



New York State 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 of Health

Charles J. Vacanti, M.D.
Chair

October 22, 1996

CERTIFIED MAIL-RETURN RECEIPT REQUESTED

Andrew L. Schwartz, R.P.A.
33 Cottage Street
Monticello, New York 12701

RE: License No. 004046

Dear Mr. Schwartz:

Effective Date: 10/29/96

Enclosed please find Order #BPMC 96-251 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,

Charles Vacanti, M.D.
Chair

Board for Professional Medical Conduct

Enclosure

cc: Wilfred T. Friedman, Esq.
598 Madison Avenue
New York, New York 10022

Ann Gayle, Esq.

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

IN THE MATTER
OF
ANDREW LEWIS SCHWARTZ, R.P.A.

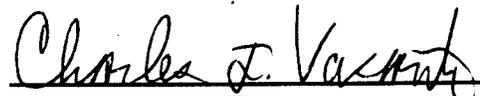
CONSENT
ORDER
BPMC #96-251

Upon the application of ANDREW LEWIS SCHWARTZ, R.P.A.,
(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 October 1996



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
ANDREW LEWIS SCHWARTZ, R.P.A.

APPLICATION
FOR
CONSENT ORDER

STATE OF NEW YORK)
COUNTY OF *New York*) ss.:

ANDREW LEWIS SCHWARTZ, R.P.A., being duly sworn, deposes and says:

That on or about August 17, 1980, I was licensed to practice as a physician assistant in the State of New York, having been issued registration No. 004046 by the New York State Education Department.

My current address is 33 Cottage Street, *Monticello (NS)* ~~Mondakleusey~~, NY, 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 one specification of professional misconduct.

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

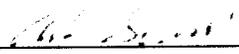
I admit guilt to the specification of misconduct, in full satisfaction of the charges against me. I hereby agree that my registration to practice as a physician assistant shall be suspended for a period of two years, that said suspension shall be stayed, and that I shall be placed on probation, subject to the terms set forth in Exhibit "B" which is attached.

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 LEWIS SCHWARTZ, R.P.A.
RESPONDENT

Sworn to before me this

day of _____, 19 .

NOTARY PUBLIC

Wilfred T. Friedman
Notary Public, State of New York
1986
New York County
Westchester County
August 7, 1996

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

IN THE MATTER
OF
ANDREW LEWIS SCHWARTZ, R.P.A.

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: September 1, 1996 *Andrew Schwartz*
ANDREW LEWIS SCHWARTZ, R.P.A.
Respondent

DATE: October 9, 1996 *Wilfred T. Friedman*
WILFRED T. FRIEDMAN, ESQ.
Attorney for Respondent

DATE: October 9, 1996 *Ann Gayle*
ANN GAYLE
Associate Counsel
Bureau of Professional
Medical Conduct

DATE: October 16 1996

Anne Saile

ANNE F. SAILE
Acting Director
Office of Professional Medical
Conduct

DATE: 18 October 1996

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

ANDREW LEWIS SCHWARTZ, R.P.A.

STATEMENT

OF

CHARGES

ANDREW LEWIS SCHWARTZ, R.P.A., the Respondent, was authorized to practice medicine in New York State on or about August 17, 1990, by the issuance of license number 004046 by the New York State Education Department.

FACTUAL ALLEGATIONS

- A. During the years 1994 and 1995, Respondent was impaired for the practice of medicine as a physician assistant due to his dependence upon and habitual use of stadol.

SPECIFICATION OF CHARGES

**BEING AN HABITUAL USER OR HAVING A
PSYCHIATRIC CONDITION WHICH IMPAIRS
THE ABILITY TO PRACTICE**

Respondent is charged with committing professional misconduct as defined in N.Y. Educ. Law §6530(8)(McKinney Supp. 1996) by being a habitual user of alcohol, or being dependent on or a habitual user of narcotics, barbiturates, amphetamines, hallucinogens, or other drugs having similar effects, or having a psychiatric condition which impairs the licensee's ability to practice as alleged in the facts of Paragraph A.

