



New York State Board for Professional Medical Conduct

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

Dennis P. Whalen
Executive Deputy Commissioner of Health
Anne F. Saile, Director
Office of Professional Medical Conduct
William J. Comiskey, Chief Counsel
Bureau of Professional Medical Conduct

PUBLIC

William P. Dillon, M.D.
Chair
Denise M. Bolan, R.P.A.
Vice Chair
Ansel R. Marks, M.D., J.D.
Executive Secretary

May 11, 1999

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Steven Swersky, M.D.
461 Park Avenue South
New York, New York 10016

RE: License No. 146497

Dear Dr. Swersky:

Enclosed please find Order #BPMC 99-93 of the New York State Board for Professional Medical Conduct. This Order and any penalty provided therein goes into effect **May 11, 1999**.

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
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 1315
Empire State Plaza
Albany, New York 12237

Sincerely,



Ansel R. Marks, M.D., J.D.
Executive Secretary
Board for Professional Medical Conduct

Enclosure

cc: Peter T. Crean, Esq.
Martin, Clearwater & Bell
220 East 42nd Street
New York, New York 10017-5842

Kevin C. Roe, Esq.

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

IN THE MATTER
OF
STEVEN SWERSKY, M.D.

CONSENT
AGREEMENT
AND
ORDER
BPMC #99-93

STEVEN SWERSKY, M.D., (Respondent) says:

That on or about July 1, 1981, I was licensed to practice as a physician in the State of New York, having been issued License No. 146497 by the New York State Education Department.

My current address is 461 Park Avenue South, New York New York 10016.

I understand that the New York State Board for Professional Medical Conduct has charged me with violating the probation imposed on me by Order BPMC 98-35. A copy of the Violation of Probation Letter is annexed hereto, made a part hereof, and marked as Exhibit A.

I admit that I violated paragraph nine of the terms of probation by failing to consult with the practice supervisor prior to and during the administration of oxytocin on at least one occasion at the Beth Israel Medical Center, New York, NY between June 1, 1998, and November 12, 1998.

I agree to the following penalty:

My license to practice medicine shall be suspended for two years in addition to the

three years suspension previously imposed by Order BPMC 98-35, with the additional suspension stayed. The period of probation previously imposed by Order BPMC 98-35 shall be extended by two years until February 20, 2003, and the entire probation shall be subject to the terms and conditions attached hereto, made part hereof, and marked as Exhibit B. I further agree that I shall be fined five thousand dollars (\$5,000.00). A check for this amount payable to the Bureau of Accounts Management is included with this application.

I stipulate that failure by me to comply with the terms of probation will constitute evidence of 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 make this application to the State Board for Professional Medical Conduct (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.

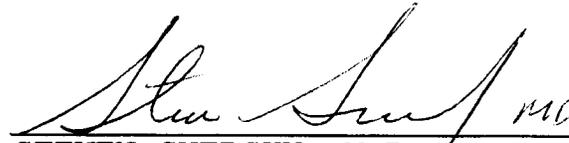
I agree that, in the event the Board grants my application, as set forth herein, an order of the Chairperson of the Board shall be issued in accordance with same. I agree that such order shall be effective upon issuance by the Board, which may be accomplished by mailing, by first class mail, a copy of 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:

DATED 4/28/99


STEVEN SWERSKY, M.D.
RESPONDENT

The undersigned agree to the attached application of the Respondent and to the proposed penalty.

DATE: April 28, 1999


PETER T. CREAN, ESQ.
Attorney for Respondent

DATE: 4/29/99


KEVIN C ROE
Associate Counsel
Bureau of Professional
Medical Conduct

DATE: 4/29/99


ANNE F. SAILE
Director
Office of Professional
Medical Conduct

NEW YORK STATE

DEPARTMENT OF HEALTH

STATE BOARD FOR PROFESSIONAL MEDICAL CONDUCT

**IN THE MATTER
OF
STEVEN SWERSKY, M.D.**

CONSENT
ORDER

Upon the proposed agreement of Steven Swersky, M.D. (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 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: 5/5/99


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

1403

STEVEN H. SWERSKY, M.D.
AND MARC SKLAR, M.D., P.C.

