



New York State Board for Professional Medical Conduct

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

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Office of Professional Medical Conduct

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

February 11, 2000

CERTIFIED MAIL-RETURN RECEIPT REQUESTED

Thomas Green, M.D.
2333 Route 20 East
Cazenovia, NY 13035

RE: License No. 157915

Dear Dr. Green:

Enclosed please find Order #BPMC 00-44 of the New York State Board for Professional Medical Conduct. This Order and any penalty provided therein goes into effect **February 11, 2000**.

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: James D. Lantier, Esq.
Smith, Sovik, Kendric & Sugnet, P.C.
250 South Clinton
Syracuse, NY 13202

Michael A. Hiser, Esq.

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

IN THE MATTER
OF
THOMAS A. GREEN, M.D.

CONSENT
AGREEMENT
AND
ORDER
BPMC #00-44

THOMAS A. GREEN, M.D., (Respondent) says:

That on or about April 9, 1984, I was licensed to practice as a physician in the State of New York, having been issued License No. 157915 by the New York State Education Department.

My current address is 2333 Rte. 20 East, Cazenovia, New York, 13035, 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 7 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 Fifth Specification, in full satisfaction of the charges against me. I hereby agree to the following penalty:

That my license shall be suspended for a period of two years from the effective date of the Order herein, but that the suspension shall be stayed pending my compliance with the further terms of this agreement and the Terms of Probation attached hereto, as Exhibit B, which Terms are made a part hereof by reference. The Term of Probation shall be three years from the effective date of the Order herein. Additionally, I agree that, within 60 days of the effective date of the Order

herein, I shall obtain a clinical competency assessment performed by a program for such assessment as directed by the Director of OPMC. As a condition of this agreement, I shall successfully complete any retraining or continuing education recommended by such program following the evaluation of my clinical skills, as noted above. Finally, my practice of medicine will be monitored for a period of three years, commencing 30 days after the effective date of the Order herein, and continuing after my successful completion of the evaluation and retraining noted above.

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

That, except during periods of actual suspension, Respondent shall maintain current registration of Respondent's license with the New York State Education Department Division of Professional Licensing Services, and pay all registration fees. This condition shall be in effect beginning thirty days after the effective date of the Consent Order and will continue while the licensee possesses his/her license; 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. This condition shall be in effect beginning upon the effective date of the Consent Order and will continue while the licensee possesses his/her 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)(McKinney Supp. 2000).

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.

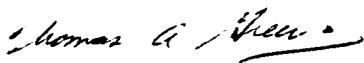
I agree that, in the event the Board grants my Application, as set forth

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.

AFFIRMED:

DATED June 25, 2000



THOMAS A. GREEN, M.D.
RESPONDENT

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

DATE: 11-8/00


JAMES D. LANTIER, ESQ.
Attorney for Respondent

DATE: 2/1/00


MICHAEL A. HISER
ASSOCIATE COUNSEL
Bureau of Professional
Medical Conduct

DATE: 2/7/00


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
THOMAS A. GREEN, M.D.

CONSENT
ORDER

Upon the proposed agreement of THOMAS A. GREEN, 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 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, 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: 2/8/00


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

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

-----X
**IN THE MATTER : STATEMENT
OF : OF
THOMAS A. GREEN, M.D. : CHARGES**
-----X

THOMAS A. GREEN, M.D., the Respondent, was authorized to practice medicine in New York State on April 9, 1984, by the issuance of license number 157915 by the New York State Education Department. Respondent is currently registered with the New York State Education Department to practice medicine for the period September 1, 1999 through August 31, 2001, with a registration address of 2333 Rte. 20 East, Cazenovia, New York 13035.

FACTUAL ALLEGATIONS

A. Respondent provided medical care and treatment to Patient A (patients are identified in Appendix A, attached hereto) a female patient 53 years old when last treated, at various times during the period including August 1990 through July 31, 1997 at Respondent's office at 2333 Rte. 20 East, Cazenovia, New York 13035 (hereafter, "Respondent's office"). Patient A died of metastatic breast cancer in August 1997. Respondent's care and treatment of Patient A deviated from accepted standards of medical care in the following respects:

1. Respondent, from September 9, 1996 through April 25, 1997, failed to perform and/or record the performance of, adequate physical exams of Patient A, including breast exams and assessment of ongoing weight loss.
2. Respondent, from September 9, 1996 through April 25, 1997, failed to order and/or record the ordering of, a mammogram for Patient A.
3. Respondent, despite ten office visits with the patient between September 9, 1996 and April 25, 1997, failed to adequately evaluate and follow up on numerous physical findings including a changeable and indurated parotid mass, multiple palpable lymph nodes, left chest wall tenderness and pain, and unexplained weight loss.

