

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

IN THE MATTER
OF
JUAN CARLOS PELLIN, M.D.

MODIFICATION
ORDER

BPMC No. #01-291

Upon the proposed Application for a Modification Order of **JUAN CARLOS PELLIN, M.D.**, (Respondent), that is made a part of this Modification Order, it is agreed and

ORDERED, that the attached Application and its terms are adopted and it is further

ORDERED, that this Modification Order shall be effective upon issuance by the Board, either by mailing, by first class mail, a copy of the Modification Order to Respondent at the address in the attached Application or by certified mail to Respondent's attorney or upon transmission via facsimile to Respondent or Respondent's attorney, whichever is earliest.

SO ORDERED.

DATED: 12-24-2008

Redacted Signature

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

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

IN THE MATTER
OF
JUAN CARLOS PELLIN, M.D.

APPLICATION FOR
MODIFICATION ORDER

JUAN CARLOS PELLIN, M.D., (Respondent) being duly sworn deposes and says:

That on or about March 22, 1974, I was licensed to practice as a physician in the State of New York, having been issued license number 119604 by the New York State Education Department.

My current address is Redacted Address

I am currently subject to Consent Order BPMC No. 01-291, (hereinafter "Original Order"), annexed hereto, made a part, hereof, and marked as Exhibit 1, that was issued on November 26, 2001.

I apply, hereby, to the State Board for Professional Medical Conduct for a Modification Order (hereinafter "Modification Order"), modifying the Original Order, as follows: to delete the paragraphs in the Original Order that state:

- " 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 60 months, with the last 57 months of said suspension to be stayed."
- " Pursuant to §230-a(9) of the Public Health Law, I shall be placed on probation for a period of 57 months, starting after the completion of the three month period of actual license suspension, subject to the terms set forth in Exhibit "B," attached hereto."
- " That except during periods of actual suspension, Respondent shall maintain active 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/or license; and"

substituting therefore:

" Respondent shall never activate his registration to practice medicine in New York state or seek to reapply for a license to practice medicine in New York state."

The Modification Order to be issued will not constitute a new disciplinary action against me, but will substitute the proposed language for the above described language in the Original Order.

I make this Application of my own free will and accord and not under duress, compulsion or restraint, and seek the anticipated benefit of the requested Modification. In consideration of the value to me of the acceptance of the Board of this Application, I knowingly waive the right to contest the Original Order or the Modification Order for which I apply, both administratively and judicially, and ask that the Board grant this Application.

I understand and agree that the attorney for the Bureau of Professional Medical Conduct, the Director of the Office of Professional Medical Conduct, and the Chair of the State Board for Professional Medical Conduct each retain complete discretion to either enter into the proposed Agreement and Modification Order, based upon my application, or to decline to do so. I further understand and agree that no prior or separate written or oral communication can limit that discretion.

AFFIRMED:

DATED: 12-17-08

Redacted Signature

JUAN CARLOS PELLIN, M.D.
Respondent

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

DATE: 18 Dec 2008

Redacted Signature _____

ROBERT BOGAN
Associate Counsel
Bureau of Professional Medical Conduct

DATE: 12/23/08

Redacted Signature _____

KEITH W. SERVIS
Director
Office of Professional Medical Conduct

EXHIBIT 1



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.
Commissioner
NYS Department of Health

Dennis P. Whalen
Executive Deputy Commissioner
NYS Department of Health

Dennis J. Graziano, Director
Office of Professional Medical Conduct

William P. Dillon, M.D.
Chair

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

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

November 28, 2001

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Juan Carlos Pellin, M.D.

Redacted Address

RE: License No. 119604

Dear Dr. Pellin:

Enclosed please find Order #BPMC 01-291 of the New York State Board for Professional Medical Conduct. This Order and any penalty provided therein goes into effect November 28, 2001.

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 1258
Empire State Plaza
Albany, New York 12237

Sincerely,

Redacted Signature

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

Enclosure

cc: Anthony Scher, Esq.
Wood and Scher
The Harwood Building
Scarsdale, New York 10583

Daniel Guenzburger, Esq.

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

IN THE MATTER
OF
JUAN CARLOS PELLIN, M.D.

CONSENT
ORDER
BPMC No. 01-291

Upon the proposed agreement of JUAN CARLOS PELLIN, 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: 11/26/01

Redacted Signature


WILLIAM P. DILLON, 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
JUAN CARLOS PELLIN, M.D.

CONSENT
AGREEMENT
AND
ORDER

BPMC No. 01-291

JUAN CARLOS PELLIN, M.D., representing all statements herein made to be true, deposes and says:

That on or about March 22, 1974 I was licensed to practice as a physician in the State of New York, having been issued License No. 119604 by the New York State Education Department.

My current address is-
Redacted Address 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 two specifications of professional misconduct.