461 PARK AVE., S.
NEW YORK, NY 10016

DATE 4/28/85

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210 85

PAY
TO THE
ORDER OF

Branch of Account Number

\$ 5000 ⁰⁰/₁₀₀

Five Thousand Dollars

DOLLARS

EAB

475 Park Ave. S.
New York, NY 10016



FOR _____

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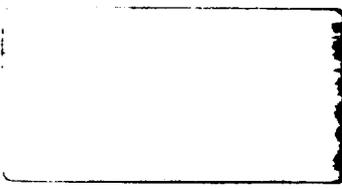


Exhibit A

DOH STATE OF NEW YORK
DEPARTMENT OF HEALTH

433 River Street, Suite 303

Troy, New York 12180-2299

Dennis P. Whalen
Executive Deputy Commissioner

November 30, 1998

CERTIFIED MAIL- RETURN RECEIPT REQUESTED

Steven Swersky, M.D.
461 Park Avenue South
New York, New York 10016

RE: Notice of Violation of Probation

Dear Dr. Swersky:

As the Director of the Office of Professional Medical Conduct of the New York State Department of Health, I have determined that you have violated the terms of probation imposed upon you by Order BPMC #98-35 dated February 9, 1998. My determination that you have violated the terms of your probation is based on the following:

1. By Order BPMC #98-35, the State Board for Professional Medical Conduct accepted your plea of no contest to one specification of negligence on more than one occasion with regard to six patients, one specification of incompetence on more than one occasion with regard to six patients, and three specifications of failing to maintain adequate records. Your license to practice medicine was suspended for three years, the suspension was stayed, and you were placed on probation.
2. Paragraph one of the terms of probation requires that you conduct yourself in all ways in a manner befitting your professional status and conform fully to moral and professional standards of conduct and obligations imposed by law and by your profession.
3. Paragraph nine of the terms of probation requires supervision of your management of the labor and delivery of obstetrical patients and specifically requires that you consult with the practice supervisor prior to and during the administration of oxytocin, the therapeutic induction of labor, and prior to all decisions regarding operative delivery.
4. Between June 1, 1998, and November 12, 1998, you ordered and/or administered oxytocin to patients at Beth Israel Medical Center, New York, New York, without prior and on-going consultation with the practice supervisor.

5. Paragraph nine of the terms of probation further requires that you authorize the practice supervisor to have access to your patient records and to submit quarterly written reports to the Director of OPMC
6. Between February 20, 1998, and November 12, 1998, you failed to provide lists of patients treated by you to the practice supervisor to enable him to submit quarterly reports to the Director of OPMC, and the practice supervisor failed to submit quarterly reports.

By this letter, I am initiating a violation of proceeding against you pursuant to New York Public Health Law 230(19).

Be advised that if you do not dispute the facts forming the basis of my determination within 20 days of the date of this letter, I shall submit this matter to a committee on professional conduct for its review and determination. If within 20 days of the date of this letter, you dispute in writing the facts forming the basis of my determination, you shall be afforded a hearing before a committee on professional conduct. You have the right to such a hearing and may be represented by counsel.

A stenographic record of this hearing will be made. The committee, after providing you an opportunity to be heard, shall determine whether you have violated probation and, if so, shall impose an appropriate penalty as defined in New York State Public Health Law 230-a. In determining the appropriate penalty, the committee shall consider both the violation of probation and the prior adjudication of misconduct. The chairperson of the committee shall issue an order adopting the decision of the committee on professional conduct. This order may be reviewed by the Administrative Review Board of the State Board for Professional Medical Conduct.

Since this violation of probation proceeding may result in a determination that your license to practice medicine in New York be revoked, I urge you to consult with an attorney. If you or your attorney wish to discuss this matter, or to request a hearing, you should call Kevin C. Roe, Associate Counsel at (518) 402-0820.

Very truly yours,



Anne F. Saile
Director
Office of Professional Medical Conduct

cc: William L. Wood, Jr., Esq.
Wood & Scher
14 Harwood Court
Scarsdale, NY 10583

EXHIBIT B

Terms of Probation

1. Respondent shall conduct himself/herself in all ways in a manner befitting his/her professional status, and shall conform fully to the moral and professional standards of conduct and obligations imposed by law and by his/her profession.
2. Respondent shall submit written notification to the New York State Department of Health addressed to the Director of the Office of Professional Medical Conduct, New York State Department of Health, 433 River Street, Suite 303, Troy, NY 12180-2299; said notice is to include a full description of any employment and practice, professional and residential addresses and telephone numbers within or without New York State, and any and all investigations, charges, convictions or disciplinary actions by any local, state or federal agency, institution or facility, within thirty days of each action.
3. Respondent shall fully cooperate with and respond in a timely manner to requests from OPMC to provide written periodic verification of Respondent's compliance with the terms of this Order. Respondent shall personally meet with a person designated by the Director of OPMC as requested by the Director.

