



Board for Professional Medical Conduct

Corning Tower • Empire State Plaza • Albany, NY 12237 • (518) 474-8357

Mark R. Chassin, M.D., M.P.P., M.P.H.
Commissioner

C. Maynard Guest, M.D.
Executive Secretary

January 11, 1995

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Michael D. Calabrese, M.D.
~~567 Lafayette Avenue~~ 656 Elmwood Ave.
Buffalo, New York 14222

RE: License No. 148092

Effective Date: 1/18/95

Dear Dr. Calabrese:

Enclosed please find Order #BPMC 95-03 of the New York State Board for Professional Medical Conduct. This Order and any penalty provided therein goes into effect upon receipt of this letter or seven (7) days after the date of this letter, whichever is earlier.

If the penalty imposed by the Order is a surrender, revocation or suspension of this license, you are required to deliver to the Board the license and registration within five (5) days of receipt of the Order.

Board for Professional Medical Conduct
New York State Department of Health
Empire State Plaza
Tower Building-Room 438
Albany, New York 12237-0756

Sincerely,

C. Maynard Guest, M.D.
Executive Secretary
Board for Professional Medical Conduct

Enclosure

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

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IN THE MATTER :
OF : ORDER
MICHAEL D. CALABRESE, M.D. : BPMC #95-03

-----X

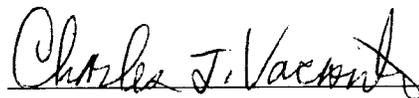
Upon the application of Michael D. Calabrese, M.D.
(Respondent) for Consent Order, which application is made a part
hereof, it is

ORDERED, that the application and the provisions thereof are
hereby adopted, and it is further

ORDERED, that this order shall take effect as of the date of
the personal service of this order upon Respondent, upon receipt
by Respondent of this order via certified mail, or seven days
after mailing of this order by certified mail, whichever is
earliest.

SO ORDERED,

DATED: 29 December 1994



Charles J. Vacanti, M.D.
Chairperson
State Board for Professional
Medical Conduct

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

-----X

IN THE MATTER : APPLICATION
OF : FOR
MICHAEL D. CALABRESE, M.D. : CONSENT
: ORDER

-----X

STATE OF NEW YORK)
ss.:
COUNTY OF ERIE)

MICHAEL D. CALABRESE, M.D., being duly sworn, deposes and says:

That on or about October 30, 1981, I was licensed to practice as a physician in the State of New York, having been issued License No. 148092 by the New York State Education Department.

I am currently registered with the New York State Education Department to practice as a physician in the State of New York for the period January 1, 1993 through December 31, 1994.

I understand that the New York State Board for Professional Medical Conduct has charged me with fourteen Specifications of professional misconduct.

A copy of the Statement of Charges is attached hereto, made part hereof, and marked as Exhibit A.

I admit guilt to the thirteenth specification as it relates to paragraphs D.2, E.1 and F.2 in full satisfaction of the charges against me.

I hereby agree to the penalty my license be suspended for two years with said suspension stayed to become a two year period of probation under the terms attached hereto, made part hereof and marked as Exhibit B.

I hereby make this application to the State Board for Professional Medical Conduct (the Board) and request that it be granted.

I understand that, in the event that this application is not granted by the Board, nothing contained herein shall be binding upon me or construed to be an admission of any act of misconduct alleged or charged against me, such application shall not be used against me in any way and shall be kept in strict confidence during the pendency of the professional misconduct disciplinary proceeding; and such denial by the Board shall be made without prejudice to the continuance of any disciplinary proceeding and the final determination by the Board pursuant to the provisions of the Public Health Law.

I agree that, in the event the Board grants my application, as set forth herein, an order of the Chairperson of the Board shall be issued in accordance with same.

I am making this application of my own free will and accord and not under duress, compulsion or restraint of any kind or manner.

Michael D. Calabrese M.D.

MICHAEL D. CALABRESE, M.D.
RESPONDENT

Sworn to before me this
day of

, 19 .

