



New York State Board for Professional Medical Conduct

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

Public

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Office of Professional Medical Conduct

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Michael A. Gonzalez, R.P.A.
Vice Chair
Katherine A. Hawkins, M.D., J.D.
Executive Secretary

July 29, 2009

CERTIFIED MAIL-RETURN RECEIPT REQUESTED

Sheldon A. Greenspan, M.D.

Redacted Address

RE: License No. 170066

Dear Dr. Greenspan:

Enclosed is a copy of Order BPMC #09-146 of the New York State Board for Professional Medical Conduct. This Order and any penalty provided therein goes into effect August 5, 2009.

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 1717
Empire State Plaza
Albany, New York 12237

Sincerely,

Redacted Signature

Katherine A. Hawkins, M.D., J.D.
Executive Secretary
Board for Professional Medical Conduct

cc: Ralph A. Erbaio, Jr., Esq.
Kern, Augustine, Conroy & Schoppman, P.C.
420 Lakeville Road
Lake Success, NY 11042

IN THE MATTER
OF
SHELDON GREENSPAN, M.D.

CONSENT
ORDER

BPMC No. #09-146

Upon the application of (Respondent) SHELDON GREENSPAN, M.D. in the attached Consent Agreement and Order, which is made a part of this Consent Order, it is

ORDERED, that the Consent Agreement, and its terms, are adopted and it is further

ORDERED, that this Consent Order shall be effective upon issuance by the Board, either

- by mailing of a copy of this Consent Order, either by first class mail to Respondent at the address in the attached Consent Agreement or by certified mail to Respondent's attorney, OR
- upon facsimile transmission to Respondent or Respondent's attorney, whichever is first.

SO ORDERED.

DATE: 7-29-2009

Redacted Signature

KENDRICK A. SEARS, M.D.
Chair
State Board for Professional Medical Conduct

**IN THE MATTER
OF
SHELDON GREENSPAN, M.D.**

**CONSENT
AGREEMENT
AND
ORDER**

SHELDON GREENSPAN, M.D., represents that all of the following statements are true:

That on or about May 11, 1987, I was licensed to practice as a physician in the State of New York, and issued License No. 170066 by the New York State Education Department.

My current address is Redacted Address and I will advise the Director of the Office of Professional Medical Conduct of any change of address.

I understand that the New York State Board for Professional Medical Conduct (Board) has charged me with thirteen specifications of professional misconduct.

A copy of the Statement of Charges, marked as Exhibit "A", is attached to and part of this Consent Agreement.

I assert that I cannot successfully defend against at least one of the acts of misconduct alleged, in full satisfaction of the charges against me, and agree to the following penalty:

Pursuant to N.Y. Pub. Health Law § 230-a(3), my license to practice medicine in New York State shall be limited to preclude any weight management, weight-loss or obesity therapy or treatment.

Pursuant to N.Y. Pub. Health Law § 230-a(9), I shall be placed on probation for a period of 36 months, subject to the terms set forth in attached Exhibit "B."

Pursuant to N.Y. Pub. Health Law §§ 230-a(7) and (9), I shall be subject to a fine in the amount of \$50,000, with at least \$25,000 to be paid within 6 months after the effective date of this Order, and the full \$50,000 to be paid no later than 1 year after the effective date of this Order. Payments must be submitted to:

Bureau of Accounts Management
New York State Department of Health
Empire State Plaza
Corning Tower, Room 1717
Albany, New York 12237

I further agree that the Consent Order shall impose the following conditions:

That Respondent shall remain in continuous compliance with all requirements of N.Y. Educ Law § 6502 including but not limited to the requirements that a licensee shall register and continue to be registered with the New York State Education Department (except during periods of actual suspension) and that a licensee shall pay all registration fees. Respondent shall not exercise the option provided in N.Y. Educ. Law § 6502(4) to avoid registration and payment of fees. This condition shall take effect 120 days after the Consent Order's effective date and will continue so long as Respondent remains a licensee in New York State; and

That Respondent shall cooperate fully with the Office of Professional Medical Conduct (OPMC) in its administration and enforcement of this Consent Order and in its investigations of matters concerning Respondent. Respondent shall respond in a timely manner to all OPMC requests for written periodic verification of Respondent's compliance with this Consent Order. Respondent shall meet with a person designated by the Director of OPMC, as directed.

Respondent shall respond promptly and provide all documents and information within Respondent's control, as directed. This condition shall take effect upon the Board's issuance of the Consent Order and will continue so long as Respondent remains licensed in New York State.

I stipulate that my failure to comply with any conditions of this Consent Order shall constitute misconduct as defined by N.Y. Educ. Law § 6530(29).

