2010. (Exhibit I (December 6, 2012 Transcript), T3:8-19 & 27:8-10; Exhibit J (December 6, 2012 CD recording Undercover Investigation); Exhibit H). Respondent's staff asked TFO [redacted] additional medical background questions and took his blood pressure. (Exhibit I, T2:22-3:1; Exhibit J; Exhibit H).

TFO [redacted] was then seen by Respondent for approximately two (2) minutes and forty (40) seconds. (Exhibit J, 16:13:00-16:15:40). He informed Respondent that the "discomfort" was in his lower back and buttocks. (Exhibit I, T11:15-15:6; Exhibit J, 16:13:00-16:15:40; Exhibit H). Respondent's only physical examination consisted of asking TFO [redacted] if he had feeling on the outer area of his knee when Respondent touched it. (Exhibit I, T13:17-14:2; Exhibit J, 16:13:00-16:15:40; Exhibit H). Respondent noted in TFO [redacted]'s patient record that his general appearance was "well-nourished, well-developed, and in no acute distress." (Exhibit W (Patient record for [redacted]). He diagnosed TFO [redacted] with lumbar radiculopathy and chronic pain. (Exhibit W).

TFO [redacted] informed Respondent that he never received formal physical therapy for his condition and was not currently taking any medication for his lower back issues, though he had taken oxycodone in the past. (Exhibit I, T13:12-14:16; Exhibit J, 16:13:00-16:15:40; Exhibit H). He then asked Respondent for a prescription for oxycodone. (Exhibit I, T14:11-15:6; Exhibit J, 16:13:00-16:15:40; Exhibit H). Respondent stepped out of the examination room and his staff person returned with a prescription for a total of 56 pills of 30mg Roxicodone for TFO [redacted] (Exhibit H; Exhibit J; Exhibit X (MRI Report, Prescription Claims Detail and Prescriptions for [redacted]); Exhibit W). Contrary to Respondent's December 6, 2011 patient record for [redacted], TFO [redacted] was not also prescribed Motrin, Lorzone or Vimovo. (Exhibit W; Exhibit H; Exhibit I; Exhibit J).

TFO [redacted] returned for a follow-up visit at Respondent's practice at 200 Perrine Road in Old Bridge on January 3, 2012. (Exhibit K (DEA Report of Investigation for January 3, 2012).

He was seen by Respondent for approximately three (3) minutes. (Exhibit M (January 3, 2012 DVD recording Undercover Investigation), 22:24-25:17). TFO [redacted] provided Respondent with a fabricated Prescription Claims Detail for [redacted] which detailed that he last filled prescriptions for 60 pills of 30mg Oxycodone on June 28, 2011 and May 29, 2011. (Exhibit K; Exhibit L (January 3, 2012 Transcript), T3:5-14; Exhibit M, 22:24-25:17; Exhibit X). When asked how the medication helped, TFO [redacted] responded that "It's good" and then proceeded to ask for a higher dosage. (Exhibit L, T3:20-25; Exhibit M, 22:24-25:17). Pursuant to his request, Respondent then increased the prescription to 120 pills of Roxicodone. (Exhibit K; Exhibit L, T5:21-24; Exhibit M, 22:24-25:17; Exhibit X).

Neither Respondent nor his staff conducted a physical examination of TFO [redacted] on January 3, 2012, other than that Respondent briefly touched his back and checked his knee reflexes. (Exhibit K; Exhibit L; Exhibit M, 22:24-25:17). Respondent deleted or failed to make any note of TFO [redacted] January 3, 2012 appointment in his patient record for [redacted] (Exhibit W).

TFO [redacted] returned on January 31, 2012 and was seen by Respondent for approximately four (4) minutes and seven (7) seconds. (Exhibit P (January 31, 2012 DVD recording Undercover Investigation), 19:28-23:35). Prior to seeing Respondent, TFO [redacted] provided a urine sample. (Exhibit W; Exhibit N (DEA Report of Investigation for January 31, 2012)). When asked by Respondent how his pain was, TFO [redacted] responded, "Good. Just - I mean maintain the same." (Exhibit O (January 31, 2012 Transcript), T3:10-12)). Contrary to Respondent's patient record for [redacted], TFO [redacted] never reported on January 31, 2012 that the "symptoms of pain in back [were] worse than leg pain," that "pain pattern is more referred than radicular", that he experienced "pain with movement," or that he experienced "muscle spasms." (Exhibit W; Exhibit O, T4:20-23; Exhibit P, 19:28-23:35).

During his visit, TFO [redacted] requested a prescription for Xanax providing no explanation for the need. (Exhibit N; Exhibit O, T4:20-23; Exhibit P, 19:28-23:35). Respondent gave TFO [redacted] a prescription for Xanax with no follow-up inquiry. (Exhibit N; Exhibit O, T4:20-23; Exhibit P, 19:28-23:35). Contrary to Respondent's patient record for [redacted] TFO [redacted] never complained on January 31, 2012 "of feeling anxious, tense, and worried." (Exhibit W; Exhibit O; Exhibit P). Nor

did TFO [redacted] state that he felt "irritable, agitated, restless and [had] trouble sleeping." (Exhibit W; Exhibit O; Exhibit P). Nor did Respondent ask any questions regarding "medication side effects or drug abuse." (Exhibit W; Exhibit O; Exhibit P). TFO [redacted] was also not instructed to "eliminate use of caffeine and other stimulants" or "encouraged to seek a psychiatrist if symptoms do not improve." (Exhibit W; Exhibit O; Exhibit P). Respondent [redacted] was also not questioned regarding "nervousness, fearfulness, suicidal ideation, anger, memory loss, hallucinations [or] drug abuse." (Exhibit W; Exhibit O; Exhibit P).

