



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. Saile, Director
Office of Professional Medical Conduct
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Bureau of Professional Medical Conduct

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Chair
Denise M. Bolan, R.P.A.
Vice Chair
Ansel R. Marks, M.D., J.D.
Executive Secretary

December 7, 1998

CERTIFIED MAIL-RETURN RECEIPT REQUESTED

Andrew Gross, M.D.
1209 Lower Brow Road
Chattanooga, TN 37377

RE: License No. 184924

Dear Dr. Gross:

Enclosed please find Order #BPMC 98-289 of the New York State Board for Professional Medical Conduct. This Order and any penalty provided therein goes into effect **December 7, 1998.**

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: Denise L. Quarles, Esq.

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

IN THE MATTER
OF
ANDREW GROSS, M.D.

CONSENT
AGREEMENT
AND
ORDER

BPMC #98-289

STATE OF NEW YORK)
COUNTY OF NEW YORK) ss.:

ANDREW GROSS, M.D., being duly sworn, deposes and says:

That on or about February 1, 1991, I was licensed to practice as a physician in the State of New York, having been issued License No. 184924 by the New York State Education Department.

My current address is 1209 Lower Brow Road, Chattanooga, Tennessee, 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 (the "Board") has charged me with one (1) specification 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, in full satisfaction of the charges against me. I hereby agree to the following penalty:

I shall be placed on Probation for a period of one (1) year subject to the terms set forth in Exhibit "B". Said period of Probation shall be tolled until and unless I practice medicine in New York State.

I further agree that the Consent Order for which I hereby apply shall impose a condition that, except during periods of actual suspension, I maintain current registration of my 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 continuing until the full term of the Order has run, and until any associated period of probation and all probation terms have been completed and satisfied. I hereby stipulate that any failure by me to comply with such condition shall constitute misconduct as defined by New York State Education Law §6530(29)(McKinney Supp. 1998).

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 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.

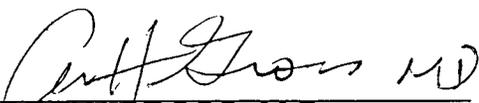
I agree that, in the event the Board grants my Application, as set forth herein, an Order of the Chairperson of the Board shall be issued in accordance

with same. I 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 Consent 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 Consent Order for which I hereby apply, whether administratively or judicially, and ask that the Application be granted.

AFFIRMED:

DATED 11/12/98



ANDREW GROSS, 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: 11/18/98


DENISE L. QUARLES
Attorney
Bureau of Professional
Medical Conduct

DATE: November 30, 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
ANDREW GROSS, M.D.

CONSENT
ORDER

Upon the proposed agreement of ANDREW GROSS, M.D. (the "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 the Respondent at the address set forth in this agreement or to the Respondent's attorney by certified mail, or upon transmission via facsimile to the Respondent or the Respondent's attorney, whichever is earliest.

SO ORDERED.

DATED: 12/2/98



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
ANDREW GROSS, M.D.

STATEMENT
OF
CHARGES

ANDREW GROSS, M.D., the Respondent, was authorized to practice medicine in New York State on or about February 1, 1991, by the issuance of license number 184924 by the New York State Education Department.

FACTUAL ALLEGATIONS

- A. On or about December 18, 1996, after a jury trial in General Sessions Court, Hardeman County, Tennessee, the Respondent was convicted of violating Tennessee Code §55-10-401, driving under the influence of an intoxicant, a class A misdemeanor. The Respondent was sentenced to 11 months and 29 days in jail, which was suspended except for 48 hours, and fined \$350.00.

SPECIFICATION OF CHARGES

FIRST SPECIFICATION

CRIMINAL CONVICTION IN ANOTHER STATE

The Respondent is charged with committing professional misconduct as defined in N.Y. Educ. Law §6530(9)(a)(i)(McKinney Supp. 1998) by having been convicted of committing an act constituting a crime under New York State Law, as alleged in the following:

1. The facts in Paragraph A.

DATED: November , 1998
New York, New York

ROY NEMERSON
Deputy Counsel
Bureau of Professional
Medical Conduct

EXHIBIT "B"

Terms of Probation

1. The Respondent shall conduct himself in all ways in a manner befitting his professional status, and shall conform fully to the moral and professional standards of conduct and obligations imposed by law and by his profession.
2. The 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 Respondent shall fully cooperate with and respond in a timely manner to requests from OPMC to provide written periodic verification of the Respondent's compliance with the terms of this Order. The Respondent shall personally meet with a person designated by the Director of OPMC as requested by the Director.
4. Any civil penalty not paid by the date prescribed herein shall be subject to all provisions of law relating to debt collection by New York State. 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 section 171(27)]; State Finance Law section 18; CPLR section 5001; Executive Law section 32].
5. The period of probation shall be tolled during periods in which the Respondent is not engaged in the active practice of medicine in New York State. The Respondent shall notify the Director of OPMC, in writing, if the 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. The 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 the Respondent's return to practice in New York State.
6. The 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 the Respondent and his staff at practice locations or OPMC offices.
7. The 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.

