



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.
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NYS Department of Health*

Dennis P. Whalen
*Executive Deputy Commissioner
NYS Department of Health*

Dennis J. Graziano, Director
Office of Professional Medical Conduct

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Chairman

Michael A. Gonzalez, R.P.A.
Vice Chair

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

Public

November 4, 2005

CERTIFIED MAIL-RETURN RECEIPT REQUESTED

Terrence Walton, M.D.
161 Madison Avenue
Suite 8SE
New York, NY 10003

Re: License No. 226984

Dear Dr. Walton:

Enclosed is a copy of Order #BPMC 05-254 of the New York State Board for Professional Medical Conduct. This order and any penalty provided therein goes into effect November 11, 2005.

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 the 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: Anthony Scher, Esq.
Wood & Scher
22 Bloomingdale Road
White Plains, NY 10605

Joseph Burke, Esq.
Russo & Burke
600 Third Avenue
New York, NY 10016

IN THE MATTER
OF
TERRENCE WALTON, M.D.

CONSENT
ORDER

BPMC No. #05-254

Upon the application of (Respondent) TERRENCE WALTON, M.D. in the attached Consent Agreement and Order, which is made a part of this Consent Order, it is

ORDERED, that the Consent Agreement, and its terms, are adopted and it is further

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

SO ORDERED.

DATE: 11-3-05


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

IN THE MATTER
OF
TERRENCE WALTON, M.D.

CONSENT
AGREEMENT
AND
ORDER

TERRENCE WALTON, M.D., representing that all of the following statements are true, deposes and says:

That on or about November 25, 2002, I was licensed to practice as a physician in the State of New York, and issued License No. 226984 by the New York State Education Department.

My current address is 161 Madison Avenue, Suite 8SE, New York, New York 10003, and I will advise the Director of the Office of Professional Medical Conduct of any change of address.

I understand that the New York State Board for Professional Medical Conduct has charged me with four specifications of professional misconduct.

A copy of the Statement of Charges, marked as Exhibit "A", is attached to and part of this Consent Agreement.

I agree not to contest the First Specification to the extent that it cites paragraphs A, A1, A4, B, B1, and B4, in full satisfaction of the charges against me and all similar matters, if any, currently under investigation by the OPMC, and 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 sixty months with said suspension shall be entirely stayed.

Pursuant to §230-a(9) of the Public Health Law, I shall be placed on probation for a period of sixty months, subject to the terms set forth in attached Exhibit "B." Upon my successful completion of three years of the period of probation, I may petition the Director for an early release therefrom and the Director shall exercise reasonable discretion in deciding whether to grant my petition.

I further agree that the Consent Order shall impose the following conditions:

That Respondent shall maintain active registration of Respondent's license with the New York State Education, Department Division of Professional Licensing Services (except during periods of actual suspension), and shall pay all registration fees. This condition shall take effect thirty (30) days after the Consent Order's effective date and will continue so long as Respondent remains licensed in New York State; and

That Respondent shall cooperate fully with the Office of Professional Medical Conduct (OPMC) in its administration and enforcement of this Order and in its investigations of matters concerning Respondent. Respondent shall respond in a timely manner to all OPMC requests for written periodic verification of Respondent's compliance with this Order. Respondent shall meet with a person designated by the Director of OPMC, as directed. Respondent shall respond promptly and provide all documents and information within Respondent's control, as directed. This condition shall take effect

upon the Board's issuance of the Consent Order and will continue so long as Respondent remains licensed in New York State.

I stipulate that my failure to comply with any conditions of this Order shall constitute misconduct as defined by New York State Education Law §5530(29).

I agree that if I am charged with professional misconduct in future, this Consent Agreement and Order shall be admitted into evidence in that proceeding.

I ask the Board to adopt this Consent Agreement.

I understand that if the Board does not adopt this Consent Agreement, none of its terms shall bind me or constitute an admission of any of the acts of alleged misconduct; this Consent Agreement shall not be used against me in any way and shall be kept in strict confidence; and the Board's denial shall be without prejudice to the pending disciplinary proceeding and the Board's final determination pursuant to the Public Health Law.

I agree that, if the Board adopts this Consent Agreement, the Chair of the Board shall issue a Consent Order in accordance with its terms. I agree that this Order shall take effect upon its issuance by the Board, either by mailing of a copy of the Consent Order by first class mail to me at the address in this Consent Agreement, or to my attorney by certified mail, OR upon facsimile transmission to me or my attorney, whichever is first. The Order, this agreement, and all attached Exhibits shall be public documents, with only patient identities, if any, redacted.

I stipulate that the proposed sanction and Order are authorized by Public

Health Law Sections 230 and 230-a and that the Board for Professional Medical Conduct and the Office of Professional Medical Conduct have the requisite powers to carry out all included terms. I ask the Board to adopt this Consent Agreement of my own free will and not under duress, compulsion or restraint. In consideration of the value to me of the Board's adoption of this Consent Agreement, allowing me to resolve this matter without the various risks and burdens of a hearing on the merits, I knowingly waive my right to contest the Consent Order for which I apply, whether administratively or judicially, I agree to be bound by the Consent Order, and ask that the Board adopt this Consent Agreement.

