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BEFORE THE
BOARD OF MEDICAL EXAMINERS
STATE OF OREGON

8 In the Matter of)
9)
10 **STEVEN GABRIEL MOOS, MD**) **FINAL ORDER**
11 License No. MD20201)
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HISTORY OF THE CASE

18 On January 17, 2003, the Board of Medical Examiners (Board) issued an Order of
19 Emergency Suspension, suspending Dr. Moos' license on the ground that Dr. Moos' continued
20 practice of medicine constitutes immediate danger to the health and safety of the public. Dr.
21 Moos requested a hearing. On February 6, 2003, the Board issued an Amended Order of
22 Emergency Suspension.
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24 The Board referred the case to the Hearing Officer Panel on January 30, 2003. A
25 hearing was held on February 7, 10 and 11, 2003. Alison Greene Webster, from the Hearing
26 Officer Panel, presided as the Administrative Law Judge. The Board was represented by Warren
27 Foote, Assistant Attorney General. Dr. Moos was represented by Marc Blackman, Attorney at
28 Law.
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30 Testifying on behalf of the Board were Officer Michael Krantz of the Portland Police
31 Bureau, Board Investigator Michael Hefley, forensic scientist Sally Waddle, and Gary A.
32 Jacobsen, M.D. Testifying on behalf of Dr. Moos were James M. Paris, a friend, Amy Degen,
33 friend and patient, Raven Karam, friend and patient, Tony Mullins, a friend and employee,
34 Darrin Schmierer, and Deborah Tuthill, a private investigator.
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36 On February 26, 2003, the Hearing Officer Panel received a written transcript of the
37 proceeding.¹ The record closed on that date.
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ISSUE

41 Whether permitting Dr. Moos to continue in the practice of medicine constitutes an
42 immediate danger to the public.
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¹ The transcript was prepared in three sections. Transcript 1 (tr. 1) refers to the proceedings on February 7, 2003, transcript 2 (tr. 2) refers the proceedings on February 10, 2003 and transcript 3 (tr. 3) to the proceedings on February 11, 2003.

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EVIDENTIARY RULINGS

The Board offered Exhibits A1-A24. Exhibits A1 through A4 and A11, A17, A18, A20, A21 and A24 were admitted without objection. Exhibits A5 and A6 were admitted over Dr. Moos' hearsay objection. Exhibits A7 through A10 and A 12 through A16 and A22 and A23 were admitted over Dr. Moos' objection on relevancy grounds.

Dr. Moos' exhibits, R101 through R117 (A and B) were admitted without objection. Pleadings were marked as P1 through P8.

The Board called Dr. Moos to testify, but he invoked his Fifth Amendment privilege and declined to answer any questions on the grounds that doing so might be deemed a waiver of the privilege. (Tr. 2 at 14.) Another witness whom Dr. Moos intended to call, Sven Trautmann, also exercised his Fifth Amendment privilege and refused to testify. (Tr. 3 at 23.)

At the outset of and during the hearing, Dr. Moos made several other evidentiary and procedural motions that were addressed on the record. First, Dr. Moos requested that the hearing be open to the public. The motion was denied based upon the Board's procedural rules, specifically OAR 847-001-0010, which states: "Contested case hearings are closed to members of the public." Dr. Moos' assertion that the Board's rule violated Article 1, section 10 of the Oregon Constitution was also rejected, based on a determination that the provision that "no court shall be secret" does not apply to contested case proceedings under the Administrative Procedures Act.

Dr. Moos then moved to exclude testimony by persons whom the Board refused to allow Dr. Moos to depose prior to the hearing. Dr. Moos prepared subpoenas and sought to depose certain police officers that were involved in the search of his residence and medical office. The Board declined to allow this discovery. *See* OAR 137-003-0570 (granting the agency the authority to grant or deny discovery requested by a party). Dr. Moos argued that to allow testimony of these witnesses at hearing would deny him due process, as he could not adequately prepare for the hearing. This motion was denied on the grounds that Dr. Moos would have the opportunity at hearing to cross-examine any witness called to testify on the Board's behalf.

Next, Dr. Moos asserted that the January 8, 2003 search warrant was issued and executed without probable cause and argued that all evidence derived from the searches of his residence and office should be suppressed. The motion was denied, based upon a preliminary determination that, even if the search warrant was executed without probable cause, the exclusionary rule would not apply to this proceeding. *See Merrifield v. MVD*, 106 Or 359 (1991) (exclusionary rule did not come into play in a driver license cancellation action because the cancellation statute contains no arrest prerequisite that would cause Article 1, section 9 or the Fourth Amendment to attach).²

² Other jurisdictions have also held that, in an administrative law setting, the exclusionary rule does not preclude state agencies from considering evidence that was illegally seized by the police. *See, e.g., Sertik v. School District of Pittsburgh*, 584 A2d 390 (Pa. 1990) (exclusionary rule did not preclude school board from considering such evidence in a teacher dismissal hearing); *Diehl v. Iowa Beer and Liquor Control*

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FINDINGS OF FACT

1. Steven Gabriel Moos, M.D., is a licensed physician in the State of Oregon. Dr. Moos has a general medical practice, in which he focuses on lifestyle medicine. He sees patients for anti-aging treatments, maintenance of sexual function, weight management, and botox injections for wrinkle removal. (Test. of Krantz; tr. 2 at 43; Ex. A6; test of Hefley; tr. 2 at 158.) Dr. Moos is the owner of Frontier Medical Clinic in Tigard, Oregon. The clinic was previously known as the Center for Men's Health and was previously located in Lake Oswego. Dr. Moos also has a clinic in Grants Pass, Oregon, and has been in the process of opening another clinic in Salem. (Ex. A6; test of Krantz; tr. 2 at 43.)

2. Dr. Moos sees and treats patients, and prescribes medicine and drugs. For example, on Thursday, January 2, 2003, Dr. Moos' schedule indicates that he saw 13 patients at his Tigard clinic between 10:00 a.m. and 5:00 p.m. He saw seven patients on Friday, January 3rd. (Ex. A24.) On January 9, 2003, Dr. Moos saw 16 patients, and also met briefly with Board Investigator, Mike Hefley. And, on Friday, January 10, 2003, he saw 11 patients. (Ex. R102.)

3. In 2000, the Board proposed taking disciplinary action against Dr. Moos for violations of the Medical Practices Act. On or about March 28, 2000, the Board issued a Stipulated Final Order Limiting Practice in which it revoked Dr. Moos' license to practice, stayed execution of the order of revocation and placed Dr. Moos on probation for a period of 10 years. (Ex. A4 at 3.) In the order, Dr. Moos admitted that he engaged in certain conduct including, but not limited to, prescribing and dispensing medications, including Viagra, over the Internet without ever seeing or examining the patients. Dr. Moos also stipulated that his conduct

endangered the public health or safety by exposing patients to treatment that could be contra-indicated by pre-existing health conditions or medication that the patients are taking that could otherwise be detected by examining patients prior to treatment, by conducting an adequate health history, consulting with the patients' primary care providers, reviewing their medical records and providing adequate follow up. (Ex. A4 at 3.)

