



***New York State Board for Professional Medical Conduct***

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

Antonia C. Novello, M.D., M.P.H.  
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*NYS Department of Health*  
Dennis P. Whalen  
*Executive Deputy Commissioner*  
*NYS Department of Health*  
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*Office of Professional Medical Conduct*

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Denise M. Bolan, R.P.A.  
*Vice Chair*  
Ansel R. Marks, M.D., J.D.  
*Executive Secretary*

January 21, 2000

**CERTIFIED MAIL - RETURN RECEIPT REQUESTED**

Stephen Klein, M.D.  
107-53 Guy Brewer Boulevard  
Jamaica, NY 11433

RE: License No. 148278

Dear Dr. Klein:

Enclosed please find Order #BPMC 00-19 of the New York State Board for Professional Medical Conduct. This Order and any penalty provided therein goes into effect **January 21, 2000**.

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,



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

Enclosure

cc: Mark L. Furman, Esq.  
Lifshutz, Polland & Associates, P.C.  
675 Third Avenue  
New York, NY 10017

Denise L. Quarles, Esq.

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

IN THE MATTER  
OF  
STEPHEN KLEIN, M.D.

CONSENT  
AGREEMENT  
AND  
ORDER  
BPMC #00-19

STATE OF NEW YORK )  
COUNTY OF NEW YORK ) SS.:

STEPHEN KLEIN, M.D., (the "Respondent") being duly sworn, deposes and says:

That on or about October 31, 1981, I was licensed to practice as a physician in the State of New York, having been issued License No. 148278 by the New York State Education Department.

My current office address is 107-53 Guy Brewer Blvd., Jamaica, N.Y., 11433, 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 (1) 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, in full satisfaction of the charges against me. I hereby agree to the following penalty:

Five (5) years suspension, four and one-half (4 1/2) years stayed; four and one-half (4 1/2) years probation with terms to include a practice and billing monitor; and a fine of \$10,000, to be paid in full by the end of two (2) years from the date of this Order.

The Terms of Probation is annexed hereto, made a part hereof, and marked as Exhibit "B". The terms regarding the status of my practice for the six (6) months actual suspension are annexed hereto, made a part hereof, and marked as Exhibit "C".

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

That, except during periods of actual suspension, the Respondent shall maintain current registration of the 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 (30) days after the effective date of the Consent Order and will continue while the licensee possesses his license; and

That the 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 the Respondent. The Respondent shall respond in a timely manner to each and every request by OPMC to provide written periodic verification of the Respondent's compliance with the terms of this Order. The Respondent shall meet with a person designated by the Director of OPMC as directed. The Respondent shall respond promptly and provide any and all documents and information within the Respondent's control upon the direction of OPMC. This condition shall be in effect beginning upon the effective date of the Consent Order and will continue while the licensee possesses his license.

I hereby stipulate that any failure by me to comply with such conditions shall constitute misconduct as defined by New York State Education Law §6530(29)(McKinney Supp. 1999).

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.

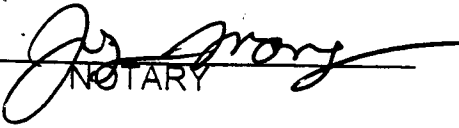
I agree that, in the event the Board grants my Application, as set forth herein, an order of the Chairperson of the Board shall be issued in accordance with same. I agree that such order shall be effective upon issuance by the Board, which may be accomplished by mailing, by first class mail, a copy of 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.

DATE: 1/3/00

Sworn to before me  
on this 3 day of  
Jan. ~~1999~~ 2000

  
NOTARY

JOSEPH MANGINI  
Notary Public, State of New York  
No. 24-4950203  
Cert. Filed in Nassau County  
Commission Expires 4/24/01

  
STEPHEN KLEIN, M.D.  
THE RESPONDENT

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

DATE: \_\_\_\_\_



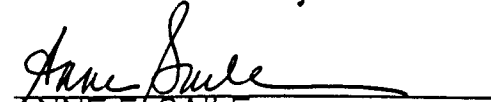
MARK L. FURMAN, ESQ.  
Attorney for the Respondent

DATE: 1/7/00



DENISE L. CHARLES  
Attorney  
Bureau of Professional  
Medical Conduct

DATE: Jan 14, 2000



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  
STEPHEN KLEIN, M.D.