Respondent provided TFO [redacted] with three prescriptions on January 31, 2012, one for 120 pills of 30mg Roxicodone, the second for 60 pills of Xanax, and a third for Flexaril. (Exhibit N; Exhibit O, T4:16-23; Exhibit P, 19:28-23:35; Exhibit X). Contrary to Respondent's January 31, 2012 patient record for [redacted], Respondent never provided TFO [redacted] with Cymbalta samples or a prescription for Motrin. (Exhibit N; Exhibit O; Exhibit P). Nor did he provide TFO [redacted] with any instructions regarding daily activities, potential exercises, proper posture and lifting technique, or sleeping posture. (Exhibit N; Exhibit O; Exhibit P). Nor was there any discussion regarding "pain medication side effects and any addiction potential" or the "risks and benefits of prescription medications." (Exhibit N; Exhibit O; Exhibit P).

Neither Respondent nor his staff conducted a physical examination of TFO [redacted] on January 31, 2012, other than that Respondent briefly pinched TFO [redacted] neck. (Exhibit K; Exhibit L; Exhibit M).

On or about February 3, 2012, AEGIS Pain Medication Compliance Testing ("AEGIS") reported to Respondent that the urine specimen collected from [redacted] on January 31, 2012 was negative for the presence of the prescribed oxycodone. (Exhibit W). These findings were not discussed with TFO [redacted] at his next visit on February 27, 2012. Exhibit S (February 27, 2012 DVD recording Undercover Investigation), 14:26-23:23). TFO [redacted] provided another urine sample on February 27, 2012. (Exhibit W; Exhibit Q (DEA Report of Investigation for February 27, 2012)).

TFO [redacted] was seen by Respondent for approximately nine (9) minutes on February 27, 2012. (Exhibit S, 14:26-23:23). Five (5) minutes and thirty (30) seconds were spent discussing non-

medical topics including prostitution and sports tickets. (Exhibit S, 14:26-23:23). With no prompting, Respondent suggested that TFO [redacted] begin a testosterone regime because "the longer … you take pain meds, it fucks your hormones." (Exhibit Q; Exhibit R (February 27, 2012 Transcript), T11:5-21; Exhibit S). Respondent asserted that he "[does] it for all [his] patients." (Exhibit Q; Exhibit R, T11:5-21; Exhibit S).

TFO [redacted] asked that Respondent give him two prescriptions for 120 pills of 30mg Oxycodone though he did not provide any explanation for the need for an additional prescription. (Exhibit Q; Exhibit R, T12:16-24; Exhibit S, 14:26-23:23). Respondent complied. (Exhibit Q; Exhibit R, T12:16-24; Exhibit S, 14:26-23:23). Contrary to Respondent's February 27, 2012 patient record for [redacted] TFO [redacted] never stated he would be traveling on vacation and would be unable to return to the clinic in twenty (20) days. (Exhibit R; Exhibit S; Exhibit W). Nor was a chronic care handout provided and discussed with TFO [redacted]. (Exhibit R; Exhibit S; Exhibit W).

Respondent provided TFO [redacted] with four prescriptions in total: one for 120 pills of 30mg Roxicodone dated February 27, 2012, one for 120 pills of 30mg Roxicodone dated March 16, 2012, one for 90 pills of Xanax, and one for Flexaril. (Exhibit Q; Exhibit R; Exhibit S; Exhibit X). Contrary to Respondent's February 27, 2012 patient record for [redacted] Respondent never provided TFO [redacted] with a prescription for Motrin or even recommended that he try it. (Exhibit W; Exhibit R; Exhibit S).

Neither Respondent nor his staff conducted a physical examination of TFO [redacted] on February 27, 2012, other than that Respondent briefly pinched TFO [redacted]'s neck and pressed on his lower back. (Exhibit Q; Exhibit R; Exhibit S). Contrary to Respondent's February 27, 2012 patient record for [redacted], TFO [redacted] never reported that he had "morning stiffness with decreased mobility due to pain" and he never denied having "depression and anxiety associated with this pain." (Exhibit R; Exhibit S, Exhibit W). Nor did TFO [redacted] discuss the nature, severity or location of his alleged pain on that date. (Exhibit R; Exhibit S, Exhibit W). Respondent also did not review "motivational techniques", the "target pain level management of 3 to 4 in scale of 10," "pain medicine management agreements," or any other actions listed under "plan" in the patient record. (Exhibit R; Exhibit S, Exhibit W).

On or about March 3, 2012, AEGIS reported to Respondent that the urine specimen collected from [redacted] on February 27, 2012 was negative for the presence of the prescribed Oxycodone and Cyclobenzaprine which the lab described as "non-compliant" with his treatment plan. (Exhibit W). This finding was not discussed with TFO [redacted] at his next visit on March 19, 2012. (Exhibit V (March 19, 2012 DVD recording Undercover Investigation), 2:40-8:30). TFO [redacted] was seen by Respondent for approximately six (6) minutes on March 19, 2012. (Exhibit V, 2:40-8:30). Contrary to Respondent's undated final entry in the patient record for [redacted], Respondent did not discharge TFO [redacted] at his last appointment. (Exhibit U (March 19, 2012 Transcript), Exhibit V, Exhibit W). TFO [redacted] scheduled another appointment with Respondent and also made an appointment for his girlfriend. (Exhibit T (DEA Report of Investigation for March 19, 2012); Exhibit U, T10:11-T12:5; Exhibit V). Respondent also issued TFO [redacted] a prescription for Xanax. (Exhibit T; Exhibit U, T10:8-10; Exhibit V; Exhibit X).

