



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

December 21, 2000

CERTIFIED MAIL-RETURN RECEIPT REQUESTED

Jay Arthur Cherner, M.D.
3491 Buckhead Loop
Atlanta, GA 30326-1513

RE: License No. 139737

Dear Dr. Cherner:

Enclosed please find Order #BPMC 00-348 of the New York State Board for Professional Medical Conduct. This Order and any penalty provided therein goes into effect **December 21, 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: Barry Gold, Esq.
90 State Street, Suite 1500
Albany, NY 12207

Robert Bogan, Esq.

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

IN THE MATTER

SURRENDER

OF

ORDER

**JAY ARTHUR CHERNER, M.D.
CO-00-03-1456-A**

BPMC #00-348

JAY ARTHUR CHERNER, M.D., says:

On or about July 21, 1979, I was licensed to practice medicine as a physician in the State of New York having been issued License No. 139737 by the New York State Education Department. I currently reside at 3491 Buckhead Loop, Atlanta, Georgia 30326-1513. I am not currently registered with the New York State Education Department to practice as a physician in the State of New York.

I understand that the New York State Board for Professional Medical Conduct has charged me with two (2) specifications of professional misconduct as set forth in the Statement of Charges, annexed hereto, made a part hereof, and marked as Exhibit "A."

I have not practiced medicine in the state of New York in over twenty years and I do not intend to return to practice medicine in the state of New York. I, therefore, am applying to the State Board for Professional Medical Conduct for an agreement to allow me to surrender my license as a physician in the State of New York and request that the Board issue this Surrender Order.

I, hereby, agree not to contest the two (2) specifications and Factual Allegations A and B (1) set forth in the Statement of Charges (Exhibit A), based on a Georgia action involving one patient in Georgia in December 1996.

I understand that, in the event that this proposed agreement is not granted by the State Board for Professional Medical Conduct, 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

proposed agreement 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 State Board for Professional Medical Conduct shall be made without prejudice to the continuance of any disciplinary proceeding and the final determination by a Committee on Professional Medical Conduct 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 upon issuance by the Board, which may be accomplished by mailing, by first class mail, a copy of the Order to me at the address set forth above, or to my attorney, or upon transmission via facsimile to me or my attorney, whichever is first.

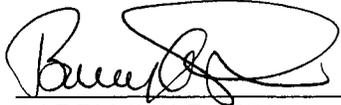
I am making this agreement of my own free will and accord and not under duress, compulsion, or restraint of any kind of manner.

Date: December 5th, 2000

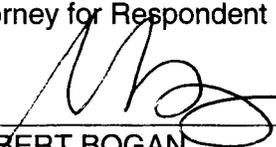

JAY ARTHUR CHERNER, M.D.
Respondent

AGREED TO:

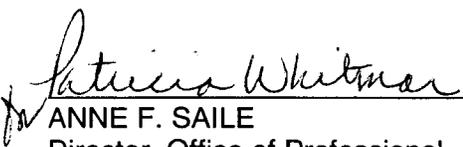
Date: December 8, 2000


BARRY GOLD, ESQ.
Attorney for Respondent

Date: 11 December, 2000


ROBERT BOGAN
Associate Counsel
Bureau of Professional Medical
Conduct

Date: 12/12, 2000


ANNE F. SAILE
Director, Office of Professional
Medical Conduct

ORDER

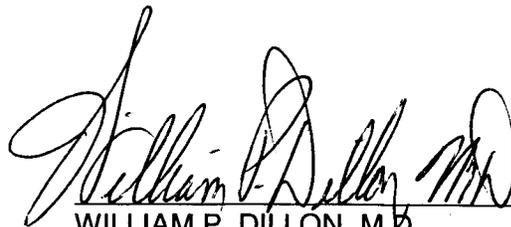
Upon the proposed agreement of **JAY ARTHUR CHERNER, M.D.**, to Surrender his license as a physician in the State of New York, which proposed agreement is made a part hereof, it is AGREED TO and

ORDERED, that the proposed agreement and the provisions thereof are hereby adopted; it is further

ORDERED, that the name of the Respondent be stricken from the roster of physicians in the State of New York; 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 to Respondent at the addresses set forth in this agreement, or to Respondent's attorney, or upon transmission via facsimile to Respondent or Respondent's attorney, whichever is earliest.

DATED: 12/16, 2000



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

"Exhibit"

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

**IN THE MATTER
OF
JAY ARTHUR CHERNER, M.D.**

**STATEMENT
OF
CHARGES**

JAY ARTHUR CHERNER, M.D., the Respondent, was authorized to practice medicine in New York state on July 21, 1979, by the issuance of license number 139737 by the New York State Education Department.

FACTUAL ALLEGATIONS

A. On or about March 3, 2000, the Composite State Board of Medical Examiners, State of Georgia (hereinafter "Georgia Board"), by a Public Consent Order (hereinafter "Georgia Order"), publicly reprimanded the Respondent, and ordered him to complete thirty (30) hours of Continuing Medical Education (CME) training and to pay a \$5,000.00 fine, based on his failure to respond appropriately to an unstable patient's deteriorating vital signs.

B. The conduct resulting in the Georgia Board's disciplinary action against Respondent would constitute misconduct under the laws of New York state, pursuant to the following sections of New York state law:

1. New York Education Law §6530(3) (negligence on more than one occasion);
2. New York Education Law §6530(4) (gross negligence);
3. New York Education Law §6530(5) (incompetence on more than one occasion); and/or

4. New York Education Law §6530(6) (gross incompetence).

SPECIFICATION
FIRST SPECIFICATION

Respondent violated New York Education Law §6530(9)(b) by having been found guilty of improper professional practice or professional misconduct by a duly authorized professional disciplinary agency of another state, where the conduct upon which the finding was based, would, if committed in New York state, constitute professional misconduct under the laws of New York state, in that Petitioner charges:

1. The facts in paragraphs A and/or B.

SECOND SPECIFICATION

Respondent violated New York Education Law §6530(9)(d) by reason of having had disciplinary action taken, after a disciplinary action was instituted by a duly authorized professional disciplinary agency of another state, where the conduct resulting in the disciplinary action, would, if committed in New York state, constitute professional misconduct under the laws of New York state, in that Petitioner charges:

2. The facts in paragraphs A and/or B.

DATED: *Aug. 11*, 2000
Albany, New York


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