



***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*

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*Executive Deputy Commissioner  
NYS Department of Health*

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*Office of Professional Medical Conduct*

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*Vice Chair*

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

July 9, 2001

***CERTIFIED MAIL-RETURN RECEIPT REQUESTED***

Jacob M. Fein, M.D.  
95 New Hackensack Road  
Poughkeepsie, NY 12603

RE: License No. 096577

Dear Dr. Fein:

Enclosed please find Order #BPMC 01-152 of the New York State Board for Professional Medical Conduct. This Order and any penalty provided therein goes into effect July 9, 2001.

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: Nathan L. Dembion, Esq.  
Nathan L. Dembin and Assoc., P.C.  
225 Broadway, Suite 1400  
New York, NY 10007

Michael McTighe, Esq.

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

IN THE MATTER  
OF  
JACOB M. FEIN, M.D.

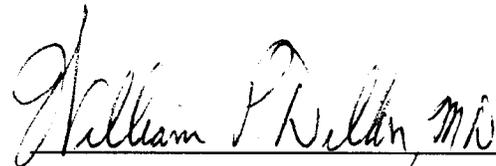
CONSENT  
ORDER  
BPMC No. 01-152

Upon the proposed agreement of JACOB M. FEIN, 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: 7/2/01



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

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

IN THE MATTER  
OF  
JACOB M. FEIN, M.D.

CONSENT  
AGREEMENT WITH  
SURRENDER OF  
CLINICAL  
PRIVILEGES  
AND  
ORDER

JACOB M. FEIN, M.D., says:

That on or about June 22, 1966, I was licensed to practice as a physician in the State of New York, having been issued License No. 096577 by the New York State Education Department.

My current address is 95 New Hackensack Road, Poughkeepsie, NY12603, 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 ten specifications of professional misconduct as set forth in the Statement of Charges annexed hereto, made a part hereof, and marked as Exhibit "A", including an Eighth Specification [practicing the profession of medicine with negligence on more than one occasion, as defined by Educ.Law Sec. 6530(3)]. In consideration of the Petitioner's acceptance of this application to dismiss the charges in Exhibit "A", and all matters known to Petitioner pending investigation as of the effective date of this order, with prejudice, I hereby agree not to contest the Eighth Specifications in Exhibit "A", and in full satisfaction of the charges against me I hereby agree to the limitation of my license to practice medicine in the State of New York pursuant to Public Health Law §230-a(3) set forth in Exhibit "B".

I further agree that the Consent Order for which I hereby apply shall impose a condition that, except during periods of actual suspension, I maintain current registration of my 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

continuing until the full term of the Order has run, and until any associated period of probation and all probation terms have been completed and satisfied. I hereby stipulate that any failure by me to comply with such condition shall constitute misconduct as defined by New York State Education Law §6530(29).

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 Chair 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.

DATE: 3/3/01

  
\_\_\_\_\_  
JACOB M. FEIN, M.D.  
Respondent

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

DATE: 2/25/01



NATHAN L. DEMBIN, ESQ.  
Attorney for Respondent

DATE: 3/13/01



MICHAEL J. MCTIGHE  
Senior Attorney  
Bureau of Professional  
Medical Conduct

DATE: 6/21/01



DENNIS J. GRAZIANO  
Director  
Office of Professional  
Medical Conduct

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

-----X  
IN THE MATTER : STATEMENT  
OF : OF  
JACOB M. FEIN, M.D. : CHARGES  
-----X

JACOB M. FEIN, M.D., the Respondent, was authorized to practice medicine in New York State on June 22, 1966, by the issuance of license number 096577 by the New York State Education Department. Respondent is currently registered with the New York State Education Department to practice medicine for the period March 1, 2000 through February 28, 2002, with a registration address of 97 Fulton Avenue, Poughkeepsie, NY 12603-2807.

**FACTUAL ALLEGATIONS**

A. Respondent provided medical care to Patient A (patients are identified in the Appendix) commencing on or about August 21, 1996, at 97 Fulton Avenue, Poughkeepsie, NY 12603. To treat Patient A's back pain Respondent administered epidural steroid injections at eleven treatment sessions from September 25, 1996, to December 13, 1996. Respondent's care of Patient A deviated from accepted standards of medical care in the following respects:

1. Respondent administered approximately 44 epidural steroid injections during 11 weekly sessions, thereby exposing the patient unnecessarily to the adverse effects of a cumulative dose of steroids, as well as the avoidable risks of repeated entries into the epidural space.
2. Respondent administered multiple epidural steroid injections at each of the 11 sessions, thereby exposing the patient unnecessarily to the avoidable risks of repeated entries into the epidural space.
3. In administering the epidural injections Respondent failed to adhere to appropriate sterile techniques.
4. Respondent fraudulently billed for the epidural steroid injections by reporting a greater number of injections than he in fact performed, as well as by upgrading the CPT code for the injections, thereby inappropriately increasing reimbursement for the services.

