



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

April 7, 2000

**CERTIFIED MAIL-RETURN RECEIPT REQUESTED**

Robert Thornton Gilman, M.D.  
PO Box 15  
Mineville, NY 12956

RE: License No. 118545

Dear Dr. Gilman:

Enclosed please find Order #BPMC 00-105 of the New York State Board for Professional Medical Conduct. This Order and any penalty provided therein goes into effect **April 7, 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: William L. Owens, Esq.  
Stafford, Trombley, Owens & Curtin, P.C.  
1 Cumberland Avenue  
PO Box 2947  
Plattsburgh, NY 12901-0269

Bradley Mohr, Esq.

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

IN THE MATTER  
OF  
ROBERT THORNTON GILMAN, M.D.

CONSENT  
AGREEMENT  
FOR SURRENDER OF  
CLINICAL  
PRIVILEGES  
AND  
ORDER

BPMC #00-105

Robert Thornton Gilman, M.D., (Respondent) says:

That in or about 1973, I was licensed to practice as a physician in the State of New York, having been issued License No. 118545 by the New York State Education Department.

My current address is PO Box 15, Mineville, New York 12956, 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 four specifications of professional misconduct.

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

I agree not to contest the first specification, in full satisfaction of the charges against me. I hereby agree to the following:

My license to practice medicine in the State of New York shall be permanently limited, pursuant to section 230-a of the Public Health Law, to preclude the practice of medicine. I shall be precluded from patient diagnosing, treating, prescribing or operating for any human condition. I shall, hereafter, be limited

to consulting on medical issues through the review of records.

I agree to comply with the terms of practice limitation attached hereto as Exhibit B.

I further agree that the Consent Order for which I hereby apply shall impose a condition that Respondent shall change his registration status to "inactive" with the New York State Education Department Division of Professional Licensing Services and provide proof of such change to the Director of the Office of Professional Medical Conduct within thirty days of the effective date of this Order. Failure to comply with such condition shall constitute misconduct as defined by New York State Education Law section 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.

This Agreement and Order shall resolve and conclude any investigation, complaint and charge currently pending within the Office of the State Board of Professional Medical Conduct regarding any matter related to Respondent.

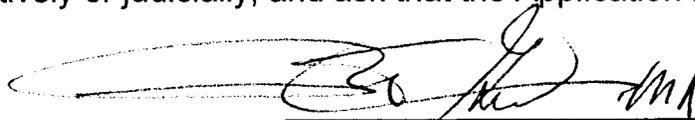
I hereby make this Application to the State Board for Professional Medical Conduct (the Board) and request that it be granted.

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.

AFFIRMED:



ROBERT THORTON GILMAN, M.D.  
Respondent

DATED 3/14/00

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

DATE: 3/24/2000

  
\_\_\_\_\_  
WILLIAM L. OWENS  
Attorney for Respondent

DATE: 3/27/00

  
\_\_\_\_\_  
BRADLEY MOHR  
Senior Attorney  
Bureau of Professional  
Medical Conduct

DATE: 4/3/00

  
\_\_\_\_\_  
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  
ROBERT THORNTON GILMAN, M.D.**

**CONSENT  
AGREEMENT  
FOR SURRENDER OF  
CLINICAL PRIVILEGES  
AND  
ORDER**

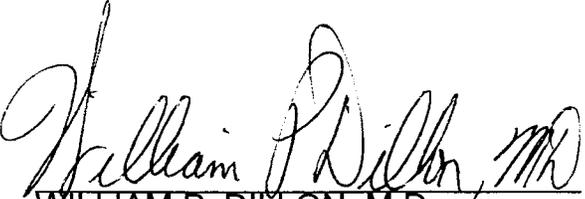
Upon the proposed agreement of Robert Thornton Gilman, M.D. (Respondent) for Consent Order, which application is made a part hereof, it is agreed to and

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: 4/5/00

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

**"Exhibit A"**

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

-----X

IN THE MATTER : STATEMENT  
OF : OF  
ROBERT THORNTON GILMAN, M.D. : CHARGES

-----X

Robert Thornton Gilman, M.D., Respondent, was authorized to practice medicine in New York State on 1973 by the issuance of license number 118545 by the New York State Education Department. Respondent is currently registered with the New York State Education Department to practice medicine.