CDS Prescribing Practice

P.B.

Patient P.B., at age fifty-nine (59), commenced treatment with Respondent for complaints of low back, feet and hand pain on or about February 6, 2009. (Exhibit A (Patient Record for P.B.), p.02269). Respondent was aware through a prior January 14, 2009 letter that P.B. had a history of diabetes and suffered from peripheral neuropathy in his hands and feet. (Exhibit A, p.2317-2319). Beginning on February 6, 2009, Respondent prescribed P.B. one 80mg tablet of OxyContin twice a day and 30mg tablets of Roxicodone for breakthrough pain. (Exhibit A, p.02269-02271 & 02348). Beginning March 17, 2009, Respondent increased the dosage to 80mg tablets of OxyContin four times a day. (Exhibit A, p.02264-02266 & 02348). Between March 17, 2009 and October 2, 2009, Respondent prescribed P.B. 960 tablets of 80mg Oxycontin and 960 tablets of 30mg Roxicodone. (Exhibit A, p.02250-02266).

Patient P.B. notified Respondent on December 16, 2009 that at some point since his last appointment on October 2, 2009 he was hospitalized for jaundice. (Exhibit A, p.02248-02249 & 02348). Respondent was also aware that P.B. had a history of liver disease related to alcohol use and jaundice through an October 8, 2009 consultation report. (Exhibit A, p.02345-02346).

Respondent made no appropriate adjustment to the prescriptions for high-dose OxyContin and Roxicodone. (Exhibit A, p.02248, 02346, 02348 & 02289, 02321-02322; Exhibit B (Expert Report of Louis F. Amorosa, M.D., p.4; Exhibit C (Expert Report of Gerard A. Malanga, M.D., p.3 & 6). Instead, on December 16, 2009, Respondent again prescribed P.B. 120 tablets of 80mg Oxycontin and 120 tablets of 30mg Roxicodone. (Exhibit A, p.02248, 02346, 02348 & 02289, 02321-02322; Exhibit B, p.4; Exhibit C, p.3 & 6). Respondent refilled P.B.'s prescriptions for high-dose OxyContin and Roxicodone without learning more about the cause of the jaundice or whether the narcotics played a role. (Exhibit A, 2248-2353; Exhibit B, p.4; Exhibit C, p.6).

Respondent also failed to maintain a patient medication contract agreement with P.B. (e.g., Exhibit A, 2248-2353; Exhibit BB (Transcript of Respondent's April 6, 2011 Preliminary Evaluation Committee Appearance), T23:20-25 & T24:3-21).

D.E.

Patient D.E., at age forty-four (44), commenced treatment with Respondent for knee pain on or about October 15, 2007. (Exhibit D (Patient Record for D.E.), p.S01826-S02093). Toxicology tests performed on specimens collected from D.E. between May 1, 2008 and December 22, 2008 yielded six positive lab results for the presence of cocaine which were indicative of cocaine abuse or consumption of medications not prescribed by the Respondent. (Exhibit D, S02003, S02006, S02016, S02018, S02021, & S02026; Exhibit C, p.3). Toxicology tests performed on specimens collected from D.E. between May 1, 2008 and December 22, 2008 revealed negative results for benzodiazepine, proxyphene, oxycodone, and tramadol which indicated she was not consuming her prescribed medications. (Exhibit D, p.S02002-S02028; Exhibit C, p.3). The absence of prescribed medications in the toxicology results "suggest[s] the potential for diversion" of these "powerful opioid medications." (Exhibit C, p.3).

Respondent also failed to maintain a patient medication contract agreement with D.E. (Exhibit D, p.S01826-S02093; Exhibit C, p. 3); Exhibit BB, T23:20-25 & T24:3-21).

T.Y.

Patient T.Y., at age forty-six (46), commenced treatment with Respondent for low back pains, knee pains and an evaluation

of vertigo on or about August 16, 2006. (Exhibit CC (Patient Record for T.Y.), p.S01774-S01775). Toxicology tests performed on a specimen collected from T.Y. on May 25, 2007 yielded a positive lab result for the presence of cocaine and a positive lab result for the presence of opiates. (Exhibit CC, p.S01808). Respondent continued to prescribe T.Y. increasing narcotic pain medications; in March of 2008, Respondent documented three prescriptions of Roxicodone 30mg in T.Y.'s patient record, totaling 200 tablets. (Exhibit CC, p.S01513-S01510). Respondent prescribed T.Y. Suboxone from April 16, 2008 until September of 2008 whereupon he resumed prescribing T.Y. Roxicodone and other narcotic medications. (Exhibit CC, p.S01510-S01508).

The next toxicology test was performed on a specimen collected from T.Y. on November 23, 2009 and reported on November 30, 2009. It again revealed positive results for the presence of a metabolite of Cocaine. (Exhibit CC, p.01795-01796). It also revealed negative results for the presence of benzodiazepines indicating he was not consuming his prescribed medications. (Exhibit CC, p.01795-01796). A toxicology test was performed on a specimen collected from T.Y. on December 21, 2009 and reported on December 29, 2009. (Exhibit CC, p.S01793-1794). It revealed negative results for the presence of morphine and benzodiazepines which indicated he was not consuming his prescribed medications. (Exhibit CC, p.S01793-1794). It also revealed a positive result for the presence of Gabapentin which indicated consumption of medications not prescribed by the Respondent. (Exhibit CC, p.S01793-1794). According to his patient record, Respondent issued T.Y. prescriptions for 405 tablets of 30mg Roxicodone, among other medications, between November 23, 2009 and January 26, 2010. (Exhibit CC, p.S01505).

