



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., Dr. P.H.
*Commissioner
NYS Department of Health*

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

Dennis J. Graziano, Director
Office of Professional Medical Conduct

William P. Dillon, M.D.
Chair

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

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

February 21, 2002

CERTIFIED MAIL-RETURN RECEIPT REQUESTED

Seymour Halpern, M.D.
146 Central Park West
New York, NY 10023

RE: License No. 043409

Dear Dr. Halpern:

Enclosed please find Order #BPMC 02-62 of the New York State Board for Professional Medical Conduct. This Order and any penalty provided therein goes into effect February 22, 2002.

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 Fabian, Esq.
Mixon, Peabody, LLP
437 Madison Avenue
New York, NY 10022-7001

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

IN THE MATTER
OF
SEYMOUR HALPERN, M.D.

Consent
Order

BPMC No. 02-62

Upon the application of (Respondent) SEYMOUR HALPERN, M.D. in the attached Consent Agreement and Order, which is made a part of this Consent Order, it is

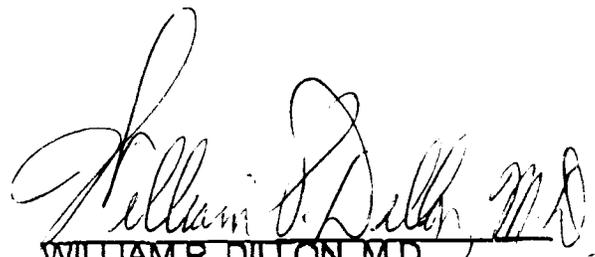
ORDERED, that the Consent Agreement, and its terms, are adopted and SO ORDERED, and it is further

ORDERED, that this Order shall be effective upon issuance by the Board, either

- by mailing of a copy of this Consent Order, either by first class mail to Respondent at the address in the attached Consent Agreement or by certified mail to Respondent's attorney, OR
- upon facsimile transmission to Respondent or Respondent's attorney, Whichever is first.

SO ORDERED.

DATED: 2/21/02


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

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

**IN THE MATTER
OF
SEYMOUR HALPERN, M.D.**

Consent Agreement

SEYMOUR HALPERN, M.D., representing that all of the following statements are true, deposes and says:

That in or about 1945, I was licensed to practice as a physician in the State of New York, and issued License No. 043409 by the New York State Education Department.

My current office address is 146 Central Park West, New York, NY 10023, and I will advise the Director of the Office of Professional Medical Conduct of any change of address.

I understand that the New York State Board for Professional Medical Conduct has charged me with two specifications of professional misconduct.

A copy of the Statement of Charges, marked as Exhibit "A", is attached to and made a part of this Consent Agreement.

Upon my agreement not to contest the allegations, in full satisfaction of the Statement of Charges and of all matters currently under investigation by the Office of Professional Medical Conduct, I agree to the following:

Beginning 45 days after the effective date of this order, my license to practice medicine shall be limited, pursuant to §230-a of the Public Health Law, to preclude patient contact and any practice of medicine. I shall be precluded from diagnosing, treating, operating, or prescribing for any human disease, pain,

injury deformity, or physical condition.

Beginning immediately I shall be subject to the Conditions set forth in Exhibit "B," attached.

I further agree that the Consent Order for which I hereby apply shall impose the following Conditions:

- That Respondent shall, within 45 days of the issuance of the Consent Order, notify the New York State Education Department, Division of Professional Licensing Services, that Respondent's license status is "inactive," and shall provide proof of such notification to the Director of OPMC within 30 days thereafter; and
- That Respondent shall return any and all official New York State prescriptions to the Bureau of Controlled Substances, and shall surrender Respondent's Controlled Substance Registration Certificate to the United States Department of Justice, Drug Enforcement Administration, within 45 days of the effective date of this Order. Further, within 30 days of returning said prescriptions and surrendering said registration, Respondent shall provide documentary proof of such transaction(s) to the Director of OPMC; and

I further agree that the Consent Order shall impose the following conditions:

That Respondent shall cooperate fully with the Office of Professional Medical Conduct (OPMC) in its administration and enforcement of this Order and in its investigations of matters concerning Respondent. Respondent shall respond in

a timely manner to all OPMC requests for written periodic verification of Respondent's compliance with this Order. Respondent shall meet with a person designated by the Director of OPMC, as directed. Respondent shall respond promptly and provide all documents and information within Respondent's control, as directed. This condition shall take effect upon the Board's issuance of the Consent Order and will continue so long as Respondent remains licensed in New York State; and

Respondent shall comply with all conditions set forth in Exhibit "C" ("Guidelines for Closing a Medical Practice") which is attached.

