



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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Chair

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

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

PUBLIC

April 9, 2003

CERTIFIED MAIL-RETURN RECEIPT REQUESTED

Ellen Beth Sterman, M.D.
331 Forestview Drive
Williamsville, New York 14221

RE: License No. 169904

Dear Dr. Sterman:

Enclosed please find Order #BPMC 03-95 of the New York State Board for Professional Medical Conduct. This Order and any penalty provided therein goes into effect April 9, 2003.

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: Michael J. Roach, Esq.
Connors and Vilardo, LLP
420 Main Street
Buffalo, New York 14202

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 her 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 this order and will continue while the licensee possesses his/her license; and

That Respondent shall 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 order and will continue while the licensee possesses his/her license.

I stipulate that any failure by me to comply with such conditions 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 make this application to the State Board for Professional Medical Conduct (the Board) and request that it be granted.

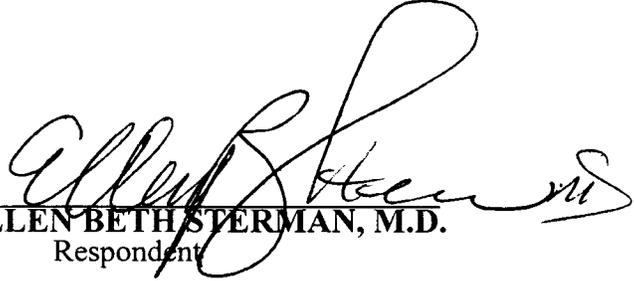
I understand that, in the event that this application is not granted by the Board, nothing contained herein shall be binding upon me or construed to be an admission of any act of misconduct alleged or charged against me, such application shall not be used against me in any way and shall be kept in strict confidence. Denial of this application 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 the order shall be effective 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 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 order for which I hereby apply, whether administratively or judicially, and ask that the application be granted.

AFFIRMED:

DATED Feb 6, 2003


ELLEN BETH STERMAN, 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.

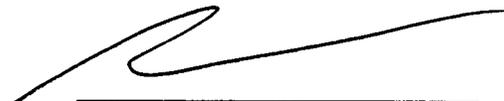
DATE: _____, 2003

MICHAEL J. ROACH, ESQ
Attorney for Respondent

DATE: *March 11*, 2003


KEVIN C. ROE
Associate Counsel
Bureau of Professional
Medical Conduct

DATE: *April 03*, 2003


DENNIS J. GRAZIANO
Director
Office of Professional
Medical Conduct

IN THE MATTER
OF
ELLEN BETH STERMAN, M.D.

CONSENT
ORDER

Upon the proposed agreement of **ELLEN BETH STERMAN, M.D.** 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 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 application 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: 4/7, 2003



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
ELLEN BETH STERMAN, M.D.	:	CHARGES

-----X

ELLEN BETH STERMAN, M.D., Respondent, was authorized to practice medicine in New York State on April 24, 1987, by the issuance of license number 169904.

FACTUAL ALLEGATIONS

A. Respondent treated Patient A (patients are identified in the attached appendix) from on or about December 14, 1999, until July 9, 2000, at her office, 1360 North Forest Road, Williamsville, New York, and Millard Fillmore Suburban Hospital, 1540 Maple Ave, Williamsville, New York. Respondent's care and treatment of Patient A failed to meet acceptable standards of medical care, in that:

1. Respondent failed to recognize the non-reassuring fetal heart rate pattern in a timely manner.
2. Respondent failed to order and/or obtain fetal scalp pH testing.
3. Respondent failed to discontinue oxytocin in a

timely manner.

4. Respondent failed to order and/or perform a cesarean section in a timely manner.

B. Respondent treated Patient B from on or about September 14, 1995, until April 26, 1996, at her office and Millard Fillmore Suburban Hospital. Respondent's care and treatment of Patient B failed to meet acceptable standards of medical care, in that:

1. Respondent ordered and/or administered oxytocin without adequate medical justification.
2. Respondent failed to recognize the non-reassuring fetal heart rate pattern in a timely manner.
3. Respondent failed to order placement of a fetal scalp electrode.
4. Respondent failed to order and/or obtain fetal scalp pH testing.
5. Respondent failed to order and/or perform a cesarean section in a timely manner.

C. Respondent treated Patient C from on or about November 14, 2000, until July 27, 2001, at her office and Millard Fillmore Suburban Hospital. Respondent's care and treatment of Patient c failed to meet acceptable standards of medical care, in that:

1. Respondent failed to accurately interpret the fetal heart rate tracings.

2. Respondent performed a cesarean section without adequate medical justification

SPECIFICATIONS

FIRST THROUGH THIRD SPECIFICATIONS

GROSS NEGLIGENCE

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

1. The facts in Paragraphs A and A.1, A.2, A.3, and/or A.4.
2. The facts in Paragraphs B and B.1, B.2, B.3, B.4, and/or B.5.
3. The facts in Paragraphs C and C.1, and/or C.2.

FOURTH THROUGH SIXTH SPECIFICATIONS

GROSS INCOMPETENCE

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

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

5. The facts in Paragraphs B and B.1, B.2, B.3, B.4, and/or B.5.
6. The facts in Paragraphs C and C.1, and/or C.2.

SEVENTH SPECIFICATION

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:

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

EIGHTH SPECIFICATION

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:

8. The facts in Paragraphs A and A.1, A.2, A.3, A.4; B and B.1, B.2, B.3, B.4, B.5; and/or C and C.1, C.2.

DATED: *March 17*, 2003
Albany, New York

Peter D. Van Buren
PETER D. VAN BUREN
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, interviews with or periodic visits with Respondent and his/her staff at practice locations or OPMC offices.
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 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 practice at each and every location, on a random unannounced basis at least monthly and shall examine a selection of no less than 25 records maintained by Respondent, including patient records, prescribing information and office records. The review will determine whether the Respondent's medical practice 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 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.
7. During the first six months of probation, Respondent shall enroll in and successfully complete 24 credit hours of continuing medical education regarding fetal heart rate monitoring in a course selected by Respondent and approved by the Director of OPMC.
 8. 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. Upon written notification to Respondent by the Director of OPMC that he/she has determined that he/she has violated the terms of probation and/or is not in compliance with the terms of probation, the stay of the suspension is vacated and Respondent's licence shall be actively suspend until final resolution of the alleged violations of the terms of probation pursuant to the procedure set forth in NY Public Health Law §230(19).