Dr. Moos acknowledged that the Board found his conduct unprofessional or dishonorable and that it constituted gross or repeated negligence in the practice of medicine. (Ex. A4 at 3.) As part of his probation, Dr. Moos agreed, among other things, that he: (a) "will not associate in any manner with any Internet website that renders or purports to render medical services to patients or prescribe medication;" (b) "will not communicate with patients over the Internet;" and (c) "will not diagnose or treat any person without first seeing the patient in a face to face clinical setting." (Ex. A4 at 4.)

4. In April 2000, the Portland Police Bureau's Drugs and Vice Division received a telephone complaint regarding Dr. Moos. The caller asserted that Dr. Moos was selling "club

Dept. Hearing Bd., 422 NW2d 480 (Ia. 1988) (exclusionary rule did not apply in a liquor license suspension proceeding).

1 drugs” such as ketamine and ecstasy. This complaint caused Officer Michael Krantz of the Drug
2 and Vice Division to open an investigation on Dr. Moos for violations of the Oregon Uniform
3 Controlled Substances Act. (Ex. A5.)
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5 5. Officer Krantz has been an officer with the Portland Police Bureau since December
6 1993. For the last four years, he has been assigned to the Drugs and Vice Division as a narcotics
7 investigator. In addition to his regular in-service training, Officer Krantz has had significant
8 training in the area of drug and narcotics enforcement, including training on “club drugs” and
9 drug addiction. (Test of Krantz; tr. 2 at 18-19.)
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11 6. On January 8, 2003, Officer Krantz presented an affidavit in support of a search
12 warrant to Judge Thomas W. Kohl of the Washington County Circuit Court. Officer Krantz
13 sought a warrant authorizing the search of Dr. Moos’ residence (13783 SW Benchview Terrace,
14 Tigard, Oregon) and business office (9600 SW Oak St., Ste 350, Tigard, Oregon), any vehicles
15 associated with Dr. Moos’ residence and the persons of Dr. Moos and Sopaul Polly Moos. (Ex.
16 A5; Test. of Krantz; tr. 2 at 21-22.)
17

18 7. In the affidavit, Officer Krantz set forth information leading to his belief that Dr.
19 Moos was supplying and using illegal controlled substances. Among other things, Officer
20 Krantz swore to the following:
21

22 (a) In December 2001, Tigard police officers received a report of an alleged rape that had
23 occurred at Dr. Moos’ residence on December 7, 2001. In investigating the report, Tigard police
24 officers learned that, on the night in question, several women (including the complainant)
25 attended a party hosted by Sopaul Polly Moos. During the party, Dr. Moos offered the women
26 brown vials of liquid and a topical cream, substances that he referred to as “female Viagra
27 products.” Some of the women consumed the liquid in the brown vials and at least one became
28 very ill as a result. In an interview with Detective Dresser of the Tigard police regarding the
29 incident, Dr. Moos admitted that he had distributed several tubes of “Viaglide” to the party
30 guests and that he had brought out 10 amber vials of “liquid Viagra.” Dr. Moos also admitted to
31 Detective Dresser that he keeps a large supply of liquid Viagra at his home and he routinely
32 provides Viagra to his friends without a prescription and without an examination. (Ex. A5 at 7-
33 12.)
34

35 (b) In June 2002, the Tigard police received a tip from a person who wished to remain
36 anonymous that “Krieg,” who worked in Dr. Moos’ Tigard medical clinic, was selling drugs over
37 the counter under suspicious circumstances. The caller reported that he had been at Dr. Moos’
38 Frontier Medical Clinic and had overheard Krieg talking to another man in the office. Krieg
39 allegedly listed several kinds of drugs that were available over the counter, including opiates,
40 amphetamines, steroids and others, and told the man he could buy as much as he wanted because
41 they had just received a new shipment. The caller also reported observing Krieg selling pills to a
42 group of high school aged kids who came to the clinic. The caller further advised the Tigard
43 officer that he heard Dr. Moos tell Krieg that he had to be careful selling that stuff when there
44 were other persons present. (Ex. A5 at 13-14.)
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1 (c) Also in June 2002, the Tigard police began to receive calls from neighbors of Dr.
2 Moos, complaining about suspicious activity occurring at the residence. These neighbors later
3 began to document the dates, times and the activity they observed. They reported that persons
4 would come to the Moos' house at all hours that these persons would make contact with Dr.
5 Moos, and that Dr. Moos would come outside to the vehicles and appear to engage in exchanges
6 or transactions with the people. (Ex. A5 at 14, 16-19.)
7

8 (d) In September 2002, agents from the United States Customs Service seized a Federal
9 Express shipment of 300 Viagra pills that were shipped from China and addressed to Dr. Moos at
10 his Tigard medical clinic. The shipping papers indicated that the package contained a quantity of
11 10 "Yohimbe (Supplement) harmless personal use. No commercial use." The package also
12 included an invoice listing 10 patient names and the "medication (Viagra) amount." (Ex. A5 at
13 15-16.)
14

15 (e) On September 19, 2002, Tigard police officers made a traffic stop on a vehicle seen
16 leaving the Moos' residence, and during the stop, discovered in the vehicle a bag of cocaine and
17 a prescription bottle containing 12 blue pills. The passenger in the vehicle, Krieg Kjer, told the
18 officers that the cocaine was his and he had received it from a friend at the residence of Dr.
19 Moos. (Ex. A5 at 21-22.)
20

21 (f) On November 23, 2002, Officers Krantz and Jones had a conversation with Ryan
22 Kind, who was at the time working as a nanny for the Moos family. Officer Krantz conducted a
23 traffic stop on Ms. Kind after observing a traffic violation. Ms. Kind told the officers that she
24 had concerns about the welfare of the Moos children. She stated her belief that Sopaul Moos and
25 Dr. Moos use drugs in front of their children and allow guests at the house to use drugs in front
26 of the children. Ms. Kind reported that Sopaul Moos told her on several occasions that she and
27 Dr. Moos had been up until three or four o'clock in the morning using drugs. Ms. Kind also
28 reported her belief that the majority of drug use occurs in the lower level of the residence, where
29 the theater and sauna rooms are. (Ex. A5 at 24-25; Test. of Krantz; tr. 2 at 120-23.)
30

31 (g) In the early morning hours of December 7, 2002, Officers Krantz and Jones
32 conducted surveillance at a Portland nightclub known as Level. There, they observed Dr. Moos
33 at a table with a group of people, including Sopaul Moos, Amy Degon and Raven Karam.³ Krieg
34 Kjer was working as the club's disc jockey that night. Officer Krantz observed Ms. Karam hand
35 Dr. Moos a \$20 bill and saw Dr. Moos hand Ms. Karam an item he had been holding in his hand.
36 Officer Krantz could not see the item Dr. Moos handed Ms. Karam, but he suspected that this
37 transaction was an exchange of cash for illegal controlled substances. After that, Ms. Karam,
38 Ms. Degon and Sopaul Moos all walked together to the ladies room. About 20 minutes later,
39 Officer Krantz observed another person, known to him as Mandy Carey, remove a \$20 bill from
40 her purse and slide it under the table to Dr. Moos. Officer Krantz then observed Dr. Moos hand
41 something back to Ms. Carey. The item was small enough to be concealed inside Dr. Moos'
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44 ³ In making this finding, the Hearing Officer found the testimony of Officer Krantz (and the information
45 in his affidavit and written report) more reliable than the testimony of Amy Degon and Raven Karam,
46 who both denied that Dr. Moos was with them at Level that night. (Tr. 2 at 265, 276-77.) In other words,
47 the Hearing Officer found that Officer Krantz did observe Dr. Moos at Level in December 2002 on the
night that Krieg Kjer was working as the disc jockey.