I agree that, if I am charged with professional misconduct in future, this Consent Agreement and Order **shall** be admitted into evidence in that proceeding.

I ask the Board to adopt this Consent Agreement.

I understand that if the Board does not adopt this Consent Agreement, none of its terms shall bind me or constitute an admission of any of the acts of alleged misconduct; this Consent Agreement shall not be used against me in any way and shall be kept in strict confidence; and the Board's denial shall be without prejudice to the pending disciplinary proceeding and the Board's final determination pursuant to N.Y. Pub. Health Law.

I agree that, if the Board adopts this Consent Agreement, the Chair of the

Board shall issue a Consent Order in accordance with its terms. I agree that this Consent Order shall take effect upon its issuance by the Board, either by mailing of a copy of the Consent Order by first class mail to me at the address in this Consent Agreement, or to my attorney by certified mail, OR upon facsimile transmission to me or my attorney, whichever is first. The Consent Order, this agreement, and all attached Exhibits shall be public documents, with only patient identities, if any, redacted. As public documents, they may be posted on the Department's website.

I stipulate that the proposed sanction and Consent Order are authorized by N.Y. Pub. Health Law §§ 230 and 230-a, and that the Board and OPMC have the requisite powers to carry out all included terms. I ask the Board to adopt this Consent Agreement of my own free will and not under duress, compulsion or restraint. In consideration of the value to me of the Board's adoption of this Consent Agreement, allowing me to resolve this matter without the various risks and burdens of a hearing on the merits, I knowingly waive my right to contest the Consent Order for which I apply, whether administratively or judicially, I agree to be bound by the Consent Order, and I ask that the Board adopt this Consent Agreement.

I understand and agree that the attorney for the Department, the Director of OPMC and the Chair of the Board each retain complete discretion either to enter into the proposed agreement and Consent Order, based upon my application, or to decline to do so. I further understand and agree that no prior or separate written or oral communication can limit that discretion.

DATE 7/16/09

Redacted Signature

SHELDON GREENSPAN, M.D.
RESPONDENT

The undersigned agree to Respondent's attached Consent Agreement and to its proposed penalty, terms and conditions.

DATE: 7-16-09

Redacted Signature

~~RALPH ERBAIO, JR, ESQ~~
Attorney for Respondent

DATE: 7/20/09

Redacted Signature

~~TERRENCE J. SHEEHAN~~
Associate Counsel
Bureau of Professional Medical Conduct

DATE: 7/28/09

Redacted Signature

~~KEITH W. SERVIS~~
Director
Office of Professional Medical Conduct

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

IN THE MATTER
OF
SHELDON GREENSPAN, M.D.

STATEMENT
OF
CHARGES

Sheldon Greenspan, M.D., the Respondent, was authorized to practice medicine in New York State on or about May 11, 1987 by the issuance of license number 170066 by the New York State Education Department.

FACTUAL ALLEGATIONS

- A. Respondent treated Patient A from January, 2000 to October, 2007 at Respondent's medical office, 637 Willis Avenue., Suite A, Williston Park, New York 11596. (Patient names are contained in the attached Appendix.) Respondent's care and treatment of Patient A departed from accepted standards of medical practice in the following respects:
 - 1. Respondent failed to perform and note an adequate physical examination and medical, dietary and medication histories.
 - 2. Respondent prescribed phendimetrazine and/or phentermine. This treatment was not indicated.

3. Respondent failed to order indicated laboratory tests to monitor the possible cardiac effects of the medications he prescribed.
4. Respondent inappropriately risked causing or perpetuating an habituation or addiction by the patient to the psychotropic medications respondent prescribed.
5. Respondent failed to monitor the patient for signs of habituation or addiction to the psychotropic medications he prescribed.
6. Respondent failed to maintain a medical record for the patient which accurately reflects the evaluations he provided, including patient medical, dietary and medication histories, physical examination, diagnoses, testing and side effects and response to treatment and treatment plans.

B. Respondent treated Patient B from September, 1999 to November, 2007 at Respondent's medical office. Respondent's care and treatment of Patient B departed from accepted standards of medical practice in the following respects:

1. Respondent failed to perform and note an adequate physical examination and medical, dietary and medication histories.
2. Respondent prescribed phendimetrazine and/or phentermine. This treatment was not indicated.

