



*New York State Board for Professional Medical Conduct*

433 River Street, Suite 303 Troy, New York 12180-2299 • (518) 402-0863

Dennis P. Whalen  
*Executive Deputy Commissioner of Health*  
Anne F. Salle, Director  
*Office of Professional Medical Conduct*  
William J. Comiskey, Chief Counsel  
*Bureau 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*

January 11, 1999

**CONFIDENTIAL**

**CERTIFIED MAIL-RETURN RECEIPT REQUESTED**

Henry Miles Sherman, M.D.  
Inmate #17291-050  
Allenwood Federal Prison  
Montgomery, PA 17752

RE: License No. 119388

Dear Dr. Sherman:

Enclosed please find Order #BPMC 99-2 of the New York State Board for Professional Medical Conduct. This Order and any penalty provided therein goes into effect **January 11, 1999**.

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: Roy Nemerson, Esq.

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

IN THE MATTER  
OF  
HENRY MILES SHERMAN, M.D.

SURRENDER  
OF  
LICENSE  
BPMC #99-2

STATE OF PENNSYLVANIA )  
COUNTY OF )  
ss.:

HENRY MILES SHERMAN, M.D., being duly sworn, deposes and says:

On or about March 1, 1974, I was licensed to practice medicine as a physician in the State of New York having been issued License No. 119388 by the New York State Education Department.

My current address is Inmate #17291-050, 1; Allenwood Federal Prison Camp; Montgomery, PA 17752 , and I will advise the Director of the Office of Professional Medical Conduct of any change of my address.

I understand that I have been charged with two specifications of professional misconduct as set forth in the Statement of Charges, annexed hereto, made a part hereof, and marked as Exhibit "A".

I am applying to the State Board for Professional Medical Conduct for permission to surrender my license as a physician in the State of New York on the grounds that I admit those specifications in full satisfaction of the Statement of Charges.

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

I understand that, in the event that the application 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 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 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 State Board for Professional Medical Conduct grants my application, an order shall be issued striking my name from the roster of physicians in the State of New York without further notice to me. 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 Surrender 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 Surrender Order for which I hereby apply, whether administratively or judicially, and ask that the Application be granted.

AFFIRMED:

DATED

12/1/98

  
HENRY MILES SHERMAN, M.D.  
RESPONDENT

The undersigned agree to the attached application of the Respondent to surrender his license.

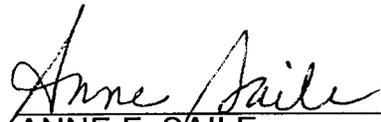
Date: 12/17/98

  
(LEAVE BLANK IF UNREPRESENTED)  
Attorney for Respondent

Date: 12/22/98

  
\_\_\_\_\_  
ROY NEMERSON  
Deputy Counsel  
Bureau of Professional  
Medical Conduct

Date: Dec 24, 1998

  
\_\_\_\_\_  
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  
HENRY MILES SHERMAN, M.D.

SURRENDER  
ORDER

Upon the proposed agreement of HENRY MILES SHERMAN, M.D.  
(Respondent) 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 application and the provisions thereof are hereby  
adopted; it is further

ORDERED, that the name of 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 of the Surrender  
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: 1/2/99

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

EXHIBIT "A"

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

IN THE MATTER  
OF  
HENRY MILES SHERMAN, M.D.

STATEMENT  
OF  
CHARGES

HENRY MILES SHERMAN, M.D., the Respondent, was authorized to practice medicine in New York State on or about March 1, 1974, by the issuance of license number 119388 by the New York State Education Department.

**FACTUAL ALLEGATIONS**

- A. In United States District Court for the District of New Jersey, on or about November 30, 1995, Respondent entered a plea of guilty to 5 counts of Mail Fraud (18 U.S.C. §1341 and §1342). Respondent admitted that between 1989 and 1993:
- He devised and conducted a scheme to defraud insurance companies by billing them for services and equipment he did not provide;
  - As part of the scheme he caused bills to be sent to insurance companies that included charges for physiotherapy, physical examinations and medical equipment that were not provided to patients;
  - To conceal his fraud, he created false physician's progress notes; that he required patients to sign affidavits, before any treatment was provided, falsely stating that his or her bill was accurate;
  - That he attempted to persuade witnesses to lie before a Federal Grand Jury concerning his office practices in an attempt to obstruct an investigation of his practices.

On August 6, 1997 the Court sentenced Respondent as follows:

- Commitment to the custody of the United States Bureau of prisons, to be imprisoned for a term of 30 months;
  - Supervised release for a 3 year period following incarceration;
  - A fine in the amount of \$50,000;
  - Payment of restitution in the amount of \$27,302.40
- B. By an order filed June 7, 1996, the State Board of Medical Examiners of the State of New Jersey, effective May 10, 1996, revoked Respondent's medical license based upon 5 counts of a 387 count administrative complaint. The 5 counts forming the basis for license revocation related to the transactions forming the basis for the criminal conviction set forth in Paragraph A, above. The New Jersey Board, citing the interests of expediency and conservation of limited administrative resources, having found that the matters established in the Criminal proceeding provided adequate predicate for license revocation, declined to "presently reach decision" with respect to the remainder of the matters set forth in the administrative complaint.