NOTARY PUBLIC

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

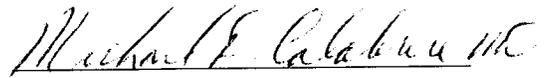
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IN THE MATTER : APPLICATION
OF : FOR
MICHAEL D. CALABRESE, M.D. : CONSENT
: ORDER

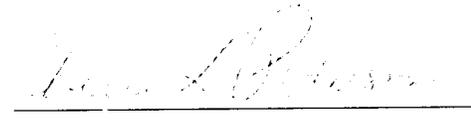
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The undersigned agree to the attached application of the Respondent and to the proposed penalty based on the terms and conditions thereof.

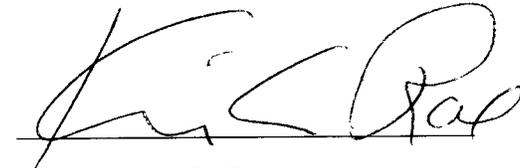
DATE: 12/21/94


MICHAEL D. CALABRESE, M.D.
Respondent

DATE: 12/21/94


CHERIE L. PETERSON, ESQ.
Attorney for Respondent

DATE: 12/21/94


KEVIN C. ROE
ASSOCIATE COUNSEL
Bureau of Professional
Medical Conduct

DATE: dec. 23, 1995

Kathleen M. Tanner

KATHLEEN M. TANNER
DIRECTOR
Office of Professional Medical
Conduct

DATE: 29 December 1994

Charles J. Vacanti

CHARLES J. VACANTI, M.D.
CHAIRPERSON
State Board for Professional
Medical Conduct

Exhibit A

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

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IN THE MATTER : STATEMENT
OF : OF
MICHAEL D. CALABRESE, M.D. : CHARGES

-----X

MICHAEL D. CALABRESE, M.D., the Respondent, was authorized to practice medicine in New York State on October 30, 1981 by the issuance of license number 148092 by the New York State Education Department. The Respondent is currently registered with the New York State Education Department to practice medicine for the period January 1, 1993 through December 31, 1994 from 567 Lafayette Avenue, Buffalo, New York 14222.

FACTUAL ALLEGATIONS

A. On or about January 21, 1991, Respondent provided medical care to Patient A (patients are identified in the attached appendix) at Sisters of Charity Hospital, 2157 Main Street, Buffalo, New York 14212 (Sisters Hospital). Patient A was a 36 year old female, para 0, gravida 3, at 42 weeks gestation, admitted after a motor vehicle accident. Respondent's care and treatment of Patient A failed to meet acceptable standards of medical care, in that:

1. Respondent restarted Pitocin at or about 2:30 P.M. without adequate medical justification.
2. Respondent failed to discontinue Pitocin in a timely manner.
3. Respondent restarted Pitocin at or about 4:20 p.m. without adequate medical justification.
4. Respondent failed to order or obtain a fetal scalp pH in a timely manner after 11:30 A.M. and prior to 5:10 P.M.
5. Respondent failed to perform a caesarean section in a timely manner.

B. On or about September 14, 1988, Respondent treated Patient B at Sisters Hospital. Patient B was a 26 year old female, para 1, gravida 2 at 38 weeks gestation, admitted for evaluation and management of delivery. Respondent's care and treatment of Patient B failed to meet acceptable standards of medical care, in that:

1. Respondent failed to order and perform a caesarean section in a timely manner.

C. On or about September 1, 1990, Respondent treated Patient C at Sisters Hospital. Patient C was a 30 year old female, para 1, gravida 2, at 41 weeks gestation, admitted for evaluation and management of delivery. Respondent's care and treatment of Patient C failed to meet acceptable standards of medical care, in that:

1. Respondent ordered Pitocin without adequate medical justification.
2. Respondent failed to perform a caesarean section in a timely manner.

