



*Public*  
**New York State Board for Professional Medical Conduct**  
433 River Street, Suite 303 • Troy, New York 12180-2299 • (518) 402-0863

*Richard F. Daines, M.D.*  
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NYS Department of Health  
*James W. Clyne, Jr.*  
Executive Deputy Commissioner  
*Keith W. Servis, Director*  
Office of Professional Medical Conduct

*Kendrick A. Sears, M.D.*  
Chair  
*Carmela Torrelli*  
Vice Chair  
*Katherine A. Hawkins, M.D., J.D.*  
Executive Secretary

May 13, 2010

**CERTIFIED MAIL-RETURN RECEIPT REQUESTED**

Robert G. Cheron, M.D.  
2305 Genesee Street  
Utica, NY 13501

RE: License No. 120797

Dear Dr. Cheron:

Enclosed is a copy of Order BPMC #10-78 of the New York State Board for Professional Medical Conduct. This Order and any penalty provided therein goes into effect May 20, 2010.

If the penalty imposed by the Order is a fine, please write the check payable to the New York State Department of Health. Noting the BPMC Order number on your remittance will assist in proper crediting. Payments should be directed to the following address:

Bureau of Accounts Management  
New York State Department of Health  
Corning Tower, Room 1717  
Empire State Plaza  
Albany, New York 12237

Sincerely,

Katherine A. Hawkins, M.D., J.D.  
Executive Secretary  
Board for Professional Medical Conduct

cc: James D. Lantier, Esq.  
Smith, Sovick, Kendrick & Sugnet, P.C.  
250 South Clinton Street, Suite 600  
Syracuse, NY 13202-1252

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

**IN THE MATTER  
OF  
ROBERT G. CHERON, M.D.**

CONSENT  
ORDER

BPMC No. #10-78

Upon the application of (Respondent) ROBERT G. CHERON, 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 it is further

ORDERED, that this Consent 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.

DATE: 5-11-2010

\_\_\_\_\_  
KENDRICK A. SEARS, M.D.  
Chair  
State Board for Professional Medical Conduct

**IN THE MATTER  
OF  
ROBERT G. CHERON, M.D.**

**CONSENT  
AGREEMENT  
AND  
ORDER**

ROBERT G. CHERON, M.D., representing that all of the following statements are true, deposes and says:

That on or about July 17, 1974, I was licensed to practice as a physician in the State of New York, and issued License No. 120797 by the New York State Education Department.

My current address is 2305 Genesee Street, Utica, New York, 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 (Board) has charged me with five specifications of professional misconduct.

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

I admit the Fifth Specification [failing to follow infection control practices], in full satisfaction of the charges against me, and agree to the following penalty:

I shall receive a Censure and Reprimand, and that I shall comply with the three year Order of Conditions, attached hereto as Exhibit "B".

Pursuant to N.Y. Pub. Health Law §§ 230-a(7) and (9), I shall also be subject to a fine in the amount of Twenty Thousand Dollar (\$20,000.00), to be paid in full within 30 days of the effective date of

this Order. Payments must be submitted to:

Bureau of Accounts Management  
New York State Department of Health  
Empire State Plaza  
Corning Tower, Room 1717  
Albany, New York 12237

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

That Respondent shall remain in continuous compliance with all requirements of N.Y. Educ Law § 6502 including but not limited to the requirements that a licensee shall register and continue to be registered with the New York State Education Department (except during periods of actual suspension) and that a licensee shall pay all registration fees. Respondent shall not exercise the option provided in N.Y. Educ. Law § 6502(4) to avoid registration and payment of fees. This condition shall take effect 30 days after the Consent Order's effective date and will continue so long as Respondent remains a licensee in New York State; and

That Respondent shall cooperate fully with the Office of Professional Medical Conduct (OPMC) in its administration and enforcement of this Consent 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 Consent 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.