Though Respondent noted on January 26, 2010 that T.Y. was discharged due to the November 30, 2012 positive cocaine result, there was no documentation of a referral to an addiction specialist as would be appropriate under the standard of care. (Exhibit CC, p.S01505; Exhibit C, p.3-4). Respondent also failed to maintain a patient medication contract agreement with T.Y. (Exhibit CC, p.S01774-S01775); Exhibit C, p. 3); Exhibit BB, T23:20-25 & T24:3-21).

Expert Opinion

Dr. Malanga is Board certified in Pain Medicine, Sports Medicine and Physical Medicine and Rehabilitation. (Exhibit C).

Upon review of Respondent's patient records and related documentation, Dr. Malanga opined that Respondent failed to appropriately monitor patients to whom he prescribed powerful opioid medications including OxyContin, Roxicodone and Suboxone. (Exhibit C, p.3). He noted that Respondent failed to have any medication contract agreements and failed to adequately document the effectiveness of the medications he prescribed. (Exhibit C, p.3). While Respondent recorded patient pain details, he did not document improvement of pain or function on the medications. (Exhibit C., p.3). He also did not note whether there were adverse effects. (Exhibit C, p.3) Dr. Malanga opined that Respondent's failure to monitor while prescribing CDS was grossly negligent in regard to P.B. who suffered from liver disease and jaundice as well as a history of alcohol abuse. (Exhibit C, p.6) He also opined that Respondent committed gross deviations from the standard of care in his continued inadequate treatment of patients with evidence of substance abuse, such as with D.E. and T.Y. (Exhibit C, p.3-4).

Testosterone Prescribing Practice

C.P.

A female patient, C.P., commenced treatment at age thirty-four (34) with Respondent on or about May 4, 2006 for low back pain, leg pain and anxiety. (Exhibit G (Patient Record for C.P.), p.S00058-S00183). On or about August 11, 2006 Respondent also assessed C.P. as having hypogonadism. (Exhibit G, p.S00181-S00183 & S0015-S00156; Exhibit AA (Transcript of Respondent's November 3, 2010 Preliminary Evaluation Committee Appearance), T46:22-T47:4). Between August of 2008 and October 2010, Respondent treated C.P. with 24 prescriptions for the Androgel pump at two pumps per day. (Exhibit E (Patient Profile for C.P.), p.S0030-S0035; Exhibit F (Office Prescription Record for C.P.), p.S0050-S00057; Exhibit G, p.S00058-S00183) Exhibit B, p.3-4). C.P.'s testosterone jumped dangerously from 37ng/dl in August of 2008 to 551ng/dl in November of 2008 and 434ng/dl in November of 2009 where the upper limit for females is approximately 82. (Exhibit G, S00229, S00243, and S00253; Exhibit B, p.3-4). Respondent prescribed testosterone to C.P. while she was taking triphasal 28 birth control with no discussion or monitoring of the potential drug interactions. (Exhibit G, p.S00058-S00183; Exhibit B, p.5-7).

Respondent's patient record for C.P. fails to reflect relevant differential diagnoses and/or careful consideration of

less risky or potentially harmful treatments. (Exhibit G, p.S00058-S00183). Respondent failed to adequately monitor improvement in function or adverse effects experienced by C.P. as reflected by C.P.'s patient record which is missing or barely notes such indicators as the presence or absence of acne, lost body fat, body weight or impact on libido or mood. (Exhibit G, p.S00058-S00183; Exhibit B, p.3-4). Respondent's patient records fail to reflect that he adequately informed C.P. of the serious risks of testosterone treatment. (e.g., Exhibit G, S00058-S00183; Exhibit B).

C.G.

A male patient, C.G., commenced treatment at age thirty-four (34) with Respondent on or about November 8, 2007 for low back pain. (Exhibit DD (Patient record for C.G.), p.02095-02246). On or about May 8, 2008 Respondent also assessed C.G. as having hypogonadism. (Exhibit DD, p.02205-02207 & 02175-02177). C.G. had a history of chronic opiate abuse. (Exhibit DD, p.02205-02207 & 02175-02177). Respondent treated C.G., who also exhibited "marked psychiatric symptoms," with testosterone between May of 2008 and May of 2009 with prescriptions for 1cc of 200mg testosterone cypionate every seven days. (Exhibit DD, p. 02125-02177; Exhibit B, p.5). C.G.'s testosterone jumped dangerously from 97ng/dl in April of 2008 to 968ng/dl in August of 2008 and 1010ng/dl in November of 2008 where the upper limit for males is approximately 800. (Exhibit DD, S0225, S02234, and S02239; Exhibit B, p.5). This increased the estradiol level to 54pg/ml with an upper limit of 42 in men. (Exhibit DD, S0225, S02234, and S02239; Exhibit B, p.5). Respondent prescribed testosterone to C.G. while he was taking arimidex with no discussion or monitoring of the potential drug interactions. (Exhibit DD, p.02095-02246; Exhibit B, p.5-7).

Respondent's patient record for C.G. fails to reflect relevant differential diagnoses and/or careful consideration of less risky or potentially harmful treatments. (Exhibit DD, 02094-02246). Respondent failed to adequately monitor improvement in function or adverse effects experienced by C.G. as reflected by C.G.'s patient record which is missing or barely notes such indictors as the presence or absence of acne, lost body fat, body weight or impact on libido or mood. (Exhibit DD, p.02095-02246; Exhibit B, p.3-4). Respondent's patient records fail to reflect that he adequately informed C.G of the serious risks of testosterone treatment. (Exhibit DD, p.02095-02246; Exhibit B).