1 hand. Officer Krantz believed that this was another exchange of cash for illegal controlled
2 substances. After that, Officer Krantz observed Ms. Carey get up from the table, walk to the
3 bathroom, and then return to the table a short time later. Upon her return, Ms. Carey was wiping
4 her nose with a napkin, as if she had a runny nose. (Ex. A5 at 30-31.)
5

6 8. Judge Kohl issued the warrant, which was subsequently executed by Officer Krantz on
7 January 17, 2003 at 12:19 a.m. (Ex. A5 at 38; Ex. R108; Test. of Krantz; tr. 2 at 21.)
8

9 9. At approximately 7:00 p.m. on the night of January 16, 2003, Officers Krantz and
10 Jones began surveillance at Dr. Moos' residence. At 9:28 p.m., Officer Krantz observed Dr.
11 Moos arrive home, driving his silver Jaguar. Dr. Moos pulled into the garage, walked out to the
12 mailbox to check the mail and then reentered the home. Officer Krantz noted that Dr. Moos was
13 wearing a black leather jacket. A few minutes later, Sopaul Polly Moos arrived home. Officers
14 maintained surveillance of the Moos' residence until they entered it to execute the search
15 warrant. They saw the nanny leave the residence at 10:20 p.m., and saw a person driving a silver
16 Volkswagen arrive and pull into the garage at 10:21 p.m. (Ex. A6; Test. of Krantz; tr. 2 at 26-
17 27.)
18

19 10. The Moos residence is a very large home, with four levels and more than 7500
20 square feet of living space. (Test. of Krantz; tr. 2 at 34.) A team of 28 officers executed the
21 search warrant. At approximately 12:05 a.m. on January 17, 2003, officers from the Drug and
22 Vice Division entered the front door (on level three) as officers from the Washington County
23 Interagency Narcotics (WIN) team entered the rear door (on level two). The officers found
24 seven people inside the residence. Dr. Moos, Sopaul Polly Moos and the four Moos children
25 were upstairs on level four and Sven Trautmann was downstairs on level one. (Ex. A6.) As the
26 officers conducted the search, Dr. Moos, Sopaul Polly Moos and Sven Trautmann were advised
27 of their *Miranda* rights and then individually interviewed by Officer Krantz. (Test. of Krantz; tr.
28 2 at 28.)
29

30 11. During this interview, Mr. Trautmann advised Officer Krantz that he had been living
31 at the Moos' house for a week or two. He explained that he started out as a patient of Dr. Moos.
32 He said that he and Dr. Moos then became friends and Dr. Moos offered him the bottom floor of
33 the residence as a place to live for \$300 a month. (Test. of Krantz; tr. 2 at 29-30.) Mr.
34 Trautmann also indicated that he had been helping out with paperwork at Dr. Moos' office for
35 the last couple of weeks. Mr. Trautmann refused to say whether any illegal recreational drug use
36 was occurring at the Moos' residence. (Ex. A6 at 5-6.) Officer Krantz asked Mr. Trautmann
37 about the illegal mushrooms, ecstasy and methamphetamine found in the room where he was
38 staying. Mr. Trautmann admitted the mushrooms were his, but he claimed that he had taken the
39 other drugs from some one on New Year's Eve. (Ex. A6 at 23; Test. of Krantz; tr. 2 at 30.)
40

41 12. During her interview with Officer Krantz, Sopaul Polly Moos told how she and Dr.
42 Moos met and became a couple. (Test. of Krantz; tr. 2 at 35.) She indicated that she and Dr.
43 Moos were not married, but she had changed her name to Sopaul Polly Moos when they had
44 their first child together. (Test. of Krantz; tr. 2 at 42; Ex. A6 at 11.) Ms. Moos admitted to using
45 Viagra and Viaglide. She said that she received the Viagra from Dr. Moos, without a
46 prescription. (Ex. A6 at 11; Test. of Krantz; tr. 2 at 39.) Ms. Moos claimed that she was
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1 “clueless” about the activities that went on in the house with Dr. Moos and his friends. (Test. of
2 Krantz; tr. 2 at 36.) Ms. Moos denied using illegal drugs, but admitted to using ecstasy. (Ex. A6
3 at 11; Test. of Krantz; tr. 2 at 39-40.) She also told Officer Krantz that she takes human growth
4 hormone on a regular basis. She said that Dr. Moos brings it home for her from his office and
5 she keeps it in the refrigerator in the kitchen. She does not have a prescription for the human
6 growth hormone. (Ex. A6 at 11; Test. of Krantz; tr. 2 at 40-41.)
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9 13. In response to further questioning from Officer Krantz, Ms. Moos admitted that she
10 had a party in December 2001 in which Dr. Moos provided liquid Viagra to her guests. She
11 indicated that vials were given out, which were just samples. (Ex. A6 at 23-24.) Ms. Moos also
12 admitted to using ketamine, which she had gotten from Dr. Moos. In addition, she
13 acknowledged trying GHB (gamma hydroxybutyrate) or GBL (gamma butylactone) with Dr.
14 Moos, but she said that she did not like it because it made her vomit. (Test. of Krantz; tr. 2 at 39-
15 40; Ex. A6 at 23-24.)

