

NEW YORK STATE DEPARTMENT OF HEALTH
STATE BOARD FOR PROFESSIONAL MEDICAL CONDUCT

IN THE MATTER
OF
REX MATHEW, M.D.

COMMISSIONER'S
ORDER OF
SUMMARY
ACTION

TO: REX MATHEW, M.D.


The undersigned, Howard A. Zucker, M.D., J.D., Commissioner of Health, pursuant to N.Y. Public Health Law §230, upon the recommendation of a Committee on Professional Medical Conduct of the State Board for Professional Medical Conduct, has determined that the duly authorized professional disciplinary agency of another jurisdiction, the New Jersey Board of Medical Examiners, has made a finding substantially equivalent to a finding that the practice of medicine by REX MATHEW, M.D. (the Respondent), in that jurisdiction constitutes an imminent danger to the health of its people, as is more fully set forth in the "Order of Temporary Suspension of License" henceforth: "predicate action"), attached hereto as Appendix "A" and made a part hereof.

It is therefore:

ORDERED, pursuant to N.Y. Public Health Law §230(12)(b), that effective immediately, Respondent shall not practice medicine in the State of New York, or practice in any setting under the authority of Respondent's New York license.

Any practice of medicine in violation of this Order shall constitute Professional Misconduct within the meaning of N.Y. Educ. Law §6530(29) and may constitute unauthorized medical practice, a Felony defined by N.Y. Educ. Law §6512.

This Order shall remain in effect until the final conclusion of a hearing which shall commence within thirty days after the final conclusion of the disciplinary proceeding in the predicate action. The hearing will be held pursuant to the provisions of N.Y. Pub. Health Law §230, and N.Y. State Admin. Proc. Act §§301-307 and 401. The hearing

will be conducted before a committee on professional conduct of the State Board for Professional Medical Conduct on a date and at a location to be set forth in a written Notice of Hearing or Notice of Referral Proceeding to be provided to the Respondent after the final conclusion of the proceeding in the predicate action. Said written Notice may be provided in person, by mail, or by other means. If Respondent wishes to be provided said written notice at an address other than that set forth above, Respondent shall so notify, in writing, both the attorney whose name is set forth in this Order, and the Director of the Office of Professional Medical Conduct, at the addresses set forth below.

Respondent shall notify the Director of the Office of Professional Medical Conduct, New York State Department of Health, Riverview Center, 150 Broadway, Suite 355, Albany, New York 12204-2719 via Certified Mail, Return Receipt Requested, of the final conclusion of the proceeding in the predicate action, immediately upon such conclusion.

THE NEW YORK PROCEEDINGS MAY RESULT IN A DETERMINATION THAT YOUR LICENSE TO PRACTICE MEDICINE IN NEW YORK STATE BE REVOKED OR SUSPENDED, AND/OR THAT YOU BE FINED OR SUBJECT TO OTHER SANCTIONS SET FORTH IN NEW YORK PUBLIC HEALTH LAW §230-a. YOU ARE URGED TO OBTAIN AN ATTORNEY TO REPRESENT YOU IN THIS MATTER.

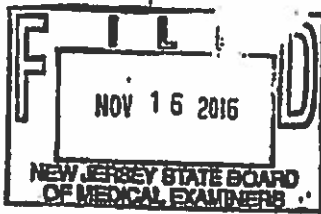
DATED: Albany, New York
August, 23rd 2017


Howard A. Zucker, M.D., J.D.
Commissioner of Health
New York State Department of Health

Inquiries should be directed to:

Pooja Rawal
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New York State Health Department
Bureau of Professional Medical Conduct
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Appendix A



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

EFFECTIVE: NOVEMBER 9, 2016

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

REX G. MATH EW, M.D.
License No. 25MA09462900

TO PRACTICE MEDICINE AND SURGERY
IN THE STATE OF NEW JERSEY

ORDER OF TEMPORARY SUSPENSION
OF LICENSE

This matter was opened to the New Jersey State Board of Medical Examiners ("Board") by way of an Order to Show Cause, Notice of Hearing and Notice to File an Answer, filed with the Board by Christopher S. Porrino, Attorney General of New Jersey, Deputy Attorney General Delia DeLisi appearing, on November 4, 2016. The Order was supported and accompanied by a Verified Complaint, a supporting brief and exhibits, and was returnable on November 9, 2016. Pursuant to N.J.S.A. 45:1-22 the Attorney General sought temporary suspension of the license of Rex Mathew to practice medicine and surgery in the State of New Jersey as well as other restraints deemed necessary by the Board, pending a plenary hearing on the matter.

