



New York State Board for Professional Medical Conduct

433 River Street, Suite 303 Troy, New York 12180-2299 • (518) 402-0863

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Ansel R. Marks, M.D., J.D.
Executive Secretary

PUBLIC

December 16, 1999

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Sherry Anne Rogers, M.D.
2800 West Genesee Street
Syracuse, NY 13219

RE: License No. 106787

Dear Dr. Rogers:

Enclosed please find Order #BPMC 99-309 of the New York State Board for Professional Medical Conduct. This Order and any penalty provided therein goes into effect **December 16, 1999.**

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
Hedley Park Place, Suite 303
433 River Street
Troy, New York 12180

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
Corning Tower, Room 1315
Empire State Plaza
Albany, New York 12237

Sincerely,



Ansel R. Marks, M.D., J.D.
Executive Secretary
Board for Professional Medical Conduct

Enclosure

cc: Alan A. Lambert, Esq.
Lifshutz, Polland & Associates
675 3rd Avenue
New York, NY 10017

Joseph H. Cahill

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

IN THE MATTER
OF
SHERRY ANNE ROGERS, M.D.

CONSENT
AGREEMENT
AND
ORDER
BPMC #99-309

Sherry Anne Rogers, M.D., (Respondent) says:

That on or about August 5, 1970, I was licensed to practice as a physician in the State of New York, having been issued License No. 106787 by the New York State Education Department.

My current address is 2800 West Genesee Street, Syracuse, New York 13219, 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 eight specifications of professional misconduct.

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

I admit guilt to the seventh (Paragraphs A and A.2) specification in full satisfaction of the charges against me. I hereby agree to the following penalties:

1. Censure and Reprimand.
2. Two (2) years Monitoring.
3. Fine of \$5,000.
4. Continuing Medical Education--60 credits over two (2) years
5. 200 Hours Community Service

I further agree that the Consent Order for which I hereby apply shall impose the following conditions:

That, except during periods of any actual suspension, Respondent shall maintain current registration of Respondent's license with the New York State Education Department Division of Professional Licensing Services, and pay all registration fees. This condition shall be in effect beginning thirty days after the effective date of the Consent Order and continuing until the full term of the Order has run, and until any associated period of probation and all probation terms have been completed and satisfied; and

That Respondent shall fully cooperate in every respect with the Office of Professional Medical Conduct (OPMC) in its administration and enforcement of this Order and in its investigation of all matters regarding Respondent.

Respondent shall respond in a timely manner to each and every request by OPMC to provide written periodic verification of Respondent's compliance with the terms of this Order.

Respondent shall meet with a person designated by the Director of OPMC as directed. Respondent shall respond promptly and provide any and all documents and information within Respondent's control upon the direction of OPMC.

I hereby stipulate that any failure by me to comply with such condition shall constitute misconduct as defined by New York State Education Law §6530(29) (McKinney Supp 1999).

I agree that in the event I am charged with professional misconduct in the future, this agreement and order shall be admitted into evidence in that

proceeding.

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 agree that such order shall be effective upon issuance by the Board, which may be accomplished by mailing, by first class mail, a copy of the Consent Order to me at the address set forth in this agreement, or to my attorney, or upon transmission via facsimile to me or my attorney, whichever is earliest.

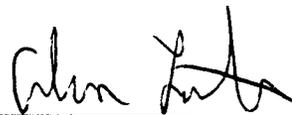
I am making this Application of my own free will and accord and not under duress, compulsion or restraint of any kind or manner. In consideration of the value to me of the acceptance by the Board of this Application, allowing me to resolve this matter without the various risks and burdens of a hearing 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.

DATED 11/22/99

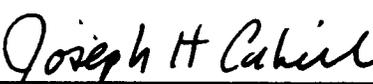

SHERRY ANNE ROGERS, M.D.
Respondent

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

DATE: 11/30/99


ALAN A. LAMBERT, ESQ.
Attorney for Respondent

DATE: Nov 1, 1999


JOSEPH H. CAHILL
Associate Counsel
Bureau of Professional
Medical Conduct

DATE: December 9 1999
~~11/30~~


ANNE F. SAILE
Director
Office of Professional
Medical Conduct

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

IN THE MATTER
OF
SHERRY ANNE ROGERS, M.D.

