



New York State Board for Professional Medical Conduct

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

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NYS Department of Health*

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NYS Department of Health*

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

Public

December 19, 2005

CERTIFIED MAIL-RETURN RECEIPT REQUESTED

CORRECTED

Herbert A. Rubin, M.D.
10682 Kinnard Avenue
Los Angeles, CA 90024

Re: License No. 121289

Dear Dr. Rubin:

Enclosed is a copy of Order #BPMC 05-290 of the New York State Board for Professional Medical Conduct. This order and any penalty provided therein goes into effect December 19, 2005. **Please note corrected Board Order Number.**

If the penalty imposed by this Order is a surrender, revocation or suspension, you are required to deliver your license and registration within five (5) days of receipt of this Order to the 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

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

IN THE MATTER

OF

**HERBERT A. RUBIN, M.D.
CO-05-06-3141-A**

SURRENDER

ORDER

BPMC NO. #05-290

HERBERT A. RUBIN, M.D., says:

On or about September 11, 1974, I was licensed to practice medicine as a physician in the State of New York having been issued License No. 121289 by the New York State Education Department. I currently reside at 10682 Kinnard Avenue, Los Angeles, CA 90024.

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 one (1) specification 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 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 one (1) specification set forth in the Statement of Charges (Exhibit A).

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: Dec 6, 2005

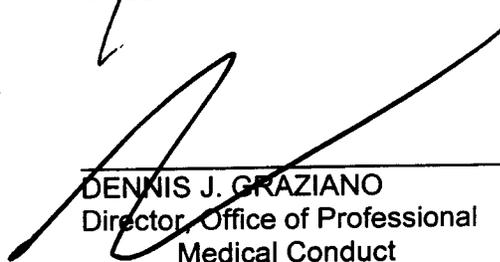

HERBERT A. RUBIN, M.D.
Respondent

AGREED TO:

Date: 7 Dec 2005


ROBERT BOGAN
Associate Counsel
Bureau of Professional Medical Conduct

Date: 7 December, 2005


DENNIS J. GRAZIANO
Director, Office of Professional
Medical Conduct

STATE OF NEW YORK

DEPARTMENT OF HEALTH

STATE BOARD FOR PROFESSIONAL MEDICAL CONDUCT

IN THE MATTER
OF
HERBERT A. RUBIN, M.D.
CO-05-06-3141-A

STATEMENT
OF
CHARGES

HERBERT A. RUBIN, M.D., the Respondent, was authorized to practice medicine in New York state on September 11, 1974, by the issuance of license number 121289 by the New York State Education Department.

FACTUAL ALLEGATIONS

A. On or about May 12, 2005, the Division of Medical Quality, Medical Board of California, Department of Consumer Affairs (hereinafter "California Board"), by a Decision (hereinafter "California Decision"), revoked Respondent's license to practice medicine, stayed the revocation, and placed him on five (5) years probation, on terms and conditions, that require, inter alia, that he successfully complete a medical record keeping course and an ethics course, that he obtain a billing monitor, and that he pay the costs of investigation and prosecution, based on gross negligence, repeated negligent acts, incompetence, dishonesty and false medical records, insurance fraud, failure to repay insurance proceeds, failure to release medical records, inadequate and inaccurate records, and general unprofessional conduct.

B. The conduct resulting in the California Board 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(2) (practicing the profession fraudulently);
2. New York Education Law §6530(3) (negligence on more than one occasion);
3. New York Education Law §6530(4) (gross negligence);
4. New York Education Law §6530(5) (incompetence on more than one occasion);
5. New York Education Law §6530(6) (gross incompetence);

6. New York Education Law §6530(20) (moral unfitness);
7. New York Education Law §6530(22) (failing to make available to a patient, upon request, copies of documents in the possession of and under the control of the licensee);
8. New York Education Law §6530(30) (abandoning or neglecting a patient under and in need of immediate professional care, without making reasonable arrangements for the continuation of such care); and/or
9. New York Education Law §6530(32) (failure to maintain a record for each patient which accurately reflects the evaluation and treatment for the patient).

SPECIFICATION

Respondent violated New York Education Law §6530(9)(d) by having his license to practice medicine revoked or having other disciplinary action taken by a duly authorized professional disciplinary agency of another state, where the conduct resulting in the revocation or other disciplinary action would, if committed in New York state, constitute professional misconduct under the laws New York state, in that Petitioner charges:

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

DATED: *Dec. 1*, 2005
Albany, New York


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

ORDER

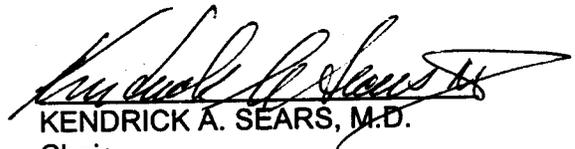
Upon the proposed agreement of **HERBERT A. RUBIN, M.D.**, to Surrender his license as a physician in the State of New York, which proposed agreement is made a part hereof, it is **AGREED TO** and

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: 12-8 — , 2005


KENDRICK A. SEARS, M.D.
Chair
State Board for Professional
Medical Conduct