



New York State Board for Professional Medical Conduct

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

Antonia C. Novello, M.D., M.P.H., Dr. P.H.
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NYS Department of Health*

Dennis P. Whalen
*Executive Deputy Commissioner
NYS Department of Health*

Dennis J. Graziano, Director
Office of Professional Medical Conduct

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Michael A. Gonzalez, R.F.A.
Vice Chair

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

PUBLIC

March 9, 2005

CERTIFIED MAIL-RETURN RECEIPT REQUESTED

Seymour L. Handler, M.D.
3825 Illona Lane
Oceanside, NY 11572

RE: License No. 083040

Dear Dr. Handler:

Enclosed please find Order #BPMC 05-43 of the New York State Board for Professional Medical Conduct. This Order and any penalty provided therein goes into effect March 16, 2005.

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 or receipt of the 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**

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 1258
Empire State Plaza
Albany, New York 12237

Sincerely,

A handwritten signature in black ink, appearing to read 'Ansel R. Marks', written over a rectangular stamp area.

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

Executive Secretary

Board for Professional Medical Conduct

cc: Adam Goldsmith, Esq.
McAloon & Friedman, P.C.
123 William Street
New York, NY 10038-3804

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

IN THE MATTER
OF
SEYMOUR L. HANDLER, M.D.

CONSENT
ORDER

BPMC No. 05-43

Upon the application of (Respondent) SEYMOUR L. HANDLER, 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 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.

DATED: 2-9-2005


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

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

IN THE MATTER
OF
SEYMOUR L. HANDLER, M.D.

CONSENT
AGREEMENT
AND
ORDER

SEYMOUR L. HANDLER, M.D., representing that all of the following statements are true, deposes and says:

That on or about September 14, 1959, I was licensed to practice as a physician in the State of New York, and issued License No. 083040 by the New York State Education Department.

My current address is 3825 Illona Lane, Oceanside, New York 11572, 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 has charged me with sixteen (16) 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 agree not to contest the allegations of the Sixth through Tenth Specifications in full satisfaction of the charges against me, and agree to the following penalty:

Pursuant to §230-a(2) of the Public Health Law, my license to practice medicine in the State of New York shall be suspended for a period of thirty (30) days beginning April 1, 2005.

Pursuant to §230-a(9) of the Public Health Law , I shall be placed on probation for a period of two (2) years beginning at the conclusion of the thirty (30) day suspension, subject to the terms set forth in Exhibit "B".

I shall be subject to a fine in the amount of \$5,000 pursuant to §230-a(7) and (9) of the Public Health Law to be paid within one year of the effective date of the Order. Payments must be submitted to:

Bureau of Accounts Management
New York State Department of Health
Empire State Plaza
Corning Tower, Room 1245
Albany, New York 12237

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

That Respondent shall maintain current registration of licensure with the New York State Education Department Division of Professional Licensing Services (except during periods of actual suspension), and shall pay all registration fees. This condition shall take effect thirty (30) days after the Consent Order's effective date and will continue so long as Respondent remains licensed 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 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 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 Order shall constitute misconduct as defined by New York State Education 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 the Public Health Law.

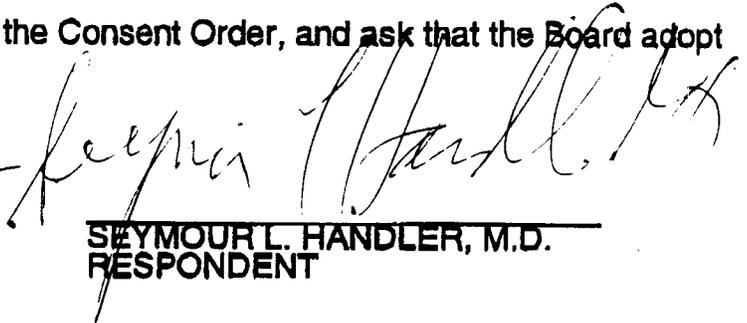
I agree that, if the Board adopts this Consent Agreement, the Chair of the Board shall issue a Consent Order in accordance with its terms. I agree that this Order shall take effect upon its issuance by the Board, either by mailing of a copy of the Consent Order by first class mail to me at the address in this Consent Agreement, or to my attorney by certified mail, OR upon facsimile transmission to me or my

attorney, whichever is first. The Order, this agreement, and all attached Exhibits shall be public documents, with only patient identities, if any, redacted.

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 ask that the Board adopt this Consent Agreement.