I stipulate that my failure to comply with any conditions of this Order shall constitute misconduct as defined by New York State Education Law §6530(29).

I agree that if I am charged with professional misconduct for my failure to comply with this Order, this Consent Agreement and Order **shall** be admitted into evidence in that proceeding.

I ask the Board to adopt this Consent Agreement.

I understand that if the Board does not adopt this Consent Agreement, none of its terms shall bind me or constitute an admission of any of the acts of alleged misconduct; this Consent Agreement shall not be used against me in any way and shall be kept in strict confidence; and the Board's denial shall be without prejudice to the pending disciplinary proceeding and the Board's final determination pursuant to the Public Health Law.

I agree that, if the Board adopts this Consent Agreement, the Chair of the Board shall issue a Consent Order in accordance with its terms. I agree that this

Order shall take effect upon its issuance by the Board, either by mailing of a copy of the Consent Order by first class mail to me at the address in this Consent Agreement, or to my attorney by certified mail, OR upon facsimile transmission to me or my attorney, whichever is first.

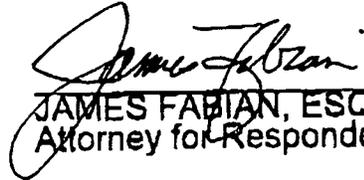
I ask the Board to adopt this Consent Agreement of my own free will and not under duress, compulsion or restraint. In consideration of the value to me of the Board's adoption of this Consent Agreement, allowing me to resolve this matter without the various risks, burdens, and expenses of a hearing on the merits, I knowingly waive my right to contest the Consent Order for which I apply, whether administratively or judicially, I agree to be bound by the Consent Order, and ask that the Board adopt this Consent Agreement.

DATED 2/13/2


 SEYMOUR HALPERN, M.D.
 RESPONDENT

The undersigned agree to Respondent's attached Consent Agreement and to its proposed penalty, terms and conditions.

DATE: 2/13/02


JAMES FABIAN, ESQ.
Attorney for Respondent

DATE: 2/13/02


Roy Nemerson
Deputy Counsel
Bureau of Professional
Medical Conduct

DATE: 2/21/02

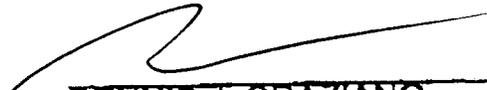

DENNIS J. GRAZIANO
Director
Office of Professional
Medical Conduct

Exhibit "A"

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

IN THE MATTER
OF
SEYMOUR HALPERN, M.D.

STATEMENT
OF
CHARGES

SEYMOUR HALPERN, M.D., the Respondent, was authorized to practice medicine in New York State in or about 1945, by the issuance of license number 043409 by the New York State Education Department.

FACTUAL ALLEGATIONS

- A. On at least one occasion Respondent failed to comply with reporting requirements related to Hepatitis B.
- B. On dates unknown to Petitioner but prior to December 27, 2001, Respondent or a nonphysician staff person in Respondent's medical offices located at 146 Central Park West improperly administered injections to two or more of the patients referenced in first two paragraphs of Appendix A.

SPECIFICATION OF CHARGES**FIRST SPECIFICATION****FAILURE TO FILE REPORT**

Respondent is charged with committing professional misconduct as defined

in N.Y. Educ. Law §6530(21) by failing to file a report required by law or by the department of health or the education department, as alleged in the facts of:

- 1. Paragraph A.

SECOND SPECIFICATION

FAILURE TO COMPLY

Respondent is charged with committing professional misconduct as defined in N.Y. Educ. Law §6530(16) by failing to comply with provisions governing the practice of medicine, as alleged in the facts of:

- 2. Paragraph A and/or Paragraph B.

