



New York State Board for Professional Medical Conduct

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

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

Patrick F. Carone, M.D., M.P.H.
Chair
Ansel R. Marks, M.D., J.D.
Executive Secretary

December 22, 1997

CERTIFIED MAIL-RETURN RECEIPT REQUESTED

Raphael Jewelewicz, M.D.
St. Vincent's Hospital Medical Center
153 West 11th Street
New York, New York 10011

RE: License No. 093235

Dear Dr. Jewelewicz:

Enclosed please find Order #BPMC 97-321 of the New York State Board for Professional Medical Conduct. This Order and any penalty provided therein goes into effect December 18, 1997.

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
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: Belinda J. Katz, Esq.
Bartlett, McDonough, Bastone & Monaghan, LLP
300 Old Country Road
Mineola, New York 11501

David Smith, Esq.

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

IN THE MATTER
OF
RAPHAEL JEWELWICZ, M.D.

CONSENT
AGREEMENT
AND
ORDER
BPMC #97-321

STATE OF NEW YORK)
COUNTY OF) ss.:

RAPHAEL JEWELWICZ, M.D., being duly sworn, deposes and says:

That on or about October 14, 1964, I was licensed to practice as a physician in the State of New York, having been issued License No. 093235 by the New York State Education Department.

My current address is St. Vincent's Hospital Medical Center, 153 West 11th Street, New York, New York 10011("St. Vincent's"), 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 six (6) 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 Third and Fifth Specifications, in full satisfaction of the charges against me. I hereby agree to the following penalty:

- a. My license shall be suspended for a period of three (3) years with such suspension to be entirely stayed.
- b. I shall be subject to a three (3) year probation 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 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 1997).

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.


RAPHAEL JEWELEWICZ, M.D.
RESPONDENT

Sworn to before me this

10th day of November, 1997.



NOTARY PUBLIC

SHERYL M. WILSON
Notary Public, State of New York
No. 01WI4856092
Qualified in Westchester County
Commission Expires March 31, 1998

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

DATE: 11/13/97

Berlitz, W.D. King, Bastian & Monaghan LLP
BERENDA I. KATZ ESQ. *by Beren I. Katz*
Attorney for Respondent

DATE: 12/21/97

David W. Smith
DAVID W. SMITH
Associate Counsel
Bureau of Professional
Medical Conduct

DATE: 13/16/97

Anne F. Saile
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
RAPHAEL JEWELWICZ, M.D.

CONSENT
ORDER

Upon the proposed agreement of RAPHAEL JEWELWICZ, 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 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: 12/18/97


PATRICK F. CARONE, M.D., M.P.H.
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
RAPHAEL JEWELEWICZ, M.D.**

**STATEMENT
OF
CHARGES**

RAPHAEL JEWELEWICZ, M.D., the Respondent, was authorized to practice medicine in New York State on or about October 14, 1964, by the issuance of license number 093235 by the New York State Education Department.

FACTUAL ALLEGATIONS

- A. Beginning in or about 1975, Respondent treated Patient A at his office for infertility problems.
1. Over the next twenty years Respondent inappropriately had sexual relations with Patient A while she was still a patient.
 2. In or about June, 1980, Respondent treated Patient A at his office but failed to note the results of such visit in his patient notes.
 3. In or about 1985, Respondent performed a Termination of Pregnancy on Patient A but failed to make any note of this in his patient record and failed to make post-operative visits or note such visits, if any.

4. Respondent treated Patient A again in or about March, 1990, but failed to take an adequate medical history or note such history, if any.
5. Respondent treated Patient A again in or about March, 1995, but failed to obtain an adequate medical history or note such history, if any.
6. Beginning in or about 1992, Respondent inappropriately prescribed Tenuate Dospans for Patient A.

