



New York State Board for Professional Medical Conduct

Corning 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

February 7, 1996

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Robert M. Rattner, M.D.
17 Mount Holyoke
Getzville, New York 14068

Re: NY License No. 180400

Dear Dr. Rattner:

Effective Date: 02/14/96

Enclosed please find Order #BPMC 96-16 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,

Charles Vacanti, M.D.
Chair

Board for Professional Medical Conduct

Enclosure

cc: Lawrence J. Vilaro, Esq.
Connors & Vilaro
1020 Liberty Building
Buffalo, New York 14202

Kevin Roe, Esq.

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

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IN THE MATTER :
OF : ORDER
ROBERT RATTNER, M.D. : BPMC #96-16
-----X

Upon the application of ROBERT RATTNER, 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: 3 February 1996

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

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IN THE MATTER : APPLICATION
OF : FOR
ROBERT M. RATTNER, M.D. : CONSENT
: ORDER

-----X

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

ROBERT M. RATTNER, M.D., being duly sworn, deposes and says:
That on or about October 8, 1989, I was licensed to practice
as a physician in the State of New York, having been issued
License No. 180400 by the New York State Education Department.

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 B, C, and E in full satisfaction of the charges
against me.

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

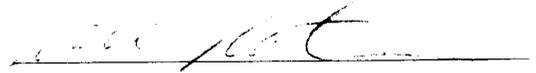
I hereby make this application to the State Board for

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; 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.



ROBERT M. RATTNER, M.D.
RESPONDENT

Sworn to before me this
19th day of December, 1995.



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
ROBERT M. RATTNER, M.D. : CONSENT
: ORDER

-----X

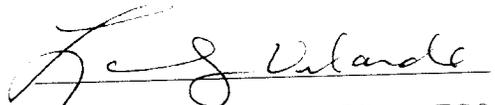
The undersigned agree to the attached application of the Respondent and to the proposed penalty based on the terms and conditions thereof.

DATE: 12-19-95



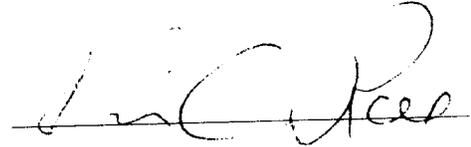
ROBERT M. RATTNER, M.D.
Respondent

DATE: 12-19-95



LAWRENCE J. VILARDO, ESQ.
Attorney for Respondent

DATE: 1/23/96



KEVIN C. ROE
Associate Counsel
Bureau of Professional
Medical Conduct

DATE:

Jan 31, 1996

Anne Saile

ANNE SAILE
Acting Director
Office of Professional Medical
Conduct

DATE:

3 February 1996

Charles J. Vacanti

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

EXHIBIT B

TERMS OF PROBATION

1. ROBERT M. RATTNER, 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 Emergency Medicine, 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 and third years 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 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 patients treated during the period of review, the number of cases reviewed, the medical record numbers of those cases or other identifiers, whether or not Respondent's care and treatment of the patients reviewed met accepted standards of medical care and the number and nature of the Grand Round sessions attended by Respondent during the reporting period. 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 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. Respondent shall attend and participate in the Grand Rounds program of the Department of Emergency Medicine of the State University of New York at Buffalo, School of Medicine and Biomedical Sciences. Respondent shall attend no less than seventy-five percent of both the didactic and clinical sessions during the first and second years of probation, and no less than fifty percent during the third year of probation.

- 8. 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.

Ex. A

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

-----X

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

-----X

ROBERT MICHAEL RATTNER, M.D., the Respondent, was authorized to practice medicine in New York State on October 18, 1989 by the issuance of license number 180400 by the New York State Education Department.

FACTUAL ALLEGATIONS

A. Respondent treated Patient A (patients are identified in the attached appendix) at the emergency department of Millard Filmore Hospital, Buffalo, N.Y. (MFH) parents with complaints of intermittent fever associated with nasal congestion for one week. Respondent's care and treatment of Patient A failed to meet acceptable standards of medical care, in that:

1. Respondent failed to perform and/or record an adequate physical examination.
2. Respondent failed to obtain and/or record an adequate history.
3. Respondent failed to order appropriate laboratory studies, including a blood culture.

B. Respondent treated Patient B at the emergency department of MFH on July 2, 1990, for complaints of abdominal pain. Respondent's care and treatment of Patient B failed to meet acceptable standards of medical care, in that:

1. Respondent failed to obtain and/or record an adequate history.
2. Respondent failed to perform and/or record an adequate physical examination.
3. Respondent failed to perform a rectal examination.
4. Respondent failed to order a complete blood count, Amylase tests and/or serum chemistries.
5. Respondent failed to order an abdominal series of x-rays.
6. Respondent ordered and/or administered Demerol without adequate medical justification.
7. Respondent discharged Patient B from the emergency department without adequate evaluation and/or testing.

C. Respondent treated Patient C at the emergency department of MFH on October 16, 1990, for complaints of breathing difficulty. Respondent's care and treatment of Patient C failed to meet acceptable standards of medical care, in that:

1. Respondent failed to obtain and/or record an adequate history.
2. Respondent failed to perform and/or record an adequate physical examination.
3. Respondent failed to adequately evaluate and/or treat Patient C's tachycardia.
4. Respondent discharged Patient C inappropriately.