I stipulate that my failure to comply with any conditions of this Consent Order shall constitute misconduct as defined by N.Y. Educ. Law § 6530(29).

I agree that, if I am charged with professional misconduct in future, 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 N.Y. Pub. 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 Consent 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. The Consent Order, this agreement, and all attached Exhibits shall be public documents, with only patient identities, if any, redacted. As public documents, they may be posted on the Department's website.

I stipulate that the proposed sanction and Consent Order are authorized by N.Y. Pub. Health Law §§ 230 and 230-a, and that the Board and OPMC have the requisite powers to carry out all included terms. 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 and burdens 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 I ask that the Board adopt this Consent Agreement.

I understand and agree that the attorney for the Department, the Director of OPMC and the Chair of the Board each retain complete discretion either to enter into the proposed agreement and Consent Order, based upon my application, or to decline to do so. I further understand and agree that no prior or separate written or oral communication can limit that discretion.

DATE 5/4/10

ROBERT G. CHERON, M.D.  
RESPONDENT

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

DATE: 29 April, 2010

~~JAMES D. LANTIER, ESQ.~~  
Attorney for Respondent

DATE: May 6, 2010

~~MICHAEL A. HISER~~  
Associate Counsel  
Bureau of Professional Medical Conduct

DATE: 5/11/10

~~KEITH W. SERVIS~~  
Director  
Office of Professional Medical Conduct

IN THE MATTER  
OF  
ROBERT CHERON, M.D.

STATEMENT  
OF  
CHARGES

ROBERT CHERON, M.D., the Respondent, was authorized to practice medicine in New York State on or about July 17, 1974, by the issuance of license number 120797 by the New York State Education Department.

**FACTUAL ALLEGATIONS**

- A. Respondent provided medical care to Patients identified as "A" through "S" [patients are identified in the attached appendix], at various times from approximately January 2005, through October 2007, at his office at 2305 Genesee Street, Utica, New York 13501 ["Respondent's Office"]. Respondent performed ultra sound guided needle biopsies on the parathyroid glands of the patients.
1. Respondent inappropriately re-used the needle guides on the patients, despite the fact that such needle guides were intended for disposable, one-time use.
  2. Respondent inappropriately re-used the needle guides on the patients, despite the fact that such needle guides were not processed in accordance with appropriate infection control and sterilization procedures.
  3. Respondent failed to provide adequate supervision and guidance to his office staff on infection control and sterilization procedures related to the use and/or re-use of ultra sound guided needle biopsies.
  4. Respondent, once it became known to him that Patients "A" through "S" may have been subjected to procedures that did not include and/or follow accepted infection control practices, failed to inform such patients to obtain adequate testing.



**SPECIFICATION OF CHARGES**

**FIRST SPECIFICATION**

**GROSS NEGLIGENCE**

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

1. The facts in Paragraphs A and A.1, A and A.2, A and A.3 and/or A and A.4.

**SECOND SPECIFICATION**

**GROSS INCOMPETENCE**

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

2. The facts in Paragraphs A and A.1, A and A.2, A and A.3 and/or A and A.4.

**THIRD SPECIFICATION**

**NEGLIGENCE ON MORE THAN ONE OCCASION**

Respondent is charged with committing professional misconduct as defined in N.Y. Educ. Law § 6530(3) 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. The facts in Paragraphs A and A.1, A and A.2, A and A.3 and/or A and A.4.

#### **FOURTH SPECIFICATION**

##### **INCOMPETENCE ON MORE THAN ONE OCCASION**

Respondent is charged with committing professional misconduct as defined in N.Y. Educ. Law § 6530(5) 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. The facts in Paragraphs A and A.1, A and A.2, A and A.3 and/or A and A.4.