16
17 14. During his interview with Officer Krantz, Dr. Moos admitted the following:

18 (a) He has prescribed “liquid Viagra” or sildenafil citrate to some patients. He obtains
19 the liquid Viagra from compounding pharmacies in the United States, including one in the
20 Portland metropolitan area. Liquid Viagra is a legal drug, although it is not FDA approved. (Ex.
21 A6 at 13; test. of Krantz; tr. 2 at 45-47.)
22

23 (b) Although Dr. Moos initially denied ever bringing Viagra tablets or liquid Viagra
24 home or providing drugs to his friends without a prescription, he then acknowledged that he has
25 brought these items home and presented them to friends and guests at his house. (Ex. A6 at 13-
26 14; test of Krantz; tr. 2 at 47.) When asked about the incident in December 2001 where his wife
27 had a party at their home and an alleged rape occurred, Dr. Moos said that he recalled the
28 incident. He admitted that he showed some liquid Viagra to his sister-in-law at that party. He
29 claimed that she grabbed it, drank it, and it was beyond his control to stop her from doing so.⁴
30 Dr. Moos also recalled telling Tigard Police Detective Dresser that there were possibly 10 vials
31 of liquid Viagra taken that night by guests at the party because he could not account for them
32 later. (Ex. A6 at 13-14; test of Krantz; tr. 2 at 47-48.)
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34 (c) Dr. Moos admitted to using illegal recreational drugs. (Test. of Krantz; tr. 2 at 49.)
35 Dr. Moos admitted to taking methamphetamine, and said that the last time he used it was New
36 Year’s. (Ex. A6 at 20; test of Krantz; tr. 2 at 54.) When asked about the suspected
37 methamphetamine found in the pocket of the leather jacket he had been wearing earlier, Dr.
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40 ⁴ The Hearing Officer was persuaded by the testimony, report and affidavit of Officer Krantz that Dr.
41 Moos admitted to making liquid Viagra available to the women at this party. James Paris, an
42 acquaintance of Dr. Moos, testified that he was at the Moos house that night and that Dr. Moos arrived
43 home with Krieg Kjer and Mr. Kjer’s girlfriend sometime between 9 and 10 p.m. Mr. Paris testified that
44 he left the party about 10:30 and that, about 20 or 30 minutes after he arrived home, Dr. Moos arrived at
45 his house. (Test. of Paris; tr. 2 at 249-52.) But, Mr. Paris was not asked, and did not testify as to whether
46 he saw Dr. Moos give the party guests liquid Viagra. Taken at face value, Mr. Paris’ testimony about the
47 events of that night fails to establish that Dr. Moos had no opportunity to, and did not in fact, offer liquid
Viagra to the party guests. Consequently, the Hearing Officer gave his testimony little weight.

1 Moos initially stated that he had taken it from someone earlier in the day while examining the
2 person at his clinic. He claimed that he put the methamphetamine in his jacket pocket rather than
3 disposing of it at the clinic. Dr. Moos later said that he took the methamphetamine off a friend
4 and patient at 8:00 in the evening after meeting this person in the underground parking structure
5 at his office. (Ex. A6 at 18-20; test of Krantz; tr. 2 at 51-54.)
6

7 (d) Dr. Moos admitted to having a number of parties and "pre-parties" consisting of five
8 or six people at his house over the last year. He also admitted that many of the friends who come
9 often to his house use illegal controlled substances. (Test. of Krantz; tr. 2 at 50.) When
10 questioned about the suspected ecstasy the officers found in their search of the home, Dr. Moos
11 acknowledged that it could have been left over from one of the many parties at the residence.
12 (Ex. A6 at 17-20.)
13

14 (e) When asked about shipments of Viagra coming to him from China, Dr. Moos said that
15 he had purchased \$50,000 worth of Viagra from a local distributor and taken the pills to China to
16 sell them there. He explained that shortly after he took the pills to China, the law changed so
17 that he could no longer sell the pills there. He therefore had physicians who were working for
18 him in China send the pills back to him in 300 pill increments. He admitted that the patient lists
19 in the packing slips were made up just to get the pills back into the country. Dr. Moos
20 maintained that these Viagra pills were made in the United States, shipped by him to China then
21 shipped back to his clinic. (Ex. A6 at 21-22; test of Krantz; tr. 2 at 61-63.)
22

23 (f) Dr. Moos admitted to selling Viaglide via the Internet. Dr. Moos described Viaglide
24 as a menthol substance that is essentially the same as other cremes on the market for higher
25 prices. (Ex. A6 at 22; test. of Krantz; tr. 2 at 61.)
26

27 (g) When asked by Officer Krantz about the ketamine liquid found during the search of
28 his house, Dr. Moos said that he had brought a full box of ketamine hydrochloride home from
29 the office about a year ago. (Test. of Krantz; tr. 2 at 49 and 111-12.) He explained that he used
30 one bottle for an intra muscular injection on Amanda, who was working as their nanny at the
31 time. He claimed that he used the ketamine as an anesthetic, so that he could put Amanda's
32 shoulder back into place after it came out of its socket. Dr. Moos claimed that he had only used
33 one bottle out of the box and could not explain how the other bottles had been used. (Ex. A6 at
34 15-16; test of Krantz; tr. 2 at 49.)
35

36 (h) Dr. Moos admitted that he had been to the nightclub Level in December 2002 with
37 Sopaul Moos, Raven (last name unknown), and others, but he denied selling anything to
38 anybody. He said that he might have taken money from someone repaying a loan or debt, but
39 denied being involved in a drug transaction. (Ex. A6 at 16.)
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41 15. In their search of the Moos' residence, officers found the following controlled
42 substances:
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44 (a) In an amber bottle with no label in the pocket of the black leather jacket Dr. Moos had
45 been wearing when he arrived home, the officers found a white crystalline substance that
46 subsequently tested positive for amphetamine. (Ex. A6 at 18; test of Krantz; tr. 2 at 52, 67.)
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3 (b) In a cupboard above the refrigerator on the second level of the residence, officers
4 found a package of ketamine hydrochloride with six bottles inside. Five of the bottles were
5 empty and one was approximately half full with a clear liquid that tested positive for ketamine.
6 The bottles had rubber stoppers on the top, which allowed for syringe loading. (Ex. A6 at 15;
7 test of Krantz; tr. 2 at 66.)

8
9 (c) In this same area, officers also found a plastic bottle containing blue powder that was
10 determined to be "cooked" ketamine. (Test. of Krantz; tr. 2 at 66; Ex. A22.)

11
12 (d) On level one of the residence, officers discovered two tablets of oxycodone, one green
13 tablet of 3,4-methylenedioxyamphetamine (MDA), one gel cap containing 3,4-
14 methylenedioxyamphetamine (MDMA), 27 capsules of phendimetrazine and one tablet of
15 carisoprodol. (Ex. A22; test. of Krantz; tr. 2 at 67.)

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17 16. At 5:55 a.m. on January 17, 2003, officers began their search of Dr. Moos' medical
18 office at 9600 SW Oak Street, Suite 350, in Tigard. Once there, they located a safe in Dr. Moos'
19 private office. Dr. Moos provided the combination for the safe, and inside, Officer Krantz found
20 a small sealed baggie containing a white chunky substance (later determined to be cocaine) and
21 an amber colored prescription bottle with no label containing a green leafy substance
22 (marijuana). (Ex. A6 at 25; test of Krantz; tr. 2 at 57-58.)

23
24 17. In the search of the medical office, the officers also located two metal filing cabinets
25 containing hundreds, and perhaps thousands of prescription fill orders for Viagra and other
26 drugs, including Propecia, dating from 2001 to 2002. The files contained patient information,
27 payment and shipment information. Federal Express documents found in the files indicated that
28 the medications were being shipped to recipients around the United States. (Ex. A6 at 26; test of
29 Krantz; tr. 2 at 72.) The search also uncovered cabinets containing prescription medications,
30 including Viagra, Propecia and other substances. One cabinet contained hundreds of empty
31 bottles labeled Viagra. (Ex. A6 at 26.)

