



**New York State Board for Professional Medical Conduct**

Coming Tower • Empire State Plaza • Albany, NY 12237 • (518) 474-8357

Barbara A. DeBuono, M.D., M.P.H.  
Commissioner of Health

Charles J. Vacanti, M.D.  
Chair

May 21, 1996

NYS DEPT. OF HEALTH  
DIVISION OF LEGAL AFFAIRS  
PROFESSIONAL MEDICAL CONDUCT

**CERTIFIED MAIL-RETURN RECEIPT REQUESTED**

**MAY 23 1996**

Kenneth Petersel, M.D.  
1617 Front Street  
East Meadow, New York 11554-2345

**R E C E I V E D**

RE: License No. 137623

Dear Dr. Petersel:

Enclosed please find Modification Order #BPMC 94-156 of the New York State Board for Professional Medical Conduct. This Order and any penalty provided therein goes into effect upon receipt of this letter or seven (7) days after the date of this letter, whichever is earlier.

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  
Empire State Plaza  
Tower Building-Room 438  
Albany, New York 12237-0756

Sincerely,

Charles Vacanti, M.D.  
Chair  
Board for Professional Medical Conduct

Enclosure

cc: Michael S. Kelton, Esq.  
Lippman Krasnow and Kelton LLP  
711 Third Avenue  
New York, New York 10017

Roy Nemerson, Esq.

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

IN THE MATTER  
OF  
KENNETH PETERSEL, M.D.

MODIFICATION  
ORDER  
BPMC #94-150

Upon the Application of KENNETH PETERSEL, M.D. (Respondent) to Modify Prior Consent Order, which application is made a part hereof, it is

ORDERED, that the application and the provisions thereof are hereby adopted and so ORDERED, and it is further

ORDERED, that this order shall take effect as of the date of the personal service of this order upon Respondent, upon receipt by Respondent of this order via certified mail, or seven days after mailing of this order by certified mail, whichever is earliest.

SO ORDERED,

DATED: 20 May 1996

Charles J. Vacanti

Charles J. Vacanti, M.D.  
Chairperson  
State Board for Professional  
Medical Conduct

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

IN THE MATTER  
OF  
KENNETH PETERSEL, M.D.

APPLICATION TO  
MODIFY PRIOR  
CONSENT ORDER

STATE OF NEW YORK )  
COUNTY OF ) ss.:

KENNETH PETERSEL, M.D., being duly sworn, deposes and says:

That on or about March 30, 1979, I was licensed to practice as a physician in the State of New York, having been issued License No. 137623 by the New York State Education Department.

My current address is 1617 Front Street, Easy Meadow, NY 11554-2345, and I will advise the Director of the Office of Professional Medical Conduct of any change of my address.

I am currently subject to OPMC Order no. 94-156 (Attachment I) (henceforth "Original Order"), which was issued upon an Application For Consent Order signed by me on July 26, 1994 (henceforth "7/26/94 Application"), adopted by the Original Order. I hereby apply to the State Board for Professional Medical Conduct for an Order (henceforth "Modification Order"), modifying the Original Order as follows:

- 1) The period of probation imposed by the Original Order shall terminate on August 23, 1996, 24 months after the service of the Original Order.
  
- 2) The period of monitoring, set forth in paragraph 12 of Exhibit "B" of the Original Order shall terminate upon the termination of the period of probation, as set forth in paragraph 1, above.

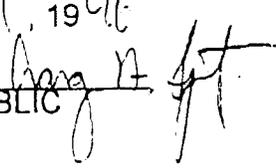
I hereby make this Application to the State Board for Professional Medical Conduct (the Board) and request that it be granted by execution, by the Chairperson of the State Board for Professional Medical Conduct, of the attached Modification Order.

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 Board's granting of this Application to Modify Prior Consent Order, I fully, freely, and with the advice of Counsel, waive any right I may have to appeal or otherwise challenge the validity of the said Modification Order.

  
KENNETH PETERSEL, M.D.  
RESPONDENT

Sworn to before me this

19 day of April, 1996

  
NOTARY PUBLIC

CRAIG A. SPATZ  
NOTARY PUBLIC, State of New York  
No. 5019117  
Qualified in Nassau County  
Commission Expires October 4, 1997

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

IN THE MATTER  
OF  
KENNETH PETERSEL, M.D.