S.G.

A male patient, S.G., commenced treatment at age thirty-three (33) with Respondent on or about June 23, 2009 for fatigue, hypogonadism, insomnia and anxiety among other conditions. (Exhibit EE (Patient Record for S.G.), S02608 & S02644). Respondent treated S.G. with testosterone between July of 2009 and February of 2011 with prescriptions for 1cc to 1.6cc of 200mg testosterone cypionate every seven days. (Exhibit EE, p. S02625, S02630, S02635: Exhibit B, p.5). S.G.'s testosterone jumped dangerously from 748ng/dl in August 2009 to 1435ng/dl in January 2010 and 1257ng/dl in August 2010 where the upper limit for males is approximately 800. (Exhibit EE, p. S02625, S02630, S02635: Exhibit B, p.5). Respondent prescribed testosterone to S.G. while he was taking arimidex with no discussion or monitoring of the potential drug interactions. (Exhibit EE, p.S02608-S02660; Exhibit B, p.5-7).

Respondent's patient record for S.G. fails to reflect relevant differential diagnoses and/or careful consideration of less risky or potentially harmful treatments. (Exhibit EE, S02608-S02660). Respondent failed to adequately monitor improvement in function or adverse effects experienced by S.G. as reflected by S.G.'s patient record which is missing or barely notes such indictors as the presence or absence of acne, lost body fat, body weight or impact on libido or mood. (Exhibit EE, p.S02608-S02660; Exhibit B, p.3-4). Respondent's patient records fail to reflect that he adequately informed S.G of the serious risks of testosterone treatment. (Exhibit EE, p.S02608-S02660; Exhibit B).

Expert Opinion

Dr. Amorosa is Board certified in Internal Medicine and Endocrinology and Metabolism. (Exhibit B). Upon review of Respondent's patient records and related documentation, Dr. Amorosa opined that Respondent did not appropriately consider differential diagnoses prior to commencing testosterone treatment on his patients such as C.G., a psychiatrically ill male. (Exhibit B, p.2). Where the standard of care required Respondent to recommend to the patient to stop narcotic or anabolic steroid abuse to normalize the sex hormones, he commenced testosterone treatment. (Exhibit B, p.2). Dr. Amorosa opined Respondent also deviated in the standard of care with S.G. by commencing testosterone treatment without first identifying the cause of the hypogonadism. (Exhibit B, p.3).

He opined that Respondent's "knowledge of this area is not sophisticated enough to know what he is missing when he treats patients with testosterone." (Exhibit B, p.3 and 6). Dr. Amorosa further opined that Respondent also failed to monitor C.G. and S.G.'s reaction to testosterone treatment while they were both taking Arimidex (drug which blocks the body's conversion of testosterone to estrogen). (Exhibit B, p.5).

Dr. Amorosa found Respondent's care of C.P., a female, to be a gross deviation from the accepted standard of practice in that his records fail to demonstrate that he discussed the long range risk of the off label use of the Androgen pump with C.P., failed to monitor her reaction to the medication and prescribed testosterone to C.P. which caused her testosterone level to rise to the midlevel value for a man. (Exhibit B, p.4).

ARGUMENT

RESPONDENT'S CONTINUED PRACTICE OF MEDICINE CONSTITUTES A CLEAR AND IMMINENT DANGER TO THE PUBLIC HEALTH, SAFETY, AND WELFARE THUS WARRANTING A TEMPORARY SUSPENSION OF HIS LICENSE PENDING ADJUDICATION OF THE ALLEGATIONS IN THE VERIFIED COMPLAINT.

The Attorney General's application for a temporary suspension of Respondent's medical license is predicated upon express statutory authority that authorizes the Board to temporarily suspend a physician's license upon a showing that continued practice would constitute a clear and imminent danger to the public. In providing for the temporary suspension of licensure by the Board, N.J.S.A. 45:1-22 states, in pertinent part:

> A board may, upon a duly verified application of the Attorney General that . . . alleges an act or practice violating any provision of an act or regulation administered by such board[] enter a temporary order suspending or limiting any license issued by the board pending plenary hearing on an administrative complaint; provided, however, no such temporary order shall be entered unless the application made to the board palpably demonstrates a clear and imminent danger to the public health, safety and welfare and notice of such application is given to the licensee affected by such order. If, upon review of the Attorney General's application, the Board determines that, although no palpable demonstration of a clear and imminent danger has been made, the licensee's

> continued unrestricted practice pending plenary hearing may pose a risk to the public health, safety, and welfare, the Board may order the licensee to submit to medical or diagnostic testing and monitoring, or psychological evaluation, or an assessment of skills to determine whether the licensee can continue to practice with reasonable skill and safety.

Such authority is granted to the Board because "the State has a substantial interest in the regulation and supervision of those who are licensed to practice medicine." In Re Polk, 90 N.J. 550, 566 (1982). The State, through the Board, "acts as a guardian of the health and well-being" of its residents and must be ever "vigilant and competent to protect these interests fully." Id. The Board's obligations in this respect are paramount to the qualified right of the individual practitioner claiming the privilege to pursue his or her licensed profession. See Id.

Respondent's dangerous medical practices and clear pattern of documented violations of N.J.S.A. 45:1-21(b), (c), (d), (e), (h) and (m) demonstrate a clear and imminent danger to the public health, safety and welfare, meriting the immediate temporary suspension of his medical license, pursuant to N.J.S.A. 45:1-22. It is palpably evident that his continued provision of medical services endangers the health, safety and welfare of his patients, specifically surgery.

