



New York State Board for Professional Medical Conduct

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

Dennis P. Whalen
Executive Deputy Commissioner of Health
Anne F. Saile, Director
Office of Professional Medical Conduct
William J. Comiskey, Chief Counsel
Bureau 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

December 28, 1998

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Clifford H. Spohr, M.D.
3599 University Boulevard
Jacksonville, FL 32216

RE: License No. 122524

Dear Dr. Spohr:

Enclosed please find Order #BPMC 98-314 of the New York State Board for Professional Medical Conduct. This Order and any penalty provided therein goes into effect **December 28, 1998.**

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

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 1315
Empire State Plaza
Albany, New York 12237

Sincerely,

A black rectangular redaction box covers the signature of the sender.

Ansel R. Marks, M.D., J.D.
Executive Secretary
Board for Professional Medical Conduct

Enclosure

cc: Anthony Benigno, Esq.

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

**IN THE MATTER
OF
CLIFFORD H. SPOHR, M.D.**

CONSENT
AGREEMENT
AND
ORDER

BPMC 98-314

CLIFFORD H. SPOHR, M.D., (Respondent) says:

That on or about November 22, 1974, I was licensed to practice as a physician in the State of New York, having been issued License No. 122524 by the New York State Education Department.

My current address is 3599 University Boulevard, Suite 202, Jacksonville, FL 32216, 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 two specifications of professional misconduct.

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

I agree not to contest the first specification, in full satisfaction of the charges against me. I hereby agree to the following penalty:

Censure and reprimand, a two thousand (\$2,000.00) fine and one year of practice monitoring should I ever return to the State of New York to practice medicine. I will notify the Office

of Professional Medical Contact in writing at least thirty days prior to my return to practice medicine in the State of New York. The terms of the practice monitor are attached hereto as Exhibit 1.

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

That, except during periods of actual suspension, Respondent shall maintain current registration of Respondent's 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; and

That Respondent shall fully cooperate in every respect with the Office of Professional Medical Conduct (OPMC) in its administration and enforcement of this Order and in its investigation of all matters regarding Respondent. Respondent shall respond in a timely manner to each and every request by OPMC to provide written periodic verification of Respondent's compliance with the terms of this Order. Respondent shall meet with a person designated by the Director of OPMC as directed. Respondent shall respond

promptly and provide any and all documents and information within Respondent's control upon the direction of OPMC.

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 1998).

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 agree that such order shall be effective upon issuance by the Board, which may be accomplished by mailing, by first class mail, a copy of the

Consent Order to me at the address set forth in this agreement, or to my attorney, or upon transmission via facsimile to me or my attorney, whichever is earliest.

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.

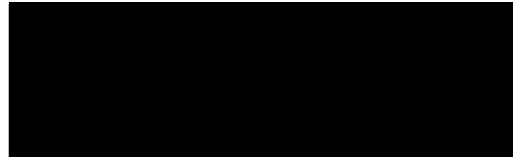
AFFIRMED:

DATED 12/15/98


CLIFFORD H. SPORR, M.D.
Respondent

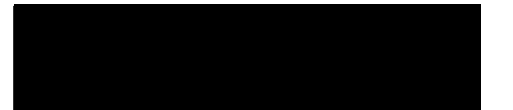
The undersigned agree to the attached application of the Respondent and to the proposed penalty based on the terms and conditions thereof.

DATE: 12/17/98



ANTHONY M. BENIGNO, ESQ.
Assistant Counsel
Bureau of Professional
Medical Conduct

DATE: Dec. 21 1998



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
CLIFFORD H. SPOHR, M.D.**

**CONSENT
ORDER**


Upon the proposed agreement of CLIFFORD H. SPOHR, 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 be effective upon issuance by the Board,
which may be accomplished by mailing, by first class mail, a copy of the Consent
Order to Respondent at the address set forth in this agreement or to
Respondent's attorney by certified mail, or upon transmission via facsimile to
Respondent or Respondent's attorney, whichever is earliest.

SO ORDERED.