DATE 10-26-2005


TERRENCE WALTON, M.D.
RESPONDENT

The undersigned agree to Respondent's attached Consent Agreement and to its proposed penalty, terms and conditions.

DATE: 10/26/05


ANTHONY Z. SCHER, ESQ.
Attorney for Respondent

DATE: 11/01/2005


LESLIE A. EISENBERG
Associate Counsel
Bureau of Professional Medical Conduct

DATE: 11/01/2005

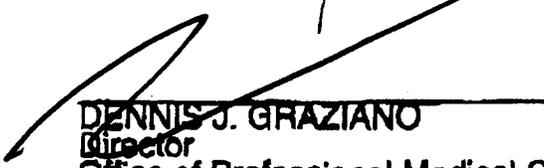

DENNIS J. GRAZIANO
Director
Office of Professional Medical Conduct

EXHIBIT "B"

Terms of Probation

1. Respondent's conduct shall conform to moral and professional standards of conduct and governing law. Any act of professional misconduct by Respondent as defined by New York State Education Law § 6530 or § 6531 shall constitute a violation of probation and may subject Respondent to an action pursuant to New York State Public Health Law § 230(19).
2. Respondent shall maintain active registration of Respondent's license (except during periods of actual suspension) with the New York State Education Department Division of Professional Licensing Services, and shall pay all registration fees.
3. Respondent shall provide the Director, Office of Professional Medical Conduct (OPMC), Hedley Park Place, 433 River Street Suite 303, Troy, New York 12180-2299 with the following information, in writing, and ensure that such information is kept current: a full description of Respondent's employment and practice; all professional and residential addresses and telephone numbers within and outside New York State; and all investigations, charges, convictions or disciplinary actions by any local, state or federal agency, institution or facility, within thirty days of each action.
4. Respondent shall cooperate fully with, and respond in a timely manner to, OPMC requests to provide written periodic verification of Respondent's compliance with the terms of this Consent Order. Upon the Director of OPMC's request, Respondent shall meet in person with the Director's designee.
5. Respondent's failure to pay any monetary penalty by the prescribed date shall subject Respondent to all provisions of law relating to debt collection by New York State, including but 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 § 171(27)]; State Finance Law § 18; CPLR § 5001; Executive Law § 32].
6. The probation period shall toll when Respondent is not engaged in active medical practice in New York State for a period of thirty consecutive days or more. Respondent shall notify the Director of OPMC, in writing, if Respondent is not currently engaged in, or intends to leave, active medical practice in New York State for a consecutive thirty day period. Respondent shall then notify the Director again at least fourteen days before returning to active practice. Upon Respondent's return to active practice in New York State, the probation period will resume and Respondent shall fulfill any unfulfilled probation terms and such additional requirements as the Director may impose as reasonably relate to the matters set forth in Exhibit "A" or are necessary to protect the public health.

7. The Director of OPMC may review Respondent's professional performance. This review may include but shall not be limited to: a review of office records, patient records and/or hospital charts; and interviews with or periodic visits with Respondent and staff at practice locations or OPMC offices.
8. Respondent shall maintain complete and legible medical records that accurately reflect the evaluation and treatment of patients and contain all information required by State rules and regulations concerning controlled substances.

PRACTICE MONITOR

9. Within thirty days of the effective date of the order, Respondent shall practice medicine 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 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 practices, at each and every location, on a random unannounced basis at least monthly and shall examine a selection (no fewer than 20) of records maintained by Respondent, including patient records, prescribing information and office records. The review will determine whether the Respondent's medical practice, including but not limited to his surgical and prescribing practices, 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.
 - 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. Proof of coverage shall be submitted to the Director of OPMC prior to Respondent's practice after the effective date of this Order.

SCOPE OF PRACTICE

10. Respondent may perform any surgeries requiring local anesthesia with sedation, regional anesthesia or general anesthesia only at a facility licensed pursuant to Article 28 of the N.Y. Public Law, with approved quality assurance program(s) in place. Respondent shall perform planned surgeries involving liposuction in excess of 1000 ml of aspirate and any other procedure to be performed in the same operative session only upon the written pre-approval of the Practice Monitor.

- a. Respondent shall attest to compliance with this term by signing and submitting to the Director of OPMC a declaration of his scope of practice, as directed by the Director.
- b. Respondent shall cause the administrator(s) of all hospitals and other health care facilities or practices with which Respondent is affiliated to submit a letter to the Director of OPMC attesting to Respondent's compliance with this term at each location.

Other minor procedures, including but not limited to soft tissue biopsies, mole removal, laceration repairs, laser surgery, hair removal, and setting of fractures may be performed in an office setting, upon the approval of the Practice Monitor, who shall consult with and regularly report to the Office of Professional Medical Conduct regarding the minor procedures so approved.