CONSENT  
ORDER


Upon the proposed agreement of , STEPHEN KLEIN, M.D. ( the  
"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 the Respondent at the address set forth in this agreement or to the  
Respondent's attorney by certified mail, or upon transmission via facsimile to the  
Respondent or the Respondent's attorney, whichever is earliest.

SO ORDERED.

DATE: 1/17/00

  
WILLIAM P. DILLON, M.D.  
Chair  
State Board for Professional  
Medical Conduct



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

IN THE MATTER  
OF  
STEPHEN KLEIN, M.D.

EXHIBIT "A"  
STATEMENT  
OF  
CHARGES

STEPHEN KLEIN, M.D., the Respondent, was authorized to practice medicine in New York State on or about October 31, 1981, by the issuance of license number 148278 by the New York State Education Department.

**FACTUAL ALLEGATIONS**

- A. By Notice of Proposed Agency Action, dated November 1, 1995, the New York State Department of Social Services (DSS) notified the Respondent that it had determined to exclude him from the Medicaid Program for five years (5) because he had engaged in unacceptable practices, which practices caused him to receive Medicaid overpayment, and to seek restitution of such overpayment in the amount of approximately \$128,692.00. This determination was the result of an audit of the Respondent to determine whether his Medicaid patient records, for the period April 1, 1992 to March 31, 1993, documented compliance with the Medicaid Program requirements regarding billing and record keeping procedures. The Respondent appealed said determination.
- B. On or about April 1, 1998, in a Decision After Hearing, the Bureau of Adjudication ("Adjudication") affirmed the DSS determination to exclude the Respondent from the Medicaid Program for five (5) years and ordered him to pay restitution of overpayment in the amount of \$54,180.00. Adjudication

concluded that the Respondent:

1. engaged in unacceptable practices as defined in 18 NYCRR Section 515.2(b)(6), which means that the Respondent failed to maintain records necessary to fully disclose the medical necessity for, and the nature and extent of, the medical care, services or supplies furnished, or to comply with the other requirements of the Regulations;
2. submitted false claims as defined by 18 NYCRR Section 515.2(b)(1)(i)(a), which means that the Respondent submitted claims for unfurnished medical care, services or supplies in relation to services that he billed and received payment for; and
3. caused the submission of false claims as defined by 18 NYCRR Sections 515.2(b)(1)(i)(c), which means that the Respondent submitted claims for medical care, services or supplies at a frequency or in an amount not medically necessary in relation to services that he ordered and which were paid to other providers.

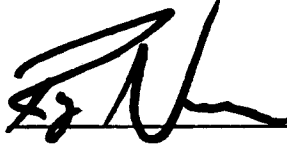
**SPECIFICATION OF CHARGES**

**FIRST SPECIFICATION**  
**HAVING BEEN FOUND GUILTY OF**  
**VIOLATING A STATE STATUTE OR REGULATION**

The Respondent is charged with committing professional misconduct as defined in N.Y. Educ. Law §6530(9)(c)(McKinney Supp. 1999) by having been found guilty in an adjudicatory proceeding of violating a state or federal statute or regulation, pursuant to a final decision or determination, and when no appeal is pending, or after resolution of the proceeding by stipulation or agreement, and when the violation would constitute professional misconduct pursuant to this section, (namely N.Y. Educ. Law §§ 6530(32) and 6530(35)).

1. Paragraphs A and B.

DATED: November 10, 1999  
New York, New York

  
\_\_\_\_\_  
ROY NEMERSON  
Deputy Counsel  
Bureau of Professional  
Medical Conduct

