



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
Anne F. Saile, 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

September 25, 2000

CERTIFIED MAIL-RETURN RECEIPT REQUESTED

Michael Miller, M.D.
Apt. 934
116 West University Parkway
Baltimore, Maryland 21210

RE: License No. 195182

Dear Dr. Miller:

Enclosed please find Order #BPMC 00-264 of the New York State Board for Professional Medical Conduct. This Order and any penalty provided therein goes into effect September 25, 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: Paul Blumenthal, Esq.
Suite 301, West Court Building
2448 Holly Avenue
Annapolis, Maryland 21401-3177

Anthony M. Benigno, Esq.

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

IN THE MATTER
OF
MICHAEL MILLER, MD

APPLICATION TO
MODIFY ORDER AND
SURRENDER LICENSE
BPMC # 00-264

MICHAEL MILLER, M.D., says:

On or about March 17, 1994, I was licensed to practice medicine as a physician in the State of New York having been issued License No. 195182 by the New York State Education Department.

I am currently registered with the New York State Education Department to practice in the State of New York. My address is Apt. 934, 116 W. University Parkway, Baltimore, Maryland 21210.

I am subject to order No. 99-76, annexed hereto, made a part hereof, and marked as Exhibit 1. I am applying to the State Board for Professional Medical Conduct for an order (henceforth "Modification Surrender Order"), modifying the original order and to surrender my license to practice medicine in the State of New York. This application to modify the prior order is based upon the fact that I do not intend to practice medicine again in the State of New York, and upon the understanding that this modification/surrender order will be a revision of the original order, with the surrender predicated upon the same matter as was the original order. The modification/surrender order to be issued will not constitute a new disciplinary action against me, but will substitute license surrender for the sanction imposed by the original order.

I make this application to the State Board for Professional Medical Conduct (Board) and request that it be granted.

I understand that, in the event that the 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.

I make this application to the Board and request that it be granted by execution by the Chairperson of the Board of the attached modification/surrender order. I agree that, in the event the Board grants my application, an order shall be issued striking my name from the roster of physicians in the State of New York without further notice to me.

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 my prior consent order, I fully, freely waive any right I may have to appeal or otherwise challenge the validity of the said modification/surrender order.

DATE: Aug 17, 2000

Michael F. Miller, MD
Michael Miller, MD
RESPONDENT

DATE: _____

Paul Blumenthal, Esq.
Attorney for Respondent

DATE: 9/14/00

Anthony M. Benigno
Anthony M. Benigno, Esq.
Assistant Counsel

The undersigned agree to the attached application of the Respondent to modify the original order and to surrender his license to practice medicine in the State of New York.

DATE: September 19, 2000

Anne Saile
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
MICHAEL MILLER, MD

MODIFICATION/
SURRENDER ORDER
BPMC #

Upon the application of Michael Miller, MD (Respondent) to modify a prior order and to surrender his license as a physician in the State of New York, which application is made a part hereof, it is agreed to and

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

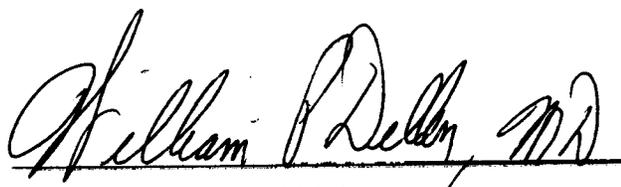
ORDERED, that Order BPMC 99-76 is modified to replace the sanction imposed with the surrender of Respondent's license to practice medicine in the State of New York; it is further

ORDERED, that Respondent's name shall be stricken from the roll of physicians in the State of New York; 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 via certified mail, whichever is earliest.