D. On or about August 6, 1991, Respondent treated Patient D at Sisters Hospital. Patient D was a 19 year old female, prima gravida, at 41 weeks gestation, admitted for evaluation and management of delivery. Respondent care and treatment of Patient D failed to meet acceptable standards of medical care, in that:

1. Respondent failed to order appropriate tests to evaluate the cause of maternal fever.
2. Respondent failed to perform or order a fetal scalp pH.
3. Respondent failed to perform a caesarean section in a timely manner.

E. From on or about August 4, 1991, to on or about August 6, 1991, Respondent treated Patient E at Sisters Hospital. Patient E was a 35 year old female, prima gravida, admitted with a diagnosis of incomplete abortion or ectopic pregnancy. Respondent's care and treatment of Patient E failed to meet acceptable standards of medical care, in that:

1. Respondent failed to perform or order a sonogram on August 4, 1991.

2. Respondent failed to perform a dilatation and curettage in a timely manner.

F. On or about August 15, 1991 and August 16, 1991, Respondent treated Patient F at Sisters Hospital. Patient F was a 35 year old female, para 0, gravida 2, at 36 weeks gestation, admitted for evaluation and management of delivery. Respondent's care and treatment of Patient F failed to meet acceptable standards of medical care, in that:

1. Respondent failed to personally attend and monitor Patient F during labor.
2. Respondent instructed nursing personnel to call him when the patient was fully dilated and pushing.

SPECIFICATIONS

FIRST THROUGH SIXTH SPECIFICATIONS

GROSS NEGLIGENCE

Respondent is charged with gross negligence in violation of N.Y. Education Law §6530(4) (McKinney Supp. 1994) in that, Petitioner charges:

1. The facts in paragraphs A and A.1, A.2, A.3, A.4, and/or A.5.

2. The facts in paragraphs B and B.1.
3. The facts in paragraphs C and C.1 and/or C.2.
4. The facts in paragraphs D and D.1, D.2 and/or D.3.
5. The facts in paragraphs E and E.1 and/or E.2.
6. The facts in paragraphs F and F.1 and/or F.2.

SEVENTH THROUGH TWELFTH SPECIFICATIONS

GROSS INCOMPETENCE

Respondent is charged with gross incompetence in violation of NY Educ. Law ü6530(6) (McKinney Supp. 1994) in that, Petitioner charges:

7. The facts in paragraphs A and A.1, A.2, A.3, A.4, and/or A.5.
8. The facts in paragraphs B and B.1.
9. The facts in paragraphs C and C.1 and/or C.2.
10. The facts in paragraphs D and D.1, D.2, and/or D.3 and/or D.5.
11. The facts in paragraphs E and E.1 and/or E.2.
12. The facts in paragraphs F and F.1 and/or F.2.

THIRTEENTH SPECIFICATION

NEGLIGENCE ON MORE THAN ONE OCCASSION

Respondent is charged with negligence on more than one occasion in violation of NY Educ. Law ü6530(3) (McKinney Supp. 1994) in that, Petitioner charges two or more of the following:

13. The facts of paragraphs A and A.1, A.2, A.3, A.4, A.5; B and B.1; C and C.1, C.2; D and D.1,D.2, D.3; E and E.1, E.2; and/or F and F.1, F.2.

FOURTEENTH SPECIFICATION

INCOMPETENCE ON MORE THAN ONE OCCASION

Respondent is charged with incompetence on more than one occasion in violation of NY Educ. Law ü6530(5) (McKinney Supp. 1994) in that, Petitioner charges two or more of the following:

14. The facts of paragraphs A and A.1, A.2, A.3, A.4, A.5; B and B.1; C and C.1, C.2; D and D.1,D.2, D.3; E and E.1, E.2; and/or F and F.1 F.2;