## EXHIBIT "B"

### Terms of Probation

1. The Respondent shall conduct himself in all ways in a manner befitting his professional status, and shall conform fully to the moral and professional standards of conduct and obligations imposed by law and by his profession.
2. The Respondent shall submit written notification to the New York State Department of Health addressed to the Director of the Office of Professional Medical Conduct, New York State Department of Health, 433 River Street, Suite 303, Troy, N.Y. 12180-2299; said notice is to include a full description of any employment and practice, professional and residential addresses and telephone numbers within or without New York State, and any and all investigations, charges, convictions or disciplinary actions by any local, state or federal agency, institution or facility, within thirty (30) days of each action.
3. Any civil penalty not paid by the date prescribed herein shall be subject to all provisions of law relating to debt collection by New York State. This includes but is 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 section 171(27)]; State Finance Law section 18; CPLR section 5001; Executive Law section 32].
4. The period of probation shall be tolled during periods in which the Respondent is not engaged in the active practice of medicine in New York State. The Respondent shall notify the Director of OPMC, in writing, if the Respondent is not currently engaged in or intends to leave the active practice of medicine in New York State for a period of thirty (30) consecutive days or more. The Respondent shall then notify the Director again prior to any change in that status. The period of probation shall resume and any terms of probation which were not fulfilled shall be fulfilled upon the Respondent's return to practice in New York State.
5. The Respondent's professional performance shall be reviewed by the Director of OPMC. This review shall include, but shall not be limited to, a review of office records, patient records and/or hospital charts, billing records, interviews with or periodic visits with the Respondent and his staff at practice locations or OPMC offices.
6. The Respondent shall maintain legible and complete medical records which accurately reflect the evaluation and treatment of patients. The medical records shall contain all information required by State rules and regulations regarding controlled substances.
7. Upon completion of the Respondent's six (6) month suspension, the Respondent shall practice medicine only when monitored by a licensed physician, board certified in an appropriate specialty, ("practice monitor") proposed by the Respondent and subject to the written approval of the Director of OPMC.

- a. The Respondent shall make available to the monitor any and all records, including billing 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 (no less than 25) of records maintained by the Respondent, including patient records, prescribing information, billing 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. The Respondent shall be solely responsible for all expenses associated with monitoring, including fees, if any, to the monitoring physician.
  - c. The Respondent shall cause the practice monitor to report quarterly, in writing, to the Director of OPMC.
  - d. The 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 the Respondent's practice after the effective date of this Order.
8. The Respondent shall comply with all terms, conditions, restrictions, limitations and penalties to which he is subject pursuant to the Order and shall assume and bear all costs related to compliance. Upon receipt of evidence of noncompliance with, or any violation of these terms, the Director of OPMC and/or the Board may initiate a violation of probation proceeding and/or any such other proceeding against the Respondent as may be authorized pursuant to the law.

## EXHIBIT "C"

### **GUIDELINES FOR CLOSING A MEDICAL PRACTICE FOLLOWING A REVOCATION, SURRENDER OR SUSPENSION (of 6 months or more) OF A MEDICAL LICENSE**

1. The Respondent shall immediately cease and desist from engaging in the practice of medicine in accordance with the terms of the Order. In addition, the 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. The Respondent shall have delivered to the Office of Professional Medical Conduct ("OPMC") at 433 River Street, Suite 303, Troy, N.Y. 12180-2299 his original license to practice medicine in New York State and current biennial registration within thirty (30) days of the effective date of the Order.
3. The Respondent shall within fifteen (15) days of the Order notify his 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. The Respondent shall make arrangements for the transfer and maintenance of the medical records of his patients. Within thirty (30) days of the effective date of the Order, the 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 (6) years after the last date of service rendered to a patient or, in the case of a minor, for at least six (6) years after the last date of service or three (3) years after the patient reaches the age of majority whichever time period is longer. Records shall be maintained in a safe and secure place which 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 or her 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 (75) 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 their inability to pay.
5. In the event that the Respondent holds a Drug Enforcement Agency (DEA) certificate, the Respondent shall within fifteen (15) days advise the DEA in writing of the licensure action and shall surrender his DEA controlled substance privileges to the DEA. The Respondent shall promptly surrender any unused DEA #222 U.S. Official Order Forms Schedules 1 and 2 to the DEA.
6. The Respondent shall within fifteen (15) days return any unused New York State official prescription forms to the Bureau of Controlled Substances of the New York State Department of Health. The Respondent shall cause all prescription pads bearing his name to be destroyed. If no other licensee is providing services at his practice location, all medications shall be properly disposed.

7. The Respondent shall not share, occupy or use office space in which another licensee provides health care services. The Respondent shall cause all signs to be removed within fifteen (15) days and stop all advertisements, professional listings whether in telephone directories or otherwise, professional stationery or billings by which his eligibility to practice is represented.

8. The Respondent shall not charge, receive or share any fee or distribution of dividends for professional services rendered by himself or others while barred from engaging in the practice of medicine. The 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 the Respondent is a shareholder in any professional service corporation organized to engage in the practice of medicine and if his license is revoked, surrendered or suspended for a term of six (6) months or more under the terms of this Order, the Respondent shall divest himself 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. If the 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 four (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 a1. of the Public Health Law, which includes fines of up to \$10,000 for each specification of charges of which the Respondent is found guilty and may include revocation of a suspended license.