DATED: February , 2002
New York, New York

Roy Nemerson
Deputy Counsel
Bureau of Professional
Medical Conduct

APPENDIX "A"

THE CITY OF NEW YORK
DEPARTMENT OF HEALTH
 OFFICE OF THE COMMISSIONER



125 WORTH STREET
 NEW YORK, NY 10013

ORDER OF THE COMMISSIONER

NEAL L. COHEN, M.D.
 COMMISSIONER
 TEL (212) 788-5261
 FAX (212) 864-0172

TO: **SEYMOUR HALPERN, M.D.**
 146 Central Park West
 New York, N.Y. 10023,

Respondent.

WHEREAS, the New York City Department of Health (the Department) has received, pursuant to Section 11.05 of the New York City Health Code (the Health Code), reports of two cases of acute hepatitis B, a disease reportable to the Department, occurring among respondent's patients; and

WHEREAS, the Department has commenced an investigation of such cases in accordance with Section 2.6 of the New York State Sanitary Code [10 N.Y.C.R.R. Chapter 1] and has discovered 18 other cases of acute hepatitis B occurring among respondent's patients within a two year period; and

WHEREAS, the Department has determined that the only factor which such patients have in common is treatment with parenteral medications received at respondent's practice; and

WHEREAS, the Department's preliminary investigation indicates that there may be many other patients who received similar treatment from respondent, who now may be at risk for hepatitis B or other blood borne infections and who may require medical diagnosis and possible treatment; and

WHEREAS, pursuant to Section 2.6 of the Sanitary Code and Section 11.05 of the Health Code, the Department is required "to conduct such investigation as may be necessary to ascertain sources or causes of infection, to discover contacts and unreported cases, and ... [to] ... take such steps as may be necessary to prevent morbidity and mortality."

IT IS HEREBY ORDERED that commencing at 9:00 a.m. on Saturday, January 5, 2002, respondent shall provide full access to authorized personnel of the Department to all records maintained by respondent which the Department may request for Department review; and

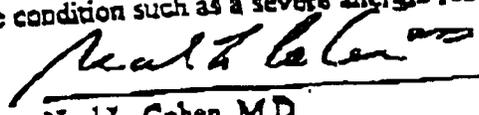
IT IS FURTHER ORDERED that respondent, his employees or agents shall, consistent with Assistant Commissioner Layton's December 27, 2001 letter (attached), until further notice, continue

PLDS 09:00 JAN 4 2002

DOH SECT OFFICE/LEAD FAX: 212-788-5004

to cease and desist from the administration of any injectable medications - via the intramuscular, intravenous, intradermal or subcutaneous route - except for standard vaccines such as influenza or pneumococcal; or urgent medications for an acute condition such as a severe allergic reaction.

Dated: January 4, 2001


Neal L. Cohen, M.D.
Commissioner

WARNING

Failure to comply with an Order of the Commissioner of Health is a violation of the Health Code and a misdemeanor for which you may be subject to civil and criminal penalties, including fines, forfeitures and imprisonment.

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EXHIBIT "B"

1. Licensee shall in all respects comply with the Order of the New York City Commissioner of Health, issued on January 4, 2002, and will any subsequent Order issued by the New York City Health Department.
2. Until Licensee withdraws from medical practice pursuant to this order, he shall assure that no patient is seen in his professional offices except when Licensee is personally present and in direct supervision of all activities except for the drawing of blood as requested by the New York City Department of Health by staff persons approved by that Department for that purpose.
3. Until Licensee withdraws from medical practice pursuant to this order he shall, except to the limited extent set forth below, shall refrain from administering any injectable substance to any patient, whether by intramuscular, intravenous, intradermal or subcutaneous route, and shall cause all persons employed at his professional practice locations to likewise refrain. In the case of standard vaccines such as influenza or pneumococcal, or in the case of urgent medication for an acute condition such as a severe allergic reaction, Licensee may personally, but not through non-physician staff persons, administer injections if and only if he has personally verified the safety of all devices and substances utilized, by generally accepted standards of infection control.
4. Until Licensee withdraws from medical practice pursuant to this order he shall ensure that all practices and facilities within his professional offices shall be in compliance with generally accepted standards of infection control.
5. Licensee shall provide the Director, Office of Professional Medical Conduct (OPMC), Hedley Park Place, 433 River Street Suite 303, Troy, New York 12180-2299 with the following information, in writing, and ensure that such information is kept current: a full description of Licensee's employment, if any; all professional and residential addresses and telephone numbers within and outside New York State;
6. Licensee shall cooperate fully with, and respond in a timely manner to, OPMC requests to provide written periodic verification of Licensee's compliance with the terms of this Stipulation and Order. Upon the Director

of OPMC's request, Licensee shall meet in person with the Director's designee.