Respondent's treatment of his patients constitutes gross negligence or incompetence, and/or repeated acts of negligence or incompetence, and professional misconduct. The Attorney General seeks the temporary suspension of Respondent's medical license due to the danger he poses to patients based on his knowing disregard of the standards of medical care regarding [redacted] and the poor pain management and testosterone treatment rendered to his patients due to his negligent and reckless practice of medicine.

Respondent's poor care of P.B., D.E. and T.Y. demonstrates the danger he poses to patients. Respondent's routine pain management treatment of these patients deviated repeatedly from the accepted standards of medical care. According to Dr. Malanga, he failed to adequately document the effectiveness of the prescribed pain medication or, otherwise, adequately monitor whether there was improvement in pain, improvement in function or adverse effects from the pain medications he prescribed to

P.B. (Exhibit C, p.3 & 6). Oxycontin and Roxicodone can cause "spasm in the biliary system resulting in more liver impairment and increasing jaundice." (Exhibit B, p.4). Yet, Respondent made no adjustment to P.B.'s prescriptions upon learning that he had been hospitalized for liver disease. In a patient such as P.B. who has "significant liver disease along with renal impairment," Respondent created the risk that there would be "an accumulation of these medications that can result in respiratory suppression and death." (Exhibit C, p.6).

Respondent also continued to provide CDS to D.E. even though urine drug testing results repeatedly indicated improper medication use or substance abuse. (Exhibit D, p.S01826-S02093; Exhibit C, p.3). As described by Dr. Malanga, such results are indicative of potential diversion. (Exhibit C, p.3). Similarly, Respondent failed to timely refer T.Y. to addiction specialists per the standard of medical care. (Exhibit C, p.3). Respondent continued to prescribe to T.Y. even after urine testing revealed inconsistent results and Respondent acknowledged in his patient record that T.Y. was a liability to his practice. (Exhibit CC, p.S01774-S01775; Exhibit C, p.3-4).

Respondent's negligent care of C.G., C.P. and S.G. further establishes how his poor medical decision-making creates grave risks for patients. Respondent's treatment of these patients with testosterone deviates from accepted standards of medical practice. Testosterone treatment can lead to aggressive behavior, polycythemia (which can lead to strokes), liver damage and/or prostate cancer. (Exhibit B, p.2). Respondent regularly prescribes testosterone to patients also being prescribed narcotic pain medication or have experienced chronic narcotic use. (Exhibit R, T11:5-21; Exhibit BB, T36:3-38:15). Yet, as discussed by Dr. Amorosa, low testosterone levels can be the result of "diet, excessive exercise, sex hormones" or even "tumor development in the vicinity of the pituitary gland." (Exhibit B, p.2). C.G.'s patient records reveal that Respondent failed to consider relevant differential diagnoses. (Exhibit B, p.2-3).

Respondent routinely prescribes testosterone to his patients in dosages which are excessively high and at a level that is medically unnecessary. High testosterone levels can exacerbate psychiatric disease, cause male breast enlargement, clitormegaly in women, personality changes and/or aggressive behavior. (Exhibit B, p.2-7). Respondent stated that in providing testosterone treatment he looks for "improvement in

symptoms." (Exhibit BB, p.41:8-22) Yet, as explained by Dr. Amorosa, [m]any patients who complain of libido issues are not improved even with very high dosages of testosterone. Therapy is intended to obtain normal values and no more." (Exhibit B, p. 2). Thus, Respondent's maintenance of high testosterone levels in C.P., C.G. and S.G. is a deviation from the standard of medical care.

Respondent treated C.P. with "testosterone to achieve serum levels which are higher than normal men" yet made no note indicating that he informed C.P. that the "long range risk of this off label treatment [of the Androgen pump (testosterone)] in women is not known." (Exhibit B, p.3). Dr. Amorosa opined that "the use of testosterone was not properly monitored and the dosages given show a profound lack of understanding of the risk involved." (Exhibit B, p.4).

Patient S.G. received dosages of testosterone which raised his values to "about twice [as] normal" potentially affecting his behavior which caused his wife to contact the Board. (Exhibit B, p.5). Respondent claimed that "it is a myth that testosterone replacement causes angry and aggressive behavior" though "it is widely believ[ed] in traditional medical environments that testosterone therapy affects behavior." (Exhibit B, p.5; Exhibit EE, p.S02608-S02609).

During Respondent's November 3, 2010 and April 6, 2011 appearances at Preliminary Evaluation Committee meeting, he claimed that any errors and/or omissions in the record were related to the transition to electronic medical records. (Exhibit AA; Exhibit BB). He asserted that he had instituted new tools in his pain management practice. However, through the efforts of the DEA, Respondent's continuing reckless prescribing of CDS and testosterone was uncovered. TFO [redacted] was prescribed CDS on his first visit with Respondent though he stated that he was not currently on any medication, never had formal physical therapy and had an MRI over one year old. Subsequent urine screens revealed inconsistent results given his prescribed medications yet Respondent took no action. Respondent provided scripts for Xanax and additional scripts of Roxicodone to TFO [redacted] at his request with no additional inquiry. With no prompting, Respondent suggested that TFO [redacted] consider testosterone treatment because he "[does] it for all [his] patients" who take pain medications for any extended period of time. (Exhibit R, T11:5-21). Respondent recognized that his treatment of [redacted] [redacted] was subpar as he

supplemented and altered the patient record to detail events that did not occur during the actual appointment.