32
33 18. At 7:10 a.m. on January 17, 2003, while the officers were searching the medical
34 offices, Dr. Moos' employee, Krieg Kjer arrived at the front door. Mr. Kjer agreed to talk to
35 Officer Krantz about activity at the office. (Test. of Krantz; tr. 2 at 59.) During this interview,
36 Mr. Kjer provided the following information: He has worked for Dr. Moos for approximately
37 three and a half years. He is currently in drug rehab for addiction problems that began when he
38 was arrested for cocaine possession. (Ex. A6 at 26-28; test of Krantz; tr. 2 at 59.) When asked
39 who had access to the office safe, Mr. Kjer said that Dr. Moos had recently changed the
40 combination to the office safe and is the only person with access to the safe at this time. (Ex. A6
41 at 26-28; test of Krantz; tr. 2 at 59.) Mr. Kjer stated that Dr. Moos has in the past provided
42 William Elk and Tony Ringring and other friends with prescription drugs or controlled
43 substances. Mr. Kjer last saw Dr. Moos use methamphetamine in December 2002. (Ex. A6 at
44 26-28; test. of Krantz; tr. 2 at 60.) Mr. Kjer also saw Dr. Moos at Level in December 2002, the
45 night he acted as a disc jockey at the club. Dr. Moos and several other friends came to the club
46 that night to see him while he was mixing records. (Ex. A6 at 26-28.) Mr. Kjer denied that there
47 were illegal substances being sold out of the office, and denied that Dr. Moos was still selling

1 prescriptions over the Internet. Mr. Krieg indicated that the sales of Viagra and other
2 prescription drugs were telephone and mail order only. *Id.*
3

4 19. After completing the search of Dr. Moos' home and office, Officer Krantz made a
5 telephone call to Michael Hefley, an investigator and compliance officer for the Board. Officer
6 Krantz told Mr. Hefley what the officers found in their search, and briefly described what he
7 learned during his interviews with Dr. Moos, Ms. Moos, Mr. Trautmann and Mr. Kjer. (Test. of
8 Krantz; tr. 2 at 77; Test. of Hefley; tr. 2 at 147.)
9

10 20. Later in the morning of January 17, 2002, Dr. Moos and his attorney met with Mr.
11 Hefley and Gary Stafford, the Board's Chief Investigator, at the Board's offices. They discussed
12 whether Dr. Moos would be willing to withdraw from practice pursuant to an Interim Stipulated
13 Order. The Board wanted to suspend Dr. Moos' license indefinitely, pending an investigation of
14 Dr. Moos. Dr. Moos offered a withdrawal of his license for a couple of weeks. The Board was
15 unwilling to limit the suspension to only two weeks. Dr. Moos ended this meeting by leaving
16 abruptly. (Test. of Hefley; tr. 2 at 149-53.) In response, the Board issued an Order of
17 Emergency Suspension, ordering Dr. Moos to immediately cease the practice of medicine until
18 otherwise ordered by the Board. (Ex. A3.)
19

20 21. Dr. Moos returned to the Board's offices later that afternoon. He submitted to a
21 urine analysis, but refused to provide a hair sample at that time. (Test. of Hefley; tr. 2 at 144-
22 45.) The urine sample, which was collected at 3:30 p.m. on January 17, 2003, came back
23 negative for amphetamines, barbiturates, benzodiazepines, cannabinoids, cocaine, ethanol,
24 opiates or propoxyphene. (Ex. R101; test. of Hefley; tr. 2 at 144.)
25

26 22. Officer Krantz began writing his report on Saturday, January 18, 2003, the day after
27 the searches and his interviews with Dr. Moos, Sopaul Moos, Sven Trautmann and Krieg Kjer.
28 Officer Krantz made notes during the interviews, which he later used to write the report. (Test.
29 of Krantz; tr. 2 at 114.) The Board received a copy of Officer Krantz' report and a copy of his
30 search warrant affidavit a week after the warrant was served. (Test of Hefley; tr. 2 at 175.)
31

32 23. On January 27, 2003, Dr. Moos went to Intermountain Forensic Laboratories in
33 Portland, where he provided another urine sample and a hair sample. Mr. Hefley was present for
34 the sample collections. (Test. of Hefley; tr. 2 at 142.) The urine sample was confirmed positive
35 for morphine, an opiate, but negative for amphetamines, THC (tetrahydrocannabinol) and
36 cocaine. (Ex. A17; Test. of Waddle; tr. 2 at 186-87.)
37

38 24. The sample of Dr. Moos' hair, which was cut about 1/16" from his scalp and was
39 approximately 2 1/2" in length, represented about five months of growth. The hair sample was
40 tested for the presence of methamphetamine, opiates, marijuana and cocaine. The hair sample
41 came back positive for cocaine. The examination for methamphetamine was inconclusive. The
42 lab did not have enough of Dr. Moos' hair to run another test. The lab also did not test Dr.
43 Moos' hair sample for the presence of "club drugs," such as ketamine and GHB. (Ex. A18; Test
44 of Waddle; tr. 2 at 179-85, 197-98.)
45
46
47

1 25. On February 6, 2003, the Board issued an Amended Order of Emergency Suspension
2 that set out additional reasons for its determination that Dr. Moos' continued practice of
3 medicine constitutes a immediate danger to the public health and safety. (Ex. A2.)
4

5 26. Cocaine is a stimulant. It speeds up the heart rate, increases blood pressure, and
6 tenses the muscles like in anticipation of an emergency response. It has very rewarding
7 characteristics on centers of the brain, which makes it a very addictive drug. The "high" has a
8 rapid onset and generally lasts 20 to 30 minutes. (Test. of Jacobsen; tr. 2 at 210-11.) Long-term
9 use of cocaine can result in permanent brain damage, it can also sensitize muscle fibers in the
10 heart, and because it raises the blood pressure, it can also cause a stroke. The drug provides the
11 user with feelings of omnipotence. People under the influence of cocaine can also exhibit
12 impulsive behavior, anger, rage and violence. With the mind rushing so quickly, persons under
13 the influence of cocaine may have difficulty concentrating. (Test. of Jacobsen; tr. 2 at 211-12.)
14

