



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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Denise M. Bolan, R.P.A.
Vice Chair

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

January 17, 2002

CERTIFIED MAIL-RETURN RECEIPT REQUESTED

Marc S. Cohen, M.D.
427 Cold Springs Road
Angwin, CA 94500

RE: License No. 112394

Dear Dr. Cohen:

Enclosed please find Order #BPMC 02-9 of the New York State Board for Professional Medical Conduct. This Order and any penalty provided therein goes into effect January 17, 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: Anthony Z. Scher, Esq.
Wood and Scher
The Harwood Building
Scarsdale, NY 10583

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

IN THE MATTER
OF
MARC S. COHEN, M.D.

Consent
Order of License Limitation
Surrender of all Clinical
Privileges
Complete Restriction from
Practice of Medicine
BPMC No. 02-9

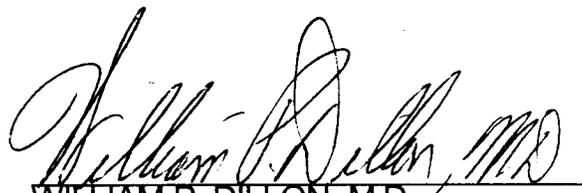
Upon the proposed agreement of MARC S. COHEN, M.D. (Respondent) for a Consent Order of License Limitation, Surrender of all Clinical Privileges, and Complete Restriction from Practice of Medicine, which application is made a part hereof, it is agreed to and

ORDERED, that the application and the provisions thereof are hereby adopted and so ORDERED, 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, of 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: 1/15/02


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

**IN THE MATTER
OF
MARC S. COHEN, M.D.**

Consent Agreement and
Order of License
Limitation
Surrender of all Clinical
Privileges
Complete Restriction
from Practice of
Medicine

MARC S. COHEN, M.D., representing all statements herein made to be true, deposes and says:

That on or about July 1, 1972, I was licensed to practice as a physician in the State of New York, having been issued License No. 112394 by the New York State Education Department.

My current address is 427 Cold Springs Road, Angwin, CA 94500, 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 three specifications of professional misconduct.

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

I do not contest the Second and Third Specifications of the Statement of Charges, in full satisfaction of the charges against me. I hereby agree to the following penalty:

My license to practice medicine shall be limited, pursuant to §230-a of the Public Health Law, to preclude patient contact and any practice of medicine, clinical or otherwise. I shall be

precluded from diagnosing, treating, operating, or prescribing for any human disease, pain, injury deformity, or physical condition.

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

- That Respondent shall, within 30 days of the issuance of the Consent Order, notify the New York State Education Department, Division of Professional Licensing Services, that Respondent's license status is "inactive," and shall provide proof of such notification to the Director of OPMC within 30 days thereafter; and
- That Respondent shall return any and all official New York State prescriptions to the Bureau of Controlled Substances, and shall surrender Respondent's Controlled Substance Registration Certificate to the United States Department of Justice, Drug Enforcement Administration, within 15 days of the effective date of this Order. Further, within 30 days of returning said prescriptions and surrendering said registration, Respondent shall provide documentary proof of such transaction(s) to the Director of OPMC; and
- That Respondent 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. Respondent 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. Respondent shall meet with a person designated by the Director of OPMC as directed. Respondent shall respond promptly and provide any and all documents and

information within Respondent's control upon the direction of OPMC, and shall, during January of every year, submit to the Director of OPMC signed, notarized written statements setting forth whether or not Respondent has complied during the prior year with all conditions imposed by the Consent Order.

- Respondent shall comply with all conditions set forth in Exhibit "B" ("Guidelines for Closing a Medical Practice") which is attached.

These conditions 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.



MARC S. COHEN, M.D.
RESPONDENT

DATED 12/13/01

Sworn to before me
on this 13 day of
Dec. 2001



NOTARY

PAT V. CAPRARELLI
No. 01845061425
Notary Public, State of New York
Qualified in Westchester County
My Commission Expires 6/10/02

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

DATE: 12/18/01


ANTHONY Z. SCHER, ESQ.
Attorney for Respondent

DATE: December 21, 2001


MARCIA E. KAPLAN
Associate Counsel
Bureau of Professional Medical Conduct

DATE: January 08, 2002


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
MARC S. COHEN, M.D.**

**STATEMENT
OF
CHARGES**

MARC S. COHEN, M.D., the Respondent, was authorized to practice medicine in New York State on or about July 1, 1972, by the issuance of license number 112394 by the New York State Education Department.