11. Respondent shall enroll in and complete a continuing education program in an area or areas as directed by the Director of OPMC. This continuing education program is subject to prior written approval and shall be completed within the first year of the probation period.
12. Respondent shall comply with this Order and all its terms, and shall bear all associated compliance costs. Upon receiving evidence of noncompliance with, or violation of, these terms, the Director of OPMC and/or the Board may initiate a violation of probation proceeding, and/or any other such proceeding authorized by law, against Respondent.

IN THE MATTER
OF
TERRENCE W. WALTON, M.D.

STATEMENT
OF
CHARGES

Terrence W. Walton, M.D., the Respondent, was authorized to practice medicine in New York State on or about November 25, 2002, by the issuance of license number 226984 by the New York State Education Department.

Respondent, a plastic surgeon, maintains a private office located at 161 Madison Avenue, Suite 8SE, New York, New York, where he sees patients post-operatively. At all times herein, Respondent performed surgery at Ridgewood Health and Beauty Center, a free-standing ambulatory surgical center located at 68-08A Forest Avenue, Queens. All patient names are identified in the annexed appendix.

FACTUAL ALLEGATIONS

- A. Respondent saw Patient A for a consultation on June 14, 2003. On June 21, 2003, Respondent performed trunk liposuction, secondary abdominoplasty and bilateral superior pedicle reduction mammoplasty on Patient A. The surgery lasted approximately 12 hours. At 11:45 PM, Patient A was brought to the recovery room with a blood pressure of 85/60 and Hemoglobin of 6 and Hematocrit of 17.1. She was pale and drowsy with tachycardia. On

June 22, 2003 at 5:45 PM, the patient was transferred to Wyckoff Hospital and admitted with a diagnosis of post-operative shock. Patient A was discharged from the hospital on June 27, 2003.

1. Respondent inappropriately performed multiple, complex procedures at the same time, placing the patient at increased risk.
2. Respondent's post-operative conduct deviated from accepted medical standards in that he:
 - a. left the facility;
 - b. failed to return to the facility to see or attend to the patient on June 22, 2003, and;
 - c. failed to arrange a timely transfer to a hospital.
3. Patient A's first post-operative visit to Respondent was July 10, 2003. On that day, Respondent evacuated a left breast hematoma. On July 11, 2003, Respondent evacuated foul-smelling non clotted blood from the right breast. Respondent failed to appropriately follow-up and treat Patient A in that:
 - a. Patient A's first post-operative visit was not timely;
 - b. Respondent failed to treat Patient A's breast hematomas in a timely fashion.
4. Respondent failed to maintain records that accurately reflect the care and treatment rendered to Patient A.

B. Respondent saw Patient B, a cigarette smoker, in consultation on June 7, 2003. On June 29, 2003, Respondent performed abdominoplasty and bilateral reduction mastopexy on Patient B. The surgery lasted approximately 11 hours. Patient B spent several hours in the recovery room where the left breast flap was observed due to ischemic condition. Although

the ischemic condition did not improve, Patient B was sent home. On July 10, 2003, Patient B arrived DOA at Wykoff Hospital due to a pulmonary embolism.

1. Respondent inappropriately performed multiple, complex procedures, at the same time, placing the patient at increased risk.
2. Patient B's first post-operative visit with Respondent was on July 10, 2003. On that day, Respondent noted full thickness breast skin flap loss and necrosis. Respondent failed to appropriately follow-up and treat Patient B in that:
 - a. Patient B's first post-operative visit was not timely.
 - b. Respondent failed to timely treat the patient.
 - c. Respondent inappropriately treated Patient B's ischemic breast flaps.
3. Respondent failed to maintain records that accurately reflect the care and treatment rendered to Patient B.

C. Respondent saw Patient C who previously had breast augmentation, for consultation on July 1, 2003, and July 10, 2003. Patient C complained about the feel of saline implants and asymmetry. On September 8, 2003, Respondent performed a bilateral mastopexy with silicone gel implants.

1. Respondent failed to address the breast asymmetry.
2. Post-operatively, on September 8, 2003, Respondent noted ecchymosis of the skin on Patient C's upper arm. On September 10, 2003, Patient C's left breast was swollen and there was a hematoma. On that day, Respondent operated on Patient C to evacuate the hematoma.

- a. Respondent failed to appreciate and treat the hematoma in a timely fashion.
3. Patient C developed a wound infection in the left breast and wound separation in both breasts. Respondent administered Epogen, Gentamycin and Rocephin intramuscularly. Respondent also administered Levaquin and prescribed both Rocephin and Lequavin.
 - a. Respondent inappropriately administered medications to Patient C.
 - b. Respondent administered and prescribed multiple antibiotics without medical necessity.

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. Paragraph A and its subparagraphs and Paragraph B and its subparagraphs and Paragraph C and its subparagraphs.

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. Paragraph A and its subparagraphs and Paragraph B and its subparagraphs and Paragraph C and its subparagraphs.

THIRD SPECIFICATION

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:

3. Paragraph A and A(4) and/or Paragraph B and B(3).

FOURTH SPECIFICATION

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:

4. Paragraph C and C(1) and C(3) and its subparagraphs.

DATED: September 30, 2005
New York, New York



Roy Nemerson
Deputy Counsel
Bureau of Professional
Medical Conduct