DATED: 12/22/98



State Board for Professional
Medical Conduct

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

-----X

IN THE MATTER : STATEMENT
OF : OF
CLIFFORD H. SPOHR, M.D. : CHARGES

-----X

CLIFFORD H. SPOHR, M.D., the Respondent, was authorized to practice medicine in New York State on November 22, 1974 by the issuance of license number 122524 by the New York State Education Department. The Respondent is currently not registered with the New York State Education Department to practice medicine. His address is 3599 University Boulevard, Jacksonville, Florida 32216.

FACTUAL ALLEGATIONS

A. On or about May 20, 1997, Respondent signed a consent agreement with the State of Florida's Agency for Health Care Administration in settlement of an Administrative Complaint filed against him charging him with failure to "practice medicine with that level of care, skill, and treatment which is recognized by a reasonably prudent similar physician as being under similar conditions and circumstances" as well as "performing professional services which have not been duly authorized by the patient or client, or his legal representative,...".

B. A final order was entered by the State of Florida Board of Medicine on November 25, 1997 adopting the previously signed

consent agreement.

C. As part of the consent agreement Respondent received a one thousand (\$1,000.00) dollar fine and a reprimand from the Board of Medicine. Respondent agreed to have his practice reviewed by a certified risk manager. Additionally, Respondent agreed to attend ten hours of continuing medical education courses which the Board later required to be in the area of risk management and attend a record keeping course.

D. The conduct which the disciplinary action was based upon consisted of Respondent performing a biopsy on the wrong lung due to his failure to consult with the patient about past surgeries and the patient's primary physician regarding which lung needed the biopsy.

E. The conduct resulting in the disciplinary action, would if committed in New York State, constitute professional misconduct under New York State Education Law sections 6530(4), practicing the profession with gross negligence on a particular occasion, and 6530(26), performing professional services which have not been duly authorized by the patient or his or her legal representative.

SPECIFICATIONS

FIRST SPECIFICATION

DISCIPLINARY ACTION IN ANOTHER STATE

Respondent is charged with professional misconduct within the meaning of New York State Education Law §6530(9)(d), in that, he had a disciplinary action taken against his license by a duly authorized professional disciplinary agency of another state, where the conduct resulting in the disciplinary action would if committed in New York State, constitute professional misconduct under the laws of New York State, New York State Education Law section §6530(26), performing professional services which have not been duly authorized by the patient or his or her legal representative, in that Petitioner charges:

1. The facts of paragraphs A, B, C, D and/or E.

SECOND SPECIFICATION


DISCIPLINARY ACTION IN ANOTHER STATE

Respondent is charged with professional misconduct within the meaning of New York State Education Law §6530(9)(d), in that, he had a disciplinary action taken against his license by a duly authorized professional disciplinary agency of another state, where the conduct resulting in the disciplinary action would if committed in New York State, constitute professional misconduct under the laws of New York State, New York State Education Law

section §6530(4), practicing the profession with gross negligence on a particular occasion, in that Petitioner charges:

1. The facts of paragraphs A, B, C, D and/or E.

DATED: *December 17*, 1998
Albany, New York



PETER D. VAN BUREN
Deputy Counsel
Bureau of Professional
Medical Conduct

EXHIBIT 1

PRACTICE MONITOR

- Respondent shall practice medicine only when monitored by a licensed physician, board certified in an appropriate specialty, ("practice monitor") proposed by Respondent and subject to the written approval of the Director of OPMC.
 - a. Respondent shall make available to the monitor any and all records or access to the practice requested by the monitor, including on-site observation. The practice monitor shall visit Respondent's medical practice at each and every location, on a random unannounced basis at least monthly and shall examine a selection of no less than 20 records or 25% of records, whichever is less, maintained by Respondent, including patient records, prescribing information and office records. The review will determine whether the Respondent's medical practice is conducted in accordance with the generally accepted standards of professional medical care. Any perceived deviation of accepted standards of medical care or refusal to cooperate with the monitor shall be reported within 24 hours to OPMC.
 - b. Respondent shall be solely responsible for all expenses associated with monitoring, including fees, if any, to the monitoring physician.
 - c. Respondent shall cause the practice monitor to report quarterly, in writing, to the Director of OPMC.
 - d. Respondent shall maintain medical malpractice insurance coverage with limits no less than \$2 million per occurrence and \$6 million per policy year, in accordance with Section 230(18)(b) of the Public Health Law. Proof of coverage shall be submitted to the Director of OPMC prior to Respondent's practice after the effective date of this Order.