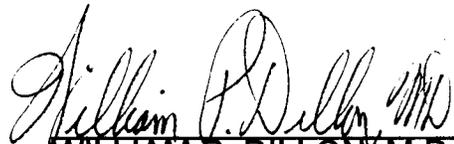
CONSENT
ORDER

Upon the proposed agreement of Sherry Anne Rogers, M.D. (Respondent) for Consent Order, which application is made a part hereof, it is agreed to and ORDERED, that the application and the provisions thereof are hereby adopted and so ORDERED, and it is further

ORDERED, that this order shall be effective upon issuance by the Board, which may be accomplished by mailing, by first class mail, a copy of the Consent Order to Respondent at the address set forth in this agreement or to Respondent's attorney by certified mail, or upon transmission via facsimile to Respondent or Respondent's attorney, whichever is earliest.

SO ORDERED.

DATED: 12/14/99



WILLIAM P. DILLON, M.D.
Chair
State Board for Professional
Medical Conduct

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

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IN THE MATTER : STATEMENT
OF : OF
SHERRY ANNE ROGERS, M.D. : CHARGES

-----X

SHERRY ANNE ROGERS, M.D., the Respondent, was authorized to practice medicine in New York State on August 5, 1970, by the issuance of license number 106787 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, 199 , through December 31, 199 , with a registration address of 2800 West Genesee Street, Syracuse, New York 13219.

FACTUAL ALLEGATIONS

A. Respondent, during the period including 1993 through March 20, 1996, provided medical care at her office at 2800 West Genesee Street, Syracuse, New York.

1. Respondent routinely and consistently permitted allergy immunotherapy to be administered despite the absence of direct supervision by a physician during the period including 1993 through February 1996.

2. Respondent, on January 23, 1996, failed to take

appropriate steps to replace outdated emergency medication, including without limitation,

Sodium Bicarbonate	Expired 5/1/84
Valium	Expired 5/89
Lidocaine HCL	Expired 5/87
Benadryl	Expired 3/91
Alupent	Expired 5/89
Adrenalin	Expired 8/86
Calan	Expired 6/85
Glucagon	Expired 10/1/90
Decadron	Expired 10/92
SoluCortef	Expired 2/94
Magnesium Sulfate	Expired 1/95
Dilor	Expired 8/95
Isuprel	Expired 6/85
Brethine	Expired 10/88
Calcium Glucamide	Expired 1/94

3. Respondent failed to adequately examine, diagnose and treat numerous patients during the period, 1993 through February 1996, by reason of being present in her office for only six days a month and having no physician present in the office on those days she was absent.

SPECIFICATIONS

FIRST THROUGH THIRD SPECIFICATIONS

GROSS NEGLIGENCE

Respondent is charged with professional misconduct under N.Y. Education Law §6530(4) (McKinney Supp. 1998) by reason of her practicing the profession with gross negligence on a particular occasion, in that Petitioner charges:

1. The facts in Paragraphs A and A.1.
2. The facts in Paragraphs A and A.2.
3. The facts in Paragraphs A and A.3.

FOURTH THROUGH SIXTH SPECIFICATIONS

GROSS INCOMPETENCE

Respondent is charged with professional misconduct under N.Y. Education Law §6530(6) (McKinney Supp. 1998) by reason of practicing the profession of medicine with gross incompetence, in that Petitioner charges:

4. The facts in Paragraphs A and A.1.
5. The facts in Paragraphs A and A.2.
6. The facts in Paragraphs A and A.3.

SEVENTH SPECIFICATION

NEGLIGENCE ON MORE THAN ONE OCCASION

Respondent is charged with professional misconduct under N.Y. Education Law §6530(3) (McKinney Supp. 1998) by reason of practicing the profession of medicine with negligence on more than one occasion, in that Petitioner charges that Respondent committed two or more of the following:

7. The facts in Paragraphs A and a.1, A and A.2 and/or A and A.3.

EIGHTH SPECIFICATION

INCOMPETENCE ON MORE THAN ONE OCCASION

Respondent is charged with professional medical misconduct under N.Y. Education Law §6530(5) (McKinney Supp. 1998) by reason of practicing the profession of medicine with incompetence on more than one occasion, in that Petitioner charges that Respondent committed two or more of the following:

8. The facts in Paragraphs A and A.1, A and A.2 and/or A and A.3.

DATED: _____, 1998
Albany, New York

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

EXHIBIT "B"