3. Respondent failed to order indicated laboratory tests to monitor the possible cardiac effects of the medications he prescribed.
 4. Respondent inappropriately risked causing or perpetuating an habituation or addiction by the patient to the psychotropic medications respondent prescribed.
 5. Respondent failed to monitor the patient for signs of habituation or addiction to the psychotropic medications he prescribed.
 6. Respondent failed to maintain a medical record for the patient which accurately reflects the evaluations he provided, including patient medical, dietary and medication histories, physical examination, diagnoses, testing and side effects and response to treatment and treatment plans.
- C. Respondent treated Patient C from February, 2001 at Respondent's medical office, Respondent's care and treatment of Patient C departed from accepted standards of medical practice in the following respects:
1. Respondent failed to perform and note an adequate physical examination and medical, dietary and medication histories.
 2. Respondent prescribed phendimetrazine and/or phentermine. This treatment was not indicated.

3. Respondent failed to order indicated laboratory tests to monitor the possible cardiac effects of the medications he prescribed.
 4. Respondent inappropriately risked causing or perpetuating an habituation or addiction by the patient to the psychotropic medications respondent prescribed.
 5. Respondent failed to monitor the patient for signs of habituation or addiction to the psychotropic medications he prescribed.
 6. Respondent failed to maintain a medical record for the patient which accurately reflects the evaluations he provided, including patient medical, dietary and medication histories, physical examination, diagnoses, testing and side effects and response to treatment and treatment plans.
- D. Respondent treated Patient D from August, 2000 to November, 2007 at Respondent's medical office. Respondent's care and treatment of Patient D departed from accepted standards of medical practice in the following respects:
1. Respondent failed to perform and note an adequate physical examination and medical, dietary and medication histories.
 2. Respondent prescribed phendimetrazine and/or phentermine. This treatment was not indicated.

3. Respondent failed to order indicated laboratory tests to monitor the possible cardiac effects of the medications he prescribed.
4. Respondent inappropriately risked causing or perpetuating an habituation or addiction by the patient to the psychotropic medications respondent prescribed.
5. Respondent failed to monitor the patient for signs of habituation or addiction to the psychotropic medications he prescribed.
6. Respondent failed to maintain a medical record for the patient which accurately reflects the evaluations he provided, including patient medical, dietary and medication histories, physical examination, diagnoses, testing and side effects and response to treatment and treatment plans.

E. Respondent treated Patient E from January, 2000 to November, 2007 at Respondent's medical office. Respondent's care and treatment of Patient E departed from accepted standards of medical practice in the following respects:

1. Respondent failed to perform and note an adequate physical examination and medical, dietary and medication histories.
2. Respondent prescribed phendimetrazine and/or phentermine. This treatment was not indicated.

3. Respondent failed to order indicated laboratory tests to monitor the possible cardiac effects of the medications he prescribed.
 4. Respondent inappropriately risked causing or perpetuating an habituation or addiction by the patient to the psychotropic medications respondent prescribed.
 5. Respondent failed to monitor the patient for signs of habituation or addiction to the psychotropic medications he prescribed.
 6. Respondent failed to maintain a medical record for the patient which accurately reflects the evaluations he provided, including patient medical, dietary and medication histories, physical examination, diagnoses, testing and side effects and response to treatment and treatment plans.
- F. Respondent treated Patient F from May, 2004 to January, 2006 at Respondent's medical office. Respondent's care and treatment of Patient F departed from accepted standards of medical practice in the following respects:
1. Respondent failed to perform and note an adequate physical examination and medical, dietary and medication histories.
 2. Respondent prescribed phendimetrazine and/or phentermine. This treatment was not indicated.

3. Respondent failed to order indicated laboratory tests to monitor the possible cardiac effects of the medications he prescribed.
4. Respondent inappropriately risked causing or perpetuating an habituation or addiction by the patient to the psychotropic medications respondent prescribed.
5. Respondent failed to monitor the patient for signs of habituation or addiction to the psychotropic medications he prescribed.
6. Respondent failed to maintain a medical record for the patient which accurately reflects the evaluations he provided, including patient medical, dietary and medication histories, physical examination, diagnoses, testing and side effects and response to treatment and treatment plans.

G. Respondent treated Patient G from August, 1999 to November, 2007 at Respondent's medical office. Respondent's care and treatment of Patient G departed from accepted standards of medical practice in the following respects:

1. Respondent failed to perform and note an adequate physical examination and medical, dietary and medication histories.
2. Respondent prescribed phendimetrazine and/or phentermine. This treatment was not indicated.
3. Respondent failed to order indicated laboratory tests to monitor the possible cardiac effects of the medications he prescribed.

4. Respondent inappropriately risked causing or perpetuating an habituation or addiction by the patient to the psychotropic medications respondent prescribed.
5. Respondent failed to monitor the patient for signs of habituation or addiction to the psychotropic medications he prescribed.
6. Respondent failed to maintain a medical record for the patient which accurately reflects the evaluations he provided, including patient medical, dietary and medication histories, physical examination, diagnoses, testing and side effects and response to treatment and treatment plans.

