

BEFORE THE DELAWARE BOARD OF MEDICAL LICENSURE AND DISCIPLINE

ARTURO A. APOLINARIO, M.D.) Case No.: 10-13-11
))
 LICENSE NO.: C1-004087)

PUBLIC ORDER

**ORDER ACCEPTING AMENDED COMPLAINT AND GRANTING RENEWED
MOTION FOR EMERGENCY TEMPORARY SUSPENSION**

AND NOW, this 5th day of March, 2011,

WHEREAS, the Delaware Department of Justice through the prosecuting Deputy Attorney General has filed with the Board of Medical Licensure and Discipline (“Board”) a written Amended Complaint and a Renewed Motion for Temporary Suspension; and,

WHEREAS, said Complaint and Motion allege, among other things, that the Respondent has engaged in and may continue to engage in activities which present a clear and immediate danger to the public health including, but not limited to: prescribing, dispensing, and/or storing controlled substances in Wilmington and Dover when he did not have a controlled substance registration, failing to report Dr. Kermit Gosnell’s unprofessional conduct to the Board of Medical Licensure and Discipline, permitting and/or participating in the transfer of Atlantic Wilmington patients to Dr. Gosnell’s Philadelphia facility, permitting and/or participating in a medical practice arrangement wherein abortions were started at Atlantic Wilmington and completed a day or days later at Dr. Gosnell’s Philadelphia facility placing Atlantic Wilmington patients at grave risk for harm and catastrophic outcomes, and failing to take any reasonable steps to prevent or stop Dr. Gosnell from removing or destroying the medical records of Atlantic Wilmington patients; and,

WHEREAS, the allegations if substantiated at a formal hearing constitute unprofessional conduct under numerous provisions of the Medical Practice Act, including but not limited to,

24 *Del.C.* §1731(b)(1), (2), (3), and (11), and Board Rules 15.1.4 and 15.1.10; and,

WHEREAS, Respondent and/or his legal counsel were served with a copy of the Amended Complaint and were given at least 24 hours' written or oral notice so that counsel could file a written response in opposition to entry of an Order of Temporary Suspension together with a copy of the Complaint in compliance with 24 *Del.C.* § 1738(a); and,

WHEREAS, Respondent through his counsel Adam Balick, Esquire, has filed a written response in opposition to entry of an Order of Temporary Suspension arguing that the allegations raised by the State do not rise to the level required to support an emergency suspension of Respondent's medical license pursuant to the "clear and immediate danger to the public health" standard required by 24 *Del.C.* § 1738(a).

WHEREAS, after due consideration of the Complaint and the Motion and the response thereto, if any, the Secretary of State or his designee with the concurrence of the Board President or his designee has determined that the available information is sufficient to support the entry of an Order temporarily suspending Respondent's license to practice medicine in the State of Delaware in that there is a reasonable belief that Respondent's continued practice presents a clear and immediate danger to the public health;

IT IS SO ORDERED this 5th day of March, 2011:

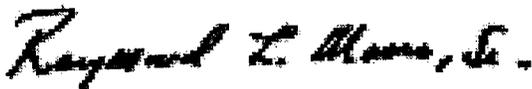
1. That the Motion for Emergency Suspension of Respondent's license to practice medicine, number C1-004087, is granted and Respondent's license is suspended;
2. That Dr. Apolinario is ordered to place a message on the office phone and to post a notice on his office door advising patients of the process for obtaining their medical records and further advising patients with emergency medical needs to seek medical attention at the nearest emergency room during the period during which Dr. Apolinario is unable to offer treatment as a result of this Order. A copy of the notice is to be provided to the Executive Director for the

Board. If Dr. Apolinario intends to be in the office to personally deliver records to patients he is directed to so notify the Executive Director and to provide a schedule of dates and times he will be in the office. Dr. Apolinario is prohibited from practicing medicine during the period of suspension and may only be in the office for the purpose of attending to administrative matters;

3. That Respondent shall be served with a copy of this Order as provided in 24 *Del.C.* §1735(a) and notice provided other agencies listed therein;

4. That Complaint No. 10-13-11 is accepted by the Board as the Formal Complaint and shall be assigned to a three member Hearing Panel to be scheduled in accordance with 24 *Del.C.* §1738(d) to hear evidence related to the Formal Complaint;

5. That pursuant to 24 *Del.C.* §1738(c) Respondent may request an expedited hearing provided that the Board receives the request within 5 calendar days of the date Respondent is notified of this Order.



Raymond L. Moore, Sr., Public Member
President
Board of Medical Licensure and Discipline



The Honorable Jeffrey W. Bullock
Secretary of State
State of Delaware

Date Served Personally: March 5, 2011 or,

Date Sent by Certified Mail, Return Receipt Requested: _____