Terms of Monitoring

1. Respondent shall conduct herself in all ways in a manner befitting her professional status, and shall conform fully to the moral and professional standards of conduct and obligations imposed by law and by her profession.
2. Respondent shall submit written notification to the New York State Department of Health addressed to the Director, Office of Professional Medical Conduct (OPMC), Hedley Park Place, 433 River Street Suite 303, Troy, New York 12180-2299; said notice is to include a full description of any employment and practice, professional and residential addresses and telephone numbers within or without New York State, and any and all investigations, charges, convictions or disciplinary actions by any local, state or federal agency, institution or facility, within thirty days of each action.
3. Respondent shall fully cooperate with and respond in a timely manner to requests from OPMC to provide written periodic verification of Respondent's compliance with the terms of this Order. Respondent shall personally meet with a person designated by the Director of OPMC as requested by the Director.
4. Any civil penalty not paid by the date prescribed herein shall be subject to all provisions of law relating to debt collection by New York State. 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 section 171(27)]; State Finance Law section 18; CPLR section 5001; Executive Law section 32].
5. The period of monitoring shall be tolled during periods in which Respondent is not engaged in the active practice of medicine in New York State. Respondent shall notify the Director of OPMC, in writing, if Respondent is not currently engaged in or intends to leave the active practice of medicine in New York State for a period of sixty (60) consecutive days or more. Respondent shall then notify the Director again prior to any change in that status. The period of monitoring shall resume and any terms of monitoring which were not fulfilled shall be fulfilled upon Respondent's return to practice in New York State.
6. Respondent's professional performance may be reviewed by the Director of OPMC. This review may include, but shall not be limited to, a review of office records, patient records and/or hospital charts, interviews with or periodic visits with Respondent and her staff at practice locations or OPMC offices.
7. Respondent shall maintain legible and complete medical records which accurately reflect the evaluation and treatment of patients. The medical records shall contain all information required by State rules and regulations regarding controlled substances.
8. Respondent shall practice medicine only when monitored by a licensed physician, board certified in an appropriate specialty, including family practice and/or internal medicine ("practice monitor"), proposed by Respondent and subject to the written approval of the Director of OPMC.
 - a. Respondent shall make available to the monitor any and all records or access to the practice requested by the monitor, including on-site

observation. The practice monitor shall visit Respondent's medical practice at each and every location, on a random unannounced basis at least quarterly and shall examine a selection (no less than 20%) of records maintained by Respondent, including patient records, prescribing information and office records. The review will determine whether the Respondent's medical practice is conducted in accordance with the generally accepted standards of professional medical care. Any perceived deviation of accepted standards of medical care or refusal to cooperate with the monitor shall be reported within 24 hours to OPMC.

- b. Respondent shall be solely responsible for all expenses associated with monitoring, including fees, if any, to the monitoring physician.
- c. Respondent shall cause the practice monitor to report quarterly, in writing, to the Director of OPMC.
- d. Respondent shall maintain medical malpractice insurance coverage with limits no less than \$2 million per occurrence and \$6 million per policy year, in accordance with Section 230(18)(b) of the Public Health Law. Proof of coverage shall be submitted to the Director of OPMC prior to Respondent's practice after the effective date of this Order.
- e. Respondent shall have thirty (30) days from the effective date of the Order to obtain OPMC's approval of a practice monitor. Respondent shall have thirty (30) days to obtain approval of any substitute practice monitor.

9. Respondent shall enroll in and complete a continuing education program in the area of family practice to be equivalent to at least 60 credits hours (30 hours per year) of continuing medical education, over and above the recommended minimum standards set by the American Board of Family Practice. Said continuing education program shall be subject to the prior written approval of the Director of OPMC and shall be completed within two years of the date of this Order. The continuing education program shall include a minimum of 40 credit hours (20 hours per year) in the area of allergy medicine.

10. Respondent shall comply with all terms, conditions, restrictions, limitations and penalties to which she is subject pursuant to the Order and shall assume and bear all costs related to compliance. The fine is payable in full within 6 months of the effective date of this Order. Payments must be submitted to:

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

Upon receipt of evidence of noncompliance with, or any violation of these terms, the Director of OPMC and/or the Board may initiate a violation of monitoring proceeding and/or any such other proceeding against Respondent as may be authorized pursuant to the law.

11. During the second year of monitoring, the Director of OPMC shall have the authority to reduce the monitoring requirements if she deems this appropriate in her sole, unreviewable discretion.

12. Respondent shall perform 200 hours of community service. The service must be medical in nature and delivered in a facility or with an organization equipped to provide medical services and serving a needy or medically underserved population. A written proposal for community service must be submitted to, and is subject to the written approval of the Director of OPMC. Community service performed prior to written approval shall not be credited toward compliance with this Order. The Director of OPMC shall have the discretion to permit Respondent to perform non-medical community service to fulfill all or part of this requirement if she believes it is in the public's best interest to do so.