Board for Professional Medical Conduct

Corning Tower • Empire State Plaza • Albany, NY 12237 • (518) 474-8357

Barbara A. DeBuono, M.D., M.P.H.
Commissioner

C. Maynard Guest, M.D.
Executive Secretary

July 24, 1995

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Mitchell Siller, M.D.
3408 Fulton Avenue
Oceanside, New York 11572

RE: License No. 160541
Effective Date: 07/31/95

Dear Dr. Siller:

Enclosed please find Order #BPMC 95-153 of the New York State Board for Professional Medical Conduct. This Order and any penalty provided therein goes into effect upon receipt of this letter or seven (7) days after the date of this letter, whichever is earlier.

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.

Board for Professional Medical Conduct
New York State Department of Health
Empire State Plaza
Tower Building-Room 438
Albany, New York 12237-0756

Sincerely,

C. Maynard Guest

C. Maynard Guest, M.D.
Executive Secretary
Board for Professional Medical Conduct

Enclosure

cc: Gerald J. Dichiara, Esq.
404 Park Avenue South
New York, New York 10016

David Smith, Esq.

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

IN THE MATTER OF MITCHELL SILLER, M.D.	CONSENT ORDER BPMC #95-153

Upon the application of MITCHELL SILLER, M.D. (Respondent) for Consent Order, which application is made a part hereof, it is

ORDERED, that the application and the provisions thereof are hereby adopted and so ORDERED, and it is further

ORDERED, that this order shall take effect as of the date of the personal service of this order upon Respondent, upon receipt by Respondent of this order via certified mail, or seven days after mailing of this order by certified mail, whichever is earliest.

SO ORDERED.

DATED: 18 July 1995

Charles J. Vacanti

CHARLES J. VACANTI, M.D.
Chairperson
State Board for Professional
Medical Conduct

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

IN THE MATTER OF MITCHELL SILLER, M.D.	APPLICATION FOR CONSENT ORDER

STATE OF)
COUNTY OF) ss.:

MITCHELL SILLER, M.D., being duly sworn, deposes and says:

In or about 1984, I was licensed to practice as a physician in the State of New York, having been issued License No. 16054 by the New York State Education Department.

I am 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 three specifications of professional misconduct.

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

I admit guilt to the First Specification and I do not contest the Second Specification, but I do admit that I engaged in sexual conduct with Patient A.

I hereby agree to the following penalty:

a. My license to practice medicine in the State of New York shall be suspended for a period of two (2) years and such suspension shall be stayed.

b. I shall be placed on probation with practice monitoring for a period of five (5) years subject to the Terms of Probation attached hereto as Exhibit "B".

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.

MITCHELL SILLER, M.D.
RESPONDENT

Sworn to before me this
6 day of July, 1995.

NOTARY PUBLIC

JERRY DICHIARA
Notary Public, State of New York
No. 41-4667310 Qual. in Nassau Co.
Commission Expires January 31, 1996

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

IN THE MATTER OF MITCHELL SILLER , M.D.	APPLICATION FOR CONSENT ORDER

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

DATE: 7/6/95

MITCHELL SILLER, M.D.
Respondent

DATE: 7/6/95

GERALD J. DI CHIARA, ESQ.
Attorney for Respondent

DATE: 7/7/95

DAVID W. SMITH
Associate Counsel
Bureau of Professional
Medical Conduct

DATE: _____

_____

KATHLEEN M. TANNER
Director
Office of Professional Medical Conduct

DATE: 18 July 1995

Charles J. Vacanti

CHARLES J. VACANTI, M.D.
Chairperson
State Board for Professional Medical Conduct

EXHIBIT "A"

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

IN THE MATTER OF MITCHELL SILLER, M.D.	STATEMENT OF CHARGES

MITCHELL SILLER, M.D., the Respondent, was authorized to practice medicine in New York State in 1984 by the issuance of license number 16054 by the New York State Education Department.

FACTUAL ALLEGATIONS

A. On March 25, 1993, in District Court, Nassau County, First District, Criminal Part 5, Respondent pleaded guilty to misdemeanor charges of violating §§ 1192.2 of the Vehicle and Traffic Law (Driving While Intoxicated) and 511.1 (Unlicensed Operation of a Motor Vehicle). Respondent was fined $500.00, his license was revoked and he was sentenced to three (3) years probation.

B. Between in or about November, 1988 and in or about August, 1992, Respondent treated Patient A (Identified in the Appendix hereto) for weight control and other medical conditions at his office at 176 North Village Avenue, Rockville Centre, New York.

1. On or about July 17, 1992, Respondent told Patient A she could pick up some diet aids he had been prescribing for her at the Garden City Hotel on Long Island where he was staying. When she arrived, he took her up to his room, put her on the bed, and against her will, masturbated on her.

SPECIFICATION OF CHARGES

FIRST SPECIFICATION

CONVICTION OF A CRIME

Respondent is charged with committing professional misconduct within the meaning of N.Y. Educ. Law §6530(9)(a)(i) (McKinney Supp. 1995) by having been convicted of committing an act constituting a crime under New York State Law. Specifically, Petitioner charges:

1. The facts in Paragraph A.

SECOND SPECIFICATION

WILLFUL ABUSE OF A PATIENT

Respondent is charged with willfully harassing, abusing or intimidating a patient within the meaning of N.Y. Educ. Law §6530(31) (McKinney Supp. 1995). Specifically, Petitioner charges:

2. The facts in Paragraphs B and B1.

THIRD SPECIFICATION

MORAL UNFITNESS TO PRACTICE MEDICINE

Respondent is charged with conduct in the practice of medicine which evidences moral unfitness to practice medicine within the meaning of N.Y. Educ. Law §6530(20) (McKinney Supp. 1995). Specifically, Petitioner charges:

3. The facts in Paragraphs B and B1.

DATED: May 4, 1995
New York, New York

ROY NEMERSON
Deputy Counsel
Bureau of Professional
Medical Conduct

EXHIBIT "B"

TERMS OF PROBATION

1. MITCHELL SILLER, M.D., during the period of probation, 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 imposed by law and by his/her profession;

2. Respondent shall submit written notification to the New York State Department of Health (NYSDOH), addressed to the Director, Office of Professional Medical Conduct, New York State Department of Health, Corning Tower Building, 4th Floor, Empire State Plaza, Albany, New York 12237 of any employment and practice, of Respondent's residence and telephone number, and of any change in Respondent's employment, practice, residence, or telephone number within or without the State of New York;

3. Respondent shall submit written proof from the Division of Professional Licensing Services (DPLS), New York State Education Department (NYSED), that Respondent has paid all registration fees due and owing to the NYSED and Respondent shall cooperate with and submit whatever papers are requested by DPLS in regard to said registration fees, said proof from DPLS to be submitted by Respondent to the New York State Department of Health, addressed to the Director, Office of Professional Medical Conduct, as aforesaid, within the first three months of the period of probation;

4. Respondent shall submit written proof to the NYSDOH, addressed to the Director, Office of Professional Medical Conduct, as aforesaid, that 1) Respondent is currently registered with the NYSED, unless Respondent submits written proof that Respondent has advised DPLS, NYSED, that Respondent is not engaging in the practice of Respondent's profession in the State of New York and does not desire to register, and that 2) Respondent has paid any fines which may have previously been imposed upon Respondent by the Board or by the Board of Regents; said proof of the above to be submitted no later than the first two months of the period of probation;

5. Respondent shall comply with all terms, conditions, restrictions, and penalties to which he is subject pursuant to the order of the Board;

6. Any civil penalty not paid by the date prescribed herein shall be subject to all provisions of law relating to debt collection by the State of New York. This includes but is not limited to the imposition of interest, late payment charges and collection fees; referral to the New York State Department of Taxation and Finance for collection; and non renewal of permits or licenses (Tax Law §171(27); State Finance Law §18; CPLR §5001; Executive Law §32);

7. Respondent will maintain complete and accurate records of the dispensing and/or prescribing of controlled substances, the purchases thereof, official New York State triplicate prescription books and any other records which may now or hereafter be required by the N.Y. Public Health Law. Respondent will make these available to the Director and/or the monitor as specified in Paragraph 9, below upon request.

8. Respondent will maintain legible and complete medical records which accurately reflect evaluation and treatment of patients. Records will contain a comprehensive history, physical examination, findings, chief complaint, present illness, diagnosis and treatment. In cases of prescribing, dispensing or administering of controlled substances, the medical record will contain all information required by state rules and regulations regarding controlled substances. These records shall be made available to the Director and/or monitor upon request.

9. During the period of probation, Respondent's practice shall be monitored by a licensed physician who shall review Respondent's professional performance and practice and who:

   a. Shall be proposed by the Respondent, subject to the approval of the Director;

   b. Shall be familiar with the Terms of Probation contained herein;

   c. Shall meet weekly with the Respondent to discuss his practice and review randomly selected office patient records and evaluate whether Respondent's practice conforms with generally accepted standards of medical care. After nine (9) months, the frequency of such meetings may be reduced at the discretion of the monitor but only with the prior approval of OPMC;

   d. Shall not be a personal friend or relative of Respondent;

   e. Shall submit to OPMC quarterly reports of the results of such monitoring; and

   f. Shall acknowledge in advance his/her willingness to comply with the above mentioned reporting by executing the acknowledgement supplied by OPMC.

10. During the period of probation:

   a. Within thirty (30) days after service of the Order herein, Respondent shall undergo a psychiatric evaluation by a physician selected by Respondent and approved by OPMC. Such physician shall file an evaluation report with OPMC immediately after the evaluation is finished and Respondent agrees to abide by any treatment recommendations set forth in such report.

b. Subject to the treatment recommendations set forth in the evaluation report required in sub-paragraph (a) above, Respondent shall continue in both individual and group therapy with therapists approved by OPMC. The individual and group therapist shall each file quarterly written reports with OPMC.

c. Respondent shall continue his participation in Alcohol Anonymous.

d. Respondent shall choose a Physician, subject to approval by OPMC, who will take random unannounced observed urine samples to be tested for the presence of alcohol and/or drugs in Respondent. For the first nine (9) months the screening shall be done at least twice a week. Thereafter the frequency of the screening may be decreased at the discretion of the Physician but only with the prior approval of OPMC. If such test reveals, or the Physician otherwise learns that Respondent is not drug or alcohol free, or if Respondent refuses any screening, the Physician shall immediately notify OPMC. Every three (3) months, the Physician shall submit to OPMC a report certifying compliance by Respondent with these screening provisions or describing any failure to comply. Such report shall include the results of all screening.

11. Respondent shall assume and bear all costs related to compliance with the Terms of Probation.

12. Respondent shall comply with all terms, conditions, restrictions, and penalties to which he is subject pursuant to the order of the Board.

13. So long as there is full compliance with every term herein set forth, Respondent may continue to practice his or her aforementioned profession in accordance with the terms of probation; provided, however, that upon receipt of evidence of noncompliance with, or any violation of these terms, the Director of the Office of Professional Medical Conduct and/or the Board may initiate a violation of probation proceeding and/or such other proceeding against Respondent as may be authorized pursuant to the Public Health Law.