

NEW YORK
state department of
HEALTH

Public

Nirav R. Shah, M.D., M.P.H.
Commissioner

Sue Kelly
Executive Deputy Commissioner

August 19, 2013

CERTIFIED MAIL-RETURN RECEIPT REQUESTED

Robert D. Rosenberg, M.D.
1560 E. Chevy Chase Drive, #130
Glendale, CA 91206

Re: License No. 162053

Dear Dr. Rosenberg:

Enclosed is a copy of the New York State Board for Professional Medical Conduct (BPMC) Order No. 13-256. This order and any penalty provided therein goes into effect August 26, 2013.

If the penalty imposed by this Order is a surrender, revocation or suspension, you are required to deliver your license and registration within five (5) days of receipt of this Order to: c/o Physician Monitoring Unit, NYS DOH - OPMC, Riverview Center, Suite 355, 150 Broadway, Albany, NY 12204-2719.

If your license is framed, please remove it from the frame and only send the parchment paper on which your name is printed. Our office is unable to store framed licenses.

If the document(s) are lost, misplaced or destroyed, you are required to submit to this office an affidavit to that effect. Enclosed for your convenience is an affidavit. Please complete and sign the affidavit before a notary public and return it to the Office of Professional Medical Conduct.

Please direct any questions to: Board for Professional Medical Conduct, 90 Church Street, 4th Floor, New York, NY 10007-2919, telephone # 212-417-4445.

Sincerely,

REDACTED

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

Enclosure

cc: Henry Fenton, Esq.
11835 W. Olympic Boulevard
Los Angeles, CA 90064

IN THE MATTER
OF
ROBERT ROSENBERG, M.D.
CO-13-02-0688-A

SURRENDER
ORDER

Upon the application of ROBERT ROSENBERG, M.D., (Respondent), to Surrender his license to practice medicine in the State of New York, which is made a part of this Surrender Order, it is

ORDERED, that the Surrender, and its terms, are adopted and it is further

ORDERED, that Respondent's name be stricken from the roster of physicians in the State of New York; it is further

ORDERED, that this Surrender Order shall be effective upon issuance by the Board, either by mailing of a copy of this Surrender Order, either by first class mail to Respondent at the address in the attached Surrender of License or by certified mail to Respondent's attorney, or upon facsimile transmission to Respondent or Respondent's attorney, whichever is first.

SO ORDERED.

DATE: 8/17/2013

REDACTED

ARTHUR S. HENGERER, M.D.
Chair
State Board for Professional Medical Conduct

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

IN THE MATTER
OF
ROBERT ROSENBERG, M.D.
CO-13-02-0688-A

SURRENDER
OF
LICENSE

ROBERT ROSENBERG, M.D., (Respondent), representing that all of the following statements are true, deposes and says:

That on or about April 29, 1985, I was licensed to practice medicine in the State of New York and issued license number 162053 by the New York State Education Department.

My current address is 1560 E. Chevy Chase Dr. #130, Glendale, CA 91206.

I understand that the New York State Board for Professional Medical Conduct has charged me with two (2) Specifications of professional misconduct.

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

I am applying to the State Board for Professional Medical Conduct for permission to surrender my license to practice medicine in the State of New York on the grounds that I do not contest the Specifications.

I ask the Board to accept the surrender of my license, and I agree to be bound by all of the terms set forth in attached Exhibit "B."

I understand that if the Board does not accept my Surrender of License none of its terms shall bind me or constitute an admission of any of the acts of alleged misconduct; this Surrender of License 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 accepts the surrender of my license, the Chair of the Board shall issue a Surrender Order in accordance with its terms. I agree that the Surrender Order shall take effect upon its issuance by the Board, either by mailing of a copy of the Surrender Order by first class mail to me at the address in this Surrender of License, or to my attorney by certified mail, or upon facsimile transmission to me or my attorney, whichever is first. The Surrender Order, this Surrender of License, 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 ask the Board to accept this Surrender of License, which I submit of my own free will and not under duress, compulsion or restraint. In consideration of the value to me of the Board's acceptance of this Surrender of License, 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 Surrender Order for which I apply, whether administratively or judicially, and I agree to be bound by the Surrender Order.

I understand and agree that the attorney for the Department of Health, the Director of the Office of Professional Medical Conduct, and the Chair of the State Board for Professional Medical Conduct each retain complete discretion either to enter into the proposed Surrender of License and Surrender Order, 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: Aug. 8, 2013

REDACTED

ROBERT ROSENBERG, M.D.
Respondent

The undersigned agree to Respondent's attached Surrender of License and to its proposed penalty, terms and conditions.

Date: August 14, 2013

REDACTED

HENRY FENTON, ESQ.
Attorney for Respondent

Date: August 14, 2013

REDACTED

PAUL TSUI
Associate Counsel
Bureau of Professional Medical Conduct

Date: 8/16/13, 2013

REDACTED

KEITH W. SERVIS
Director, Office of Professional
Medical Conduct

EXHIBIT A

STATE OF NEW YORK

DEPARTMENT OF HEALTH

STATE BOARD FOR PROFESSIONAL MEDICAL CONDUCT

IN THE MATTER

STATEMENT

OF

OF

ROBERT ROSENBERG, M.D.
CO-13-02-0688-A

CHARGES

ROBERT ROSENBERG, M.D., Respondent, was authorized to practice medicine in New York State on April 29, 1985, by the issuance of license number 162053 by the New York State Education Department.

