



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.
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Dennis P. Whalen
Executive Deputy Commissioner
NYS Department of Health
Anne F. Saile, Director
Office of Professional Medical Conduct

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Chair
Denise M. Bolan, R.P.A.
Vice Chair
Ansel R. Marks, M.D., J.D.
Executive Secretary

March 27, 2000

CERTIFIED MAIL-RETURN RECEIPT REQUESTED

Harvey Grable, M.D.
60 Plaza Street
Brooklyn, NY 11234

RE: License No. 095120

Dear Dr. Grable:

Enclosed please find Order #BPMC 00-91 of the New York State Board for Professional Medical Conduct. This Order and any penalty provided therein goes into effect **April 1, 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: David DeCerbo, Esq.
Nixon, Hargrave, Devans & Doyle
990 Stewart Avenue
Garden City, NY 11530

Daniel Guenzburger, Esq.

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

**IN THE MATTER
OF
HARVEY GRABLE, M.D.**

**CONSENT
AGREEMENT
AND
ORDER
BPMC #00-91**

**STATE OF NEW YORK)
COUNTY OF NASSAU) SO.:**

HARVEY GRABLE, M.D., (Respondent) being duly sworn, deposes and says:

That on or about August 18, 1965, I was licensed to practice as a physician in the State of New York, having been issued License No. 095120 by the New York State Education Department.

My current address is 60 Plaza Street, Brooklyn, NY 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 three specifications of professional misconduct.

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

I admit to the second and third specifications for falling to maintain a record which accurately reflects my evaluation of Patient A and B, in full satisfaction of the charges against me. I hereby agree to the following penalty:

Thirty six months suspension, thirty-five months stayed, (the one month period of active license suspension to commence on April 1, 2000) and three years probation to commence on May 1, 2000 pursuant to the terms annexed hereto as Exhibit

B.

I further agree that my license to practice medicine in the State of New York shall be limited pursuant to Public Health Law §230-a(3) to preclude me from testifying as a medical expert in any physician malpractice proceeding.

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 current 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)(McKinney Supp 2000).

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.


HARVEY GRABLE, M.D.
RESPONDENT

DATED 3/16/2000

Sworn to before me
on this 16th day of
March 2000


NOTARY

PATRICIA KING
NOTARY PUBLIC, State of New York
No. 30-4841101
Qualified in Nassau County
Commission Expires Aug. 15, 2000

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

DATE: 3/15/00


DAVID DECERBO, ESQ.
Nixon, Hargrave, Devan and Doyle, LLP
Attorney for Respondent

DATE: 3/16/00


DANIEL GUENZBURGER
Associate Counsel
Bureau of Professional
Medical Conduct

DATE: 3/17/00


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
HARVEY GRABLE, M.D.**

**CONSENT
ORDER**

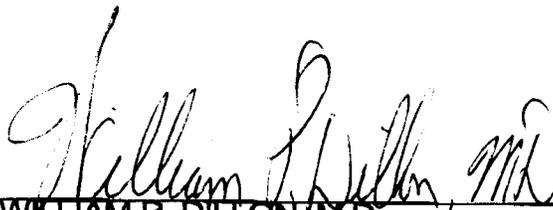
Upon the proposed agreement of HARVEY GRABLE, M.D. (Respondent) for Consent Order, which application is made a part hereof, it is agreed to and

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: 3/22/00


WILLIAM P. DILLON, M.D.
Chair
State Board for Professional
Medical Conduct

MAR-16-2000 16:17
MAR-10-2000 15:44

NYS HEALTH DEPT DLA NYC
NYS HEALTH DEPT DLA NYC

212 268 6735 P.10/13
212 268 6735

"EXHIBIT A"

03/10/00 FRI 15:28 [TX/RX NO 8867]

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

**IN THE MATTER
OF
HARVEY GRABLE, M.D.**

**STATEMENT
OF
CHARGES**

HARVEY GRABLE, M.D., the Respondent, was authorized to practice medicine in New York State on or about August 18, 1965 by the issuance of license number 095120 by the New York State Education Department.

FACTUAL ALLEGATIONS

- A. On or about October 25, 1990, Respondent, a board certified orthopaedist with an office at 60 Plaza Street, Brooklyn, NY, performed an Independent Medical Examination ("IME") on Patient A for alleged injuries to the cervical spine sustained in a motor vehicle accident on March 8, 1988. Respondent:**
- 1. Failed to perform an adequate orthopaedic evaluation.**
 - 2. Failed to maintain an adequate record that accurately reflects his evaluation.**
- B. On or about June 20, 1995 Respondent performed an IME on Patient B for alleged injuries to cervical spine radiating to the left upper extremity, head and low back, pain radiating to both lower extremities, pain in the left elbow, and headaches sustained in a motor vehicle accident on January 28, 1994. Respondent:**
- 1. Failed to perform an adequate orthopaedic evaluation.**
 - 2. Failed to maintain an adequate record that accurately reflect his evaluation.**

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)(McKinney Supp. 2000) 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, B, B1, and/or B2.

SECOND AND THIRD SPECIFICATION

FAILURE TO MAINTAIN RECORDS

Respondent is charged with committing professional misconduct as defined in N.Y. Educ. Law §6530(32)(McKinney Supp. 2000) 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:

2. Paragraphs A and A2.
3. Paragraphs B and B2.

DATED: January , 2000
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.
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, 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. 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.
4. 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, transcripts of any proceeding in which Respondent testifies as a medical expert witness, interviews with or periodic visits with Respondent and his/her staff at practice locations or OPMC offices. Upon request of the Office of Professional Medical Conduct, the Respondent shall provide a list of all proceedings in which he has testified as a medical expert, including depositions, administrative hearings and court proceedings.
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.
6. 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.