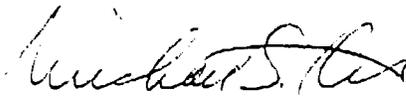
APPLICATION TO  
MODIFY PRIOR  
CONSENT ORDER

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

DATE: 4-19-96

  
KENNETH PETERSEL, M.D.  
Respondent

DATE: 4/25/96

  
MICHAEL KELTON, ESQ.  
Attorney for Respondent

DATE: 4/26/96

  
TERRENCE J. SHEEHAN  
Associate Counsel  
Bureau of Professional  
Medical Conduct

DATE: May 15, 1994

Anne Saile

ANNE F. SAILE  
Acting Director  
Office of Professional Medical  
Conduct

DATE: 20 May 1996

Charles J. Vacanti

CHARLES J. VACANTI, M.D.  
Chairperson  
State Board for Professional  
Medical Conduct

ATTACHMENT 1

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

-----X

IN THE MATTER :

OF :

KENNETH PETERSEL, M.D. :

ORDER  
BPNC #94-156

-----X

Upon the application of KENNETH PETERSEL, M.D.  
(Respondent) for Consent Order, which application is made a part  
hereof, it is

ORDERED, that the application and the provisions  
thereof are hereby adopted and so ORDERED, and it is further

ORDERED, that this order shall take effect as of the  
date of the personal service of this order upon Respondent, upon  
receipt by Respondent of this order via certified mail, or seven  
days after mailing of this order by certified mail, whichever is  
earliest.

SO ORDERED,

DATED:

9 August 1994

Charles J. Vacanti

Charles J. Vacanti, M.D.  
Chairperson  
State Board for Professional  
Medical Conduct



I admit guilt to the Third and Fourth Specifications of the statement of charges in full satisfaction of the charges against me.

I hereby agree to the penalty of a censure and reprimand, and that I be placed on probation, in accordance with the attached Exhibit B, Terms of Probation, for a period beginning upon service of the Consent Order and ending twenty-four months after my successful completion of Phase II of the Pilot Physician Retraining Program described in Exhibit B.

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 am making this Application of my own free will and accord and not under duress, compulsion or restraint of any kind or manner.

Kenneth Petercel  
KENNETH PETERSEL, M.D.  
RESPONDENT

Sworn to before me this  
26 day of July, 1994.

**RUTH KORSCHNER**  
Notary Public, State of New York  
No. 0161480005  
Qualified in Nassau County  
Commission Expires 8/31/95

Ruth Korschner  
NOTARY PUBLIC

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

-----X  
IN THE MATTER : APPLICATION  
OF : FOR  
KENNETH PETERSEL, M.D. : CONSENT  
: ORDER  
-----X

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

Date: 7/26/94

Kenneth Petersel, M.D.  
KENNETH PETERSEL, M.D.  
RESPONDENT

Date: 8/1/94

Michael Kelton, Esq.  
MICHAEL KELTON, ESQ.  
ATTORNEY FOR RESPONDENT

Date: 8/3/94

Stacey B. Mondschtein  
STACEY B. MONDSCHTEIN  
ASSISTANT COUNSEL  
BUREAU OF PROFESSIONAL  
MEDICAL CONDUCT

Date: July 12 1994 Steve Dale

for KATHLEEN M. TANNER  
DIRECTOR  
OFFICE OF PROFESSIONAL  
MEDICAL CONDUCT

Date: 9 August 1994 Charles J. Vacanti

CHARLES J. VACANTI, M.D.  
CHAIRPERSON  
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  
KENNETH PETERSEL, M D. : CHARGES

-----X

KENNETH PETERSEL, M.D., the Respondent, was authorized to practice medicine in New York State on March 30, 1979 by the issuance of license number 137623 by the New York State Education Department. The Respondent is currently registered with the New York State Education Department to practice medicine for the period January 1, 1993 through December 31, 1994.