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

I agree not to contest the first specification of the Statement of Charges insofar as that specification applies to factual allegations A, A1, A5, B, B1, B5, C, C1, C7, D, D1, D4, E, E1, E5, F, F1, F4, G, G1, G6, and I agree not to contest the twentieth through twenty-sixth specifications of the Statement of Charges, in full satisfaction of the charges against me. I hereby 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 60 months, with the last 57 months of said

suspension to be stayed.

Pursuant to §230-a(9) of the Public Health Law, I shall be placed on probation for a period of 57 months, starting after the completion of the three month period of actual license suspension, subject to the terms set forth in Exhibit "B," attached hereto.

In addition, I shall be subject to a fine in the amount of ten thousand dollars (\$10,000.00) pursuant to §230-a(7) and (9) of the Public Health Law, five thousand dollars (\$5,000.00) to be paid within 60 days of the effective date of this order; however if the Director of the the Office of Professional Conduct ("OPMC") determines, exercising reasonable discretion, that I have complied with and successfully completed the first year of probation, the remaining balance of the monetary fine (\$5,000) shall be forgiven in its entirety. Alternatively, in the event the Director of OPMC determines that I have not complied with and successfully completed my first year of probation, I shall pay the monetary fine remaining (\$5,000.00) within 30 days of being notified by the Director of OPMC of his determination of non-compliance.

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 active 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).

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.

Redacted Signature

DATED 10.29.01

JUAN CARLOS PELLIN, 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: 10/31/01

Redacted Signature

ANTHONY SCHER, ESQ.
Wood and Scher.
Attorney for Respondent

DATE: 11/6/01

Redacted Signature

Daniel Guenzburger
Associate Counsel
Bureau of Professional
Medical Conduct

DATE: 11/20/01

Redacted Signature

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
JUAN CARLOS PELLIN, M.D.

STATEMENT
OF
CHARGES

JUAN CARLOS PELLIN, M.D., the Respondent, was authorized to practice medicine in New York State on or about March 22, 1974, by the issuance of license number 119604 by the New York State Education Department.

FACTUAL ALLEGATIONS

- A. On or about September 16 and 25, 1996 and October 5 and 9, 1996, Respondent treated Patient A, a 44 year old female, at his office located at 2647 Fifth Avenue, Bay Shore, New York (Patients A through I are identified in the annexed appendix.) During the period of treatment regarding Patient A, Respondent:
1. Failed to take an adequate history.
 2. Inappropriately diagnosed the following:
 - a. Pelvic Inflammatory disease.
 - b. Endometriosis.
 3. Inappropriately ordered the following:
 - a. Electrocardiogram.

- b. Spirometry.
 - c. Pelvic Sonogram.

 - 4. Prescribed and/or administered the following without adequate indication:
 - a. Iron supplementation medication.
 - b. Depo-provera injections.

 - 5. Failed to maintain a record that accurately reflects the evaluation and treatment of Patient A.
- B. On or about September 16 and 25, 1996 and October 14 and 20, 1996, Respondent treated Patient B, a 30 year old female, at his office. During the period of treatment regarding Patient B, Respondent:
- 1. Failed to take an adequate history.

 - 2. Inappropriately ordered the following:
 - a. Electrocardiogram.
 - b. Spirometry.
 - c. Pelvic Sonogram.

 - 3. Inappropriately diagnosed pelvic inflammatory disease.

 - 4. Inappropriately prescribed Augmentin.

 - 5. Failed to maintain a record that accurately reflects the evaluation

and treatment of Patient B.

C. Respondent treated Patient C, a 33 year old female, on three occasions in September, 1996 at his office. During the period of treatment regarding Patient C, Respondent:

1. Failed to take an adequate history.
2. Inappropriately ordered the following:
 - a. Electrocardiogram.
 - b. Pulmonary Function Test.
 - c. Abdominal Sonogram.
 - d. Pelvic Sonogram.
3. Failed to appropriately evaluate Patient C for secondary infertility.
4. Failed to appropriately evaluate Patient C to rule out the possibility of gall bladder disease.
5. Inappropriately diagnosed pelvic Inflammatory disease.
6. Inappropriately prescribed Augmentin.
7. Failed to maintain a record that accurately reflects the evaluation and treatment of Patient C.

D. On or about August 23, 27 and 30, 1996 the Respondent treated Patient D, a 33 year old female, at his office. During the period of treatment regarding Patient D, Respondent:

1. Failed to take an adequate history.
2. Inappropriately ordered an electrocardiogram.
3. Inappropriately diagnosed a urinary tract infection.
4. Failed to maintain a record that accurately reflects the evaluation and treatment of Patient D.

E. On or about July 8, 10, and 12, 1996, Respondent treated Patient E, an 18 year old female, at his office. During the period of treatment regarding Patient E, Respondent:

1. Failed to take an adequate history.
2. Inappropriately ordered the following:
 - a. Electrocardiogram.
 - b. Spirometry.
3. Failed to order a stress test.
4. Failed to appropriately evaluate the Patient to rule out the possibility of a pulmonary embolus.

5. Failed to maintain a record that accurately reflects the evaluation and treatment of Patient E.

F. On or about August 21 and 27, 1996 and September 4 and 9, 1996, the Respondent treated Patient F, a 47 year old female, at his office.

