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***New York State Board for Professional Medical Conduct***

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

Barbara A. DeBuono, M.D., M.P.H.  
*Commissioner of Health*

Charles J. Vacanti, M.D.  
*Chair*

June 18, 1996

**CERTIFIED MAIL - RETURN RECEIPT REQUESTED**

Ehud Arbit, M.D.  
166 Elm Road  
Englewood, New Jersey 07631

RE: License No. 149975

Effective Date: 06/25/96

Dear Dr. Arbit:

Enclosed please find Order #BPMC 96-147 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.

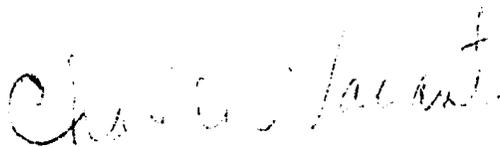
If the penalty imposed by the Order is a surrender, revocation or suspension of this license, you are required to deliver to the Board the license and registration within five (5) days of receipt of the Order.

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

If the penalty imposed by the Order is a fine, please write the check payable to the New York State Department of Health. Noting the BPMC Order number on your remittance will assist in proper crediting. Payments should be directed to the following address:

Bureau of Accounts Management  
New York State Department of Health  
Empire State Plaza  
Tower Building-Room 1245  
Albany, New York 12237

Sincerely,



Charles Vacanti, M.D.  
Chair  
Board for Professional Medical Conduct

Enclosure

cc: Barbara A. Ryan, Esq.  
Aaronson Rappaport Feinstein & Deutsch, LLP  
757 Third Avenue  
New York, New York 10017

Roy Nemerson, Esq.

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

IN THE MATTER  
OF  
EHUD ARBIT, M.D.

CONSENT  
ORDER

BPMC #96-147

Upon the application of EHUD ARBIT, 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 so ORDERED, 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: 14 June 1996



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

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

IN THE MATTER  
OF  
EHUD ARBIT, M.D.

APPLICATION  
FOR  
CONSENT ORDER

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

EHUD ARBIT, M.D., being duly sworn, deposes and says:

That on or about May 7, 1982, I was licensed to practice as a physician in the State of New York, having been issued License No. 149975-1 by the New York State Education Department.

My current address is 166 Elm Road, Englewood, NJ 07631, and I will advise the Director of the Office of Professional Medical Conduct of any change of my address.

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

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

I do not contest the First Specification, in full satisfaction of the charges against me. I hereby agree that I shall be subject to a Censure and Reprimand, that I be placed on probation for a period of one year subject to the terms set forth in Exhibit B, and that I shall be fined in the amount of \$10,000.00. With regard to said fine, \$5,000.00 shall be due and payable no later 30 days after the effective date of the Consent Order for which I now apply. The balance of \$5,000.00 shall not be due until one year after the effective date of the Consent Order and payment of said balance shall, in the absence of any further misconduct by me, be waived by the Department of Health.

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. In consideration of the value to me of the acceptance by the Board of this Application, allowing me to resolve this matter without the various risks and burdens of a hearing on the merits, I knowingly waive any right I may have to contest the Consent Order for which I hereby apply, whether administratively or judicially, and ask that the Application be granted.

*Ehud Arbit*

EHUD ARBIT, M.D.  
RESPONDENT

Sworn to before me this

*20th* day of *May*, 19*76*

*Kathleen Deignan*

NOTARY PUBLIC

KATHLEEN DEIGNAN  
Commissioner of Deeds  
City of New York No. 5-348  
Certificate Filed in Richmond Co.  
Commission Expires Jan. 1, 19 *77*

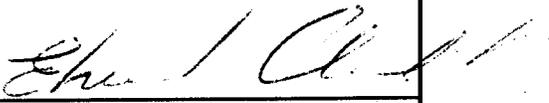
NEW YORK STATE DEPARTMENT OF HEALTH  
STATE BOARD FOR PROFESSIONAL MEDICAL CONDUCT

IN THE MATTER  
OF  
EHUD ARBIT, M.D.

APPLICATION  
FOR  
CONSENT ORDER

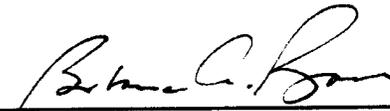
The undersigned agree to the attached application of the Respondent and to the proposed penalty based on the terms and conditions thereof.

DATE: 5-27-96



EHUD ARBIT, M.D.  
Respondent

DATE: 6-5-96



BARBARA RYAN, ESQ.  
Attorney for Respondent

DATE: \_\_\_\_\_

ROY NEMERSON  
Deputy Counsel  
Bureau of Professional  
Medical Conduct

DATE: June 13 1996

Anne Saile

ANNE F. SAILE  
Acting Director  
Office of Professional Medical  
Conduct

DATE: 14 June 1996

Charles J. Vacanti

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

EXHIBIT A

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

IN THE MATTER  
OF  
EHUD ARBIT, M.D.

STATEMENT  
OF  
CHARGES

EHUD ARBIT, M.D., the Respondent, was authorized to practice medicine in New York State on or about May 7, 1982, by the issuance of license number 149975-1 by the New York State Education Department.

FACTUAL ALLEGATIONS

- A. On or about May 25, 1996, at Memorial Sloan-Kettering Cancer Center Respondent, as attending surgeon, performed surgery on the right side of Patient A's brain, including craniotomy, partial resection of the temporal lobe, removal of the temporal horn, and attempts to localize a tumor. This surgery was unwarranted by the condition of the patient who, in fact, suffered pathology of the left side of the brain, to wit: a *left* temporal glioma.

