



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. Salle, Director
Office of Professional Medical Conduct
William J. Comiskey, Chief Counsel
Bureau 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

February 10, 1999

REGISTERED MAIL-RETURN RECEIPT REQUESTED

Joseph Leibman, M.D.
19 Sdai Chemed
DN Modiin
Kiriati Sefer, Israel

RE: License No. 170922

Dear Dr. Leibman:

Enclosed please find Order #BPMC 99-28 of the New York State Board for Professional Medical Conduct. This Order and any penalty provided therein goes into effect **February 10, 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 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: Sanford Rosenblum, Esq.
Rosenblum, Ronan, Kessler & Sarachan, LLP
110 Great Oaks Boulevard
Albany, New York 12203

Michael Hiser, Esq.

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

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IN THE MATTER : CONSENT
OF : AGREEMENT
JOSEPH B. LEIBMAN, M.D. : AND ORDER
: BPMC # 99-28

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JOSEPH B. LEIBMAN, M.D., being duly sworn, deposes and
says:

On or about July 10, 1987, I was licensed to practice as a
physician in the State of New York, having been issued license
number 170922 by the New York State Education Department.

My current address is 19 Sdai Chemed, D N Modiin, Kiriat
Sefer, Israel. I will advise the Director of the Office of
Professional Medical Conduct of any change of my address.

I understand that I have been charged with Eleven
Specifications of professional misconduct as set forth in the
Statement of Charges, annexed hereto, made a part hereof, and
marked as Exhibit A.

I hereby admit the Ninth Specification in that I admit
factual allegations A.3, C.1, and D.2.

I hereby agree to a penalty consisting of:

My license to practice medicine in New York shall be

actually suspended until such time that I enroll in and successfully complete a residency medical training program subject to the approval of the Director of the Office of Professional Medical Conduct; thereafter, my practice of medicine in New York State shall be limited to the specialty area of medicine for which I received residency training. Thereafter, for two years after my successful completion of the residency program as above, my practice of medicine in New York State shall be monitored upon such terms and conditions as set forth in the Terms of Probation, annexed hereto as Exhibit "B", which terms are made part of this Agreement and which terms shall begin on the effective date of the Order herein.

I agree that in the event that I am charged with professional misconduct in the future, this agreement and order shall be admitted into evidence in that proceeding.

I understand that, in the event that the Board does not grant this application, 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 State Board for Professional Medical Conduct grants my application, an order of the Chairperson of the Board shall be issued in accordance with same.

Sent By: ROSENBLUM, RONAN, KESSLER & SARACHAN; 1 914 371 0460 ;

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I make this application of my own free will and accord and not under duress, compulsion or restraint of any kind or manner.

[Handwritten Signature]
JOSEPH A. ROSENBLUM, N.D.

AGREED TO:

DATE: 1/26/99

Sanford Rosenblum
SANFORD ROSENBLUM, ESQ.
Attorney for Respondent

DATE: 1/28/99

Michael A. Hiser
MICHAEL A. HISER, ESQ.
ASSOCIATE COUNSEL
Bureau of Professional
Medical Conduct

DATE: January 29, 1999

Anne F. Baile
ANNE F. BAILE
DIRECTOR
Office of Professional
Medical Conduct

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

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IN THE MATTER :
OF :
JOSEPH B. LEIBMAN, M.D. : ORDER
:

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The undersigned has received the proposed agreement of JOSEPH B. LEIBMAN, M.D. (Respondent) for Consent Order, which application has been made a part of this Order, and agrees to such agreement. Accordingly, 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's attorney by certified mail, with an effective date being the date of mailing.

SO ORDERED.

DATED: 2/3/99



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

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IN THE MATTER : STATEMENT
OF : OF
JOSEPH B. LEIBMAN, M.D. : CHARGES

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JOSEPH B. LEIBMAN, M.D., the Respondent, was authorized to practice medicine in New York State on July 10, 1987 by the issuance of license number 170922 by the New York State Education Department.

FACTUAL ALLEGATIONS

A. Respondent provided medical care to Patient A (patients are identified in the Appendix), a female patient 79 years old, on February 7, 1996, at the Emergency Department of Mercy Hospital of Buffalo, 565 Abbott Road, Buffalo, New York 14220 (hereafter, "Mercy Hospital"). Patient A presented with a history of cardiac care and complaints of abdominal pain. Respondent's care of Patient A did not meet minimum standards of care, in that:

1. Respondent failed to obtain and/or record an adequate history of Patient A sufficient to identify her past history of, and treatment for, ischemic heart disease.
2. Respondent failed to perform or order adequate diagnostic tests, including an electrocardiogram.
3. Respondent failed to adequately treat Patient A for dehydration, despite having diagnosed that she was dehydrated.