**FACTUAL ALLEGATIONS**

A. Respondent treated Patient A (see attached Appendix A), a male, DOB 6-24-51, with a history of low back pain, Hepatitis B and C, pancreatitis, gastrointestinal bleeds and alcohol/multi-substance abuse/dependency, presenting with headaches, at Respondent's medical office at the Mineville Health Center and Westport Health Center, from on or about February 20, 1996 to May 11, 1998. Respondent's care and treatment failed to meet acceptable standards of care, in that:

1. Respondent failed to obtain and/or document an adequate medical history.
2. Respondent failed to perform and/or document an adequate initial physical examination.
3. Respondent failed to maintain a complete and/or accurate medical record.
4. Respondent failed to adequately evaluate, monitor and/or treat the patient's alcohol and substance abuse problems.
5. Respondent failed to adequately evaluate, monitor and/or treat the patient's headaches by inappropriately prescribing large doses of acetaminophen subjecting the patient to a high risk of liver damage.
6. Respondent inappropriately prescribed controlled substances to an addict or habitual user of controlled substances.
7. Respondent prescribed the following controlled substances without adequate indication in excessive quantities and for an excessive period of time: Percocet (oxycodone and acetaminophen), a Schedule II Controlled Substance; Lorcet

(hydrocodone and acetaminophen), a Schedule II Controlled Substance; Oxycontin (oxycodone), a Schedule II Controlled Substance and Vicodin (hydrocodone bitartrate) a Schedule III Controlled Substance.

B. Respondent treated Patient B (see attached Appendix A), a male, DOB 12-5-68, presenting with post surgical low back pain and a history of heroin addiction at the Mineville Health Center and Westport Health Center, from on or about October 18, 1996 to April 28, 1999. Respondent's care and treatment failed to meet acceptable standards of care, in that:

1. Respondent failed to obtain and/or document an adequate medical history.
2. Respondent failed to perform and/or document an adequate initial physical examination.
3. Respondent failed to maintain a complete and/or accurate medical record.
4. Respondent failed to adequately evaluate, monitor and/or treat the patient's substance abuse problems.

5. Respondent inappropriately prescribed controlled substances to an addict or habitual user of controlled substances.
6. Respondent prescribed the following<sup>5</sup> controlled substances without adequate indication in excessive quantities and for an excessive period of time: Lorcet (hydrocodone and cetaminophen), a Schedule II Controlled Substance and Oxycontin (oxycodone), a Schedule II Controlled Substance.

C. Respondent treated Patient C (see attached Appendix A), a year old male, presenting with a history of various trauma and pain, at Respondent's medical office at the Mineville Health Center and Westport Health Center, from on or about 1994 to 1996. Respondent's care and treatment failed to meet acceptable standards of care, in that:

1. Respondent failed to obtain and/or document an adequate medical history.
2. Respondent failed to perform and/or document an adequate initial physical examination.
3. Respondent failed to maintain a complete and/or accurate medical record.

4. Respondent inappropriately prescribed controlled substances to an addict or habitual user of controlled substances.
5. Respondent prescribed the following controlled substances without adequate indication in excessive quantities and for an excessive period of time: Vicodin (hydrocodone bitartrate), a Schedule III Controlled Substance; Darvocet (propoxyphene), a Schedule IV Controlled Substance; and Lorcet (hydrocodone and acetaminophen), a Schedule II Controlled Substance.

D. Respondent treated Patient D (see attached Appendix A), a female, presenting with a history of headaches and alcohol and substance abuse, at the Respondent's medical office at the Mineville Health Center, from on or about 1996 to 1998. Respondent's care and treatment failed to meet acceptable standards of care, in that:

1. Respondent failed to obtain and/or document an adequate medical history.
2. Respondent failed to perform and/or document an adequate initial physical examination.

3. Respondent failed to maintain a complete and/or accurate medical record.
4. Respondent failed to adequately evaluate, monitor and/or treat the patient's<sup>5</sup> substance abuse problems.
5. Respondent inappropriately prescribed controlled substances to an addict or habitual user of controlled substances.
6. Respondent prescribed the following controlled substances without adequate indication in excessive quantities and for an excessive period of time: Vicodin (hydrocodone bitartrate), a Schedule III Controlled Substance and Ultram (tramadol).