7. The Director of OPMC or any person or Agency designated by him may review Licensee's compliance with this Stipulation and Order.

EXHIBIT "C"**GUIDELINES FOR CLOSING A MEDICAL PRACTICE**

1. Respondent shall cease and desist from engaging in the practice of medicine in accordance with the terms of the Order. In addition, Respondent shall refrain from providing an opinion as to professional practice or its application and from representing himself as being eligible to practice medicine.
2. Respondent shall have delivered to the Office of Professional Medical Conduct (OPMC) at 433 River Street Suite 303, Troy, NY 12180-2299 his current biennial registration within thirty (45) days of the effective date of the Order.
3. Respondent shall, within 45 days of the issuance of the Consent Order, notify the New York State Education Department, Division of Professional Licensing Services, that Respondent's license status is "inactive," and shall provide proof of such notification to the Director of OPMC within 30 days thereafter.
4. Respondent shall make arrangements for the transfer and maintenance of the medical records of his patients. Within 45 days of the effective date of the Order, Respondent shall notify OPMC of these arrangements including the appropriate and acceptable contact person's name, address, and telephone number who shall have access to these records. Original records shall be retained for at least six years after the last date of service rendered to a patient or, in the case of a minor, for at least six years after the last date of service or three years after the patient reaches the age of majority whichever time period is longer. Records shall be maintained in a safe and secure place which is reasonably accessible to former patients. The arrangements shall include provisions to ensure that the information on the record is kept confidential and made available only to authorized persons. When a patient or and/or his or her representative requests a copy of the patient's medical record or requests that the original medical record be forwarded to another health care provider, a copy of the record shall be promptly provided or forwarded at a reasonable cost to the patient (not to exceed seventy-five cents per page.) Radiographic, sonographic and like materials shall be provided at cost. A qualified person shall not be denied access to patient information solely because of their inability to pay.
5. In the event that Respondent holds a Drug Enforcement Agency (DEA) certificate, Respondent shall within fifteen (45) days advise the DEA in writing of the licensure action and shall surrender his DEA controlled substance privileges to the

DEA. Respondent shall promptly surrender any unused DEA #222 U.S. Official Order Forms Schedules 1 and 2 to the DEA.

6. Respondent shall within fifteen (45) days return any unused New York State official prescription forms to the Bureau of Controlled Substances of the New York State Department of Health. Respondent shall cause all prescription pads bearing his name to be destroyed. If no other licensee is providing services at his practice location, all medications shall be properly disposed.

7. Respondent shall not share, occupy or use office space in which another licensee provides health care services. Respondent shall cause all signs to be removed within fifteen (45) days and stop all advertisements, future professional listings whether in telephone directories or otherwise, professional stationery or billings by which his eligibility to practice is represented.

8. Respondent shall not charge, receive or share any fee or distribution of dividends for professional services rendered by himself or others while barred from engaging in the practice of medicine. Respondent may be compensated for the reasonable value of services lawfully rendered and disbursements incurred on a patient's behalf prior to the effective date of this Order.

9. If Respondent is a shareholder in any professional service corporation organized to engage in the practice of medicine and if his license is revoked, surrendered or suspended for a term of six months or more under the terms of this Order, Respondent shall divest himself of all financial interest in the professional services corporation in accordance with New York Business Corporation Law. Such divestiture shall occur within 90 days. If Respondent is the sole shareholder in a professional services corporation, the corporation must be dissolved or sold within ninety (90) days of the effective date of this Order.

10. Failure to comply with the above directives may result in a civil penalty or further criminal penalties as may be authorized pursuant to the law. Under Section 6512 of the Education Law it is a Class E Felony, punishable by imprisonment of up to 4 years, to practice the profession of medicine when such professional license has been suspended, revoked or annulled. Such punishment is in addition to the penalties for professional misconduct set forth in section 230-a of the Public Health Law, which includes fines of up to \$10,000 for each specification of charges of which the Respondent is found guilty and may include revocation of a suspended license.