DATED

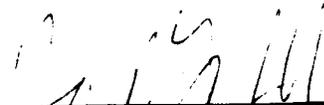
1/7/05



SEYMOUR L. HANDLER, M.D.
RESPONDENT

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

DATE: 1/6/05



ADAM GOLDSMITH, ESQ.
Attorney for Respondent

DATE: 1/11/05



DAVID W. SMITH
Associate Counsel
Bureau of Professional
Medical Conduct

DATE: 03/07/05



DENNIS J. GRAZIANO
Director
Office of Professional Medical Conduct

EXHIBIT "A"

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

IN THE MATTER
OF
SEYMOUR HANDLER, M.D.

STATEMENT
OF
CHARGES

SEYMOUR HANDLER, M.D., the Respondent, was authorized to practice medicine in New York State on or about September 14, 1959, by the issuance of license number 083040 by the New York State Education Department.

FACTUAL ALLEGATIONS

- A. In or about 1999, Respondent was an attending physician at Staten Island University Hospital (SIUH) in Staten Island, New York. He voluntarily resigned from the Hospital on or about July 15, 2000.
1. In his Application for Appointment dated on or about October 26, 1998, Respondent failed to disclose any malpractice claims, suits settlements or arbitrations in response to Question 1 under "Disciplinary Actions" which asked: "Have there been or are there currently pending any malpractice claims, suits settlements or arbitration proceedings involving your professional practice?"
 - a. Respondent made such answer deliberately and with intent to deceive.

2. In an Application for Reappointment dated on or about December 9, 1999 falsely answered "No" to Question 13 on the Application which asked: "Are there currently any pending or past medical malpractice actions in which you were involved in New York or in any other State?"

a. Respondent made such answer deliberately and with intent to deceive.

B. From in or about 1970 through about December, 1997, when he voluntarily resigned, Respondent was an attending physician at Franklin Hospital Medical Center (FHMC). On or about June 8, 1995 and again on or about June 20, 1997, Respondent, in his Applications for Reappointment falsely answered "No" to the following questions:

(1) Question #3 "Have you ever been named as a defendant or other party in a malpractice action in this or any other State?"

(a) Such answer was made by Respondent deliberately and with intent to deceive.

(2) Question #4 "Has any malpractice action in which you have been named as a defendant or other party, in this or any other State, been settled or ended in a judgement against you?"

- (a) Such answer was made by Respondent deliberately and with intent to deceive.

C. Beginning in or about 1991, Respondent was an attending physician at Long Island Jewish Medical Center (LIJMC).

- 1. As part of his Application for Re-Appointment filed by Respondent with LIJMC in or about 1997, Respondent was required to pass a physical examination. Deliberately and with intent to deceive, Respondent submitted a certificate asserting that he had received and passed a physical examination given by Gary Hitzig, M.D., when, in fact, Dr. Hitzig had not performed a physical examination and Respondent had signed Dr. Hitzig's name to such certificate without the authorization or permission of Dr. Hitzig.

D. In or about 2000, Respondent was an attending physician at Interfaith Medical Center.

- 1. In an Application for Reappointment dated on or about February 3, 2000:
 - a) Falsely answered "No" to question #1 under the heading "Malpractice Insurance" which asked: "Have there ever been any malpractice claims, suits,

settlements, final judgements or arbitration proceedings involving your professional practice currently pending, filed or settled in this State or any other State”.

b) Falsely answered “No” to Question E under the heading “Malpractice Insurance” which asked : Have you ever had any professional malpractice liability actions commenced against you?”

c) Falsely answered “No” to Question F under the heading “Malpractice Insurance” which asked: Have you ever voluntarily or involuntarily relinquished your medical staff privileges or committee assignment at another hospital?”

2. The answers to the questions cited above in Paragraph 1(a), (b), and (c) were made by Respondent deliberately and with intent to deceive.

3. As part of such Application, Respondent submitted a Certificate of Completion falsely indicating that he had successfully completed a course in Infection Control during 1998.

a) Such certificate was submitted by Respondent deliberately and with intent to deceive.

E. On or about February 14, 2000, Respondent filed an Application for Appointment to the staff of Kingsbrook Jewish Medical Center (KJMC) and on or about July 25, 2000 filed an Application for Reappointment with KJMC.

1. On the February 14, 2000 Appointment Application Respondent falsely answered :”No” to the following question listed under “Malpractice Experience” which asked: “Have any judgements or settlements been made against you in professional liability cases or are any cases pending?”

a) Such answer was made by Respondent deliberately and with intent to deceive.

2. On the July 25, 2000 Reappointment Application Respondent falsely answered “No” to the following question under “Corrective Action” which asked: “Have you had a voluntary or involuntary termination of medical staff membership?”

a) Such answer was made by Respondent deliberately and with intent to deceive.