D. Respondent treated Patient D at the emergency department of MFH January 2, 1991, for complaints of chest pain, cough, weakness and lightheadedness and on January 5, 1991 for a complaint of possible pneumonia. Respondent's care and treatment of Patient D failed to meet acceptable standards of medical care, in that:

1. On January 2, 1991, Respondent failed to perform and/or record an adequate physical examination.
2. On January 2, 1991, Respondent failed to order arterial blood gas determinations.
3. On January 2, 1991, Respondent failed to inform Patient D's private medical doctor of the dense upper lobe infiltrate shown on the chest x-ray.
4. On January 2, 1991, Respondent failed to order laboratory tests to determine Patient D's state of hydration.
- 5.- On January 5, 1991, Patient D's mother telephonically contacted Respondent at the emergency department of MFH and informed him of Patient D's increasing dyspnea, cyanosis and restlessness. Respondent failed to instruct Patient D's mother to bring Patient D to the emergency department immediately.
6. On January 5, 1991, Respondent inappropriately instructed a nurse to dispose of an arterial blood gas specimen and not send it to the laboratory.
7. On January 5, 1991, Respondent failed to perform and/or record and adequate physical examination.

E. Respondent treated Patient E at the emergency department of MFH on January 4, 1991, for complaints of left flank and left upper quadrant pain and on January 7, 1991, for complaints of abdominal pain. Respondent's care and treatment of Patient E failed to meet acceptable standards of medical care, in that:

1. On January 4, 1991, Respondent failed to obtain repeat pulse and respiratory rate determinations prior to discharge.
2. On January 4, 1991, Respondent discharged Patient E from the emergency department without adequate reevaluation of clinical status.
3. On January 7, 1991, Respondent failed to obtain and/or record an adequate history.
4. On January 7, 1991, Respondent failed to perform and/or record an adequate physical examination.
5. On January 7, 1991, Respondent failed to order complete blood count, serum chemistries and/or Amylase tests.
6. On January 7, 1991, Respondent discharged Patient E from the Emergency Department without adequate evaluation.
7. Respondent diagnosed gastroenteritis without adequate medical justification.

F. Respondent treated Patient F at the emergency department of MFH on January 10, 1991, for complaints related to substance abuse. Respondent's care and treatment of Patient F failed to meet acceptable standards of medical care, in that:

1. Respondent failed to obtain and/or record an adequate history.
2. Respondent failed to perform and/or record an adequate physical examination.
3. Respondent failed to order testing of blood alcohol level.
4. Respondent failed to order appropriate therapy for acute alcohol and valium ingestion.
5. Respondent failed to observe Patient F for an adequate period of time prior to discharge.

SPECIFICATIONS

FIRST THROUGH SIXTH SPECIFICATIONS

GROSS NEGLIGENCE

Respondent is charged with gross negligence in violation of N.Y. Educ. Law §6530(4) (McKinney Supp. 1995) in that, Petitioner charges:

1. The facts in Paragraphs A and A.1, A.2, and/or A.3.
2. The facts in Paragraphs B and B.1, B.2, B.3, B.4, B.5, B.6, and/or B.7.
3. The facts in Paragraphs C and C.1, C.2, C.3 and/or C.4.
4. The facts in Paragraphs D and D.1, D.2, D.3, D.4, D.5, D.6, and/or D.7.
- 5.- The facts in Paragraphs E and E.1, E.2, E.3, E.4, E.5, E.6, and/or E.7.
6. The facts in Paragraphs F and F.1, F.2, F.3, F.4 and/or F.5.

SEVENTH THROUGH TWELFTH SPECIFICATIONS

GROSS INCOMPETENCE

Respondent is charged with gross incompetence in violation of N.Y. Educ. Law §6530(6) (McKinney Supp. 1995) in that, Petitioner charges:

7. The facts in Paragraphs A and A.1, A.2, and/or A.3.
8. The facts in Paragraphs B and B.1, B.2, B.3, B.4, B.5, B.6, and/or B.7.
9. The facts in Paragraphs C and C.1, C.2, C.3, and/or C.4.

10. The facts in Paragraphs D and D.1, D.2, D.3, D.4, D.5, D.6, and/or D.7.
11. The facts in Paragraphs E and E.1, E.2, E.3, E.4, E.5, E.6, and/or E.7.
12. The facts in Paragraphs F and F.1, F.2, F.3, F.4. and/or F.5.

THIRTEENTH SPECIFICATION

NEGLIGENCE ON MORE THAN ONE OCCASION

Respondent is charged with negligence on more than one occasion in violation of N.Y. Educ. Law 6530(3) (McKinney Supp. 1995) in that, Petitioner charges two or more of the following:

13. The facts in Paragraphs A and A.1, A.2, A.3; B and B.1, B.2, B.3, B.4, B.5, B.6, B.7; C and C.1 C.2, C.3, C.4; - D. and D.1, D.2, D.3, D.4, D.5, D.6, D.7; E and E.1, E.2, E.3 E.4, E.5, E.6, E.7; and/or F and F.1, F.2, F.3, F.4, F.5.

FOURTEENTH SPECIFICATION

INCOMPETENCE ON MORE THAN ONE OCCASION

Respondent is charged with incompetence on more than one occasion in violation of N.Y. Educ. Law §6530(5) (McKinney's Supp. 1994) in that, Petitioner charges two or more of the following:

14. The facts in Paragraphs A and A.1, A.2, A.3; B and B.1, B.2, B.3, B.4, B.5, B.6, B.7; C and C.1 C.2, C.3, C.4; D. and D.1, D.2, D.3, D.4, D.5, D.6, D.7; E and E.1, E.2, E.3 E.4, E.5, E.6, E.7, and/or F and F.1, F.2, F.3, F.4, F.5.

DATED: September , 1995
Albany, New York

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