Respondent's blatant indiscriminate prescribing to TFO [redacted] and alteration of the patient record merits the immediate temporary suspension of his license to practice medicine. A physician who tampers with the integrity of his patients' medical records to protect his own self-interest "directly implicate[s] [his] basic professional standards of practice and competence". In re Jascalevich, 182 N.J. Super. 455, 471 (App. Div. 1982). Physicians who engage in dishonest behavior also lower the standing of the medical profession in the eyes of their patients and the public. In re Zahl, 186 N.J. 341, 354 (2006). "[P]atients rightfully may fear entrusting a deceitful physician with their lives and the lives of their loved ones" when the physician has demonstrated a willingness to defraud the government. Id. Thus, the Board is authorized to suspend or revoke a license if the holder has engaged in dishonest or fraudulent behavior including the maintenance of improper records. N.J.S.A. 45:1-21(b); Zahl, 186 N.J. 341 (2006).

Respondent's extensive measures to deceive the Board demonstrate a lack of moral character and unequivocally constitute professional misconduct in violation of N.J.S.A. 45:1-21(e). Such acts represent dishonesty, fraud, deception and misrepresentation in violation of N.J.S.A. 45:1-21(b). Further, by intentionally creating false records Respondent failed to conform with the Board's record keeping requirements set forth in N.J.A.C. 13:35-6.5(b)(2) and thus violated N.J.S.A. 45:1-21(h).

> [A] physician's duty to a patient cannot but encompass his affirmative obligation to maintain the integrity, accuracy, truth and reliability of the patient's medical record. His obligation in this regard is no less compelling than his duties respecting diagnosis and treatment of the patient since the medical community must, of necessity, be able to rely on those records in the continuing and future care of that patient. Obviously, the rendering of that care is prejudiced by anything in those records which is false, misleading or inaccurate.

In re Jascalevich, 182 N.J. Super. 471. As demonstrated through his alteration and supplementation of TFO [redacted]'s patient record, Respondent was aware that he had not practiced within the standard of care in his treatment of [redacted]

His blatant and extensive alteration of the medical record eliminates the reliability of any patient record he produces. Moreover, the review of the patient records for P.B., D.E., T.Y., C.P., C.G. and S.G., reveal numerous obvious deficiencies ranging from grammatical errors to recording the wrong gender. Respondent places each of his patients at risk by failing to maintain accurate records.

This Board may evaluate the evidence presented in light of its own expertise. To this end, the Board's "experience, technical competence, and specialized knowledge may be utilized in the valuation of evidence." In re Suspension of License of Silberman, 169 N.J. Super., 243, 256 (App. Div. 1979), aff'd o.b. 84 N.J. 303 (1980). Based on a review of the evidence collected during the DEA's undercover investigation, the medical records, the expert reports, and Respondent's sworn testimony, the Board, through its expertise, should determine that Respondent's conduct as a physician unequivocally rises to the level of public danger.

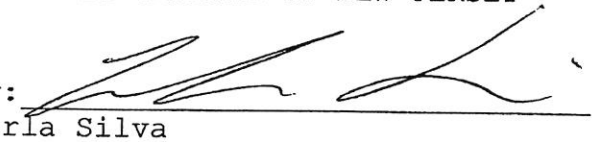
In sum, the evidence in this case compels the conclusion that Respondent's conduct as alleged in Counts I, II and III of the partially Verified Complaint concerning patients P.B., D.E., T.Y., C.P., C.G. and S.G., as well as the undercover TFO acting as patient [redacted] constitutes gross negligence and/or gross incompetence; repeated acts of negligence or incompetence; professional misconduct; indiscriminate prescribing; and/or the inability to discharge the functions of a Board licensee in a manner consistent with the public's health, safety, and welfare; and thus constitutes a basis for disciplinary sanction pursuant to N.J.S.A. 45:1-21 (b), (c), (d), (e), (h) and/or (m). To allow Respondent to continue practicing medicine pending a plenary hearing could place his patients and the public in danger. The public deserves firm action on its behalf by this Board to prevent this imminent danger by immediately temporarily suspending Respondent's license to practice medicine and surgery in this State pursuant to N.J.S.A. 45:1-22.

CONCLUSION

For the foregoing reasons, it is respectfully submitted that the Attorney General's application for the immediate temporary suspension of Dr. Lallemand's medical license pursuant to N.J.S.A. 45:1-22 be granted.

Sincerely yours,

JEFFREY S. CHIESA
ATTORNEY GENERAL OF NEW JERSEY

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

IN THE MATTER OF THE SUSPENSION OR REVOCATION OF THE LICENSE OF **ROGER LALLEMAND, JR., M.D.** **LICENSE NO. 25MA07185000** TO PRACTICE MEDICINE AND SURGERY IN THE STATE OF NEW JERSEY	Administrative Action **CERTIFICATION OF CARLA M. SILVA**

Carla M. Silva, Deputy Attorney General, certifies and says:

1. I am an attorney-at-law of the State of New Jersey and a Deputy Attorney General assigned to prosecute the above-captioned matter. As such, I am fully familiar with the matters stated herein.

2. Attached as Exhibit A is a true and complete copy of the patient record for P.B. provided by Respondent at the request of the Board.

3. Attached as Exhibit B is a true and complete copy of the Expert Report of Louis F. Amorosa, M.D., signed January 24, 2012 and his curriculum vitae.

4. Attached as Exhibit C is a true and complete copy of the curriculum vitae, expert report and supplemental expert report of Gerard A. Malanga, M.D., the latter dated March 31, 2011 and September 7, 2011, respectively.