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CERTIFIED TRUE COPY

The one count Verified Complaint alleges, among other things, that Respondent's positive drug tests in February 2016 (amphetamines) and June 2016 (opiates) combined with his noncompliance with the recommendations of the Professional Assistance Program ("PAP") demonstrate that he is incapable of discharging the functions of a licensee in a manner consistent with the public's health, safety and welfare in violation of N.J.S.A. 45:1-21(i); and that he is presently engaged in drug use in a manner likely to impair his ability to practice his profession with reasonable skill and safety in violation of N.J.S.A. 45:1-21(1). The complaint further alleges that Respondent's conduct poses a clear and imminent danger to the public and constitutes grounds for the immediate temporary suspension of his license to practice medicine and surgery in the State of New Jersey pursuant to N.J.S.A. 45:1-22.

Respondent did not submit an Answer or other written response to the Order to Show Cause or Verified Complaint. Nor did he telephone, contact or appear at the Board office seeking an adjournment or otherwise responding to the Order to Show Cause.

A hearing was held before the Board on November 9, 2016. Deputy Attorney General Delia DeLisi appeared on behalf of the complainant Attorney General. After waiting more than two hours beyond the scheduled time for the hearing, and representing that Respondent had not responded to the Order to Show Cause and Verified Complaint, the

Attorney General made a motion to proceed with the hearing to temporarily suspend Respondent's license as adequate efforts at service had been made. Although the State presented no certifications regarding service, the Deputy Attorney General made verbal representations to the Board that when Board investigators went to Respondent's address of record to deliver the Order to Show Cause on November 4, 2016 they were informed by the current homeowner that they had closed on the house in August 2016 but still regularly received mail addressed to Respondent. The investigators confirmed that the address of record was the same address on Respondent's New Jersey driver's license and that the Post Office had no forwarding address for Respondent.

DAG DeLisi made further representations as to service - that she forwarded the Order to Show Cause and all accompanying documents to a medical staffing company she believed to be Respondent's employer, via overnight mail. On Monday November 7th, DAG DeLisi confirmed with the staffing company that they had received the documents and also confirmed that Respondent's address on record with the Board is the same address on record with the staffing company and is where his paychecks are mailed. DAG DeLisi also represented to the Board that she e-mailed all the relevant documents to Respondent the morning of November 7th, using an e-mail address at which the PAP had successfully both sent correspondence to and

received correspondence from the Respondent. Monday afternoon she received a voicemail from Respondent in which he indicated he had received her e-mail and was reviewing it.¹ The DAG further represented the Respondent called her and left a message on her work phone at 8:20AM the morning of the hearing indicating that he was 'in traffic.'²

Finally, DAG DeLisi indicated that she left several voicemail messages at a telephone number she had for Respondent, most recently the night before the November 9, 2016 hearing in this matter reminding him to attend the hearing. She verbally provided the telephone number on the record at the Board's request.

Upon motion and unanimous vote, the Board determined that the Attorney General had demonstrated that adequate efforts at service had been made. A service attempt was made at Respondent's address of record and via an e-mail to an address at which Respondent had been successfully contacted in the past. The relevant documents

¹ DAG DeLisi indicated that she had sent more than one e-mail to Respondent at the same address. Respondent's message confirms that the e-mail address to which the DAG sent the documents is active and current, and that Respondent received e-mail there. Upon questioning, the DAG informed the Board of the precise e-mail address utilized.

