



Public
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

June 7, 1996

CERTIFIED MAIL-RETURN RECEIPT REQUESTED

Franklin S. Simon, M.D.

Redacted Address

RE: License No. 099659

Dear Dr. Simon:

Effective Date: 06/14/96

Enclosed please find Order #BPMC 96-142 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,

Redacted Signature

Charles Vacanti, M.D.
Chair
Board for Professional Medical Conduct

Enclosure

cc: Seth Stein, Esq.
100 Quentin Roosevelt Boulevard
Suite 509
Garden City, New York 11590

Roy Nemerson, Esq.

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

IN THE MATTER
OF
FRANKLIN S. SIMON, M.D.

SURRENDER
ORDER

BPMC #96-142

Upon the Application of FRANKLIN S. SIMON, M.D. (Respondent) to Surrender his/her license as a physician in the State of New York, which application is made a part hereof, it is

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

ORDERED, that the name of Respondent be stricken from the roster of physicians in the State of New York; 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 via certified mail, whichever is earliest.

SO ORDERED.

DATED: 5 June 1996

Redacted Signature

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

RECEIVED

JUN 07 1998

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

MEDICAL CONDUCT

IN THE MATTER
OF
FRANKLIN S. SIMON, M.D.

CORRECTION OF
APPLICATION TO
SURRENDER
LICENSE

FRANKLIN S. SIMON, M.D., hereby consents and agrees that the following corrections shall be made, by the Office of Professional Medical Conduct, to the Application to Surrender License executed by me on June 3, 1998, and to the Order of the Chairperson of the State Board for Professional Medical Conduct issued upon that application:

The first paragraph of said application which, as originally prepared by the Department of Health, states *incorrectly* that "On or about December 5, 1967, I was licensed to practice medicine as a physician in the State of New York having been issued License No. 099656 by the New York State Education Department" shall be modified to *correctly* state that "On or about December 5, 1967, I was licensed to practice medicine as a physician in the State of New York having been issued License No. 099659 by the New York State Education Department" Likewise, my correct license number shall be inserted in "Exhibit A" of the Application, in place of the incorrect number.

Redacted Signature

FRANKLIN S. SIMON, M.D.

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

IN THE MATTER
OF
FRANKLIN S. SIMON, M.D.

APPLICATION TO
SURRENDER
LICENSE

STATE OF NEW YORK)

ss.:

COUNTY OF)

FRANKLIN S. SIMON, M.D., being duly sworn, deposes and says:

On or about December 5, 1987, I was licensed to practice medicine as a physician in the State of New York having been issued License No. ~~089656~~^{099659 (KJS)} by the New York State Education Department.

My current address is Redacted Address ark, NY 11694,
and I will advise the Director of the Office of Professional Medical Conduct of any change of my address.

I understand that I have been charged with eight specifications of professional misconduct as set forth in the Statement of Charges, annexed hereto, made a part hereof, and marked as Exhibit "A".

I am applying to the State Board for Professional Medical Conduct for permission to surrender my license as a physician in the State of New York on the grounds that I *admit* to the first and second specifications, only, as well as the factual allegations cited in those specifications, insofar as said facts occurred prior to the year 1995 and on the further grounds that I agree that I *will not contest* the balance of the specifications and factual allegations cited in the Statement of Charges, in full satisfaction of the Statement of Charges.

* BUT DO NOT ADMIT

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.

Redacted Signature

FRANKLIN S. SIMON, M.D.
Respondent

Sworn to before me this

3 day of June 1996

Seth Philip Stein
NOTARY PUBLIC

SETH PHILIP STEIN
NOTARY PUBLIC, State of New York
No. 30-4501388
Qualified in Nassau County
Commission Expires March 30, 1997

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

IN THE MATTER
OF
FRANKLIN S. SIMON, M.D.

APPLICATION TO
SURRENDER
LICENSE

The undersigned agree to the attached application of the Respondent to surrender his license.

Date: 6/3, 1996

Redacted Signature

FRANKLIN S. SIMON, M.D.
Respondent

Date: 6/3, 1996

Redacted Signature

SETH STEIN, Esq.
Attorney for Respondent

Date: 6/3, 1996

Redacted Signature

ROY NEMERSON
Deputy Counsel
Bureau of Professional
Medical Conduct

Date: June 3, 1996

Redacted Signature

ANNE F. SAILE
Acting Director
Office of Professional Medical Conduct

Date: 5 June, 1996

Redacted Signature

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
FRANKLIN S. SIMON, M.D.

STATEMENT
OF
CHARGES

FRANKLIN S. SIMON, M.D., the Respondent, was authorized to practice medicine in New York State on or about December 5, 1967, by the issuance of license number ~~000058~~ ^{009659 (KRS)} by the New York State Education Department. By Order of the Commissioner of Education served upon Respondent July 7, 1981, said license was revoked, based upon Respondent's having been found guilty of Professional Misconduct including:

The fraudulent practice of medicine relating to making sexual advances and attempting to induce a patient to perform various lewd and lascivious acts, under the guise of providing marital counselling; and

The grossly incompetent and grossly negligent practice of medicine relating to Respondent's behavior in the treatment of two different patients, that Respondent displayed and on one occasion discharged a pistol or reasonable facsimile thereof, he made abusive, lewd, and other inappropriate statements and sexual advances, he engaged in lewd and lascivious behavior, and he attempted to induce a patient to perform lewd and lascivious acts, all in the course of purported treatment; and

The practice of medicine while impaired therefor by mental illness; and

The engaging in conduct, in the practice of medicine, evidencing moral unfitness for such practice.