5. Attached as Exhibit D is a true and complete copy of the patient record for D.E. provided by Respondent at the request of the Board.

6. Attached as Exhibit E is a true and complete copy of the Patient Profile for C.P. from Old Bridge Drugs and Surgicals provided by Respondent and identified as R-1 at the November 3, 2010 Preliminary Evaluation Committee ("PEC") meeting.

7. Attached as Exhibit F is a true and complete copy of the office prescription record for C.P. provided by Respondent and identified as S-4 at the November 3, 2010 PEC meeting.

8. Attached as Exhibit G is a true and complete copy of the patient record for C.P. provided by Respondent and identified as S-5 at the November 3, 2010 PEC meeting.

a. Attached as Exhibit G.1 is a true and complete copy of the correspondence sent by Richard Pinto, M.D., to Nasser Ani, M.D., regarding C.P. provided by Respondent and identified as R-2 at the November 3, 2010 PEC meeting.

b. Attached as Exhibit G.2 is a true and complete copy of the Brief Pain Inventory for C.P. provided by Respondent and identified as R-3 at the November 3, 2010 PEC meeting.

c. Attached as Exhibit G.3 is a true and complete copy of the correspondence sent by Respondent dated March 16, 2010 regarding C.P. provided by Respondent and identified as S-3 at the November 3, 2010 PEC meeting.

9. Attached as Exhibit H is a certified true and complete copy of DEA Reports of Investigation for December 6, 2011.

10. Attached as Exhibit I is a true and complete copy of the December 6, 2012 Transcript of the undercover investigation of Task Force Officer [redacted] ("TFO [redacted]") for the CD identified as N-108.

11. Attached as Exhibit J is a certified true and complete copy of the December 6, 2012 CD identified as N-108 of the undercover investigation of TFO [redacted].

12. Attached as Exhibit K is a certified true and complete copy of the DEA Reports of Investigation for January 31, 2012.

13. Attached as Exhibit L is a true and complete copy of the January 3, 2012 Transcript of the undercover investigation of TFO [redacted] for the DVD identified as N-115.

14. Attached as Exhibit M is a certified true and complete copy of the January 3, 2012 DVD identified as N-115 of the undercover investigation of TFO [redacted].

15. Attached as Exhibit N is a certified true and complete copy of the DEA Reports of Investigation January 31, 2012.

16. Attached as Exhibit O is a true and complete copy of the January 31, 2012 Transcript of the undercover investigation of TFO [redacted] for the DVD identified as N-116-004.

17. Attached as Exhibit P is a certified true and complete copy of the January 31, 2012 DVD identified as N-116-004 of the undercover investigation of TFO [redacted].

18. Attached as Exhibit Q is a certified true and complete copy of the DEA Reports of Investigation for February 27, 2012.

19. Attached as Exhibit R is a true and complete copy of the February 27, 2012 Transcript of the undercover investigation of TFO [redacted] for the DVD identified as N-123.

20. Attached as Exhibit S is a certified true and complete copy of the February 27, 2012 DVD identified as N-123 of the undercover investigation of TFO [redacted].

21. Attached as Exhibit T is a certified true and complete copy of the DEA Report of Investigation for March 19, 2012.

22. Attached as Exhibit U is a true and complete copy of the March 19, 2012 Transcript of the undercover investigation of TFO [redacted] for the DVD identified as N-137.

23. Attached as Exhibit V is a certified true and complete copy of the March 19, 2012 DVD identified as N-123 of the undercover investigation of TFO [redacted]

24. Attached as Exhibit W is a true and complete copy of the patient record for [redacted] provided by Respondent in response to a subpoena.

25. Attached as Exhibit X is a certified true and complete copy of the MRI Report, Prescription Claims Detail and Prescriptions for [redacted].

26. Attached as Exhibit Y is a true and complete copy of the Certification of True Copy of DEA Special Agent [redacted] regarding Exhibits H, J, K, M, N, P, Q, S, T, V and X.

27. Attached as Exhibit Z is a true and complete copy of Respondent's curriculum vitae provided by Respondnet and identified as S-2 at the November 3, 2010 PEC meeting.

28. Attached as Exhibit AA is a true and complete copy of the Transcript of Respondent's testimony at the November 3, 2010 PEC meeting.

29. Attached as Exhibit BB is a true and complete copy of the Transcript of Respondent's testimony at the April 6, 2011 PEC meeting.

30. Attached as Exhibit CC is a true and complete copy of the patient record for T.Y. provided by Respondent at the request of the Board.

31. Attached as Exhibit DD is a true and complete copy of the patient record for C.G. provided by Respondent at the request of the Board.

32. Attached as Exhibit EE is a true and complete copy of the patient record for S.G. provided by Respondent and identified as S-10 at the April 6, 2011 PEC meeting.

33. Attached as Exhibit FF is a true and complete copy of the May 14, 2010 correspondence from Respondent to the Board identified as S-1 at the November 3, 2010 PEC meeting.

34. The Verified Complaint in this matter is based upon the facts as set forth in the Exhibits filed herewith. Upon my review of all of these facts, it is my belief that they form the basis for the suspension of the license of Respondent, Roger Lallemand, M.D., to practice medicine and surgery in the State of New Jersey, and for such other relief deemed appropriate pursuant to, N.J.S.A. 45:1-14 et seq., N.J.S.A. 45:1-22, N.J.S.A. 45:9-1 et seq. and related administrative regulations, pending plenary hearing on an Administrative Complaint.

I hereby certify that the foregoing statements made by me are true. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment.

Carla M. Silva
Deputy Attorney General

Dated: April 30, 2012