FACTUAL ALLEGATIONS

- A. During the period from in or about 1985-1998, Respondent, a urologist, failed to render appropriate treatment to Patients A-F by failing to perform appropriate evaluations and/or failing to coordinate appropriately with consultants, and/or planning or performing procedures inappropriately.
- B. During the period from in or about 1985-1998, Respondent failed to maintain appropriate records that accurately reflect the care of Patients A-F.
 - 1. On or about June 15, 1998, Respondent knowingly and inappropriately altered a note in Patient A's medical record .

SPECIFICATION OF CHARGES

FIRST SPECIFICATION

FRAUDULENT PRACTICE

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

1. Paragraph B and B.1.

SECOND 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:

2. Paragraphs A, B, and/or B.1.

THIRD SPECIFICATION

FAILURE TO MAINTAIN RECORDS

Respondent is charged with committing professional misconduct as defined in N.Y. Educ. Law §6530(32) 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:

3. Paragraphs B and B.1.

DATED: November , 2001
New York, New York

Roy Nemerson
Deputy Counsel
Bureau of Professional
Medical Conduct

EXHIBIT "B"

GUIDELINES FOR CLOSING A MEDICAL PRACTICE

1. Respondent shall immediately cease and desist from engaging in the practice of medicine in accordance with the terms of the Order. In addition, Respondent shall refrain from providing an opinion as to professional practice or its application and from representing himself as being eligible to practice medicine.
2. Respondent shall, within 30 days of the issuance of the Consent Order, notify the New York State Education Department, Division of Professional Licensing Services, that Respondent's license status is "inactive," and shall provide proof of such notification to the Director of OPMC within 30 days thereafter.
3. Respondent shall make arrangements for the transfer and maintenance of the medical records of his patients. Within thirty days of the effective date of the Order, Respondent shall notify OPMC of these arrangements including the appropriate and acceptable contact person's name, address, and telephone number who shall have access to these records. Original records shall be retained for at least six years after the last date of service rendered to a patient or, in the case of a minor, for at least six years after the last date of service or three years after the patient reaches the age of majority whichever time period is longer. Records shall be maintained in a safe and secure place which is reasonably accessible to former patients. The arrangements shall include provisions to ensure that the information on the record is kept confidential and made available only to authorized persons. When a patient or and/or his or her representative requests a copy of the patient's medical record or requests that the original medical record be forwarded to another health care provider, a copy of the record shall be promptly provided or forwarded at a reasonable cost to the patient (not to exceed seventy-five cents per page.) Radiographic, sonographic and like materials shall be provided at cost. A qualified person shall not be denied access to patient information solely because of their inability to pay.
4. In the event that Respondent holds a Drug Enforcement Agency (DEA) certificate, Respondent shall within fifteen (15) days advise the DEA in writing of the licensure action and shall surrender his DEA controlled substance privileges to the DEA. Respondent shall promptly surrender any unused DEA #222 U.S. Official Order Forms Schedules 1 and 2 to the DEA.
5. Respondent shall within fifteen (15) days return any unused New York State official prescription forms to the Bureau of Controlled Substances of the New York State Department of Health. Respondent shall cause all prescription pads bearing his name to be destroyed. If no other licensee is providing services at his practice location, all medications shall be properly disposed.
6. Respondent shall not share, occupy or use office space in which another licensee provides health care services. Respondent shall cause all signs to be removed within fifteen (15) days and stop all advertisements, professional listings whether in telephone directories or otherwise, professional stationery or billings by which his eligibility to practice is represented.
7. Respondent shall not charge, receive or share any fee or distribution of dividends for professional services rendered by himself or others while barred from engaging in the practice of medicine. Respondent may be compensated for the reasonable value of services lawfully rendered and disbursements incurred on a patient's behalf prior to the effective date of this Order.

8. If Respondent is a shareholder in any professional service corporation organized to engage in the practice of medicine and if his license is revoked, surrendered or suspended for a term of six months or more under the terms of this Order, Respondent shall divest himself of all financial interest in the professional services corporation in accordance with New York Business Corporation Law. Such divestiture shall occur within 90 days. If Respondent is the sole shareholder in a professional services corporation, the corporation must be dissolved or sold within ninety (90) days of the effective date of this Order.

9. Failure to comply with the above directives may result in a civil penalty or further criminal penalties as may be authorized pursuant to the law. Under Section 6512 of the Education Law it is a Class E Felony, punishable by imprisonment of up to 4 years, to practice the profession of medicine when such professional license has been suspended, revoked or annulled. Such punishment is in addition to the penalties for professional misconduct set forth in section 230-a of the Public Health Law, which includes fines of up to \$10,000 for each specification of charges of which the Respondent is found guilty and may include revocation of a suspended license.