DATED: Albany, New York

December 21, 1994



PETER D. VAN BUREN
Deputy Counsel
Bureau of Professional Medical
Conduct

EXHIBIT B

TERMS OF PROBATION

1. MICHAEL D. CALABRESE, M.D, during the period of probation, shall conduct himself in all ways in a manner befitting professional status, and shall conform fully to the moral and professional standards of conduct imposed by law and by his profession.
2. That Respondent shall submit written notification to the New York State Department of Health (NYSDOH), addressed to the Director, Office of Professional Medical Conduct, New York State Department of Health, Corning Tower Building, 4th Floor, Empire State Plaza, Albany, New York 12237 of any employment and practice, of Respondent's residence and telephone numbers and, of any change in Respondent's employment, practice, residence, or telephone numbers within or without the State of New York.
3. Respondent shall submit written proof from the Division of Professional Licensing Services (DPLS), New York State Education Department (NYSED), that Respondent has paid all registration fees due and owing to the NYSED and Respondent shall cooperate with and submit whatever papers are requested by DPLS in regard to said registration fees. Said proof from DPLS shall be submitted by Respondent to NYSDOH addressed to the Director, Office of Professional Medical Conduct, as aforesaid, no later than the first three months of the period of probation.
4. Respondent shall submit written proof to the NYSDOH, addressed to the Director, Office of Professional Medical Conduct, as aforesaid, that 1) Respondent is currently registered with the NYSED, unless Respondent submits written proof that Respondent has advised DPLS, NYSED, that Respondent is not engaging in the practice of his profession in the State of New York and does not desire to register, and that 2) Respondent has paid any fines which may have previously been imposed upon Respondent by the Board or by the Board of Regents. Said proof of the above shall be submitted no later than the first two months of the period of probation.
5. Respondent shall comply with all terms, conditions, restrictions, and penalties to which he is subject pursuant to the order of the Board.

6. Respondent's practice of medicine shall be monitored by a physician board certified in Obstetrics/Gynecology, selected by Respondent and previously approved, in writing, by the Director of the Office of Professional Medical Conduct. Respondent may not practice medicine until an approved practice monitor and monitoring program is in place. Any practice of medicine prior to the submission and approval of a proposed practice monitor and plan will be a violation of probation.
- a. The practice monitor shall report in writing to the Director of the Office of Professional Medical Conduct or his/her designee every three months during the first year of probation, and every four months during the second year of probation. For each required reporting period, the practice monitor shall review a random selection of office and hospital records for patients treated by Respondent during that period. The review shall include all cases of maternal mortality, infant mortality, cesarean section, medical complications of pregnancy and infants with an Apgar score of less than five at five minutes. The practice monitor may personally observe Respondent's practice medicine with or without notice and may monitor his practice by any other reasonable means. The practice monitor's reports shall include the number of hospital admissions during the period of review, the number of cases reviewed, the medical record numbers of those cases or other identifiers and whether or not Respondent's care and treatment of the patients reviewed meets accepted standards of medical care. Any case in which there is a perceived deviation from accepted standards of medical care and in which there is an injury to a patient, and any refusal or failure by Respondent to cooperate with the monitor, shall be reported immediately to the Office of Professional Medical Conduct.
 - b. All expenses associated with monitoring, including fees to the monitoring physician, shall be the sole responsibility of the Respondent.
 - c. Respondent shall cooperate with the practice monitor and shall insure that the reports of the practice monitor are submitted in a timely manner. Failure to cooperate with the practice monitor or failure of the practice monitor to submit required reports in a timely manner shall be considered a violation of the terms of probation.
 - d. Respondent shall provide certified copies of patient medical records to the Director of OPMC or his/her

designee upon request. Failure to provide records within thirty days of request shall be considered a violation of probation.

- e. Respondent must maintain medical malpractice insurance coverage with limits no less than two million dollars per occurrence and six million dollars per policy year in accordance with §230(18)(b) of the Public Health Law. Proof of coverage shall be submitted to the Director or his/her designee prior to approval of a practice monitor.
7. So long as there is full compliance with every term herein set forth, Respondent may continue to practice his aforementioned profession in accordance with the terms of probation; provided, however, that upon receipt of evidence of noncompliance with, or any violation of these terms, the Director of the Office of Professional Medical Conduct and/or the Board may initiate a violation of probation proceeding and/or such other proceeding against Respondent as may be authorized pursuant to the Public Health Law.