4. Any civil penalty not paid by the date prescribed herein shall be subject to all provisions of law relating to debt collection by New York State. This includes but is 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].
5. The period of probation shall be tolled during periods in which Respondent is not engaged in the active practice of medicine in New York State. Respondent shall notify the Director of the Office of Professional Medical Conduct (OPMC), in writing, if Respondent is not currently engaged in or intends to leave the active practice of medicine in New York State for a period of thirty (30) consecutive days or more. Respondent shall then notify the Director again prior to any change in that status. The period of probation shall resume and any terms of probation which were not fulfilled shall be fulfilled upon Respondent's return to practice in New York State.
6. Respondent's professional performance may be reviewed by the Director of OPMC. This review may include, but shall not be limited to, a review of office records, patient records and/or hospital charts, interviews with

or periodic visits with Respondent and his/her staff at practice locations or OPMC offices.

7. Respondent shall maintain legible and complete medical records which accurately reflect the evaluation and treatment of patients. The medical records shall contain all information required by State rules and regulations regarding controlled substances.
8. Respondent shall enroll in and complete a continuing education program in the area of Management of the High Risk Obstetrical Patients to be equivalent to at least 50 credit hours of Continuing Medical Education per year, over and above the recommended minimum standards set by the American College of Obstetricians and Gynecologists. Said continuing education program shall be subject to the prior written approval of the Director of OPMC. Written verification of the successful completion of this program shall be reported to OPMC on an annual basis.
9. Respondent shall manage the labor and delivery of obstetrical patients only when supervised in his medical practice. There shall be a practice supervisor/designee on-site at all affiliated hospital locations. The practice supervisor/designee shall be proposed by Respondent and subject to the written approval of the Director. The practice supervisor/designee shall not be a family member or

personal friend, or be in a professional relationship which could pose a conflict with supervision responsibilities. Respondent shall coordinate his on-call schedule to coincide with that of the practice supervisor/designee.

- Respondent shall ensure that the practice supervisor/designee is familiar with the Order and terms of probation, and willing to report to OPMC. Respondent shall ensure that the practice supervisor/designee is in a position to regularly observe and assess Respondent's medical practice. Respondent shall cause the practice supervisor/designee to report within 24 hours any suspected impairment, inappropriate behavior, patient or fetal harm, returns to surgery, and/or any other questionable medical practice or possible misconduct to OPMC, as well as any non-compliance with recommendations of the practice supervisor/designee or any term of probation.
- Respondent shall cause the practice supervisor/designee to directly observe Respondent's medical practice. In addition, Respondent must consult with the practice supervisor/designee prior to ordering and during the administration of oxytocin, the therapeutic induction of labor and prior to all decisions regarding operative delivery.

- The practice supervisor/designee will direct the plan of care in the event of any disagreement between the Respondent and practice supervisor/designee.
 - Respondent shall authorize the practice supervisor/designee to have access to his patient records and to submit quarterly written reports to the Director of OPMC, regarding Respondent's practice including verification of Respondent's compliance with the approved supervision plan. These narrative reports shall address all aspects of Respondent's clinical practice including, but not limited to, the evaluation and treatment of patients, detailed case description of any case found to not meet the established standard of care, the practice supervisor/designee's assessment of patient records selected for review and Respondent's general demeanor, time and attendance, and other such on-duty conduct as the supervisor deems appropriate to report.
10. Respondent shall comply with all terms, conditions, restrictions, limitations and penalties to which he or she is subject pursuant to the Order and shall assume and bear all costs related to compliance. Upon receipt of 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 such other proceeding against Respondent as may be authorized pursuant to the law. Upon written notice to Respondent by the Director of OPMC that she/he has determined, after consultation with an investigative committee pursuant to NY Public Health Law §230(10), that he has violated the terms of probation and/or is not in compliance with the terms of probation, the stay of the suspension is vacated and Respondent's license shall be actively suspended until final resolution of the alleged violations of the terms of probation pursuant to the procedure set forth in NY Public Health Law §230(19).