B. Respondent provided medical care and treatment to Patient B, a male patient 9 years old when first treated, at various times during the period including April 1988 through January 1992 at Respondent's office at 2333 Rte. 20 East, Cazenovia, New York 13035 (hereafter, "Respondent's office"). Patient B repeatedly complained of an earache on the left side. Respondent's care and treatment of Patient B deviated from accepted standards of medical care in the following respects:

1. Respondent, despite repeated complaints by the patient of left ear pain (including hearing loss) between May 10, 1988 and January 30, 1992, failed to adequately evaluate and treat the patient's left ear pain, an/or refer for evaluation and treatment.

SPECIFICATIONS OF MISCONDUCT
FIRST AND SECOND SPECIFICATIONS
GROSS NEGLIGENCE

Respondent is charged with professional misconduct under N.Y. Educ. Law §6530(4) by reason of his practicing the profession of medicine with gross negligence on a particular occasion, in that Petitioner charges the following:

1. The facts in paragraphs A and A.3.
2. The facts in Paragraphs B and B.1.

THIRD AND FOURTH SPECIFICATIONS
GROSS INCOMPETENCE

Respondent is charged with professional misconduct under N.Y. Educ. Law §6530(6) by reason of his practicing the profession of medicine with gross incompetence on a particular occasion, in that Petitioner charges the following:

3. The facts in paragraphs A and A.3.
4. The facts in Paragraphs B and B.1.

FIFTH SPECIFICATION
NEGLIGENCE ON MORE THAN ONE OCCASION

Respondent is charged with professional misconduct under N.Y. Educ. Law §6530(3) by reason of his practicing the profession of medicine with negligence on more than one occasion, in that Petitioner charges that Respondent committed two or more of the following:

5. The facts in Paragraphs A and A.1, A and A.2, A and A.3, and/or B and B.1.

SIXTH SPECIFICATION
INCOMPETENCE ON MORE THAN ONE OCCASION

Respondent is charged with professional misconduct under N.Y. Educ. Law §6530(5) by reason of his practicing the profession of medicine with incompetence on more than one occasion, in that Petitioner charges that Respondent committed two or more of the following:

6. The facts in Paragraphs A and A.1, A and A.2, A and A.3, and/or B and B.1.

SEVENTH SPECIFICATION
INADEQUATE RECORDS

Respondent is charged with professional misconduct under N.Y. Educ. Law §6530(32) by reason of his failing to maintain a record for each patient which accurately reflects the evaluation and treatment of the patient, in that Petitioner charges:

7. The facts in paragraphs A and A.1 and/or A and A.2.

DATED: *Feb 1, 2000*, ~~1999~~

Albany, New York

Peter D. Van Buren

PETER D. VAN BUREN
Deputy Counsel
Bureau of Professional
Medical Conduct

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. 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].
4. 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 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.
5. 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.
6. 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.
7. Respondent shall obtain a clinical competency assessment performed by a program for such assessment as directed by the Director of OPMC. Respondent shall cause a written report of such assessment to be provided directly to the Director of OPMC within sixty (60) days of the effective date of this Order.

8. Upon completion of the assessment and within four months of the effective date of the Order, Respondent shall be enrolled in a course of personalized continuing medical education, which includes an assigned preceptor, preferably a physician board certified in the same specialty, to be approved, in writing, by the Director of OPMC. Respondent shall remain enrolled and shall fully participate in the program for a period of not less than three months nor more than twelve months. There shall be no requirement for such course of personalized continuing medical education unless it is suggested by the assessment program set out in Paragraph "7", above.
9. Respondent shall cause the preceptor to
 - a. Submit reports on a quarterly basis to OPMC certifying whether Respondent is fully participating in the personalized continuing medical education program.
 - b. Report immediately to the Director of OPMC if Respondent withdraws from the program and report promptly to OPMC any significant pattern of non-compliance by Respondent.
 - c. At the conclusion of the program, submit to the Director of OPMC a detailed assessment of the progress made by Respondent toward remediation of all identified deficiencies.
10. Beginning within 30 days of the effective date of the Order, for a period of three years following the effective date of the Order, Respondent shall practice medicine in either private practice, hospitals or other institutional settings outside of the personalized continuing medical education program, 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 cause the practice monitor to monitor Respondent's medical practice in accordance with a monitoring plan to be approved by the Director of OPMC. Such monitoring plan shall include, but not be limited to, provisions for selected medical record reviews, occasional observation of the Respondent in practice settings, required participation in hospital departmental meetings and enrollment in ongoing education courses, if any.
 - b. Respondent shall make available to the practice monitor any and all records or access to the practice requested by the practice 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 less than 10) of records maintained by Respondent, including patient records, prescribing information and office records. The frequency of practice monitoring site visits may be modified at the discretion of the practice monitor subject to the prior written approval of the Director of OPMC. 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.
 - c. Respondent shall cause the practice monitor to report to OPMC on a monthly basis regarding Respondent's compliance with the approved

monitoring plan. These narrative reports shall address all aspects of Respondent's clinical practice including, but not limited to, the evaluation and treatment of patients, the monitor's assessment of patient records selected for review, detailed case description of any case found to not meet the established standards of care and Respondent's remediation of previously identified deficiency areas.

- 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 within 30 days of the effective date of the Order.

- 11. 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 any 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.