SO ORDERED

DATE: 9/22/00



WILLIAM P. DILLON, MD
Chairperson
State Board for Professional Medical Conduct



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

April 20, 1999

CERTIFIED MAIL-RETURN RECEIPT REQUESTED

Michael F. Miller, M.D.
Apt. 934
116 W. University Parkway
Baltimore, Maryland 21210

RE: License No. 195182

Dear Dr. Miller:

Enclosed please find Order #BPMC 99-76 of the New York State Board for Professional Medical Conduct. This Order and any penalty provided therein goes into effect **April 20, 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: John Herbert, Esq.
Harter, Secrest & Emery, LLP
700 Midtown Tower
Rochester, New York 14604-2070

Michael A. Hiser, Esq.

EXHIBIT 1

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

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IN THE MATTER : CONSENT
OF : AGREEMENT
MICHAEL F. MILLER, M.D. : AND ORDER
: BMC # 99-76

-----X

MICHAEL F. MILLER, M.D., being duly sworn, deposes and
says:

On or about March 17, 1994, I was licensed to practice as a
physician in the State of New York, having been issued license
number 195182 by the New York State Education Department.

My current address is Apt. 934, 116 W. University Parkway,
Baltimore, Maryland, 21210. 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 Four
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 Fourth Specification in that I admit
factual allegations A.1, B and B.1, C and C.2, and D and D.1.

I hereby agree to a penalty consisting of:

My license to practice medicine in New York shall be restricted to prevent me from practicing emergency medicine until such time that I enroll in and successfully complete at least a one year fellowship in emergency medicine that is subject to the approval of the Director of the Office of Professional Medical Conduct. Thereafter, for two years after my successful completion of the fellowship program as above, I shall be on probation and my practice of emergency 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.

Alternatively, my license to practice any medicine in New York shall be restricted to prevent me from practicing any medicine in New York until such time that I become board certified in Internal Medicine. Thereafter, for two years after I become board certified, I shall be on probation and 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".

I agree that I shall notify the Director of the Office of Professional Medical Conduct at least 60 days prior to my return to the return to the practice of medicine in New York State.

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.

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

Michael F. Miller, MD
MICHAEL F. MILLER, M.D.
RESPONDENT

AGREED TO:

DATE: 3/30/99



JOHN HERBERT, ESQ.
Attorney for Respondent

DATE: 3/31/99



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

DATE: April 2, 1999



ANNE F. SAILE
DIRECTOR
Office of Professional
Medical Conduct

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

-----X

IN THE MATTER :
OF :
MICHAEL F. MILLER, M.D. : ORDER
:

-----X

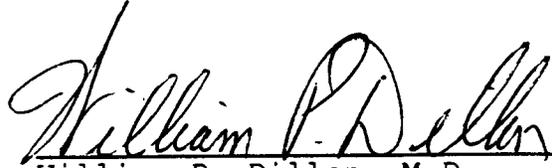
The undersigned has received the proposed agreement of MICHAEL F. MILLER, M.D. (Respondent) for Consent Order, which application has been made a part of this Order, and agrees to such agreement. Accordingly, it is agreed to and

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: 4/9/99



William P. Dillon, M.D.
Chair
State Board for 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 and monitoring 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 either (1) his successful completion of at least a one year fellowship in emergency medicine, or (2) the time when Respondent becomes board certified in internal medicine, the Respondent shall practice medicine only while monitored by a New York State licensed, board certified physician, ("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.

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

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IN THE MATTER : STATEMENT
OF : OF
MICHAEL FRANCIS MILLER, M.D. : CHARGES

-----X

MICHAEL FRANCIS MILLER, M.D., the Respondent, was authorized to practice medicine in New York State on March 17, 1994, by the issuance of license number 195182 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 October 1, 1996, through November 30, 1998, with a registered address of Apt. 934, 116 W, University Parkway, Baltimore, Maryland 21210.

FACTUAL ALLEGATIONS

A. The Respondent treated Patient A (patients are identified in Appendix A), a 52 year old female, at the Emergency Department of Myers Community Hospital, Middle Road, Sodus, New York 14551, (hereinafter Myers Community Hospital) on October 3, 1994. She complained of a headache, nausea, stiff neck and fever and reported that on the previous day while showering, she "felt like her head was going to explode, felt dizzy and had a brief episode of seeing white spots". She displayed moderate stiffness of the neck and hypertension.