8. The Respondent shall be subject to an in-depth chemical dependency evaluation, which shall be conducted at the direction of the Director of OPMC. Based upon the results of such evaluation and upon any and all additional information known to OPMC, the Director shall determine the further terms of probation to which the Respondent shall be subject. Such terms shall include, but not be limited to, the monitoring terms that are set forth in Exhibit "C", attached.
9. The Respondent shall comply with all terms, conditions, restrictions, limitations and penalties to which he 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 the Respondent as may be authorized pursuant to the law.

EXHIBIT "C"

IMPAIRMENT MONITORING

1. The Respondent shall remain drug/alcohol free.
2. The Respondent shall remain active in self help groups such as, but not limited to, Narcotics Anonymous, Alcoholics Anonymous and Caduceus.
3. The Respondent shall notify all treating physicians of his history of alcohol/chemical dependency. The Respondent shall advise PMC of any controlled or mood-altering substance given or prescribed by treating physicians.
4. The Respondent shall practice only when monitored by qualified health care professional monitors (sobriety monitor, practice supervisor, and therapist) proposed by the Respondent and approved, in writing, by the Director of OPMC. Monitors shall not be family members or personal friends, or be in professional relationships which would pose a conflict with monitoring responsibilities.
5. The Respondent shall ensure that the monitors are familiar with the Respondent's drug/alcohol dependency and with the terms of this Order. The Respondent shall cause the monitors to report any deviation from compliance with the terms of this Order to OPMC. The Respondent shall cause the monitors to submit required reports on a timely basis.
6. The Respondent shall submit, at the request of a monitor, to random, unannounced observed blood, breath and/or urine screens for the presence of drugs/alcohol. This monitoring will be on a random, seven-days a week, twenty-four hours a day basis. The Respondent shall report for a drug screen within four (4) hours of being contacted by the monitor. The Respondent shall cause the monitor to report to OPMC within 24 hours if a test is refused or delayed by the Respondent or a test is positive for any unauthorized substance.
7. The Respondent shall meet with a sobriety monitor on a regular basis who will submit quarterly reports to OPMC certifying the Respondent's sobriety. These reports are to include a) forensically valid results of all drug/alcohol monitoring tests to be performed at a frequency of no less than biweekly for the first 12 months of the period of probation, then at a frequency to be proposed by the sobriety monitor and approved by OPMC and b) an assessment of self-help group attendance (e.g., AA/NA/Caduceus, etc.), 12 step progress, etc.

8. The Respondent shall practice medicine only when supervised in his medical practice. The practice supervisor shall be on-site at all locations, unless determined otherwise by the Director of OPMC. The Respondent shall not practice medicine until a practice supervisor has been approved. The Respondent shall ensure that the practice supervisor is in a position to regularly observe and assess the Respondent's medical practice. The Respondent shall cause the practice supervisor to report within 24 hours any suspected impairment, inappropriate behavior, questionable medical practice or possible misconduct to OPMC.
9. The Respondent shall cause the practice supervisor to review the Respondent's practice regarding the prescribing, administering, dispensing, inventorying, and disposal of controlled substances.
10. The Respondent shall cause the practice supervisor to submit quarterly reports to OPMC regarding the quality of the Respondent's medical practice, including the evaluation and treatment of patients, physical and mental condition, time and attendance or any unexplained absences from work, prescribing practices, and compliance or failure to comply with any term of probation.
11. The Respondent shall continue in counseling or other therapy with a therapist as long as the therapist determines is necessary, or for the period of time dictated in the Order.
12. The Respondent shall cause the therapist to submit a proposed treatment plan and quarterly reports to OPMC certifying whether the Respondent is in compliance with the treatment plan. The Respondent shall cause the therapist to report to OPMC within 24 hours if the Respondent leaves treatment against medical advice, or displays any symptoms of a suspected or actual relapse.
13. The Respondent shall comply with any request from OPMC to obtain an independent psychiatric/chemical dependency evaluation by a health care professional proposed by the Respondent and approved, in writing, by the Director of OPMC.