3. In connection with both Applications, Respondent filed a Certificate of Completion falsely indicating that he had completed a course in Infection Control during 1998.

- a) Such certificate was submitted by Respondent deliberately and with intent to deceive.

F. On or about March 14, 1994, Respondent entered into a Stipulation and Order with the New York State Department of Health whereby Respondent admitted and the Commissioner found, guilt to violating Article 33 of the Public Health Law and the rules and regulations thereunder. Respondent was assessed a fine of \$1500 dollars and put on probation for a period of one (1) year.

SPECIFICATION OF CHARGES

FIRST THROUGH FIFTH SPECIFICATIONS

FRAUDULENT PRACTICE

Respondent is charged with committing professional misconduct as defined by N.Y. Educ. Law Sec. 6530(2) by practicing the profession of medicine fraudulently as alleged in the facts of the following:

1. Paragraphs A and A1 and 1(a), 2 and 2(a).
2. Paragraphs B and B1 and 1(a) and 2 and 2(a).
3. Paragraphs C and C1.
4. Paragraphs D and D1(a), (b), and (c), 2 and 3 and 3(a).
5. Paragraphs E and E1 and 1(a), 2 and 2(a) and 3 and 3(a)

SIXTH THROUGH TENTH SPECIFICATIONS

CONDUCT EVIDENCING MORAL UNFITNESS

Respondent is charged with committing professional misconduct as defined in N.Y. Educ. Law Sec. 6530(20) by engaging in conduct in the practice of the profession of medicine that evidences moral unfitness to practice as alleged in the facts of the following:

6. Paragraphs A and A1 and 1(a), 2 and 2(a).
7. Paragraphs B and B1 and 1(a) and 2 and 2(a).
8. Paragraphs C and C1.

9. Paragraphs D and D1(a), (b), and (c), 2 and 3 and 3(a).
10. Paragraphs E and E1 and 1(a), 2 and 2(a) and 3 and 3(a)

ELEVENTH THROUGH FIFTEENTH SPECIFICATIONS

VIOLATION PHL §2805-k

Respondent is charged with committing professional misconduct as defined in N.Y. Educ. Law Sec. 6530(14) by violating Public Health Law Sec. 2805-k, as alleged in the facts of the following:

11. Paragraphs A and A1, A2.
12. Paragraph B and B1, B2.
13. Paragraphs C and C1.
14. Paragraphs D and D1 (a), (b) and (c), and 3.
15. Paragraphs E and E1, E2, E3.

SIXTEENTH SPECIFICATION

VIOLATION OF ARTICLE 33

Respondent is charged with committing professional misconduct as defined in N.Y. Educ. Law §6530(9)(e) by having been found guilty by the Commissioner of Health of violating Article 33 of the Public Health Law as alleged in the facts of the following:

16. Paragraph F.

DATED: December 9, 2004
New York, New York



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 New York State Education Law §6530 or §6531 shall constitute a violation of probation and may subject Respondent to an action pursuant to New York State Public Health Law §230(19).
2. Respondent shall maintain current registration of licensure with the New York State Education Department Division of Professional Licensing Services (except during periods of actual suspension), 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 such 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, charges, convictions or disciplinary actions by any local, state or federal agency, institution or facility, within thirty (30) days of each action.
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 section 171(27)]; State Finance Law section 18; CPLR section 5001; Executive Law section 32].
6. The probation period shall toll when Respondent is not engaged in active medical practice in New York State for a period of thirty (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 thirty (30) day period. Respondent shall then notify the Director again at least fourteen (14) days before returning to active practice. Upon Respondent's return to active practice in New York State, the probation period will resume and Respondent shall fulfill any unfulfilled probation terms.
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 and/or hospital charts; and interviews with or periodic visits with Respondent and staff at practice locations or OPMC offices.

8. 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.
9. Respondent shall enroll in and complete a continuing education program in the area of Medical Ethics. This continuing education program is subject to the Director of OPMC's prior written approval, which approval shall not be unreasonably withheld, and shall be completed within the first year of the probation period, unless the Order specifies otherwise.
10. During the term of this Probation and prior to filing any applications for employment or attending-physician status with any health care facility, Respondent shall submit such application to OPMC for its review and approval. Such review and approval shall be limited to the accuracy of the information contained therein and shall not be unreasonably withheld by OPMC. Respondent shall assist OPMC as needed in fully assuring that the information contained therein is, indeed, accurate.
11. Respondent shall comply with this Order and all its terms, and shall bear all associated compliance costs. Upon receiving evidence of noncompliance with, or 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.