B. Respondent provided medical care to Patient B, a female patient 38 years old, on December 26, 1995, at the Emergency Department of St. Elizabeth's Hospital. Patient B presented following a motor vehicle accident in which she had been a passenger, and in which an occupant of the other vehicle had been killed in a 45 mph impact. Patient B complained of left rib pain posteriorly. Respondent's care of Patient B did not meet minimum standards of care, in that:

1. Respondent failed to order appropriate and indicated diagnostic studies, including chest and rib x-ray studies, repeat blood work to check for internal bleeding, and a CT scan or ultrasound to evaluate the patient's upper abdominal pain.
2. Respondent failed to perform and/or record the performance of, an adequate evaluation of Patient B for possible splenic injury.
3. Respondent administered or ordered the administration of ativan for Patient B, which was not indicated given the patient's presenting complaints and history.

C. Respondent provided medical care to Patient C, a male patient 71 years old, on December 12, 1995, at the Emergency Department of St. Elizabeth's Hospital. Patient C presented with a history of one week of chest pressure, syncope, and a history of abdominal aortic aneurysm. His present complaints were of pain in his back and abdomen. Respondent's care of Patient C did not meet minimum standards of care, in that:

1. Respondent failed to promptly contact Patient C's attending surgeon, despite indications.
2. Respondent failed to order appropriate fluid or pressor therapy to control Patient C's blood pressure.

D. Respondent provided medical care to Patient D, a female patient 25 years old, on August 19, 1994, at the Emergency Department of Albany Memorial Hospital. Patient D presented with complaints of high fever, chills, vomiting, and right flank pain. Respondent's care of Patient D did not meet minimum standards of care, in that:

1. Respondent failed to order an oral intake challenge or any intravenous fluid hydration, despite the patient's history of vomiting.
2. Respondent failed to perform a pelvic examination of Patient D to assist in identifying the source of the patient's apparent infection.
3. Respondent failed to order appropriate diagnostic tests which were indicated given the patient's presenting symptoms.
4. Respondent failed to ensure that Patient D could tolerate oral antibiotics before discharging her to home, despite the patient's temperature of 102 degrees F. and flank tenderness.

SPECIFICATIONS OF MISCONDUCT

FIRST THROUGH SIXTH SPECIFICATIONS

GROSS NEGLIGENCE

Respondent is charged with committing professional misconduct as defined by New York Education Law §6530(4) by practicing the profession of medicine with gross negligence as alleged in the facts of the following:

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

4. The facts in Paragraphs D and D.1, D and D.2, D and D.3, and/or D and D.4.

SEVENTH THROUGH TWELFTH SPECIFICATIONS
GROSS INCOMPETENCE

Respondent is charged with committing professional misconduct as defined by New York Education Law §6530(6) by practicing the profession of medicine with gross incompetence as alleged in the facts of the following:

5. The facts in Paragraphs A and A.1 and/or A and A.2.
6. The facts in Paragraphs B and B.1 and/or B and B.2
7. The facts in Paragraphs C and C.1 and/or C and C.2.
8. The facts in Paragraphs D and D.1, D and D.2, D and D.3, and/or D and D.4.

NINTH SPECIFICATION
NEGLIGENCE ON MORE THAN ONE OCCASION

Respondent is charged with committing professional misconduct as defined by New York Education 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:

9. The facts in Paragraphs A and A.1, A and A.2, A and A.3, B and B.1, B and B.2, B and B.3, C and C.1, C and C.2, D and D.1, D and D.2, D and D.3, and/or D and D.4.

TENTH SPECIFICATION
INCOMPETENCE ON MORE THAN ONE OCCASION

Respondent is charged with committing professional misconduct as defined by New York Education 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:

10. The facts in Paragraphs A and A.1, A and A.2, A and A.3, B and B.1, B and B.2, B and B.3, C and C.1, C and C.2, D and D.1, D and D.2, D and D.3, and/or D and D.4.

ELEVENTH SPECIFICATION
FAILING TO MAINTAIN ACCURATE RECORDS

Respondent is charged with committing professional misconduct as defined by New York Education Law §6530(32) by failing to maintain a record for each patient that accurately reflects the evaluation and treatment of the patient, as alleged in the facts of the following:

11. The facts in Paragraphs A and A.1 and/or B and B.2.

DATED: *January 28*, 1999
Albany, New York


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. The notice shall be submitted within 30 days of the effective date of the Order herein. Further, Respondent shall submit written notification of 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. If any civil penalty is assessed and not paid by the date prescribed herein, the penalty 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 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.

PRACTICE MONITOR

6. For two years, commencing with the time that Respondent begins practicing medicine in New York following his successful completion of a residency training program, the Respondent shall practice medicine only while monitored by a licensed physician, board certified in the specialty area in which Respondent is practicing ("practice monitor") proposed by Respondent and subject to the written approval of the Director of OPMC.
 - a. Respondent shall make available to the monitor any and all records or access to the practice requested by the 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 20%, subject to a reduction in size at the discretion of the Director of OPMC) of records maintained by Respondent, including patient records, prescribing information and office records. 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 by the Respondent to cooperate with the monitor shall be reported within 24 hours to OPMC.
 - b. Respondent shall be solely responsible for all expenses associated with monitoring, including fees, if any, to the monitoring physician.
 - c. Respondent shall cause the practice monitor to report quarterly, in writing, to the Director of OPMC.
 - 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.
 - e. Any practice of medicine by the Respondent without an approved monitor in place will be deemed to be a violation of probation.
7. 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.