



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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NYS Department of Health*

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*Executive Deputy Commissioner
NYS Department of Health*

Dennis J. Graziano, Director
Office of Professional Medical Conduct

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Vice Chair

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

February 11, 2002

CERTIFIED MAIL-RETURN RECEIPT REQUESTED

Binyamin H. Rothstein, D.O.
2835 Smith Avenue
Suite 209
Baltimore, MD 21209

RE: License No. ~~136242~~

157763

Dear Dr. Rothstein:

Enclosed please find Order #BPMC 02-51 of the New York State Board for Professional Medical Conduct. This Order and any penalty provided therein goes into effect February 11, 2002.

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 to Board for Professional Medical Conduct, New York State Department of Health, Hedley Park Place, Suite 303, 433 River Street, Troy, New York 12180.

Sincerely,

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

Board for Professional Medical Conduct

Enclosure

cc: Alan Durnoff, Esq.
1140 Rockville Pike
Suite 520
Rockville, MD 20852

NEW YORK STATE DEPARTMENT OF HEALTH
STATE BOARD FOR PROFESSIONALMEDICAL CONDUCT

IN THE MATTER
OF
BINYAMIN H. ROTHSTEIN, D.O.,
AKA
BINYAMIN C. ROTHSTEIN, D.O.,
AKA
BRIAN H. ROTHSTEIN
CO-01-05-2538-A

CONSENT AGREEMENT
AND ORDER

BPMC No. 02-51

BINYAMIN H. ROTHSTEIN, D.O., AKA BINYAMIN C. ROTHSTEIN, D.O., AKA BRIAN H. ROTHSTEIN, states:

That on or about October 14, 1982, I was licensed to practice as a physician in the State of New York, having been issued License No. 151763 by the New York State Education Department.

My current address is 2835 Smith Avenue, Suite 209, Baltimore, MD 21209, 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 (2) specifications of professional misconduct, based on a disciplinary action having been taken against my license to practice medicine by the proper licensing authority of another state.

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

I do not contest the two (2) specifications, in full satisfaction of the charges against me. I hereby agree to the following penalty:

My license shall be suspended for an indefinite period of no less than one year and until I have successfully completed the terms and conditions imposed on my license to practice medicine in the State of Maryland, by a Consent Order, dated February 23, 2000, and the probation imposed therein is lifted. One year after the effective date of this order and after compliance with all conditions I may, in writing, petition the Director, OPMC, for a Modification Order, staying the suspension and permitting me to practice as a physician.

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

That, except during periods of actual suspension, I shall maintain current registration of my 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 will continue while Respondent possesses his license; and

That I 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. I 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. I shall meet with a person designated by the Director of OPMC as directed. I shall respond promptly and provide any and all documents and information within my control upon the direction of OPMC. This condition shall be in effect beginning upon the effective date of the Consent Order and will continue while I possess my license.

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

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.

AFFIRMED



BINYAMIN H. ROTHSTEIN, D.O., AKA
BINYAMIN C. ROTHSTEIN, D.O., AKA
BRIAN H. ROTHSTEIN
Respondent

DATED _____

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

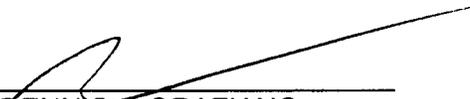
DATE: _____


ALAN DUMOFF, ESQ.
Attorney for Respondent

DATE: 29 January 02


ROBERT BOGAN
Associate Counsel
Bureau of Professional Medical Conduct

DATE: 2/6/02


DENNIS J. GRAZIANO
Director
Office of Professional Medical Conduct

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

IN THE MATTER	STATEMENT
OF	OF
BINYAMIN H. ROTHSTEIN, D.O., AKA BINYAMIN C. ROTHSTEIN, D.O., AKA BRIAN H. ROTHSTEIN CO-01-05-2538-A	CHARGES

BINYAMIN H. ROTHSTEIN, D.O., AKA BINYAMIN C. ROTHSTEIN, D.O., AKA BRIAN H. ROTHSTEIN, the Respondent, was authorized to practice medicine in New York state on October 14, 1982, by the issuance of license number 151763 by the New York State Education Department.

FACTUAL ALLEGATIONS

A. On or about March 28, 1996, the Maryland State Board of Physician Quality Assurance (hereinafter "Maryland Board"), by a Consent Order (hereinafter "Maryland Order"), suspended Respondent from practicing medicine for three (3) years and stayed all but 90 days of the suspension dependent on his meeting required conditions and, thereafter, on or about July 24, 1996, by an Order Staying Suspension, Order of Probation, placed him on probation for three (3) years with conditions, based on his failure to meet appropriate standards of care.

B. On or about February 23, 2000, the Maryland Board, by a Consent Order, placed Respondent on three (3) years probation, subject to conditions, based on his violation of the probation set forth in Paragraph A above, in that he failed to meet appropriate standards of care.

C. The conduct resulting in the Maryland Board disciplinary actions against Respondent would constitute misconduct under the laws of New York State, pursuant to the following sections of New York State law:

1. New York Education Law §6530(3) (negligence on more than one occasion);
2. New York Education Law §6530(4) (gross negligence);
3. New York Education Law §6530(5) (incompetence on more than one occasion);
4. New York Education Law §6530(6) (gross incompetence); and/or
5. New York Education Law §6530(32) (failing to maintain a record for each patient which accurately reflects the evaluation and treatment of the patient).

SPECIFICATIONS
FIRST SPECIFICATION

Respondent violated New York Education Law §6530(9)(b) by having been found guilty of improper professional practice or professional misconduct by a duly authorized professional disciplinary agency of another state where the conduct upon which the finding was based would, if committed in New York state, constitute professional misconduct under the laws of New York state, in that Petitioner charges:

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

SECOND SPECIFICATION

Respondent violated New York Education Law §6530(9)(d) by having his license to practice medicine suspended or having disciplinary action taken after a disciplinary action was instituted by a duly authorized professional disciplinary agency of another state, where the conduct resulting in the suspension or other disciplinary action would, if committed in New York State, constitute professional misconduct under the laws of New York state, in that Petitioner charges:

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

DATED: *October 30*, 2001
Albany, New York


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

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

IN THE MATTER

OF

CONSENT ORDER

**BINYAMIN H. ROTHSTEIN, D.O.
AKA
BINYAMIN C. ROTHSTEIN, D.O.
AKA
BRIAN H. ROTHSTEIN**

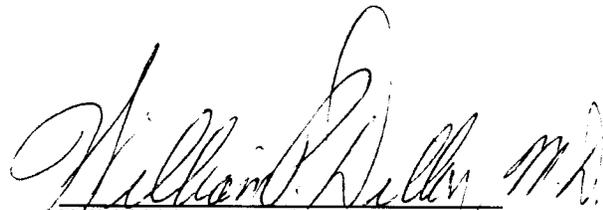
Upon the proposed agreement of **BINYAMIN H. ROTHSTEIN, D.O., AKA BINYAMIN C. ROTHSTEIN, D.O., AKA BRIAN H. ROTHSTEIN** (Respondent) for Consent Order, which application is made a part hereof, it is agreed to and

ORDERED, that the application and the provisions thereof are hereby adopted; and 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: 2/8/02



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