15 27. Methamphetamine is also a stimulant. It has the same long and short-term effects as
16 cocaine, except that the "high" is much longer. The effects of methamphetamine typically last
17 more than 10 hours, and the half-life (the time it takes for the body to remove 50 percent of the
18 drug) is 12 hours. (Ex. A14.) People who take the drug but are not regular users of
19 methamphetamine will have trouble sleeping and may find it impossible to sleep for a prolonged
20 period of time. A person may feel aftereffects that last 24 to 36 hours after one-time use. (Test.
21 of Jacobsen; tr. 2 at 213-14.) Methamphetamine triggers the release of large amounts of the
22 neurotransmitter dopamine into areas of the brain that regulate feelings of pleasure. A dose of 10
23 to 30 milligrams may be considered medicinal, but people using the drug to get high are using
24 250 or 500 milligrams, much more than the therapeutic use. (Test. of Jacobsen; tr. 2 at 214.)
25 The drug's use and abuse is associated with brain damage and impaired cognitive and motor
26 skills; it can affect one's memory, problem-solving abilities and may also dissolve nerve tissue.
27 (Test. of Jacobsen; tr. 2 at 214-15; Exs. A13 and A14.) Although the type of impairment is
28 similar, methamphetamine is considered more impairing than cocaine because the high and the
29 aftereffects are more prolonged. Users are impaired during the high and when experiencing the
30 "crash phase" after use. (Test. of Jacobsen; tr. 2 at 216.)
31

32 28. Ketamine is a tranquilizer generally used on animals. It is used as a "club drug"
33 because large doses can cause reactions similar to those associated with the use of PCP
34 (phencyclidine), such as dreamlike states and hallucinations. The user experiences a euphoric,
35 disassociative feeling, similar to an out-of-body experience. (Ex. A10; test of Krantz; tr. 2 at
36 38.) The liquid form of ketamine can be injected, consumed in drinks, or added to smokable
37 materials. (Ex. A10.) The drug can also be "cooked" into a powder form, and then snorted.
38 (Test. of Krantz; tr. 2 at 38.) Ketamine use can result in brain damage. (Test. of Jacobsen; tr. 2
39 at 218-19.)
40

41 29. MDMA or ecstasy (methylenedioxymethamphetamine) is a cross between a
42 hallucinogenic and amphetamine. It is popular as a "club drug" because it produces both
43 stimulant and psychedelic effects. It enables users to remain awake and active for long periods
44 of time. The substance is usually ingested in tablet form, but can also be crushed and snorted or
45 injected. (Ex. A10.) Ecstasy use can cause hyperthermia (overheating of the body and brain),
46 muscle breakdown, seizures, stroke, kidney and cardiovascular system failure, and may lead to
47

1 death. Chronic use can impair thought and memory and produce long-lasting brain damage.
2 (Ex. A10; Test of Jacobsen; tr. 2 at 216-17.)
3

4 30. GHB (gamma hydroxybutyrate) is a central nervous system depressant. Its effects
5 are similar to Rohypnol (commonly known as the date-rape drug). (Test. of Jacobsen; tr. 2 at
6 218.) GHB is also used at times by body builders for its alleged anabolic effects. It can produce
7 drowsiness, unconsciousness, severe respiratory depression and coma. (Ex. A10.)
8

9 31. Viagra is an oral therapy for erectile dysfunction. It is available in tablet form.
10 Viagra's active ingredient is sildenafil citrate. (Ex. A7 and A8.) The drug works by dilating the
11 blood vessels:
12

13 Sildenafil is a selective inhibitor of cyclic guanosine
14 monophosphate (cGMP)-specific phosphodiesterase type 5
15 (PDE5). The physiologic mechanism of the erection of the penis
16 involves release of nitric oxide (NO) in the corpus cavernosum
17 during sexual stimulation. Nitric oxide then activates the enzyme
18 guanylate cyclase, which results in increased levels of cGMP.
19 Cyclic guanosine monophosphate causes smooth muscle reaction
20 in the corpus cavernosum thereby allowing inflow of blood. * * *
21 Sildenafil enhances the effect of NO by inhibiting PDE5 thereby
22 raising concentrations of cGMP in the corpus cavernosum. (Ex.
23 A8.)
24

25 Viagra should not be used by patients taking nitrate therapy due to a risk of adverse
26 cardiovascular events, including heart attack, heart disease and arteriosclerosis. (Test. of
27 Jacobsen; Ex. A8.)
28

29 32. Viagra is sometimes taken in conjunction with club drugs because its effect, blood
30 vessel dilation, can increase the "high" that comes from the other drugs. (Test. of Jacobsen; tr.
31 2 at 219.)
32

33 33. "Liquid Viagra" is sildenafil citrate, the liquid form of the active ingredient in Viagra
34 tablets. It is not approved by the Federal Drug Administration (FDA). (Test. of Krantz; tr. 2 at
35 46; Ex. A6 at 13.) Dr. Moos has prescribed liquid Viagra and has sold and/or provided it to his
36 patients as an alternative to Viagra tablets. (Test. of Mullins; tr. 3 at 20-21; test. of Krantz; tr. 2
37 at 46-47.)
38

39 34. "Viaglide" is a registered trademark of Dr. Moos' Frontier Medical Clinic. (Test. of
40 Hefley; tr. 2 at 145-46.) The product is a topical gel that is marketed by Frontier Medical Clinic
41 as a "female arousal cream." The product is available from Frontier Medical Clinic and, as
42 recently as January 31, 2003, was being sold on the Internet. (Test of Hefley; tr. 2 at 145; Ex.
43 A16.) The Viaglide website advertises that Viaglide is "made with the same active ingredient
44 found in Viagra." It describes Viaglide as "a scientifically designed topical gel (lubricant) that
45 contains sildenafil, menthol and L-arginine (an amino acid)." The website further asserts that
46
47

1 Viaglide was formulated by a team of Sexual Dysfunction specialists and manufactured in a
2 pharmaceutical-grade facility.” (Ex. A16.)
3

4 35. Board consultant, Gary Jacobsen, M.D. is licensed by the Board and is a specialist in
5 addiction medicine. (Test. of Jacobsen; tr. 2 at 205.) He has worked in a variety of treatment
6 programs, including inpatient, outpatient and detox, and has significant experience as an expert
7 witness in cases involving drug addiction. He has also had experience working with and treating
8 physicians and other professionals with drug addiction problems. (Test. of Jacobsen; tr. 2 at 207-
9 08.)
10

11 36. In Dr. Jacobsen’s opinion, Dr. Moos’ use of impairing-type street drugs presents a
12 danger to his patients and others. (Test. of Jacobsen; tr. 2 at 222.) Dr. Jacobsen explained that
13 there exists the real risk that impairment resulting from drug use will crossover into Dr. Moos’
14 workplace. Dr. Jacobsen also questioned Dr. Moos’ judgment in using street drugs, socializing
15 with people who use street drugs, having parties at his home where such drugs are available,
16 injecting ketamine into a patient at his home in order to work on her separated shoulder, and
17 bringing into his home methamphetamine that he allegedly took from a patient. Dr. Jacobson
18 cited to these instances as the basis for his opinion that Dr. Moos’ continued practice at this point
19 presents an immediate danger to the public. (Test. of Jacobsen; tr. 2 at 223-226.)
20

21 ADOPTION OF THE HEARING OFFICER’S FINDINGS OF FACT 22

23 The Board, having reviewed the record and the Hearing Officer’s finding of fact, adopts
24 those findings of fact in this Order.
25

