



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.
*Commissioner
NYS Department of Health*

Dennis P. Whalen
*Executive Deputy Commissioner
NYS Department of Health*

Anne F. Saile, Director
Office of Professional Medical Conduct

PUBLIC

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Denise M. Bolan, R.P.A.
Vice Chair

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

December 10, 1999

CERTIFIED MAIL-RETURN RECEIPT REQUESTED

Andrew Silverman, M.D.
12 Greenridge Avenue
White Plains, NY 10605

RE: License No.: 158303

Dear Dr. Silverman:

Enclosed please find Order #BPMC 99-306 of the New York State Board for Professional Medical Conduct. This Order and any penalty provided therein goes into effect **December 10, 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: James Eberz, Esq.
Meiselman, Farber, Packman & Eberz, P.C.
118 North Bedford Road
PO Box 151
Mt. Kisco, NY 10549

David W. Smith, Esq.

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

IN THE MATTER
OF
ANDREW SILVERMAN, M.D.

CONSENT
AGREEMENT
AND
ORDER
BPMC #99-306

STATE OF NEW YORK)
COUNTY OF *WESTCHESTER*) SS.:

ANDREW SILVERMAN, M.D., (Respondent) being duly sworn, deposes and says:

That on or about May 25, 1984, I was licensed to practice as a physician in the State of New York, having been issued License No. 158303 by the New York State Education Department.

My current office address is 12 Greenridge Avenue, White Plains, New York, 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 (4) 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 allegations in the First and Second Specifications, in full satisfaction of the charges against me.

I hereby agree to the following penalty:

- a. Pursuant to §230(a)(3) of the New York Public Health Law my license to practice medicine shall be limited to entirely prohibit the practice of obstetrics and the performance of subserosal myomectomies for infertility reasons.

- b. A three-year suspension of my license which shall be stayed.
- c. Probation for a period of three (3) years in accordance with the Terms of Probation attached hereto as Exhibit "B".

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 Respondent's 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 will continue while the licensee possesses his/her license; and

That Respondent shall fully 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 Consent Order and will continue while the licensee possesses his/her license.

I hereby stipulate that any failure by me to comply with such conditions shall constitute misconduct as defined by New York State Education Law §6530(29)(McKinney Supp 1999).

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 Chairperson of the Board shall be issued in accordance with same.

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:

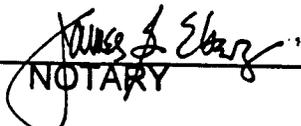

ANDREW SILVERMAN, M.D.
RESPONDENT

DATED: Nov. 11, 1999

Sworn to before me

on this 11th day of

Nov. 1999


NOTARY

JAMES G. EBERZ
Notary Public, State of New York
No. 02EB6140850
Qualified in County of Westchester
Commission Expires 04/30/2000

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

DATE: Nov. 11, 1999



JAMES EBERZ, ESQ.
Attorney for Respondent

DATE: November 15, 1999



DAVID W. SMITH
Associate Counsel
Bureau of Professional
Medical Conduct

DATE: November 19, 1999



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
ANDREW SILVERMAN, M.D.

CONSENT
ORDER

Upon the proposed agreement of ANDREW SILVERMAN, 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: 12/17/99

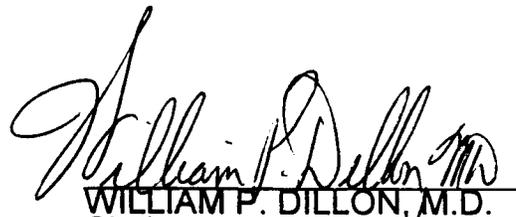

WILLIAM P. DILLON, M.D.
Chair
State Board for Professional
Medical Conduct

EXHIBIT "A"

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

**IN THE MATTER
OF
ANDREW SILVERMAN, M.D.**

**STATEMENT
OF
CHARGES**

ANDREW SILVERMAN, M.D., the Respondent, was authorized to practice medicine in New York State on or about May 25, 1984, by the issuance of license number 158303 by the New York State Education Department.

FACTUAL ALLEGATIONS

- A. In or about June, 1994, Respondent treated Patient A for a fibroid tumor at his office at 12 Greenridge Avenue, White Plains, New York ("Office") and White Plains Hospital Medical Center ("Medical Center").
1. On or about June 16, 1994, Respondent inappropriately performed an ablation of pelvic endometriosis and of a single subserosal leiomyoma.
- B. In or about March, 1996, Respondent treated Patient B for infertility at the Medical Center".
1. On or about March 27, 1996, Respondent inappropriately performed a laproscopic myomectomy on Patient B.

C. Between in or about October, 1995 and July, 1996, Respondent treated Patient C for pregnancy at both his Office and at the Medical Center.

1. On or about July 3, 1996, Patient C arrived at the Medical Center and went into labor. Despite painful contractions, Respondent inappropriately failed to evaluate Patient C to rule out abruptio placenta and to determine if there was evidence of retro-placental clot/separation.
2. Subsequently, on the same day, Respondent inappropriately delivered the baby of Patient C.

D. Between in or about March, 1995 and June, 1995, Respondent treated Patient D for vaginal bleeding at both his Office and the Medical Center.

1. On or about June, 1995, Respondent inappropriately performed a laproscopic myomectomy on Patient D.

SPECIFICATION OF CHARGES

FIRST SPECIFICATION

NEGLIGENCE ON MORE THAN ONE OCCASION

Respondent is charged with committing professional misconduct as defined in N.Y. Educ. Law §6530(3)(McKinney Supp. 1999) by practicing the profession of medicine with negligence on more than one occasion as alleged in the facts of two or more of the following:

1. Paragraphs A and A1; B and B1; C and C1-2; and/or D and D1..

SECOND SPECIFICATION

INCOMPETENCE ON MORE THAN ONE OCCASION

Respondent is charged with committing professional misconduct as defined in N.Y. Educ. Law §6530(5)(McKinney Supp. 1999) by practicing the profession of medicine with incompetence on more than one occasion as alleged in the facts of two or more of the following:

2. Paragraphs A and A1; B and B1; C and C1-2; and/or D and D1.

THIRD SPECIFICATION
GROSS NEGLIGENCE ON A PARTICULAR OCCASION

Respondent is charged with committing professional misconduct as defined in N.Y. Educ. Law §6530(4)(McKinney Supp. 1999) by practicing the profession of medicine with gross negligence as alleged in the facts of the following:

3. Paragraph C and C1-2.

FOURTH SPECIFICATION
GROSS INCOMPETENCE

Respondent is charged with committing professional misconduct as defined in N.Y. Educ. Law §6530(6)(McKinney Supp. 1999) by practicing the profession of medicine with gross incompetence as alleged in the facts of the following:

4. Paragraphs C and C1-2.

DATED: November , 1999
New York, New York

ROY NEMERSON
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 not limited to, a review of office records, laboratory 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 all aspects of medical practice.
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 records maintained by Respondent, including patient records, laboratory records, prescribing information and office records. This 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, in writing, 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 §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. For in-hospital non-emergency gynecological procedures, Respondent must obtain the prior approval of the Chairman of the Hospital's Department of Obstetrics and Gynecology, or his designee at least four (4) days in advance.
 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.