H. Respondent treated Patient H from November, 2003 to May, 2007 at Respondent's medical office. Respondent's care and treatment of Patient H departed from accepted standards of medical practice in the following respects:

1. Respondent failed to perform and note an adequate physical examination and medical, dietary and medication histories.
2. Respondent prescribed phendimetrazine and/or phentermine. This treatment was not indicated.
3. Respondent failed to order indicated laboratory tests to monitor the possible cardiac effects of the medications he prescribed.

4. Respondent inappropriately risked causing or perpetuating an habituation or addiction by the patient to the psychotropic medications respondent prescribed.
 5. Respondent failed to monitor the patient for signs of habituation or addiction to the psychotropic medications he prescribed.
 6. Respondent failed to maintain a medical record for the patient which accurately reflects the evaluations he provided, including patient medical, dietary and medication histories, physical examination, diagnoses, testing and side effects and response to treatment and treatment plans.
- I. Respondent treated Patient J from August, 1994 to March, 2003 at Respondent's medical office. Respondent's care and treatment of Patient J departed from accepted standards of medical practice in the following respects:
1. Respondent failed to perform and note an adequate physical examination and medical, dietary and medication histories.
 2. Respondent prescribed phendimetrazine and/or phentermine. This treatment was not indicated.
 3. Respondent failed to order indicated laboratory tests to monitor the possible cardiac effects of the medications he prescribed.

4. Respondent inappropriately risked causing or perpetuating an habituation or addiction by the patient to the psychotropic medications respondent prescribed.
5. Respondent failed to monitor the patient for signs of habituation or addiction to the psychotropic medications he prescribed.
6. Respondent failed to maintain a medical record for the patient which accurately reflects the evaluations he provided, including patient medical, dietary and medication histories, physical examination, diagnoses, testing and side effects and response to treatment and treatment plans.

J. Respondent treated Patient J from January, 2001 to November, 2007 at Respondent's medical office. Respondent's care and treatment of Patient J departed from accepted standards of medical practice in the following respects:

1. Respondent failed to perform and note an adequate physical examination and medical, dietary and medication histories.
2. Respondent prescribed phendimetrazine and/or phentermine. This treatment was not indicated.
3. Respondent failed to order indicated laboratory tests to monitor the possible cardiac effects of the medications he prescribed.

4. Respondent inappropriately risked causing or perpetuating an habituation or addiction by the patient to the psychotropic medications respondent prescribed.
5. Respondent failed to monitor the patient for signs of habituation or addiction to the psychotropic medications he prescribed.
6. Respondent failed to maintain a medical record for the patient which accurately reflects the evaluations he provided, including patient medical, dietary and medication histories, physical examination, diagnoses, testing and side effects and response to treatment and treatment plans.

K Respondent treated Patient K from May, 2004 to July 2006 at Respondent's medical office. Respondent's care and treatment of Patient K departed from accepted standards of medical practice in the following respects:

1. Respondent failed to perform and note an adequate physical examination and medical, dietary and medication histories.
2. Respondent prescribed phendimetrazine and/or phentermine and dyazide. This treatment was not indicated.
3. Respondent failed to order indicated laboratory tests to monitor the possible cardiac effects of the medications he prescribed.

4. Respondent inappropriately risked causing or perpetuating an habituation or addiction by the patient to the psychotropic medications respondent prescribed.
5. Respondent failed to monitor the patient for signs of habituation or addiction to the psychotropic medications he prescribed.
6. Respondent failed to maintain a medical record for the patient which accurately reflects the evaluations he provided, including patient medical, dietary and medication histories, physical examination, diagnoses, testing and side effects and response to treatment and treatment plans.

SPECIFICATION OF CHARGES

FIRST SPECIFICATION

NEGLIGENCE ON MORE THAN ONE OCCASION

Respondent is charged with committing professional misconduct as defined in N.Y. Educ. Law § 6530(3) by practicing the profession of medicine with negligence on more than one occasion as alleged in the facts of two or more of the following:

1. A and A(1),- A(6), B and B(1) -B(6), C and C(1)-C(6), D and D(1)-D(6), E and E(1) - E(6), F and F(1) - F(6), G and G(1) - G(6), H and H(1) - H(6), I and I(1) - I(6), J and J(1) - J(6) K and K and K(1) - K(6).