SPECIFICATION OF CHARGES

FIRST SPECIFICATION

GROSS NEGLIGENCE ON MORE THAN ONE OCCASION

Respondent is charged with committing professional misconduct as defined in N.Y. Educ. Law §6530(4)(McKinney Supp. 1997) by practicing the profession of medicine with gross negligence as alleged in the facts of the following:

1. Paragraphs A and A5.

SECOND SPECIFICATION

GROSS INCOMPETENCE

Respondent is charged with committing professional misconduct as defined in N.Y. Educ. Law §6530(6)(McKinney Supp. 1997) by practicing the profession of medicine with gross incompetence as alleged in the facts of the following:

2. Paragraphs A and A5.

THIRD 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. 1997) 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:

3. Paragraphs A and A1-5.

FOURTH 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. 1997) 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:

4. Paragraphs A and A1-5.

FIFTH SPECIFICATION
FAILURE TO MAINTAIN RECORDS

Respondent is charged with failing to maintain a record for each patient which accurately reflects the evaluation and treatment of the patient within the meaning of N.Y. Educ. Law §6530(32)(McKinney Supp. 1997). Specifically, Petitioner charges:

5. Paragraphs A and A2-5.

SIXTH SPECIFICATION
CONDUCT EVIDENCING MORAL UNFITNESS

Respondent is charged with committing professional misconduct as defined in N.Y. Educ. Law §6530(20)(McKinney Supp. 1997) by engaging in conduct in the practice of the profession of medicine that evidences moral unfitness to practice as alleged in the facts of the following:

6. Paragraphs A and A1.

DATED: September , 1997
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. Respondent shall fully cooperate with and respond in a timely manner to requests from OPMC to provide written periodic verification of Respondent's compliance with the terms of this Order. 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 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.
6. 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 Respondent and his/her staff at practice locations or OPMC offices.
7. 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. a. During the term of this probation, Respondent shall examine and/or treat any female patient only in the presence of a chaperone. Respondent presently practices in hospital as a member of the obstetrical service of St. Vincent's and as a member of a faculty practice which is part of the obstetrical service. Accordingly, Respondent shall cause the Director of Obstetrical Services of St. Vincent's Hospital, James Jones, M.D., to confirm to the Director of OPMC, in writing, that a chaperone will be present at each examination and/or treatment of a female patient by Respondent whether in hospital or at the faculty practice. Respondent will also cause Dr. Jones to:
 - (i) Report to OPMC within 24 hours, any failure by Respondent to have a chaperone present when required and any sexually suggestive or inappropriate remarks or actions made in the presence of a patient;
 - b. If, for any reason, Dr. Jones is no longer Director of Obstetrical Services at St. Vincent's Hospital, Respondent shall cause the successor of Dr. Jones to assume the same responsibilities as Dr. Jones regarding use of chaperones by Respondent and to notify the Director of OPMC.
 - c. Should Respondent become employed by any other hospital in place of or in addition to St. Vincent's, he shall continue to be chaperoned in all encounters with female patients and shall cause the Director of the service for whom he works to file the same agreement with the Director of OPMC and follow the same requirements as Dr. Jones.
9. At any point that Respondent returns to the private practice of medicine, he shall continue to have a chaperone in his office for the examination and/or treatment of all female patients. The chaperone shall be a female licensed or registered health care professional or other health care worker, shall not be a family member, personal friend, or be in a professional relationship with Respondent which could pose a conflict with the chaperone's responsibilities. The chaperone shall be proposed by Respondent and subject to the written approval of the Director of OPMC.
10. Prior to the approval of any individual as chaperone, pursuant to the provisions of Paragraph 9, supra, Respondent shall cause the proposed chaperone to execute and submit to the Director of OPMC an acknowledgement of her agreement to undertake all of the responsibilities of the role of chaperone. Said acknowledgement shall be made upon a form provided by and acceptable to the Director. Respondent shall provide the chaperone with a copy of the Order and all of its attachments and shall, without fail, cause the approved chaperone to:
 - a. Report quarterly to OPMC regarding her chaperoning of Respondent's practice.
 - b. Report within 24 hours any failure of Respondent to comply with the Order, including, but not limited to, any failure by Respondent to have the chaperone present when required, any sexual suggestive or otherwise inappropriate comments by Respondent to any patient, and any actions of a sexual nature by Respondent in the presence of any patient.

- c. Confirm the chaperone's presence at each and every examination and treatment of a female patient by Respondent, by placing her name, title and date in the patient record for each and every visit, and by maintaining a separate log, kept in her own possession, listing the patient name and date of visit for each and every patient visit chaperoned.
 - d. Provide copies of the log described in paragraph c, above, to OPMC at least quarterly and also immediately upon the Director's request.
11. 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.