DATED: July , 1996
New York, New York

ROY NEMERSON
Deputy Counsel
Bureau of Professional
Medical Conduct

EXHIBIT "B"

TERMS OF PROBATION

1. ANDREW LEWIS SCHWARTZ, R.P.A., 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 and shall assume and bear all costs related to compliance with the Terms of Probation;
6. Respondent shall cooperate and respond in a timely manner to requests from the Office of Professional Medical Conduct to provide periodic written verification of Respondent's compliance with the terms of this Order. Respondent shall personally meet with a member of the Office of Professional Medical Conduct at the discretion of the Director of the Office, if so requested by the Director or her designee.
7. Respondent shall be subject to the following terms, conditions, and limitations:

- a. Respondent shall remain drug and alcohol free.
- b. Respondent's sobriety shall be monitored by a qualified health care professional selected by Respondent and approved by the Director of the Office of Professional Medical Conduct, in accordance with the terms of this Order. Said monitor shall not be a personal friend of Respondent nor a family member nor shall he/she be in a professional relationship which would pose any conflict with his/her monitoring and reporting responsibilities. Respondent shall cause said monitor to acknowledge his/her willingness to comply with the monitoring by executing the acknowledgement provided by the Office of Professional Medical Conduct.
 - i. Said monitor shall be familiar with Respondent's history of substance abuse, with this order and with the conditions of practice set forth in or annexed to the Order. Said monitor shall not be Respondent's treating physician.
 - ii. Said monitor shall see Respondent at least once each month.
 - iii. Said monitor shall direct Respondent to submit to unannounced observed tests of his blood and/or urine for the presence of drugs or alcohol at a frequency no less than four tests per month for the first 12 months of the period of probation, then at a frequency to be determined as appropriate by the sobriety monitor and approved by the OPMC. Respondent shall report for a urine drug screen within four hours of being contacted by the sobriety monitor. The sobriety monitor shall report to the Office of Professional Medical Conduct (the Office) within 24 hours if at any time such a test is refused by Respondent or is positive.
 - iv. Said monitor shall report to the Office a pattern of noncompliance with the imposed conditions.
 - vi. Said monitor shall submit to the Office quarterly reports either certifying Respondent's compliance, or detailing his failure to comply, with each of the conditions imposed. The reports shall include the results of all body fluid and/or breath tests for drugs and/or alcohol performed during that quarter.
- c. Respondent shall be supervised in his medical practice by a licensed physician, whose identity shall be approved by the Director of the Office of Professional Medical Conduct. Said supervising physician shall be familiar with Respondent's history of and with the Order and its conditions. Said supervising physician shall be in a position regularly to observe and assess Respondent's medical practice. Respondent shall cause said supervising physician to acknowledge his/her willingness to comply with the supervision by executing the acknowledgement provided by the Office

of Professional Medical Conduct.

- i. Said supervising physician shall have the authority to direct Respondent to submit to unannounced tests of blood, breath, and/or urine for the presence of drugs or alcohol and shall report to the Office within 24 hours if at any time such a test is refused by Respondent or is positive.
 - ii. Said supervising physician shall submit to the Office quarterly reports regarding the quality of Respondent's medical practice, any unexplained absences from work and certifying Respondent's compliance or detailing his failure to comply with each condition imposed.
 - iii. The practice supervisor will report within 24 hours any suspected impairment, inappropriate behavior, questionable medical practice or possibility of misconduct to the OPMC.
- d. Respondent shall continue in treatment with a health care professional or a treatment program for as long as the health care professional or treatment program determines it is necessary.
- i. Respondent's treating health care professional or program shall submit to the Office quarterly reports certifying that Respondent is complying with the treatment.
 - ii. Said treating health care professional or program shall report to the Office immediately if Respondent drops out of treatment, or if he demonstrates any significant pattern of absences.
 - iii. Respondent shall cause said treating health care professional or program shall acknowledge his/her/its willingness to comply with the above-mentioned reporting by executing the acknowledgement provided by the Office of Professional Medical Conduct.

8. 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.