² Subsequent to the hearing, by letter dated November 15, 2016, DAG DeLisi advised the Board that when she returned to the office on November 10, 2016, she found that she had received e-mails from Dr. Mathew after the close of business on November 8, 2016 (the night before the hearing, a State Holiday and a day which the office was closed) and before 9AM on November 9, 2016 (the date of the hearing). In the e-mails, Respondent confirmed he was aware of the proceedings as he asked if there was anything he could do to postpone the court date and provided a new address where he could be contacted. This Order provides Respondent with the opportunity, within 10 days of service, to request that this matter be reopened upon a showing that the Order to Show Cause was not received or upon good cause shown for his non-appearance at the hearing.

were also mailed to Respondent's place of employment. It is not incumbent upon the State to ferret out Respondent's location. Respondent has a responsibility to advise the Board of a street address at which he can receive service (N.J.A.C. 13:45C-1.3(a)7). By providing notice at multiple locations, the State went beyond its basic obligation to provide notice. Further, Respondent's replies via e-mail and voicemails, as represented by the DAG, demonstrate that actual service was made. The Board found efforts at service sufficient to place Respondent on notice and moved forward with the hearing in Respondent's absence.

SUMMARY OF EVIDENCE PRESENTED

In an opening statement and in a brief submitted to the Board, the Attorney General argued that Respondent's conduct, including two positive urine screens in 2016 and his noncompliance with the PAP and it's recommendations for treatment, constitute a clear and imminent danger to the public health safety and welfare warranting the immediate temporary suspension of his license to practice medicine and surgery in the State of New Jersey.

The Attorney General supported her application for the temporary suspension of Respondent's license with her own verbal representations at hearing and certification filed with the Verified Complaint in which she describes her multiple attempts to contact Respondent, convince him to comply with the PAP recommendations,

explain the consequences of his non-compliance and finally, by e-mail on October 31, 2016 warn him that if he did not meet with the PAP on November 2, 2016 she would file a complaint seeking the temporary suspension of his license "which would be heard by the Board on November 9, 2016." The Attorney General also supported her application with the following documents introduced into evidence:

P-1, Exhibit A to the Verified Complaint - a PAP Urine Drug Screen for the sample collected on June 30, 2016 indicating a positive result for opiates.

P-2, Exhibit B to the Verified Complaint - a PAP letter addressed to Respondent dated July 21, 2016 seeking a written explanation from Respondent's prescribing physician for the June 30, 2016 positive result for opiates.

P-3, Exhibit C to the Verified Complaint - a PAP letter sent to the Board dated September 27, 2016 advising the Board that:

Because the initial UDS that was collected at the time of his initial appointment was reported as positive for opiates and because he failed to keep his appointment for psychological and functional assessment and his follow-up appointment, the PAP recommended that this case be referred to the State Board of Medical Examiners because the PAP is not in a position to vouch for this physician's fitness to practice medicine.

P-4, Exhibit D to the Verified Complaint - The Certification of Michael S. DeShields, M.D., the Associate Director of the

Professional Assistance Program of New Jersey. Dr. DeShields indicates in his Certification that he met with Respondent on June 30, 2016 for an initial assessment and review relative to a substance abuse evaluation for a court matter. During the assessment, Respondent reported that in February 2016 he had a positive drug screen for amphetamines. Respondent indicated he was not on any prescribed medications. While at his June 30, 2016 assessment, Respondent submitted to a urine drug screen which yielded positive results for opiates, specifically for morphine. Respondent did not reply to the July 21st letter from the PAP seeking an explanation for the positive result and failed to appear for a psychological and functional assessment scheduled for July 11, 2016. Respondent also failed to appear for a follow-up appointment with Dr. DeShields on July 26, 2016 and refused to sign a written agreement with the PAP. According to Dr. DeShields, although Respondent verbally agreed to comply with drug screens twice a week and participate in Level II care at the High Focus agency, he did not follow-up. Respondent has not been seen by the PAP since June 30, 2016.

P-5, Exhibit E to the Verified Complaint, is a print-out dated October 4, 2016 from the Montefiore Medical Center website indicating that Respondent is employed by Montefiore as an emergency medicine physician at the Mount Vernon, NY location.