Exhibit "A"

B. Respondent provided medical care to Patient B commencing on or about May 13, 1998, at 97 Fulton Avenue, Poughkeepsie, NY 12603. To treat Patient B's neck pain Respondent administered epidural steroid injections at five treatment sessions from May 22, 1998 to June 19, 1998. Respondent's care of Patient B deviated from accepted standards of medical care in the following respects:

1. Respondent administered approximately 17 epidural steroid injections during five weekly sessions, thereby exposing the patient unnecessarily to the adverse effects of a cumulative dose of steroids, as well as the avoidable risks of repeated entries into the epidural space.
2. Respondent administered multiple epidural steroid injections at each of the five sessions, thereby exposing the patient unnecessarily to the avoidable risks of repeated entries into the epidural space.
3. In administering the epidural injections Respondent failed to adhere to appropriate sterile techniques.
4. Respondent fraudulently billed for the epidural steroid injections by reporting a greater number of injections than he in fact performed, as well as by upgrading the CPT code for the injections, thereby inappropriately increasing reimbursement for the services.

C. Respondent provided medical care to Patient C commencing on or about March 17, 1997, at 97 Fulton Avenue, Poughkeepsie, NY 12603. To treat Patient C's back pain Respondent administered epidural steroid injections at six treatment sessions from June 6, 1997 to July 18, 1997. Respondent's care of Patient C deviated from accepted standards of medical care in the following respects:

1. Respondent administered approximately 24 epidural steroid injections during six weekly sessions, thereby exposing the patient unnecessarily to the adverse effects of a cumulative dose of steroids, as well as the avoidable risks of repeated entries into the epidural space.
2. Respondent administered multiple epidural steroid injections at each of the six sessions, thereby exposing the patient unnecessarily to the avoidable risks of repeated entries into the epidural space.
3. In administering the epidural injections Respondent failed to adhere to appropriate sterile techniques.
4. Respondent fraudulently billed for the epidural steroid injections by reporting a greater number of injections than he in fact performed, as well as by upgrading the CPT code for the injections, thereby inappropriately increasing reimbursement for the services.

D. Respondent provided medical care to Patient D commencing on or about December 16, 1998, at 97 Fulton Avenue, Poughkeepsie, NY 12603. Respondent performed epidural steroid injections at three treatment sessions to treat pain associated with Patient D's injuries. Respondent's care of Patient D deviated from accepted standards of medical care in the following respects:

1. Respondent administered approximately six epidural steroid injections during three consecutive weekly sessions, thereby exposing the patient unnecessarily to the adverse effects of a cumulative dose of steroids, as well as the avoidable risks of repeated entries into the epidural space.
2. Respondent administered multiple epidural steroid injections at each of the three sessions, thereby exposing the patient unnecessarily to the avoidable risks of repeated entries into the epidural space.
3. In administering the epidural injections Respondent failed to adhere to appropriate sterile techniques.
4. Respondent fraudulently billed for the epidural steroid injections by reporting a greater number of injections than he in fact performed.

## **SPECIFICATIONS**

### **FIRST THROUGH SIXTH SPECIFICATIONS** **(Gross Negligence)**

Respondent is charged with professional misconduct as defined by N.Y. Education Law Sec. 6530(4) by practicing the profession of medicine with gross negligence on a particular occasion as alleged in the facts of the following:

1. Paragraphs A and A-1.
2. Paragraphs A and A-2.
3. Paragraphs B and B-1.
4. Paragraphs B and B-2.
5. Paragraphs C and C-1.
6. Paragraphs C and C-2.

**SEVENTH SPECIFICATION**  
**(Gross Incompetence)**

Respondent is charged with professional misconduct as defined by N.Y. Education Law Sec. 6530(6) by practicing the profession of medicine with gross incompetence as alleged in the facts of the following:

7. Paragraphs A and A-1, A and A-2, B and B-1, B and B-2, C and C-1, and/or C and C-2.

**EIGHTH SPECIFICATION**  
**(Negligence On More Than One Occasion)**

Respondent is charged with professional misconduct as defined by N.Y. Education Law Sec. 6530(3) by practicing the profession of medicine with negligence on more than one occasion as alleged in the facts of the following:

8. 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, C and C-3, D and D-1, D and D-2, and/or D and D-3.

**NINTH SPECIFICATION**  
**(Incompetence On More Than One Occasion)**

Respondent is charged with professional misconduct as defined by N.Y. Education Law Sec. 6530(5) by practicing the profession of medicine with incompetence on more than one occasion as alleged in the facts of the following:

9. 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, C and C-3, D and D-1, D and D-2, and/or D and D-3.

**TENTH SPECIFICATION**  
**(Practicing The Profession Fraudulently)**

Respondent is charged with professional misconduct as defined by N.Y. Education Law Sec. 6530(2) by practicing the profession of medicine fraudulently, as alleged in the facts of the following:

10. Paragraphs A and A-4, B and B-4, C and C-4, and/or D and D-4.

DATED August 30, 2000  
Albany, New York

  
BRIAN M. MURPHY  
Chief Counsel  
Bureau of Professional  
Medical Conduct

Exhibit "B"

My license to practice medicine in the State of New York shall be limited pursuant to Public Health Law § 230-a(3). In recognition of my past service to the communities I have served as a practicing physician and surgeon, I may continue my activities as a volunteer teacher of medical residents at the teaching hospital of Westchester County Medical Center. I shall not conduct any clinical practice or provide any direct patient care, treatment, or contact, nor shall I diagnose, treat, operate, or prescribe for any human disease, pain, injury, deformity or physical condition.