SECOND SPECIFICATION

INCOMPETENCE ON MORE THAN ONE OCCASION

Respondent is charged with committing professional misconduct as defined in N.Y. Educ. Law § 6530(3) by practicing the profession of medicine with negligence on more than one occasion as alleged in the facts of two or more of the following:

2. A and A(1),- A(6), B and B(1) -B(6), C and C(1) - C(6), D and D(1) - D(6), E and E(1) - E(6), F and F(1) - F(6), G and G(1) - G(6), H and H(1) - H(6), I and I(1) - I(6), J and J(1) - J(6) K and K and K(1) - K(6).

13th

THIRD TO ~~TWELFTH~~ SPECIFICATION

FAILURE TO MAINTAIN RECORDS

Respondent is charged with committing professional misconduct as defined in N.Y. Educ. Law § 6530(3) by failing to maintain a record for each patient which accurately reflects the care and treatment of the patient, as alleged in the facts of the following paragraphs:

3. A and A(1), A(6).
4. B and B(1), B(6).
5. C and C(1), C(6).
6. D and D(1), D(6).
7. E and E(1), E(6).
8. F and F(1), F(6).
9. G and G(1), F(6).
10. H and H(1), H(6).
11. I and I (1), I(6).
12. J and J(1), J(6).
13. K and K(1), K(6).

DATE:

July 21
February , 2009
New York, New York

Redacted Signature

ROY NEMERSON
Deputy Counsel
Bureau of Professional Medical Conduct

EXHIBIT "B"

Terms of Probation

1. Respondent's conduct shall conform to moral and professional standards of conduct and governing law. Any act of professional misconduct by Respondent as defined by N.Y. Educ. Law §§ 6530 or 6531 shall constitute a violation of probation and may subject Respondent to an action pursuant to N.Y. Pub. Health Law § 230(19).
2. Respondent shall maintain active registration of Respondent's license (except during periods of actual suspension) with the New York State Education Department Division of Professional Licensing Services, and shall pay all registration fees.
3. Respondent shall provide the Director, Office of Professional Medical Conduct (OPMC), Hedley Park Place, 433 River Street Suite 303, Troy, New York 12180-2299 with the following information, in writing, and ensure that this information is kept current: a full description of Respondent's employment and practice; all professional and residential addresses and telephone numbers within and outside New York State; and all investigations, arrests, charges, convictions or disciplinary actions by any local, state or federal agency, institution or facility. Respondent shall notify OPMC, in writing, within 30 days of any additions to or changes in the required information.
4. Respondent shall cooperate fully with, and respond in a timely manner to, OPMC requests to provide written periodic verification of Respondent's compliance with the terms of this Consent Order. Upon the Director of OPMC's request, Respondent shall meet in person with the Director's designee.
5. Respondent's failure to pay any monetary penalty by the prescribed date shall subject Respondent to all provisions of law relating to debt collection by New York State, including but 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 § 171(27); State Finance Law § 18; CPLR § 5001; Executive Law § 32].
6. The probation period shall toll when Respondent is not engaged in active medical practice in New York State for a period of 30 consecutive days or more. Respondent shall notify the Director of OPMC, in writing, if Respondent is not currently engaged in, or intends to leave, active medical practice in New York State for a consecutive 30 day period. Respondent shall then notify the Director again at least 14 days before returning to active practice. Upon Respondent's return to active practice in New York State, the probation period shall resume and Respondent shall fulfill any unfulfilled probation terms and such additional requirements as the Director may impose as reasonably relate to the matters set forth in Exhibit "A" or as are necessary to protect the public health.

7. The Director of OPMC may review Respondent's professional performance. This review may include but shall not be limited to: a review of office records, patient records, hospital charts, and/or electronic records; and interviews with or periodic visits with Respondent and staff at practice locations or OPMC offices.
8. Respondent shall adhere to federal and state guidelines and professional standards of care with respect to infection control practices. Respondent shall ensure education, training and oversight of all office personnel involved in medical care, with respect to these practices.
9. Respondent shall maintain complete and legible medical records that accurately reflect the evaluation and treatment of patients and contain all information required by State rules and regulations concerning controlled substances.
10. Within thirty days of the effective date of the order, Respondent shall practice medicine only when monitored by a licensed physician, board certified in an appropriate specialty, ("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 monthly and shall examine a selection (no fewer 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.
11. Respondent shall enroll in and complete a continuing education program as directed by the Office of Professional Medical Conduct. This continuing education program is subject to the Director of OPMC's prior written approval and shall be completed within the first 90 days of the probation period.
12. Respondent shall comply with this Consent Order and all its terms, and shall bear all associated compliance costs. Upon receiving evidence of noncompliance with, or a violation of, these terms, the Director of OPMC and/or the Board may initiate a violation of probation proceeding, and/or any other such proceeding authorized by law, against Respondent.