E. Respondent treated Patient E (see attached Appendix A), a male, presenting with a history of chronic low back pain and drug abuse, at the Respondent's medical office at the Mineville Health Center and Westport Health Center, from on or about November 16, 1994 to 1998. Respondent's care and treatment failed to meet acceptable standards of care, in that:

1. Respondent failed to obtain and/or document an adequate medical history.

2. Respondent failed to perform and/or document an adequate initial physical examination.
3. Respondent failed to maintain a complete and/or accurate medical record.
4. Respondent failed to adequately evaluate, monitor and/or treat the patient's substance abuse problems.
5. Respondent inappropriately prescribed controlled substances to an addict or habitual user of controlled substances.
6. Respondent prescribed the following controlled substances without adequate indication in excessive quantities and for an excessive period of time: Vicodin (hydrocodone bitartrate), a Schedule III Controlled Substance; Darvocet (propoxyphene), a Schedule IV Controlled Substance; Lorcet (hydrocodone and acetaminophen), a Schedule II Controlled Substance; Valium (diazepam), a Schedule Controlled Substance; Oxycontin (oxycodone), a Schedule II Controlled Substance; and Parafon Forte (chlorzoxazone).

F. Respondent treated Patient F (see attached Appendix A), a female, presenting with headaches and menstrual cramps and dental pain and substance abuse, at Respondent's medical office at the Mineville Health Center and Westport Health Center, from on or about June 1994 to the present.<sup>5</sup>

Respondent's care and treatment failed to meet acceptable standards of care, in that:

1. Respondent failed to obtain and/or document an adequate medical history.
2. Respondent failed to perform and/or document an adequate initial physical examination.
3. Respondent failed to maintain a complete and/or accurate medical record.
4. Respondent failed to adequately evaluate, monitor and/or treat the patient's substance abuse problems.
5. Respondent inappropriately prescribed controlled substances to an addict or habitual user of controlled substances.
6. Respondent prescribed the following controlled substances without adequate indication in excessive quantities and for an excessive period

of time: Tylenol with Codeine #3 and #4 (acetaminophen and codeine), a Schedule III Controlled Substance; Vicodin (hydrocodone bitartrate), a Schedule III Controlled Substance; Ultram (tramadol); Lorcet (hydrocodone and acetaminophen), a Schedule II Controlled Substance; Valium (diazepam), a Schedule Controlled Substance; and Ambien (zolpidem), a Schedule IV Controlled Substance.

G. Respondent treated Patient G (see attached Appendix A), a male, presenting with reflex sympathy dystrophy, at Respondent's medical office at the Mineville Health Center and Westport Health Center, from on or about 1994 to the present. Respondent's care and treatment failed to meet acceptable standards of care, in that:

1. Respondent failed to obtain and/or document an adequate medical history.
2. Respondent failed to perform and/or document an adequate initial physical examination.
3. Respondent failed to maintain a complete and/or accurate medical record.
4. Respondent failed to adequately evaluate, monitor and/or treat the patient's

substance abuse problems.

5. Respondent inappropriately prescribed controlled substances to an addict or habitual user of controlled substances.
6. Respondent prescribed the following controlled substances without adequate indication in excessive quantities and for an excessive period of time: Zoloft (sertraline hydrochloride); Vicodin (hydrocodone bitartrate), a Schedule III Controlled Substance; MS Contin (morphine), a Schedule II Controlled Substance; Soma (carisoprodol); Valium (diazepam); and Stadol (butorphanol tartrate).