Respondent:

1. Failed to take an adequate history.
2. Failed to appropriately rule out Addison's disease, a condition which Respondent had identified as a possible diagnosis.
3. Inappropriately ordered the following:
 - a. Electrocardiogram.
 - b. Abdominal Sonogram.
4. Failed to maintain a record that accurately reflects the evaluation and treatment of Patient F.

G. On or about May 15 and 29, 1996 and September 11 and 16, 1996, the Respondent treated Patient G, a 29 year old female, at his office.

Respondent:

1. Failed to take an adequate history.
2. Failed to perform an adequate physical examination, including

failing to perform a pelvic examination.

3. Failed to take a vaginal culture.
4. Inappropriately ordered the following:
 - a. Electrocardiogram.
 - b. Spirometry.
 - c. Echocardiogram.
 - d. Pelvic Sonogram.
5. Inappropriately prescribed Ciprofloxacin.
6. Failed to maintain a record that accurately reflects the evaluation and treatment of Patient G.

H. In or about May and June, 1996, the Respondent treated Patient H.
Respondent:

1. Failed to maintain a record that accurately reflects the evaluation and treatment of Patient H.

I. In or about September and October, 1996, the Respondent treated Patient I.
Respondent:

1. Failed to maintain a record that accurately reflects the evaluation and treatment of Patient I.

SPECIFICATION OF CHARGES

FIRST 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 two or more of the following:

1. Paragraphs A, A1, A2, A2(a), A2(b), A3, A3(a), A3(b), A3(c), A4, A4(a), A4(b) A5, B, B1, B2, B2(a), B2(b), B2(c), B3, B4, B5, C, C1, C2(a) C2(b) C2(c), C2(d), C3, C4, C5, C6, C7, D, D1, D2, D3, D4, E, E1, E2, E2(A) E2(B) E3, E4, E5, F, F1, F2, F3, F3(a) F3(b), F4, G, G1, G2, G3, G4, G4(a), G4(b), G4(c), G4(d), G5 and/ G6.

SECOND SPECIFICATION

INCOMPETENCE ON MORE THAN ONE OCCASION

Respondent is charged with committing professional misconduct as defined in N.Y. Educ. Law §6530(5) by practicing the profession of medicine with incompetence on more than one occasion as alleged in the facts of two or more of the following:

2. Paragraphs A, A1, A2, A2(a), A2(b), A3, A3(a), A3(b), A3(c), A4, A4(a), A4(b) A5, B, B1, B2, B2(a), B2(b), B2(c), B3, B4, B5, C, C1, C2(a) C2(b) C2(c), C2(d), C3, C4, C5, C6, C7, D, D1, D2, D3, D4, E, E1, E2, E2(A) E2(B) E3, E4, E5, F, F1, F2, F3, F3(a) F3(b), F4, G, G1, G2, G3, G4, G4(a), G4(b), G4(c), G4(d), G5 and/ G6.

THIRD THROUGH NINETEENTH SPECIFICATIONS
UNWARRANTED TESTS/TREATMENT

Respondent is charged with committing professional misconduct as defined in N.Y. Educ. Law §6530(35) by ordering of excessive tests, treatment, or use of treatment facilities not warranted by the condition of the patient, as alleged in the facts of:

3. Paragraphs A, A3 and A3(a).
4. Paragraphs A, A3 and A3(b).
5. Paragraphs A, A3 and A3(c).
6. Paragraphs B, B2 and B2(a).
7. Paragraphs B, B2 and B2(c).
8. Paragraphs B, B2 and B2(c).
9. Paragraphs C, C2 and C2(c).
10. Paragraphs C, C2 and C2(d).
11. Paragraphs D and D2.
12. Paragraphs E, E2 and E2(a).
13. Paragraphs E, E2 and E2(b).
14. Paragraphs F, F3 and F3(a).

15. Paragraphs F, F3 and F3(a).
16. Paragraphs G, G4 and G4(a).
17. Paragraphs G, G4 and G4(b).
18. Paragraphs G, G4 and G4(c).
19. Paragraphs G, G4 and G4(d).

TWENTIETH THROUGH TWENTY-EIGHTH SPECIFICATIONS
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:

20. A and A5.
21. B and B6.
22. C and C7.
23. D and D4.
24. E and E5.
25. F and F4.
26. G and G6.
27. H and H1.
28. I and I1.

DATED: October 2001
New York, New York

Roy Nemerson
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. Respondent acknowledges that if s/he commits professional misconduct as enumerated in New York State Education Law §6530 or §6531, those acts shall be deemed to be a violation of probation and that an action may be taken against Respondent's license pursuant to New York State Public Health Law §230(19).
2. Respondent shall submit written notification to the New York State Department of Health, addressed to the Director, Office of Professional Medical Conduct (OPMC), Hedley Park Place, 433 River Street Suite 303, Troy, New York 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 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. **Fine 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**

8. **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.**
9. **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.**