



**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

July 22, 1994

**CERTIFIED MAIL-RETURN RECEIPT REQUESTED**

Harry Eisenberg, M.D.  
451 North Maitland Avenue  
Maitland, Florida 32751

RE: License No. 103846  
Effective Date: 7/29/94

Dear Dr. Eisenberg:

Enclosed please find Order #BPMC 94-119 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  
HARRY EISENBERG, M.D. : BPMC 94-119  
Respondent :

-----X

Upon the Application of HARRY EISENBERG, M.D. (Respondent) to Surrender his/her license as a physician in the State of New York, which application is made a part hereof, it is

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

ORDERED, that the name of Respondent be stricken from the roster of physicians in the State of New York; 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 via certified mail, whichever is earliest.

SO ORDERED,

DATED: 20 July 1994

*Charles J. Vacanti*

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 TO  
OF : SURRENDER  
HARRY V. EISENBERG, M.D. : LICENSE

-----X

STATE OF FLORIDA )

ss.:

COUNTY OF SEMINOLE )

HARRY V. EISENBERG, M.D., being duly sworn, deposes and says:

On or about July 1, 1969, I was licensed to practice medicine as a physician in the State of New York having been issued License No. 103846 by the New York State Education Department.

I am not currently registered with the New York State Education Department to practice as a physician in the State of New York.

I understand that I have been charged with one specification of professional misconduct as set forth in the Statement of Charges, annexed hereto, made a part hereof, and marked as Exhibit "A".

I am applying to the State Board for Professional Medical Conduct for permission to surrender my license as a physician in the State of New York on the grounds that I do not contest the specification of professional misconduct set forth in the charges.

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

I understand that, in the event that the application is not granted by the State Board for Professional Medical Conduct, 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 State Board for Professional Medical Conduct shall be made without prejudice to the continuance of any disciplinary proceeding and the final determination by a Committee on Professional Medical Conduct pursuant to the provisions of the Public Health Law.

I agree that in the event the State Board for Professional Medical Conduct grants my application, an order shall be issued striking my name from the roster of physicians in the State of New York without further notice to me.

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

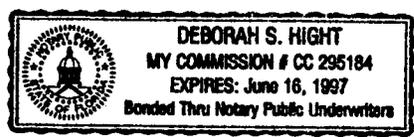
*[Handwritten signature]*

HARRY V. EISENBERG, M.D.  
Respondent

Sworn to before me this BY HARRY V. EISENBERG, M.D. WHO  
5<sup>th</sup> day of JULY, 1994 PROVIDED FLORIDA DRIVERS  
LICENSE E251-378-45-168-0

*[Handwritten signature]*  
NOTARY PUBLIC

DEBORAH S. HIGHT  
NOTARY PUBLIC--STATE OF FL  
COUNTY OF ORANGE



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

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IN THE MATTER : APPLICATION TO  
TO : SURRENDER  
HARRY V. EISENBERG, M.D. : LICENSE

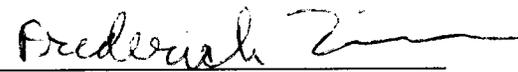
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The undersigned agree to the attached application of the Respondent to surrender his license.

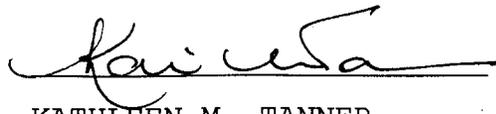
Date: 7/5, 1994

  
HARRY V. EISENBERG, M.D.  
Respondent

Date: 7/13, 1994

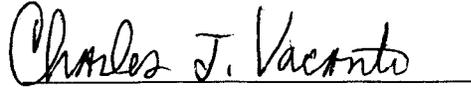
  
FREDERICK ZIMMER  
Assistant Counsel  
Bureau of Professional  
Medical Conduct

Date: July 20, 1994



KATHLEEN M. TANNER  
Director, Office of  
Professional Medical Conduct

Date: 20 July, 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

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IN THE MATTER : STATEMENT  
OF : OF  
HARRY V. EISENBERG, M.D. : CHARGES  
Respondent :

-----X

HARRY V. EISENBERG, M.D., the Respondent, was authorized to practice medicine in New York State on July 1, 1969 by the issuance of license number 103846 by the New York State Education Department. The Respondent is not currently registered with the New York State Education Department to practice medicine in New York State.

FACTUAL ALLEGATIONS

A. The Florida Department of Business and Professional Regulation, Board of Medicine (hereinafter "the Florida Board") by a final Order filed on June 17, 1993, approved and adopted an amended consent agreement pursuant to which, among other things, Respondent was fined in the amount of \$5,000, was required to attend continuing medical education courses, was forever prohibited from performing subcutaneous mastectomies and was reprimanded.

B. The conduct resulting in the Florida disciplinary action included Respondent's gross or repeated malpractice or failure to practice medicine with that level of care, skill and treatment which is recognized by a reasonably prudent similar physician as being acceptable under similar conditions and circumstances, in that;

1. Respondent diagnosed Patient 1 as having fibrocystic disease of the breast severe enough to warrant a bilateral subcutaneous mastectomy.

2. Respondent performed a bilateral subcutaneous mastectomy on patient 1 without first attempting other medical non-invasive therapies.

3. Respondent inappropriately performed the bilateral subcutaneous mastectomy by inserting two hundred and twenty (220) (cc) implants in patient 1 and placing the implants above the pectoral muscles rather than beneath them.

4. Respondent admitted that, if proven, the facts described in paragraphs B.1, B.2 and B.3 would constitute violations of Florida Statutes, Regulation of Professions and Occupations Section 458.331 (t) [gross or repeated malpractice or failure to practice medicine with that level of care, skill and treatment which is recognized by a reasonably prudent similar physician as being acceptable under similar conditions and circumstances].

C. Respondent's conduct also included his failure to justify in Patient 1's records why he performed a bilateral subcutaneous mastectomy on her. Respondent admitted that this fact, if proven, would constitute a violation of Florida Statutes, Regulation of Professions and Occupations, §458.331(1)(m) [failing to keep written medical records justifying the course of treatment of the patient including but not limited to, patient histories, examination results, test results, records of drugs prescribed, dispensed or administered and reports of consultations and hospitalizations].

D. The conduct resulting in the Florida disciplinary action, would, if committed in New York State, constitute professional misconduct under the following provisions of New York State Law:

1. N.Y. Educ. Law §6530(3) (McKinney Supp. 1994)  
[practicing the profession with negligence on more than one occasion; and/or

2. N.Y. Educ. Law §6530(4) (McKinney Supp. 1994)  
[practicing the profession with gross negligence on a particular occasion]; and/or

3. N.Y. Educ. Law §6530(32) (McKinney Supp. 1994) [failing to maintain a record for each patient which accurately reflects the evaluation and treatment of the patient].

FIRST SPECIFICATION

Respondent is charged with professional misconduct by reason of his having had disciplinary action taken against him by the duly authorized professional disciplinary agency of another state, where the conduct resulting in the disciplinary action would, if committed in New York State constitute professional misconduct under the laws of New York State, in violation of N.Y. Educ. Law §6530(9)(d) (McKinney Supp. 1994) in that the Petitioner charges:

1. The facts in Paragraphs A and B, B.1, B.2, B.3, B.4, and/or C, and D and D.1, D.2 and/or D.3.

DATED: Albany, New York  
*May 16*, 1994

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