#### **SPECIFICATIONS**

#### **FIRST THROUGH SEVENTH SPECIFICATIONS**

#### **GROSS NEGLIGENCE**

Respondent is charged with gross negligence in violation of New York Education Law 6530 (4), in that Petitioner charges:

1. The facts in Paragraphs A and A.1, A and A.2, A and A.3, A and A.4, A and A.5, A and A.6 and/or A and A.7.

2. The facts in Paragraphs B and B.1, B and B.2, B and B.3, B and B.4, B and B.5, and/or B and B.6.
3. The facts in Paragraphs C and C.1, C and C.2, C and C.3 and/or C and C.4.
4. The facts in Paragraphs D and D.1, D and D.2, D and D.3, D and D.4, D and D.5 and/or D and D.6.
5. The facts in Paragraphs E and E.1, E and E.2, E and E.3, E and E.4, E and E.5 and/or E and E.6.
6. The facts in Paragraphs F and F.1, F and F.2, F and F.3, F and F.4, F and F.5 and/or F and F.6.
7. The facts in Paragraphs G and G.1, G and G.2, G and G.3, G and G.4, G and G.5 and/or G and G.6.

**EIGHTH THROUGH FOURTEENTH SPECIFICATIONS**

**GROSS INCOMPETENCE**

Respondent is charged with gross incompetence in violation of New York Education Law 6530 (6), in that Petitioner charges:

8. The facts in Paragraphs A and A.1, A and A.2, A and A.3, and/or A and A.4.

9. The facts in Paragraphs B and B.1, B and B.2, B and B.3, B and B.4 and/or B and B.5.
10. The facts in Paragraphs C and C.1, C and C.2, C and C.3 and/or C and C.4.
11. The facts in Paragraphs D and D.1, D and D.2, D and D.3, D and D.4 and/or D and D.5.
12. The facts in Paragraphs E and E.1, E and E.2, E and E.3. E and E.2 and/or E and E.5.
13. The facts in Paragraphs F and F.1, F and F.2, F and F.3, F and F.4 and/or F and F.5.
14. The facts in Paragraphs G and G.1, G and G.2, G and G.3, G and G.4, G and G.5 and/or G and G.6.

**FIFTEENTH SPECIFICATION**

**PRACTICING WITH NEGLIGENCE ON MORE THAN ONE OCCASION**

Respondent is charged with negligence on more than one occasion in violation of New York Education Law §6530(3), in that Petitioner charges two or more of the following:

15. The facts in Paragraphs A and A.1, A and A.2, A and A.3, A and A.4, A and A.5, A and A.6, and/or A and

A.7; B and B.1, B and B.2, B and B.3, B and B.4, B and B.5, and/or B and B.6; C and C.1, C and C.2, C and C.3, and/or C and C.4; D and D.1, D and D.2, D and D.3, D and D.4, D and D.5, and/or D and D.6; E and E.1, E and E.2, E and E.3, E and E.4, E and E.5, and/or E and E.6; F and F.1, F and F.2, F and F.3, F and F.4, F and F.5, and/or F and F.6; G and G.1, G and G.2, G and G.3, G and G.4, G and G.5, and/or G and G.6.

**SIXTEENTH SPECIFICATION**

**PRACTICING WITH INCOMPETENCE ON MORE THAN ONE OCCASION**

Respondent is charged with incompetence on more than one occasion in violation of New York Education Law §6530(5), in that Petitioner charges two or more of the following:

16. The facts in Paragraphs A and A.1, A and A.2, A and A.3, and/or A and A.4; B and B.1, B and B.2, B and B.3, B and B.4, and/or B and B.5; C and C.1, C and C.2, C and C.3, and/or C and C.4; D and D.1, D and D.2, D and D.3, D and D.4, and/or D and D.5; E and E.1, E and E.2, E and E.3, E and E.4, and/or E and E.5; F and F.1, F and F.2, F and F.3, F and F.4, and/or F and F.5.

**SEVENTEENTH THROUGH TWENTY-THIRD SPECIFICATIONS**  
**FALLING TO MAINTAIN MEDICAL RECORDS**

Respondent is charged with having failed to maintain a record for each patient which accurately reflects his evaluation and treatment of the patient, in violation of New York Education Law §6530(32), in that Petitioner charges:

17. The facts in Paragraphs A and A.1, A and A.2, A and A.3 and/or A and A.4.
18. The facts in Paragraphs B and B.1, B and B.2, B and B.3, B and B.4 and/or B and B.5.
19. The facts in Paragraphs C and C.1, C and C.2, C and C.3 and/or C and C.4.
20. The facts in Paragraphs D and D.1, D and D.2, D and D.3, D and D.4 and/or D and D.5.
21. The facts in Paragraphs E and E.1, E and E.2, E and E.3, E and E.4 and/or E and E.5.
22. The facts in Paragraphs F and F.1, F and F.2, F and F.3, F and F.4 and/or F and F.5.
23. The facts in Paragraphs G and G.1, G and G.2, G and G.3, G and G.4, G and G.5 and/or G and G.6.