#### **FIFTH SPECIFICATION**

##### **FAILURE TO FOLLOW INFECTION CONTROL PRACTICES**

Respondent is charged with committing professional misconduct as defined in N.Y. Educ. Law § 6530(47) by failing to use scientifically accepted barrier precautions and infection control practices, as alleged in the facts of:

5. The facts in Paragraphs A and A.1, A and A.2, and/or A and A.3.

DATE: March 8, 2010  
Albany, New York

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Peter D. Van Buren  
Deputy Counsel  
Bureau of Professional Medical Conduct

## EXHIBIT "B"

### ORDER OF CONDITIONS

1. Respondent's conduct shall conform to moral and professional standards of conduct and governing law. Any act of professional misconduct by Respondent as defined by N.Y. Educ. Law §§ 6530 or 6531 shall constitute a violation of these conditions and may subject Respondent to an action pursuant to N.Y. Pub. Health Law § 230(19).
2. Respondent shall maintain active registration of Respondent's license (except during periods of actual suspension) with the New York State Education Department Division of Professional Licensing Services, and shall pay all registration fees.
3. Respondent 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 this information is kept current: a full description of Respondent's employment and practice; all professional and residential addresses and telephone numbers within and outside New York State; and all investigations, arrests, charges, convictions or disciplinary actions by any local, state or federal agency, institution or facility. Respondent shall notify OPMC, in writing, within 30 days of any additions to or changes in the required information.
4. Respondent shall cooperate fully with, and respond in a timely manner to, OPMC requests to provide written periodic verification of Respondent's compliance with the terms of this Consent Order. Upon the Director of OPMC's request, Respondent shall meet in person with the Director's designee.
5. Respondent's failure to pay any monetary penalty by the prescribed date shall subject Respondent to all provisions of law relating to debt collection by New York State, including but 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 § 171(27); State Finance Law § 18; CPLR § 5001; Executive Law § 32].
6. The conditions period shall toll when Respondent is not engaged in active medical practice in New York State for a period of 30 consecutive days or more. Respondent shall notify the Director of OPMC, in writing, if Respondent is not currently engaged in, or intends to leave, active medical practice in New York State for a consecutive 30 day period. Respondent shall then notify the Director again at least 14 days before returning to active practice. Upon Respondent's return to active practice in New York State, the conditions period shall resume and Respondent shall fulfill any unfulfilled conditions and such additional requirements as the Director may impose as reasonably relate to the matters set forth in Exhibit "A" or as are necessary to protect the public health.

7. The Director of OPMC may review Respondent's professional performance, especially relating to the Respondent's personal infection control practices, his office staff's infection control practices, and the ongoing management of infection control practices in Respondent's office. This review may include but shall not be limited to: a review of office records, patient records, hospital charts, and/or electronic records; and interviews with or periodic visits with Respondent and staff at practice locations or OPMC offices.
8. Respondent shall adhere to federal and state guidelines and professional standards of care with respect to infection control practices. Respondent shall ensure education, training and oversight of all office personnel involved in medical care, with respect to these practices, as follows:
  - a. For each year of these conditions, there shall be an annual review of Respondent's office staff to ensure their understanding of, and compliance with, accepted protocols for infection control. Respondent's staff and Respondent shall both demonstrate competence in following such protocols; and
  - b. Respondent shall demonstrate that he has created and implemented a written protocol for infection control practices in his office, with special attention to the appropriate handling of equipment designated for single use and proper re-processing of all reusable equipment.
9. Respondent shall maintain complete and legible medical records that accurately reflect the evaluation and treatment of patients and contain all information required by State rules and regulations concerning controlled substances.
10. Respondent shall enroll in and complete a continuing education program in the area of infection control practices. This continuing education program is subject to the Director of OPMC's prior written approval and shall be completed within the first three months of the conditions period.
11. Respondent shall comply with this Consent Order and all its terms, and shall bear all associated compliance costs. Upon receiving evidence of noncompliance with, or a violation of, these terms, the Director of OPMC and/or the Board may initiate a violation proceeding under Public Health Law Section 230(19), and/or any other such proceeding authorized by law, against Respondent.