26 CONCLUSION OF LAW 27

28 The Board concurs with the Hearing Officer’s recommendation and so finds that
29 permitting Dr. Moos to continue in the practice of medicine constitutes an immediate danger to
30 the public.
31

32 OPINION 33

34 ORS 677.205, specifically subsections (1) and (2),⁵ set out the broad authority of the
35 Board to discipline licensees. Subsection (3) provides:
36

37 ⁵ ORS 677.205 provides:
38

39 (1) The Board of Medical Examiners for the State of Oregon may discipline as
40 provided in this section any person licensed, registered or certified under this chapter
41 who has:

42 (a) Admitted the facts of a complaint filed in accordance with ORS 677.200 (1)
43 alleging facts which establish that such person is in violation of one or more of the
44 grounds for suspension or revocation of a license as set forth in ORS 677.190;

45 (b) Been found to be in violation of one or more of the grounds for disciplinary
46 action of a licensee as set forth in this chapter; or

47 (c) Had an automatic license suspension as provided in ORS 677.225.

1 In addition to the action authorized by subsection (2) of this section, the board
2 may temporarily suspend a license without a hearing, simultaneously with the
3 commencement of proceedings under ORS 677.200, if the board finds that
4 evidence in its possession indicates that a continuation in practice of the licensee
5 constitutes an immediate danger to the public.
6

7 The Board bears the burden of proof by a preponderance of the evidence. ORS
8 183.450(2); *Gallant v. Board of Medical Examiners*, 159 Or App 175, 183 (1999).
9

10 **1. Dr. Moos' Motion to Vacate**
11

12 As noted above, at the outset of the hearing, Dr. Moos moved to vacate the emergency
13 suspension order asserting that the Board failed to comply with the procedural requirements set
14 forth in ORS 677.205(3) and 677.200.⁶ Specifically, Dr. Moos argued that the Board lacked the
15 authority to suspend his license on January 17, 2003 because, at that time, it had yet to
16 commence a formal disciplinary proceeding against him as required by ORS 677.205(3). Dr.
17 Moos asserted that the Board could not commence proceedings against him at that point because
18 it had not received a written complaint "verified and filed with the Board," as set forth in ORS
19 677.200.
20

21 At the hearing, counsel for the Board took the position that Officer Krantz's police report
22 (Ex. A6) and the Affidavit for Search Warrant and Seizure Order (Ex. A5) constitute a "written
23 complaint of some person" that had been verified and filed with the Board. The Board received
24

25 (2) In disciplining a licensee as authorized by subsection (1) of this section, the board may
26 use any or all of the following methods:

- 27 (a) Suspend judgment.
28 (b) Place the licensee on probation.
29 (c) Suspend the license.
30 (d) Revoke the license.
31 (e) Place limitations on the license.
32 (f) Take such other disciplinary action as the board in its discretion finds proper,
33 including assessment of the costs of the disciplinary proceedings as a civil penalty or
34 assessment of a civil penalty not to exceed \$5,000, or both.

35 ⁶ ORS 677.200 provides as follows:
36

37 Except as provided in ORS 677.202 or 677.205 (1)(a), any proceeding
38 for disciplinary action of a licensee licensed under this chapter shall be
39 substantially in accord with the following procedure:
40

41 (1) A written complaint of some person, not excluding members
42 or employees of the Board of Medical Examiners for the State of
43 Oregon, shall be verified and filed with the board.
44

45 (2) A hearing shall be given to the accused in accordance with
46 ORS 183.310 to 183.550 as a contested case.
47

1 oral notice of the contents of Officer Krantz's report on January 17, 2003, and received the
2 documents themselves a week later. The Board issued the Emergency Suspension Order on
3 January 17, 2003, following Mr. Hefley's meeting with Dr. Moos and based upon the
4 information provided by Officer Krantz.
5

6 ORS 677.200 provides that a proceeding for disciplinary action be "substantially in
7 accord" with the procedure set forth therein. Neither that provision nor ORS 677.205(3)
8 specifically require a written complaint on file as a prerequisite to an emergency suspension
9 action. Under ORS 677.205, the Board has the authority to temporarily suspend the license of a
10 licensee believed to constitute an immediate danger to the public at the same time it begins a
11 disciplinary procedure. The disciplinary procedure provision, ORS 677.200, requires that there
12 be a written complaint filed and verified with the Board, but it does prohibit the commencement
13 of proceedings until such time as the written complaint is verified and filed. We agree with the
14 Hearing Officer's rejection of Dr. Moos' interpretation of these statutes. Furthermore, under the
15 Administrative Procedures Act, specifically ORS 183.430(2), the Board is authorized to suspend
16 a license without a hearing "in any case where the agency finds a serious danger to the public
17 health or safety and sets forth specific reasons for such findings." Here, the Board found such a
18 danger and issued an order setting forth the reasons therefor. For these reasons, Dr. Moos'
19 motion to vacate the January 17, 2003 order was denied on the record.
20

21 Moreover, on February 6, 2003, after the Board received Officer Krantz' written report
22 and a copy of the search warrant affidavit and after it began a proceeding for disciplinary action
23 against Dr. Moos, it issued an Amended Order of Emergency Suspension. Consequently, even
24 assuming, for the sake of argument only, that the January 17, 2003 order was procedurally
25 defective for the reasons argued by Dr. Moos, any defect was cured by issuance of the Amended
26 Order.
27

28 **2. Merits of the Emergency Suspension Orders**

29
30 The Board finds that Dr. Moos' use of methamphetamine, cocaine and other illegal
31 controlled substances shows a serious lack of judgment on his part and presents an immediate
32 danger to the public because impairment resulting from this drug use has the potential to cross
33 over into his medical practice. At the hearing, the Board's counsel also contended that Dr.
34 Moos' practice of selling or distributing a non-FDA-approved substance, liquid Viagra, presents
35 a danger to the public. In addition, the Board's counsel contended that Dr. Moos' marketing and
36 selling of Viaglide, a substance allegedly containing the same active ingredient as Viagra,
37 constitutes a violation of his probation. Alternatively, counsel asserted that if, as Dr. Moos now
38 asserts,⁷ Viaglide does not contain sildenafil, then Dr. Moos is engaging in consumer fraud by
39 marketing the product in such a manner.
40

41 Dr. Moos responds that there was no evidence to show that his continuation in the
42 practice of medicine presents a danger to the public because, even if he has occasionally used
43 illegal drugs, the possibility that any impairment affected his medical practice is not enough. Dr.
44 Moos asserts that the record as a whole does not demonstrate that he presents any danger to the
45
46

47 ⁷ During the hearing, counsel for Dr. Moos represented that Viaglide does not contain sildenafil citrate.