DATED: *March 27, 2000*  
Albany, New York

*Peter D. Van Buren*  
PETER D. VAN BUREN  
Deputy Counsel  
Bureau of Professional  
Medical Conduct

## Exhibit B

### TERMS OF MEDICAL PRACTICE CESSATION

1. Respondent shall immediately cease and desist from engaging in the practice of medicine in accordance with the terms of the Order. In addition, Respondent shall permanently refrain from providing an opinion as to professional practice or its application and from representing himself as being eligible to practice medicine.
2. Respondent shall within fifteen (15) days of the Order notify his patients of the cessation of his medical practice and will refer all patients to another licensed practicing physician for their continued care, as appropriate.
3. Respondent shall make arrangements for the transfer and maintenance of the medical records of his patients. Within thirty days of the effective date of the Order, Respondent shall notify OPMC of these arrangements including the appropriate and acceptable contact person's name, address, and telephone number who shall have access to these records. Original records shall be retained for at least six years after the last date of service rendered to a patient or, in the case of a minor, for at least six years after the last date of service or three years after the patient reaches the age of majority, whichever time period is longer. Records shall be maintained in a safe and secure place which is reasonably accessible to former patients. The arrangements shall include provisions to ensure that the information on the record is kept confidential and made available only to authorized persons. When a patient or and/or his or her representative requests a copy of the patient's medical record or requests that the original medical record be forwarded to another health care provider, a copy of the record shall be promptly provided or forwarded at a reasonable cost to the patient (not to exceed seventy-five cents per page.) Radiographic, sonographic and like materials shall be provided at cost. A qualified person shall not be denied access to patient information solely because of their inability to pay.
4. In the event that Respondent holds a Drug Enforcement Agency (DEA) certificate, Respondent shall within fifteen (15) days advise the DEA in writing of the licensure action and shall surrender his DEA controlled substance privileges to the DEA. Respondent shall promptly surrender any unused DEA #222 U.S. Official Order Forms Schedules 1 and 2 to the DEA.
5. Respondent shall within fifteen (15) days return any unused New York State official prescription forms to the Bureau of Controlled Substances of the New York State Department of Health. Respondent shall cause all prescription pads bearing his name to be destroyed. If no other licensee is providing services at his practice location, all medications shall be properly disposed.
6. Respondent shall not share, occupy or use office space in which another licensee provides health care services. Respondent shall cause all signs to be removed within fifteen (15) days and stop all advertisements, professional listings whether in telephone directories or otherwise, professional stationery or billings by which his eligibility to practice is represented.
7. Respondent shall not charge, receive or share any fee or distribution of dividends for professional services rendered by himself or others while barred from engaging in the practice of medicine. Respondent may be compensated for the reasonable value of services lawfully rendered and disbursements incurred on a patient's behalf prior to the effective date of this Order.

8. If Respondent is a shareholder in any professional service corporation organized to engage in the practice of medicine he shall divest himself of all financial interest in the professional services corporation in accordance with New York Business Corporation Law. Such divestiture shall occur within 90 days. If Respondent is the sole shareholder in a professional services corporation, the corporation must be dissolved or sold within ninety (90) days of the effective date of this Order.

9. Failure to comply with the above directives may result in a civil penalty or further criminal penalties as may be authorized pursuant to the law. Under Section 6512 of the Education Law it is a Class E Felony, punishable by imprisonment of up to 4 years, to practice the profession of medicine when such professional license has been suspended, revoked or annulled. Such punishment is in addition to the penalties for professional misconduct set forth in section 230-a of the Public Health Law, which includes fines of up to \$10,000 for each specification of charges of which the Respondent is found guilty and may include revocation of a suspended license.