On September 23, 1983, the Board of Regents determined that the previous revocation of Respondent's license be modified, staying the revocation and placing Respondent on probation for a period of five years.

FACTUAL ALLEGATIONS

- A. Respondent has suffered from mental illness, diagnosed as manic-depressive disease, since at least 1971. Respondent's mental illness has impaired Respondent for the practice of medicine at numerous times during the years since 1971.
1. Respondent practiced medicine at all times during his licensure.
 2. Specific occasions on which Respondent's impairment impacted on his practice of medicine include but are not limited to the following years: 1995, 1994, 1986, 1985, 1977, 1976, 1972, and 1971.
- B. Respondent knowingly and with the intent to deceive made the following false statements in the practice of medicine and/or in his application for the restoration of his medical license.
1. In his December 1985 application for appointment to the staff at Coney Island Hospital he answered "no" to questions seeking the following :
 - a. Presence or history of any physical or mental health condition which affects or which may reasonably progress to a point of affecting ability to perform professional clinical or other staff duties?
 - b. Having ever been found guilty of any activity which would constitute misconduct in N.Y.S.
 2. In his application for employment at Manhattan Psychiatric Center

the answered "no" the following questions:

- a. Were you ever dismissed or discharged from employment for reasons other than lack of work or funds?
 - b. Did you ever resign from any employment rather than face dismissal.
3. In his 1983 application to the New York State Board of Regents for the restoration of his privilege to practice medicine in New York State he asserted, through his attorney that:
- a. no complaints concerning Respondent's medical practice had been lodged prior to or after his September 1976 - October 1977 manic episode.
- C. On or about and between September and November of 1995, Respondent rendered psychiatric treatment to Patient C, at his private office.
1. For other than a *bona fide* medical reason, Respondent engaged in inappropriate and/or sexually motivated conduct as follows:
 - a. Respondent caused Patient C to sit on his lap on repeated occasions.
 - b. Respondent kissed Patient C on repeated occasions.
 - c. Respondent bit Patient C on repeated occasions.
 - d. Respondent touched Patient C's buttocks.
 - e. Respondent reached beneath Patient C's shirt and massaged her back.
 2. Respondent failed to maintain a record that accurately reflects the

evaluation, care and treatment of this patient.

D. On or about and between August of 1994 and April of 1995, at Manhattan Psychiatric Center, Respondent engaged in the following inappropriate conduct with respect to Dr. Y, a psychiatrist employed at Manhattan Psychiatric Center, where Respondent practiced medicine:

1. Attempted to disrobe Dr. Y on more than one occasion.
2. Touched Dr. Y in a sexual manner on more than one occasion,
3. Exposed his genitals and masturbated in Dr. Y's presence on more than one occasion
4. Made lewd propositions to Dr. Y.

SPECIFICATION OF CHARGES

FIRST SPECIFICATION

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 having a psychiatric condition which impairs the licensee's ability to practice as alleged in the facts of the following:

1. Paragraph A.

SECOND SPECIFICATION

PRACTICING WHILE IMPAIRED

Respondent is charged with committing professional misconduct as defined in N.Y. Educ. Law §6530(7)(McKinney Supp. 1996) by practicing the profession while impaired by mental disability as alleged in the facts of the following:

2. Paragraph A and its subparagraphs.

THIRD THROUGH FIFTH SPECIFICATIONS

FRAUDULENT PRACTICE

Respondent is charged with committing professional misconduct as defined by N.Y. Educ. Law §6530(2)(McKinney Supp. 1996) by practicing the profession of medicine fraudulently as alleged in the facts of the following:

3. Paragraph B and B1 and its subparagraphs.
4. Paragraph B and B2 and its subparagraphs.
5. Paragraph B and B3 and its subparagraphs.

SIXTH SPECIFICATION

MORAL UNFITNESS

Respondent is charged with committing professional misconduct as defined in N.Y. Educ. Law §§6530(20) and/or (44) (McKinney Supp. 1996) 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. Paragraph C and its subparagraphs.

SEVENTH SPECIFICATION

MORAL UNFITNESS

Respondent is charged with committing professional misconduct as defined in N.Y. Educ. Law §§6530(20)(McKinney Supp. 1996) 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:

7. Paragraph D and its subparagraphs.

EIGHTH SPECIFICATION

GROSS NEGLIGENCE

Respondent is charged with committing professional misconduct as defined in N.Y. Educ. Law §6530(4)(McKinney Supp. 1996) by practicing the profession of medicine with gross negligence as alleged in the facts of the following:

8. Paragraph C and its subparagraphs.

DATED: May , 1996
New York, New York

Redacted Signature

**ROY NEMERSON
Deputy Counsel
Bureau of Professional
Medical Conduct**