1 public. Dr. Moos also maintains that even if he violated the terms of his probation, such a
2 violation would not justify suspension of his license on an emergency basis.
3

4 A preponderance of evidence in the record demonstrates that Dr. Moos has used illicit
5 drugs, including methamphetamine and cocaine within the last year. The analysis of his hair
6 sample was positive for cocaine, indicating that he had consumed the drug within the last five
7 months. He admitted to the police on January 17, 2003 that he last used methamphetamine on
8 "New Years," *i.e.*, on or about January 1, 2003. He also admitted to using other drugs in the
9 past. Cocaine and marijuana were found in the safe in his medical office. Methamphetamine
10 was found in his jacket, and methamphetamine, ketamine and ecstasy tablets were found in his
11 home.
12

13 The evidence further demonstrates that Dr. Moos prescribes and/or provides to patients
14 and friends liquid Viagra, a substance that is not approved by the FDA. In addition, the evidence
15 shows that Dr. Moos markets and distributes via the Internet Viaglide, a product his corporation
16 represents as being "made with the same active ingredient found in Viagra" and as containing
17 "sildenafil."
18

19 Finally, the evidence indicates that, contrary to the March 2000 Stipulated Order limiting
20 his practice, Dr. Moos continues to diagnose and treat patients and prescribe medications,
21 including Viagra, without seeing the patients in a face-to-face clinical setting. In the search of
22 Dr. Moos' medical office, officers found thousands of recent prescription fill orders for Viagra
23 and other drugs. The officers also found Federal Express receipts indicating that these
24 prescription medications were being shipped to recipients throughout the country. Although Mr.
25 Kjer denied that Dr. Moos' clinic was selling Viagra and other prescription drugs over the
26 Internet, he admitted to Officer Krantz (and the evidence found at the medical clinic shows) that
27 Dr. Moos was providing these drugs to customers on a mail order basis. The sheer number of
28 prescriptions and the out of state shipment locations suggest that Dr. Moos was not examining all
29 of these patients in his clinic before prescribing the medications.
30

31 The next question is whether the conduct described above establishes that Dr. Moos'
32 continued practice of medicine constitutes an immediate danger to the public. The Hearing
33 Officer found that it does. We agree. With regard to the use of illicit drugs, the record
34 sufficiently shows the risk that it carries over to, and adversely impacts, Dr. Moos' medical
35 practice. For example, after using methamphetamine on or about January 1, 2003, Dr. Moos was
36 at his clinic at 10:00 a.m. on January 2, 2003, seeing patients for scheduled appointments.
37 Considering that a methamphetamine high can last 12 hours and the drug's aftereffects, the
38 "crash phase," can last 24 to 36 hours after a one-time use, it is highly likely that he was still
39 mentally and/or physically impaired by the drug at the time he was treating these patients. It is
40 true, as Dr. Moos asserts, that there is no direct evidence that his drug use has adversely affected
41 his practice, but the Hearing Officer did not believe such a finding is necessary to support the
42 emergency suspension. All the law requires is evidence that Dr. Moos' recreational drug use
43 presents a likelihood of injury or harm to his patients. This record supports such a finding.
44

45 With regard to prescribing and dispensing medications, including Viagra, by mail order
46 and without seeing the patients in a face-to-face clinical setting, Dr. Moos has previously
47

1 stipulated that this conduct endangers the public health or safety. As detailed in the Stipulated
2 Order, by not examining patients prior to prescribing these medications and by not obtaining an
3 adequate health history, Dr. Moos is exposing these patients to treatment that could be
4 contraindicated by preexisting health conditions or other medications that the patients are taking.
5

6 With regard to Dr. Moos' sale of Viaglide, the record does not establish the product's
7 true ingredients. Nevertheless, the Hearing Officer agreed that, if it does contain sildenafil, the
8 active ingredient in Viagra, then Dr. Moos is in violation of the Stipulated Order, as the terms of
9 his probation preclude him from associating with any Internet web site that provides medications
10 such as Viagra. On the other hand, if Viaglide does not contain sildenafil, then Dr. Moos is
11 engaging in consumer fraud by falsely marketing the product's contents. Certainly, falsely
12 representing a product's ingredients presents an immediate danger to the public. Furthermore, as
13 noted above, Dr. Moos has previously stipulated to the danger inherent in providing sildenafil
14 products to persons he has never seen or examined. We agree with the Hearing Officer's
15 recommended findings.
16

17 Finally, in prescribing and dispensing liquid Viagra, either as a treatment for erectile
18 dysfunction or as a recreational drug, Dr. Moos is endangering his patients and friends as the
19 substance is not approved by the FDA. For these reasons, the Board finds sufficient evidence
20 exists to show that Dr. Moos' continuation in practice constitutes an immediate danger to the
21 public.
22

23 FINAL ORDER

24 Dr. Moos' license to practice medicine in the State of Oregon shall remain suspended
25 until otherwise ordered by the Board.
26
27
28
29

30 BOARD OF MEDICAL EXAMINERS
31 State of Oregon

32 

33 April 17, 2003

34 JUDITH L. RICE
35 Board Chair
36
37
38

39 Appeal

40 If you wish to appeal this final order, you must file a petition for review with the Oregon
41 Court of Appeals within 60 days after the final order is served upon you. See ORS 183.480 et
42 seq. If this Order was mailed to you, the date of service is the day it was mailed, not the day you
43 received it. If you do not file a petition for judicial review within the 60-day time period, you
44 will lose your right to appeal.
45
46
47

BEFORE THE
BOARD OF MEDICAL EXAMINERS
STATE OF OREGON

In the Matter of:)
1 STEVEN GABRIEL MOOS, MD)
2 LICENSE NO. MD20201) BILL OF COSTS
3)

1.

4 On December 5, 2003, Steven Gabriel Moos, MD (Licensee) requested a Contested Case
5 Hearing in response to the Complaint & Notice of Proposed Disciplinary Action issued by the
6 Board of Medical Examiners (Board) on November 28, 2003. A hearing was scheduled for April
7 21, 2004. Licensee failed to appear for this hearing. On July 9, 2004, the Board issued a Final
8 Order by Default in this matter. In this Order, Licensee was assessed the costs related to his
9 Contested Case Hearing scheduled for April 21, 2004. Costs are due within 60 days from the
10 date the Final Order by Default was issued.

2.


11 The State of Oregon, by and through its Board of Medical Examiners, claims costs
12 related to the April 21, 2004 Contested Case Hearing in the above-captioned case as follows:
13

14 Board Counsel - Warren Foote	\$ 5,001.95
15 Board Consultant- David Cook, MD	\$ 855.00
16 Administrative Law Judge	\$ 69.00
- Allison Greene-Webster	
17 Court Reporter Appearance - Naegeli Corp	\$ 100.00
TOTAL:	\$ 6,025.95

18 The above costs are certified as a correct accounting of actual costs incurred preparing for
19 and participating in the contested case hearing in this matter.

20 Dated this 23rd of August, 2004

21 BOARD OF MEDICAL EXAMINERS
22 State of Oregon

23 
KATHLEEN HALEY,
EXECUTIVE DIRECTOR