## **SPECIFICATION OF CHARGES**

### **FIRST SPECIFICATION**

#### **CRIMINAL CONVICTION (Federal)**

Respondent is charged with committing professional misconduct as defined in N.Y. Educ. Law §6530(9)(a)(ii)(McKinney Supp. 1998) by having been convicted of committing an act constituting a crime under federal law as alleged in the facts of the following:

1. Paragraph A.

**SECOND SPECIFICATION**  
**HAVING BEEN FOUND GUILTY OF**  
**PROFESSIONAL MISCONDUCT**

Respondent is charged with committing professional misconduct as defined in N.Y. Educ. Law §6530(9)(b)(McKinney Supp. 1998) 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 (namely N.Y. Educ. Law §6530(9)(a)(ii) ) as alleged in the facts of the following:

2. Paragraph B

DATED: December 9, 1998  
New York, New York

*Roy Nemerson by wgc*

ROY NEMERSON  
Deputy Counsel  
Bureau of Professional

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

IN THE MATTER  
OF  
HENRY MILES SHERMAN, M.D.

COMMISSIONER'S  
SUMMARY  
ORDER

TO: HENRY MILES SHERMAN, M.D.  
Inmate #17291-050, 1  
Allenwood Federal Prison Camp  
Montgomery, PA 17752

The undersigned, Dennis P. Whalen, Executive Deputy Commissioner of Health of the State of New York, pursuant to N.Y. Public Health Law §230 (McKinney 1990 and Supp. 1998), upon the recommendation of a Committee on Professional Medical Conduct of the State Board for Professional Medical Conduct, has determined that HENRY MILES SHERMAN, M.D., the Respondent, has pleaded or been found guilty or convicted of committing an act constituting a felony under New York State law, federal law, or the law of another jurisdiction which, if committed within this state, would have constituted a felony under New York State law, as is more fully set forth in the Statement of Charges attached hereto and made a part hereof.

It is therefore:

ORDERED, pursuant to N.Y. Public Health Law §230(12)(b) (McKinney 1990 and Supp. 1998), that effective immediately, Respondent shall not practice medicine in the State of New York.

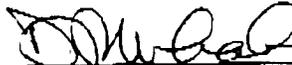
Any practice of medicine in the State of New York in violation of this (Commissioner's) Order shall constitute Professional Misconduct within the meaning of N.Y. Educ. Law §6530(29) and may constitute unauthorized medical

practice, a Felony defined by N.Y. Educ. Law §6512.

This Order shall remain in effect until the final conclusion of a hearing which shall commence within ninety days of the service of this order and shall end within ninety days thereafter. The hearing will be held pursuant to the provisions of N.Y. Pub. Health Law §230 (McKinney 1990 and Supp. 1998), and N.Y. State Admin. Proc. Act §§301-307 and 401 (McKinney 1984 and Supp. 1998). The hearing will be conducted before a committee on professional conduct of the State Board for Professional Medical Conduct on a date and at a location to be set forth in a written Notice of Summary Hearing to be provided to the Respondent either contemporaneously with this Summary Order or subsequently. Said written Notice may be provided in person, by mail, or by other means. If Respondent wishes to be provided said written notice at an address other than that set forth above, Respondent shall so notify, in writing, both the attorney whose name is set forth in this Order (at the addresses set forth below), and the Director of the Office of Professional Medical Conduct, New York State Department of Health, 433 River Street, Suite 303, Troy, NY 12180-2299.

THESE PROCEEDINGS MAY RESULT IN A DETERMINATION THAT YOUR LICENSE TO PRACTICE MEDICINE IN NEW YORK STATE BE REVOKED OR SUSPENDED, AND/OR THAT YOU BE FINED OR SUBJECT TO OTHER SANCTIONS SET FORTH IN NEW YORK PUBLIC HEALTH LAW §230-a (McKinney Supp. 1998). YOU ARE URGED TO OBTAIN AN ATTORNEY TO REPRESENT YOU IN THIS MATTER.

DATED: Albany, New York  
December 9, 1998

  
DENNIS P. WHALEN  
Executive Deputy Commissioner  
Department of Health

Inquiries should be directed to:  
Roy Nemerson  
Deputy Counsel, BPMC  
N.Y.S. Department of Health  
Division of Legal Affairs  
5 Penn Plaza  
Suite 601  
New York, New York 10001  
(212) - 613-2615

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

IN THE MATTER  
OF  
HENRY MILES SHERMAN, M.D.

STATEMENT  
OF  
CHARGES

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New York, New York

*Roy Nemerson by wjc*

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Deputy Counsel  
Bureau of Professional