



New York State Board for Professional Medical Conduct

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

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NYS Department of Health
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Office of Professional Medical Conduct
William J. Comiskey, Chief Counsel
Bureau 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

July 23, 1999

CERTIFIED MAIL-RETURN RECEIPT REQUESTED

Thomas Friedrich Paul Leo, M.D.
2020 Forest Avenue, Suite 7
San Jose, CA 95128-4805

RE: License No. 079593

Dear Dr. Leo:

Enclosed please find Order #BPMC 99-188 of the New York State Board for Professional Medical Conduct. This Order and any penalty provided therein goes into effect **July 30, 1999.**

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 to Board for Professional Medical Conduct, New York State Department of Health, Hedley Park Place, Suite 303, 433 River Street, Troy, New York 12180.

Sincerely,

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

Enclosure

cc: Gerard J. Heubel, Esq.
Marulli, Pewarski & Heubel, P.C.
115 Broadway, 19th Floor
New York, NY 10006

Denise L. Quarles, Esq.

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

IN THE MATTER
OF
THOMAS FRIEDRICH PAUL LEO, M.D.

CONSENT
AGREEMENT
AND
ORDER

BPMC #99-188

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

THOMAS FRIEDRICH PAUL LEO, M.D., (the "Respondent") being duly sworn, deposes and says:

That on or about August 8, 1957, I was licensed to practice as a physician in the State of New York, having been issued License No. 079593 by the New York State Education Department.

My current address is 2020 Forest Avenue, Suite 7, San Jose, California 95128-4805, 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 do not contest the specification of professional misconduct, in full satisfaction of the charges against me. I hereby agree to the following penalty:

Suspension of my New York State medical license for a period of six (6) months, to begin upon the effective date of the Consent Order. In addition to said suspension, I shall be placed on probation for a period of four (4) years subject to the terms set forth in Exhibit "B". Said period of Probation shall be tolled until and unless I practice medicine in New York State.

I further agree to the following conditions:

That, except during periods of actual suspension, I shall maintain current registration of my 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 (30) after the effective date of the Consent Order.

I agree to 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 me. I shall respond in a timely manner to each and every request by OPMC to provide written periodic verification of my compliance with the terms of this Order. I shall meet with a person designated by the Director of OPMC as directed. I shall respond promptly and provide any and all documents and information within my 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: 22 June '99

Thomas Friedrich Paul Leo M.D.
THOMAS FRIEDRICH PAUL LEO, M.D.
RESPONDENT

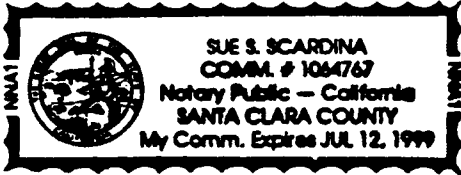
~~Sworn to before me
on this _____ day of
_____ 1999~~

~~NOTARY~~

*See
attached
certificate*

JURAT

State of California
County of Santa Clara } ss.



Subscribed and sworn to ~~(or affirmed)~~ before me

this 22nd day of June, 19 99, by

(1) Thomas Friedrich Paulkeo MD
Name of Signer(s)

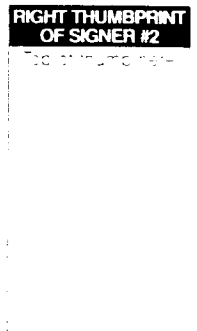
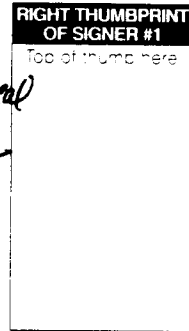
(2) _____
Name of Signer(s)

Sue S. Scardina
Signature of Notary Public

OPTIONAL

Though the information in this section is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.

Description of Attached Document: NYS State Dept of Health State Bd for Prof. Medical
Title or Type of Document: Conduct Consent Agreement
Document Date: 6-22-99 Number of Pages: 9
Signer(s) Other Than Named Above: none



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

DATE: 7/12/99

Gerard J. Heubel, Esq.
GERARD J. HEUBEL, ESQ.
Attorney for the Respondent
Gerard J. Heubel

DATE: 7/13/99

Denise L. Quarles
DENISE L. QUARLES
Attorney
Bureau of Professional
Medical Conduct

DATE: 7/21/99

Anne F. Saile
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
THOMAS FRIEDRICH PAUL LEO, M.D.

