



Board for Professional Medical Conduct

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

C. Maynard Guest, M.D.
Executive Secretary

February 1, 1993

CERTIFIED MAIL-RETURN RECEIPT REQUESTED

Jerold Barry Millendorf, M.D.
RR 1, Box 59
High Ridge Road
Pound Ridge, New York 10576

RE: License No. 138710
Effective Date: 2/8/93

Dear Dr. Millendorf:

Enclosed please find Order #BPMC 93-11 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 12237-0614

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:

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

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IN THE MATTER : STATEMENT
OF : OF
JEROLD BARRY MILLENDORF, M.D. : CHARGES

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JEROLD BARRY MILLENDORF, M.D., the Respondent, was authorized to practice medicine in New York State on July 2, 1979 by the issuance of license number 138710 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, 1991 through December 31, 1992.

FACTUAL ALLEGATIONS

- A. Between on or about July 22, 1983 and approximately September, 1983, on approximately 4 occasions, Respondent treated Patient A, a 37 year old woman, for pendulous breasts, at his office at 115 East 23rd Street, New York, New York. (All patients are identified in the attached appendix). On or about August 1, 1983, at his office, Respondent performed breast surgery on Patient A, and on or about September, 1983, Respondent performed a second breast procedure on Patient A.

EXHIBIT "A"

1. Respondent failed throughout the period of treatment to obtain and note an adequate history.
2. Respondent failed throughout the period of treatment to perform and note an adequate physical examination.
3. Respondent failed to perform and note an adequate preoperative workup, including but not limited to, failing to obtain and note a blood pressure reading, an electrocardiogram, and a chest X ray.
4. Respondent failed to obtain and note medical clearance for the surgical procedures.
5. Respondent failed to obtain and note a tissue pathology examination of the breast tissue removed in surgery.
6. Respondent failed to keep adequate preoperative, operative and postoperative records.

7. Respondent failed to obtain and note informed consent from Patient A for the surgical procedure performed.
 8. Respondent knowingly, falsely claimed in the operative report that he had performed a bilateral breast reduction on Patient A, although he had actually performed a bilateral breast uplift.
- B. Between on or about July 15, 1986 and February, 1987, on approximately 8 occasions, Respondent treated Patient B, a 29 year old woman, to remove a tattoo on the flexor surface of her right forearm, at his office at 1009 Fifth Avenue, New York, New York. Respondent performed tattoo removal surgery on Patient B on or about July 15, 1986 and September 30, 1986 at his office.
1. Respondent failed throughout the period of treatment to obtain and note an adequate history.
 2. Respondent failed throughout the period of treatment to perform and note an adequate physical examination.

- 3.. Respondent failed to perform and note an adequate preoperative workup, including, but not limited to, failing to obtain and note clotting studies and other blood tests.
 4. Respondent failed to keep adequate preoperative, operative and postoperative records.
 5. Respondent failed to obtain and note a tissue pathology examination of the tissue removed.
 6. Respondent, after instructing Patient B in or about February of 1987 to return in one month for further treatment, closed his office, did not provide any further treatment to Patient B, did not refer her to another physician for further treatment, and did not respond to Patient B's telephone calls and letters sent to him at his home address.
- C. Between on or about August 21, 1986 and October 2, 1986, on approximately 3 occasions, Respondent treated Patient C, a 56 year old woman, for a deviated nasal septum, at his office at 1009 Fifth Avenue, New York, New York. On or about

September 22, 1986, at his office, Respondent performed nasal surgery on Patient C.

1. Respondent failed throughout the period of treatment to obtain and note an adequate history.
2. Respondent failed throughout the period of treatment to perform and note an adequate physical examination.
3. Respondent failed to perform and note an adequate preoperative workup, including, but not limited to, failing to obtain and note blood studies, an electrocardiogram, and a chest X ray.
4. Respondent failed to keep adequate preoperative, operative and post-operative records.
5. Respondent failed to obtain and note a tissue pathology examination of the tissue removed.
6. Respondent knowingly, falsely claimed in the operative report that he had performed a

submucous resection, although he had actually performed a rhinoplasty.

D. Between on or about September 27, 1984 and November 29, 1984, on approximately 6 occasions, Respondent treated Patient D, a 47 year old woman, for macromastia, vaginal laxity, and blepharoptosis, at his office at 1009 Fifth Avenue, New York, New York. On or about September 28, 1984, at his office, Respondent performed breast, vaginal and eyelid surgery on Patient D.

1. Respondent failed to perform and note an adequate preoperative workup, including, but not limited to, failing to obtain and note a mammogram.
2. Respondent failed to obtain and note a tissue pathology examination on the eyelid tissue and mole removed in surgery.
3. Respondent failed to keep adequate preoperative, operative and postoperative records.
4. Respondent failed to provide an anesthetist for the surgical procedures.