FACTUAL ALLEGATIONS

A. Between on or about 4/8/91 and on or about 10/15/91, Respondent treated Patient A at his medical office located at 1617 Front Street, East Meadow, New York 11554 on approximately nine occasions. Patient A presented with complaints of hypertension and frequent voiding on 4/8/91.

1. Respondent failed to perform and/or note an adequate physical examination of Patient A.

EXHIBIT A

2. Respondent failed to obtain and/or note an adequate history for Patient A.

3. Respondent failed to adequately follow-up on or note the follow up on Patient A's noted complaints and/or diagnoses of:

a) Thyroid abnormality.

b) Heart disease.

c) Frequent voiding.

4. Respondent failed to follow up on and/or note the follow up on Patient A's abnormal laboratory test results including liver function tests.

5. Respondent failed to follow up on and/or note the follow up on potential hepatotoxic effect of Patient A's use of Verapamil on presenting condition.

6. Respondent failed to adequately note the basis for ordering a sonogram of Patient A's gall bladder.

B. Between on or about 5/30/90 and on or about 10/8/91, Respondent treated Patient B at his medical office located at

1617 Front Street, East Meadow, New York 11554 on approximately two occasions.

1. On Patient B's 5/30/90 visit, Respondent failed to perform and/or note an adequate physical examination for Patient B.

2. Respondent failed to adequately follow-up and/or note such follow up on Patient B's abnormal test results obtained pursuant to Patient B's 10/8/91 examination, including:

- a) Blood sugar.
- b) Total Protein.
- c) Liver function.

C. Between or about 11/12/88 and on or about 11/23/88, Patient C was treated at Winthrop-University Hospital, Mineola, New York 11501.

1. Respondent intentionally billed Patient C for 12 separate examinations when he failed to conducted and/or document 12 separate examinations of Patient C during her hospital stay.

#### SPECIFICATIONS

FIRST SPECIFICATION  
NEGLIGENCE ON MORE THAN ONE OCCASION

Respondent is charged with committing professional misconduct within the meaning of N.Y. Educ. Law Section 6530(3) (McKinney Supp. 1993) by practicing the profession with negligence on more than one occasion in that Petitioner charges two or more of the following:

1. The facts in Paragraph A, A(1), A(2), A(3), A(4), A(5), and/or A(6), and/or the facts in Paragraph B, B(1) and/or B(2).

SECOND SPECIFICATION  
PRACTICING THE PROFESSION FRAUDULENTLY

Respondent is charged with committing professional misconduct within the meaning of N.Y. Educ. Law Section 6530(2) (McKinney Supp. 1993) by practicing the profession fraudulently in that Petitioner charges:

2. The facts in Paragraph C and C(1).

THIRD THROUGH FIFTH SPECIFICATIONS  
FAILURE TO MAINTAIN ADEQUATE RECORDS



EXHIBIT "B"

TERMS OF PROBATION

1. M.D., during the period of probation, shall conduct himself in all ways in a manner befitting his professional status, and shall conform fully to the moral and professional standards of conduct imposed by law and by his profession;
2. Respondent shall submit written notification to the New York State Department of Health (NYSDOH), addressed to the Director, Office of Professional Medical Conduct, New York State Health Department, Corning Tower Building, 4th Floor, Empire State Plaza Albany, New York 12237 of any employment and practice, of Respondent's residence and telephone number, or any change in Respondent's residence and telephone number, or any proposed change in Respondent's employment or practice within or without the State of New York;
3. Respondent shall submit written proof from the Division of Professional Licensing Services (DPLS), New York State Education Department (NYSED), that Respondent has paid all registration fees due and owing to the NYSED and Respondent shall cooperate with and submit whatever papers are requested by DPLS in regard to said registration fees, said proof from DPLS to be submitted by Respondent to the New York State Department of Health, addressed to the Director, Office of Professional Medical Conduct, as aforesaid, no later than the first three months of the period of probation;
4. Respondent shall submit written proof to the NYSDOH, addressed to the Director, Office of Professional Medical Conduct, as aforesaid, that 1) Respondent is currently registered with the NYSED, unless Respondent submits written proof that Respondent has advised DPLS, NYSED, that Respondent is not engaging in the practice of Respondent's profession in the State of New York and does not desire to register, and that 2) Respondent has paid any fines which may have previously been imposed upon Respondent by the Board or by the Board of Regents; said proof of the above to be submitted no later than the first two months of the period of probation;
5. Any civil penalty not paid by the date prescribed herein shall be subject to all provisions of law relating to debt collection by the State of New York. 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).