1. The Respondent inappropriately discharged Patient A from the hospital on October 3, 1994, without sufficient tests to rule out the possibility of a

subarachnoid hemorrhage.

2. The Respondent failed to adequately evaluate and/or perform an adequate physical examination on Patient A and/or properly address Patient A's complaints prior to discharge.
3. The Respondent failed to arrange further evaluation of Patient A, to address this patient's condition and/or complaints.

B. Respondent treated Patient B, a 50 year old female, at Myers Community Hospital on May 27, 1994, who had suffered a stroke following an episode of chest pain. Patient B was not monitored properly while getting a CT scan.

1. The Respondent failed to ensure that Patient B was properly monitored when sent to radiology for a CT scan.
2. The Respondent inadequately supervised Patient B when she was sent to radiology for a CT scan.

C. Respondent treated Patient C a 41 year old male, at Myers Community Hospital, on February 4, 1995, who had been involved in a snowmobile accident earlier that day, striking his chest on the handlebars.

1. The Respondent inappropriately discharged Patient C from the hospital on February 4, 1995.
2. The Respondent failed to appropriately interpret and/or observe the pneumothorax on the chest x-rays of Patient C prior to his discharge on February 4, 1995.

D. Respondent treated Patient D, an 84 year old female, at Myers Community Hospital on December 29, 1994, when she presented complaints of nausea. Respondent ordered an electrocardiogram which was never performed.

1. The Respondent inappropriately discharged Patient D from the hospital on December 29, 1994, without the electrocardiogram having been performed.
2. The Respondent inadequately evaluated Patient D by failing to ascertain whether the electrocardiogram had been performed.
3. The Respondent inadequately evaluated Patient D by discharging her from the hospital without knowing the results of the electrocardiogram.

E. Respondent treated Patient E, a 48 year old male, at Myers Community Hospital on October 25, 1994, who complained of injury sustained three days previous when an apple hit his right eye. His right eye became red, watering, painful and photophobic.

1. The Respondent incorrectly diagnosed Patient E as having conjunctivitis when the proper diagnosis should have been traumatic iritis.
2. The Respondent failed to evaluate Patient E.
3. The Respondent failed to properly document his examination and treatment of Patient E.

F. Respondent treated Patient F, an 84 year old female, at the Emergency Room of Myers Community Hospital, on December 15, 1994, after suffering a myocardial infarction for which she was given a thrombolytic (Streptokinase) and a beta-blocker (Lopressor).

1. The Respondent improperly prescribed a beta-blocker for Patient F in light of her hypertension.
2. The Respondent inadequately monitored the vital signs of Patient F for over one hour. During this time both a thrombolytic and a beta-blocker of patient F when her blood pressure went down.

SPECIFICATION OF CHARGES
FIRST THROUGH THIRD SPECIFICATIONS
PRACTICE WITH GROSS NEGLIGENCE

The Respondent is charged with practicing the profession of medicine with gross negligence under the New York State Law, Section 6530, subdivision 4, as alleged in:

1. Paragraphs A and A.1, A and A.2, and A and A.3.
2. Paragraphs B and b.2, B and B.2
3. Paragraphs C and C.1, C and C.2.

FOURTH SPECIFICATION
PRACTICING WITH NEGLIGENCE ON MORE THAN ONE OCCASION

The Respondent is charged with practicing the profession of medicine with negligence on more than one occasion under the New York State Education Law §6530(3), in that Respondent committed the allegations as set forth in two or more of the following:

4. The facts in paragraphs A and A.1, A and A.2, A and A.3, B and B.2, B and B.2, C and C.1, C and C.2, D and D.1, D and D.2, D and D.3, E and E.1, E and E.2, E and E.3, F and F.1, F and F.2, F and F.3.

DATED: *February 26*, 1999
Albany, New York


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