5. Respondent failed to obtain and note informed consent from Patient D for the surgical procedures performed.
 6. Respondent knowingly, falsely claimed in the operative report that he had performed a bilateral breast reduction on Patient D, although he had actually performed a bilateral breast uplift.
- E. Between on or about November 15, 1984 and January 3, 1985, on approximately 6 occasions, Respondent treated Patient E, a 65 year old woman, for blepharoptosis and rhytidosis, at his office at 1009 Fifth Avenue, New York, New York. On or about November 15, 1984, at his office, Respondent performed eyelid and facial surgery on Patient E.
1. Respondent failed to perform and note an adequate preoperative workup, including, but not limited to, failing to obtain and note blood studies, an electrocardiogram, and a chest X ray.
 2. Respondent failed to obtain and note medical clearance for the surgical procedures.

3. Respondent failed to keep adequate preoperative, operative and postoperative records.
 4. Respondent failed to obtain and note a tissue pathology examination of the tissue removed.
- F. Between on or about August 30, 1983 and October 20, 1983, on approximately 5 occasions, Respondent treated Patient F, a 32 year old woman for sagging breasts and abdominal penicillus, at his office at 115 East 23rd Street, New York. On or about September 13, 1983, at his office, Respondent performed breast and abdominal lipectomy surgery on Patient F.
1. Respondent failed to perform and note an adequate preoperative workup, including but not limited to failing to obtain and note preoperative measurements of Patient F's breast and abdomen.
 2. Respondent failed to keep adequate preoperative, operative and postoperative records.

3. Respondent failed to obtain and note informed consent from Patient F for the procedures performed.
4. Respondent failed to provide and note adequate postoperative care to Patient F.

SPECIFICATION OF CHARGES

FIRST THROUGH SIXTH SPECIFICATIONS

PRACTICING WITH GROSS NEGLIGENCE

Respondent is charged with practicing the profession with gross negligence under N.Y. Educ. Law Section 6530(4) (McKinney Supp. 1992) in that Petitioner charges:

1. The facts in Paragraphs A and A1-6.
2. The facts in Paragraphs B and B1-6.
3. The facts in Paragraphs C and C1-5.
4. The facts in Paragraphs D and D1-4.
5. The facts in Paragraphs E and E1-4.
6. The facts in Paragraphs F and F1-2 and 4.

SEVENTH THROUGH TWELFTH SPECIFICATIONS

PRACTICING WITH GROSS INCOMPETENCE

Respondent is charged with practicing the profession with gross incompetence under N.Y. Educ. Law Section 6530(6) (McKinney Supp. 1992) in that Petitioner charges:

7. The facts in Paragraphs A and A1-6.
8. The facts in Paragraphs B and B1-6.
9. The facts in Paragraphs C and C1-5.
10. The facts in Paragraphs D and D1-4.
11. The facts in Paragraphs E and E1-4.
12. The facts in Paragraphs F and F1-2 and 4.

THIRTEENTH SPECIFICATION

PRACTICING WITH NEGLIGENCE ON MORE THAN ONE OCCASION

Respondent is charged with practicing the profession with negligence on more than one occasion under N.Y. Educ. Law

Section 6530(3) (McKinney Supp. 1992) in that Petitioner charges that Respondent committed at least two of the following:

13. The facts in Paragraphs A and A1-6; B and B1-6; C and C1-5; D and D1-4; E and E1-4; and/or F and F1-2 and 4.

FOURTEENTH SPECIFICATION

PRACTICING WITH INCOMPETENCE ON MORE THAN ONE OCCASION

Respondent is charged with practicing the profession with incompetence on more than one occasion under N.Y. Educ. Law Section 6530(5) (McKinney Supp. 1992) in that Petitioner charges that Respondent committed at least two of the following:

14. The facts in Paragraphs A and A1-6; B and B1-6; C and C1-5; D and D1-4; E and E1-4; and/or F and F1-2 and 4.

FIFTEENTH SPECIFICATION

PATIENT ABANDONMENT

Respondent is charged with professional misconduct under N.Y. Educ. Law Section 6530(30) (McKinney Supp. 1992) in

that he abandoned or neglected a patient under and in need of immediate professional care, without making reasonable arrangements for the continuation of such care, without reasonable notice and under circumstances which seriously impaired the delivery of professional care to patient. Petitioner specifically charges:

15. The facts in Paragraphs B and B6.

SIXTEENTH THROUGH TWENTY-FIRST SPECIFICATIONS

FAILING TO MAINTAIN A RECORD

Respondent is charged with unprofessional conduct under N.Y. Educ. Law Section 6530(32) (McKinney Supp. 1992) in that he failed to maintain a record for each patient which accurately reflects the evaluation and treatment of the patient.

Specifically, Petitioner charges:

16. The facts in Paragraphs A and A1-8.

17. The facts in Paragraphs B and B1-5.

18. The facts in Paragraphs C and C1-6.

19. The facts in Paragraphs D and D1-3 and 5-6.
20. The facts in Paragraphs E and E1-4.
21. The facts in Paragraphs F and F1-4.