CONSENT
ORDER

Upon the proposed agreement of Thomas Friedrich Paul Leo, M.D. (the "Respondent") for Consent Order, which application is made a part hereof, it is agreed to and

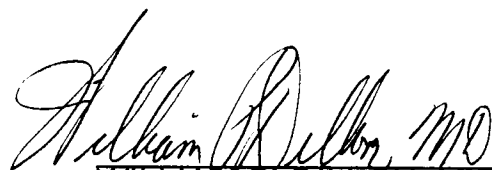
ORDERED, that the application and the provisions thereof are hereby adopted and so ORDERED, and it is further

ORDERED, that this Consent 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:

7/22/99



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

EXHIBIT "A"

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

IN THE MATTER
OF
THOMAS FRIEDRICH PAUL LEO, M.D.

STATEMENT
OF
CHARGES

THOMAS FRIEDRICH PAUL LEO, M.D., the Respondent, was authorized to practice medicine in New York State on or about August 8, 1957, by the issuance of license number 079593 by the New York State Education Department.

FACTUAL ALLEGATIONS

- A. On or about May 7, 1998, the Respondent signed a Stipulation in satisfaction of an Accusation (Case No. 03-97-71497), which the California Attorney General's Office filed with the Division of Medical Quality of the Medical Board of California, Department of Consumer Affairs (the "California Board") against the Respondent. The Accusation charged that the Respondent, with respect to two patients, engaged in repeated acts of clearly excessive prescribing, selling, furnishing, giving away, or administering of drugs (including but not limited to Anexsia, Carisoprodol, Dilaudid, Fiorinal with Codeine, Flexeril, Percocet, Percodan, Talacen, Tylenol with Codeine, and Vicodin):
1. to an addict or habitual user;
 2. without a good faith prior examination and medical indication; and
 3. for other than a legitimate medical purpose.

The Respondent, for the purposes of the California settlement, admitted that there was a factual and legal basis for discipline, in that he excessively prescribed controlled substances to two patients without medical indication in violation of California Business and Professions Code §725.

- B. On or about June 1, 1998, the California Board signed an Order, which adopted the Stipulation signed by the Respondent on May 7, 1998.

The Stipulation and Order sanctioned the Respondent's medical license with:


1. Revocation, which revocation is stayed; and
2. Probation for four (4) years, with practice restrictions, training, testing and monitoring conditions imposed, related to drug prescribing practices and the treatment of addicts and manipulative patients.

SPECIFICATION OF CHARGES
HAVING HAD DISCIPLINARY ACTION TAKEN

The Respondent is charged with committing professional misconduct as defined in N.Y. Educ. Law §6530(9)(d)(McKinney Supp. 1999) by having his license to practice medicine revoked, suspended or having other disciplinary action taken, or having his application for a license refused, revoked or suspended or having voluntarily or otherwise surrendered his license after a disciplinary action was instituted by a duly authorized professional disciplinary agency of another state, where the conduct resulting in the revocation, suspension or other disciplinary action involving the license or refusal, revocation or suspension of an application for a license or the surrender of the license would, if committed in New York State, constitute professional misconduct under the laws of New York State (namely N.Y. Educ. Law §§ 6530(2), (3), and (4)) as alleged in the facts of the following:

1. The facts in paragraphs A, B, and each respective subparagraph.

DATED: March 30, 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, NY 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 days of each action.
3. The Respondent shall fully cooperate with and respond in a timely manner to requests from OPMC to provide written periodic verification of the Respondent's compliance with the terms of this Order. The Respondent shall personally meet with a person designated by the Director of OPMC as requested by the Director.
4. 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 §171(27)]; State Finance Law §18; CPLR §5001; Executive Law §32].
5. 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.
6. The Respondent's professional performance may be reviewed by the Director of OPMC. This review may include, but shall not be limited to, a review of office records, patient records and/or hospital charts, interviews with or periodic visits with the Respondent and his staff at practice locations or OPMC offices.

7. 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.
8. The Respondent shall practice medicine only when monitored by a licensed physician, board certified in an appropriate specialty, (the "monitor" or "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 practice monitor any and all records or access to the practice requested by the monitor, including on-site observation. The practice monitor shall visit the 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 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 Public Health Law §230(18)(b). Proof of coverage shall be submitted to the Director of OPMC prior to the Respondent's practice after the effective date of this Order.
9. 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 non-compliance 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.