P-6 is the Certification of Linda Pleva, Director of Administration for the PAP. Ms. Pleva certifies that the July 21, 2016 and September 27, 2016 letters entered into evidence as P-2 and P-3 are true, accurate and complete copies of the original records on file at the PAP and were made in the regular course of business. She also certifies that the urine drug screen report, entered into evidence as P-1, is the report for the specimen collected on June 30, 2016 from Respondent and was kept by the PAP in the regular course of business.

DAG DeLisi, in closing, after submitting the evidence above, urged that when, as here, a licensee who has acknowledged a positive drug screen for amphetamines and tested positive for opiates during a period when he represents he was not on any prescribed medications, chooses to ignore the treatment plan established and evade all efforts to gain his cooperation, the Board should take swift and decisive action in the best interest of the licensee and the public health, safety and welfare. She requested that Respondent's license be temporarily suspended.

DISCUSSION

The Board concludes that, at this stage of the proceeding, the evidence presented by the Attorney General in support of the application for the temporary suspension of Respondent's license is compelling. The sworn statements of DAG DeLisi, Linda Pleva and Dr.

Michael De Shields along with letters from the PAP and a drug screen report from June 30, 2016 palpably demonstrate a clear and imminent danger to the public were Respondent to continue to practice pending adjudication of the charges.

At his meeting with Dr. DeShields on June 30, 2016, Respondent tested positive for opiates and admitted that he tested positive for amphetamines in February 2016. He refused to enter into a written agreement with the PAP, but agreed to urine screens and participation in an out-patient drug rehabilitation program. Respondent did not follow-up on this promise. He did not appear for a scheduled psychological and functional assessment on July 11, 2016 or a follow-up appointment with Dr. DeShields on July 26, 2016. He also did not respond to correspondence from the PAP dated July 21, 2016 seeking an explanation for his positive urine screen on June 30, 2016.³

Following the PAP's referral of this matter to the Board on September 27, 2016, DAG DeLisi reports that she attempted on numerous occasions to reach Respondent, leaving telephone messages on his cell phone, sending e-mails and sending a proposed consent order to his address of record with the Board (which was returned by the post office). On Monday October 24, 2016, the DAG warned Respondent

³ This letter was sent to Respondent at his address of record with the Board prior to the alleged sale of his house in August 2016.

during a telephone conversation that if he did not enroll in the PAP and follow their recommendations within a week a public complaint seeking the temporary suspension of his license would be filed. On October 31, 2016 DAG DeLisi warned Respondent in an e-mail that if he did not go to the November 2, 2016 appointment she would file the complaint which would be heard by the Board on November 9, 2016. Respondent did not meet with the PAP, nor did he appear for the hearing on November 9, 2016.

The Board finds that Respondent's positive drug screen for amphetamines in February 2016, unexplained positive urine screen for opiates in June 2016, taken together with his poor judgment demonstrated by repeated failures to appear for multiple scheduled evaluations, assessments and follow-up meetings with the PAP, his failure to maintain an up-to-date address of record, and failure to appear for the November 9, 2016 hearing before this Board, support a finding that he is presently engaged in drug use in a manner likely to impair his ability to practice with reasonable safety and skill and that his continued practice poses a clear and imminent danger to the public. Therefore, no remedial measure less than the full temporary suspension of license will suffice to protect the public interest. Respondent's license is temporarily suspended pursuant to N.J.S.A. 45:1-22 pending final adjudication of the charges in the Complaint and further order of the Board.

ACCORDINGLY, it is on this 16th day of November, 2016

ORDERED, as announced orally on the record and effective November 9, 2016:

1. The license of Respondent is temporarily suspended pending final adjudication of the allegations of the Verified Complaint, including Board review of the results of any plenary hearing at the Office of Administrative Law.
2. Respondent shall immediately cease and desist engaging in the practice of medicine and surgery in the State of New Jersey.
3. Upon service of the written order in this matter, Respondent shall have 10 business days to request the Board to re-open this matter upon a showing that the Order to Show Cause was not received or upon good cause shown for his non-appearance at the hearing. Upon receipt of such request the Board shall schedule a hearing.

NEW JERSEY STATE BOARD OF
MEDICAL EXAMINERS

By: 

Chetan Shah, M.D.
Vice President