6. The Respondent shall fully participate in, cooperate with and successfully complete a two part retraining program as a condition of probation. The retraining program shall consist of Phase I, screening examinations and evaluations conducted by the Physician Prescribed Educational Program ("PPEP"), a cooperative program of St. Joseph's Hospital Health Center and State University of New York Health Science Center, Syracuse, New York (hereinafter, "Phase I") and Phase II of the Pilot Physician Retraining Program, to be completed at a participating hospital in the New York City area (hereinafter "Phase II").
7. Respondent, within the first three months of the period of probation, shall complete Phase I at the Department of Family Medicine, 475 Irving Avenue No. 200, Syracuse, N.Y. 13210. Dr. William D. Grant, Director of the PPEP, shall inform Kathleen M. Tanner, Director of the Office of Professional Medical Conduct ("OPMC"), of Respondent's satisfactory completion of Phase I and of the results of Respondent's evaluation.
8. Upon completion of Phase I and within six months of the commencement of the period of probation, Respondent shall apply for and enroll in Phase II. Respondent shall be placed at one of the participating hospitals in the area for completion of Phase II, a course of retraining consistent with the findings made in Phase I. Respondent shall remain enrolled and shall fully participate in Phase II of the program for a period of not less than three months nor more than twelve months.
9. The elements of Phase II shall be determined by the participating institution upon reviewing the findings of Phase I and the results of any evaluation provided by OPMC. The length of the Phase II program shall be determined by the Phase II Preceptor assigned to the Respondent in consultation with the Director of OPMC.
10. Failure of the Respondent to be accepted into, fully cooperate with, or successfully complete Phase II will be deemed a violation of probation.
11. During Phase II, the Preceptor assigned to Respondent shall:
  - a. Submit monthly reports to OPMC certifying that Respondent is fully participating in Phase II program.
  - b. Report immediately to the Director of OPMC if respondent withdraws from the program and report promptly to OPMC any significant pattern of absences by respondent.

- c. At the conclusion of the retraining program submit to the Director of OPMC an assessment of the Overall progress made by the respondent toward remediation of all identified deficiencies.
12. During the 24 month period of probation beginning after completion of Phase II, Respondent's practice shall be monitored by a licensed physician ("Monitor") who shall review Respondent's professional performance and practice, and who
- a. Shall be selected by the Respondent, subject to the approval of the Director;
  - b. Shall be familiar with the terms of probation contained herein;
  - c. Shall meet bi-weekly with the Respondent during the first year of monitoring and monthly thereafter to discuss his private practice and review randomly selected office patient records and evaluate whether Respondent's care and treatment of patients conform with generally accepted standards of medical practice;
  - d. Shall not be a personal friend or relative of Respondent;
  - e. Shall submit to OPMC monthly reports during the first year of such monitoring and quarterly thereafter; and
  - f. Shall acknowledge in advance his/her willingness to comply with the above-mentioned reporting requirements by executing a written acknowledgement provided by OPMC.
  - g. Respondent's Phase II Preceptor shall be an acceptable Monitor.
13. At the discretion of the Director of OPMC, Respondent shall permit the Monitor or a representative of the Director access to and inspection of Respondent's patient records.
14. Respondent shall assume and bear all costs related to compliance with the Terms of Probation
15. Respondent shall comply with all terms, conditions, restrictions, and penalties to which he is subject pursuant to the order of the Board.
16. So long as there is full compliance with every term herein set forth, Respondent may continue to practice his or her aforementioned profession in accordance with the terms of probation; provided, however, that upon receipt of evidence

of noncompliance with, or any violation of these terms, the Director of the Office of Professional Medical Conduct and/or the Board may initiate a violation of probation proceeding and/or such other proceeding against Respondent as may be authorized pursuant to the Public Health Law.