FACTUAL ALLEGATIONS

- A. On or about February 22, 2013, the Medical Board of California, Department of Consumer Affairs (hereinafter "California Board"), by a Stipulated Settlement and Disciplinary Order (hereinafter "California Order"), inter alia, revoked Respondent's Physician's and Surgeon's Certificate No. A 43166 based upon four (4) Causes for Discipline pursuant to the California Business and Professions Code – Self-prescription, Dishonesty, Violation of Drug Laws, and Failure to Maintain Adequate and Accurate Records. Over a period from 2006 until December 2010, Respondent wrote prescriptions for Vicodin and Xanax for his wife but in fact, filled them and consumed the medications himself. The revocation was stayed and Respondent was placed on three years' probation subject to certain terms and conditions.
- B. On or about April 8, 2013, the California Board issued Respondent a Public Letter of Reprimand. An investigation by the California Board found that Respondent failed to properly evaluate the known symptoms and side effects from continuing to prescribe Adderall in the care and treatment of a patient's Attention Deficit Disorder. In another case, Respondent failed to document in a patient's medical records attempts to contact collateral sources for information regarding a patient's suicidal ideation. These acts constituted Repeated Negligent Acts and Failure to Maintain Adequate and Accurate Medical Records in violation of the California Business and Professions Code.

C. The conduct resulting in the California Board's disciplinary actions against Respondent would constitute misconduct under the laws of New York State, pursuant to the following sections of New York State Law:

1. New York Education Law §6530(2) (Practicing the profession fraudulently).
2. New York Education Law §6530(3) (Practicing the profession with negligence on more than one occasion).
3. New York Education Law §6530(7) (Practicing the profession while impaired by alcohol, drugs, physical disability, or mental disability).
4. New York Education Law §6530(8) (Being a habitual abuser of alcohol, or being dependent on or a habitual user of narcotics, barbiturates, amphetamines, hallucinogens, or other drugs having similar effects, except for a licensee who is maintained on an approved therapeutic regimen which does not impair the ability to practice, or having a psychiatric condition which impairs the licensee's ability to practice).
5. New York Education Law §6530(20) (Conduct in the practice of medicine which evidences moral unfitness to practice medicine).
6. New York Education Law §6530(32) (Failing to maintain a record for the patient which accurately reflects the evaluation and treatment of the patient).

SPECIFICATIONS

FIRST SPECIFICATION

Respondent violated New York Education Law §6530(9)(b) by having been found guilty of improper professional practice or professional misconduct by a duly authorized professional disciplinary agency of another state where the conduct upon which the finding was based would, if committed in New York State, constitute professional misconduct under the laws of New York state, in that Petitioner charges:

1. The facts in Paragraphs A, B and/or C.

SECOND SPECIFICATION

Respondent violated New York Education Law §6530(9)(d) by having his license to practice medicine revoked or having other disciplinary action taken after a disciplinary action was instituted by a duly authorized professional disciplinary agency of another state, where the conduct resulting in the surrender of license, revocation of license and/or other disciplinary action would, if committed in New York State, constitute professional misconduct under the laws New York State, in that Petitioner charges:

2. The facts in Paragraphs A, B and/or C.

DATED: *AUG. 14*, 2013
Albany, New York

REDACTED

MICHAEL A. HISER
Acting Deputy Counsel
Bureau of Professional Medical Conduct

EXHIBIT "B"

**REQUIREMENTS FOR CLOSING A MEDICAL PRACTICE FOLLOWING A
REVOCATION, SURRENDER OR SUSPENSION (of six months or more)
OF A MEDICAL LICENSE**

1. Respondent shall immediately cease and desist from engaging in the practice of medicine (in New York State) 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 OPMC at Riverview Center, 150 Broadway, Suite 355, Menands, NY 12204-2719, Respondent's original license to practice medicine in New York State and current biennial registration within five (5) days of the effective date of the Order.
3. Respondent shall within fifteen (15) days of the Order, notify all patients of the cessation of his medical practice and will refer all patients to another licensed practicing physician for their continued care, as appropriate.
4. Respondent shall make arrangements for the transfer and maintenance of the medical records of his patients. Within thirty 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 that 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 and/or his/her authorized 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 his/her inability to pay.
5. In the event that Respondent holds a Drug Enforcement Agency (DEA) certificate for New York State, Respondent shall, within fifteen (15) days of the Order's effective date, advise the DEA, in writing, of the licensure action and shall surrender his/her DEA controlled substance privileges for New York State to the DEA. Respondent shall promptly surrender any unused DEA #222 U.S. Official Order Forms Schedules 1 and 2 for New York State to the DEA. All submissions to the DEA shall be addressed to Diversion Program Manager, New York Field Division, U.S. Drug Enforcement Administration, 99 Tenth Avenue, New York, NY 10011.
6. Respondent shall within fifteen (15) days of the Order's effective date, return any unused New York State official prescription forms to the Bureau of Narcotic Enforcement, New York State Department of Health at Riverview Center, 150 Broadway, Menands, NY 12204-2719. Respondent shall cause all prescription pads bearing his/her name to be

destroyed. If no other licensee is providing services at Respondent's practice location, all medications shall be properly disposed of.

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 (15) days and stop all advertisements, professional listings whether in telephone directories, on the internet or otherwise, professional stationery or billings by which his/her eligibility to practice is represented.
8. Respondent shall not charge, receive or share any fee or distribution of dividends for professional services rendered (by Respondent 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 Respondent's license is revoked, surrendered or suspended for a term of six months or more under the terms of this Order, Respondent shall divest himself/herself of all financial interest in the professional services corporation in accordance with New York Business Corporation Law. Such divestiture shall occur within ninety (90) days of the effective date of this Order. 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 Respondent is found guilty and may include revocation of a suspended license.