TWENTY-SECOND THROUGH TWENTY-FOURTH SPECIFICATIONS
PRACTICING FRAUDULENTLY

Respondent is charged with practicing the profession fraudulently under N.Y. Educ. Law Section 6530(2) (McKinney Supp. 1992) in that Petitioner charges:

22. The facts in Paragraphs A and A8.
23. The facts in Paragraphs C and C6.
24. The facts in Paragraphs D and D6.

TWENTY-FIFTH THROUGH TWENTY-SEVENTH SPECIFICATIONS
PERFORMING PROFESSIONAL SERVICES NOT DULY AUTHORIZED

Respondent is charged with performing professional services which have not been duly authorized by the patient or

his or her legal representative under N.Y. Educ. Law Section 6520(26) (McKinney Supp. 1992) in that Petitioner charges:

25. The facts in Paragraphs A and A7.

26. The facts in Paragraphs D and D5.

27. The facts in Paragraphs F and F3.

DATED: New York, New York

Chris Stern Hyman
Counsel
Bureau of Professional Medical
Conduct

EXHIBIT "B"

TERMS OF PROBATION

1. JEROLD BARRY MILLENDORF, M.D., during the period of probation, shall conduct himself in all ways in a manner befitting his 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 Health Department, Corning Tower Building, 4th Floor, Empire State Plaza Albany, New York 12237 of any employment and practice, of Respondent's residence and telephone number, 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, 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 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 pay the \$10,000 fine within one year of service of the Order in this matter;
6. Respondent shall cooperate in the quarterly monitoring of his practice through record review and consultation by a

physician proposed by Respondent, compensated at Respondent's expense, and approved by the Director of the Office of Professional Medical Conduct ("the Director"), such monitoring physician to provide quarterly reports to the Director and to make immediate report to the Director of any problem noted in Respondent's practice.

7. Respondent shall comply with all terms, conditions, restrictions, and penalties to which he is subject pursuant to the order of the Board;
8. 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.

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

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IN THE MATTER :
OF : ORDER
JEROLD BARRY MILLENDORF, M.D. : BPMC 93-11

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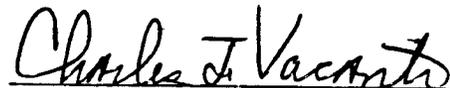
Upon the application of JEROLD BARRY MILLENDORF, M.D. (Respondent) for Consent Order, which application is made a part hereof, it is

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: 22 January 1993



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
OF : FOR
JEROLD BARRY MILLENDORF, M.D. : CONSENT
: ORDER
-----X

STATE OF NEW YORK)
COUNTY OF *New York*) SS.:

JEROLD BARRY MILLENDORF, M.D., being duly sworn, deposes and says:

That on or about July 2, 1979 I was licensed to practice as a physician in the State of New York, having been issued License No. 138710(R) by the New York State Education Department.

I am currently registered with the New York State Education Department to practice as a physician in the State of New York for the period January 1, 1993 through December 31, 1994.

I understand that the New York State Board for Professional Medical Conduct has charged me with twenty-seven 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 Thirteenth Specification, Practicing with Negligence on More than One Occasion (relating to the years 1983-1986), including only the facts in paragraphs:

A, excluding the words "his office at" and "and on or about September, 1983, Respondent performed a second breast procedure on Patient A"; A1.; A2.; A3.; A4.; A6.; C; C3.; C4., excluding the word "operative"; C5.; D; D1.; D2.; D4.; D5., excluding the words "obtain and"; E; E1.; E2.; E3.; E4.; F, excluding the words "at his office"; F1., excluding the words "perform and"; F2., excluding the word "operative"; and F4.

I hereby agree to the penalty that: pursuant to Public Health Law Section 230-a(3), my license to practice medicine shall be limited to the extent that I shall not be permitted to practice plastic surgery, except to the extent necessary to perform my duties as an emergency room physician; my license to practice medicine shall be suspended for a period of five years, such suspension to be entirely stayed; I shall be placed on probation for a period of five years; subject to the terms attached as Exhibit "B"; and I shall be fined in the amount of \$10,000.

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.

 1/14/93
JEROLD BARRY MILLENDORF, M.D.
RESPONDENT

Sworn to before me this
^{14th} day of January, 1993


NOTARY PUBLIC

BRIAN E. MAAS
NOTARY PUBLIC, State of New York
No. 31-4912577
Qualified in New York County
Commission Expires October 19, 1993

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

-----X
IN THE MATTER : APPLICATION
OF : FOR
JEROLD BARRY MILLENDORF, 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: 1/14/93



JEROLD BARRY MILLENDORF, M.D.
RESPONDENT

Date: 1/14/93



BRIAN E. MAAS
ATTORNEY FOR RESPONDENT

Date: 1-14-93



PAUL STEIN
ASSOCIATE COUNSEL
BUREAU OF PROFESSIONAL
MEDICAL CONDUCT

Date: Jan 29, 1993

Kathleen M. Tanner
KATHLEEN M. TANNER
DIRECTOR
OFFICE OF PROFESSIONAL
MEDICAL CONDUCT

Date: 22 January 1993

Charles J. Vacanti
CHARLES J. VACANTI, M.D.
CHAIRPERSON
STATE BOARD FOR
PROFESSIONAL MEDICAL CONDUCT