SPECIFICATION OF CHARGES

FIRST SPECIFICATION

UNWARRANTED TREATMENT

Respondent is charged with committing professional misconduct as defined in N.Y. Educ. Law §6530(35)(McKinney Supp. 1996) by ordering of excessive tests,

treatment, or use of treatment facilities not warranted by the condition of the patient,  
as alleged in the facts of:

1. Paragraph A.

## **SECOND SPECIFICATION**

### **GROSS NEGLIGENCE**

Respondent is charged with committing professional misconduct as defined in  
N.Y. Educ. Law §6530(4)(McKinney Supp. 1996) by practicing the profession of  
medicine with gross negligence as alleged in the facts of the following:

2. Paragraph A.

DATED: June 1996  
New York, New York

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ROY NEMERSON  
Deputy Counsel  
Bureau of Professional  
Medical Conduct

## EXHIBIT "B"

### TERMS OF PROBATION

1. EHUD ARBIT, M.D., during the period of probation, shall conduct himself/herself in all ways in a manner befitting his/her professional status, and shall conform fully to the moral and professional standards of conduct imposed by law and by his/her profession;
2. 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 number, and of any change in Respondent's employment, practice, residence, or telephone number 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 to be submitted by Respondent to the New York State Department of Health, addressed to the Director, Office of Professional Medical Conduct, as aforesaid, within 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 Respondent's 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 to 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 and shall assume and bear all costs related to compliance with the Terms of Probation;
6. Respondent's surgical practice shall be subject to monitoring by a Board Certified physician, proposed by Respondent but subject to the approval of the Director of the Office of Professional Medical Conduct. The specific written agreement by any proposed monitor to exercise due diligence in monitoring the practice of Respondent and to file reports as required by this Consent Agreement, shall be required *prior* to the approval of said proposed monitor.
7. Said monitor shall meet with Respondent as often as said monitor deems appropriate, but in no case less frequently than once per month.

8. Respondent shall make available to said monitor, at the monitor's direction, any records and/or other information the monitor deems necessary to evaluate Respondent's practices, specifically with regard to the preoperative evaluation of any and all patients. Respondent will cooperate in all respects with the requests and directions of the monitor.
9. Respondent shall cause the monitor to submit quarterly reports to the Director of the Office of Professional Medical Conduct, either identifying any and all deviations from good medical practice, by Respondent, or certifying that no such deviations were identified by the monitor, in the monitor's exercise of due diligence.
10. Any civil penalty not paid by the date prescribed herein shall be subject to all provisions of law relating to debt collection by the State of New York. This includes but is not limited to the imposition of interest, late payment charges and collection fees; referral to the New York State Department of Taxation and Finance for collection; and non renewal of permits or licenses (Tax Law §171(27); State Finance Law §18; CPLR §5001; Executive Law §32);
11. So long as there is full compliance with every term herein set forth, Respondent may continue to practice his or her 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.
12. The period of probation shall be tolled until and unless Respondent engages in the active practice of medicine in the State of New York. Respondent shall, within 30 days of the effective date of this Consent Order, notify the Director of the Office of Professional Medical Conduct, in writing, as to whether or not he/she is so engaged. Furthermore, until completion of the term of probation, he/she shall notify the Director, in writing, prior to any change in that status.

# AARONSON RAPPAPORT FEINSTEIN & DEUTSCH, LLP

ATTORNEYS AT LAW

757 THIRD AVENUE, NEW YORK, N.Y. 10017  
212 593-6700  
FAX: 212 593-6970

MEMBERS OF THE FIRM

|                   |                     |
|-------------------|---------------------|
| MARK J. AARONSON  | STEVEN Z. KRONOVET  |
| RICHARD V. CAPLAN | PHILIP D. LERNER    |
| ROBERT S. DEUTSCH | NICHOLAS J. MAROTTA |
| SUSAN ETRA        | ROBERT S. MELNICK   |
| MARK B. FEINSTEIN | JAY A. RAPPAPORT    |
| CRAIG P. FENNO    | NORMAN C. WEITZMAN  |

BARBARA A. RYAN  
DIRECT DIAL (212) 593-5367

June 3, 1996

State Board for Professional Medical Conduct  
OPMC  
Empire State Plaza  
Albany, NY 12237

RE: IN RE: APPLICATION FOR CONSENT ORDER - EHUD ARBIT, M.D.  
Our File No: 8010.014

Dear Sir/Madam:

The enclosed Application for Consent Order is being submitted on behalf of Ehud Arbit, M.D., however it does not contain an affirmative denial of the charges pertaining to gross negligence which Dr. Arbit would like to include after the fourth paragraph, on the first page of the Application for the Consent Order. Counsel for OPMC, Roy Nemerson indicated that OPMC would not consent to this addition. Specifically, Dr. Arbit respectfully request the addition of the following language on the twelfth line of the first page of the Application for Consent Order (see attached):

**I deny the second specification in the charges that refers to gross negligence and professional misconduct as defined in New York Education Law § 6530(4) (McKinney Supp. 1996).**

Dr. Arbit in no way concedes liability to the second charge in the Application for Consent Order. As such, it would be preferable to have an affirmative statement denying the allegation of gross negligence.

State Board for Professional Medical Conduct  
June 3, 1996

RE: IN RE: APPLICATION FOR CONSENT ORDER - EHUD ARBIT, M.D.

The request for this modification in the Application for Consent Order is necessary in light of the fact that OPMC would not agree to revise the draft, but rather, suggested that the same be requested by this cover letter. Thank you.

Very truly yours,

AARONSON RAPPAPORT FEINSTEIN & DEUTSCH, LLP

A handwritten signature in cursive script, appearing to read "Barbara A. Ryan".

BARBARA A. RYAN

BAR:rm  
Enclosure