



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., Dr. P.H.
*Commissioner
NYS Department of Health*

Dennis P. Whalen
*Executive Deputy Commissioner
NYS Department of Health*

Dennis J. Graziano, Director
Office of Professional Medical Conduct

Public

Kendrick A. Sears, M.D.
Chair

Michael A. Gonzalez, R.P.A.
Vice Chair

Ansel R. Marks, M.D., J.D.
Executive Secretary

November 21, 2006

CERTIFIED MAIL-RETURN RECEIPT REQUESTED

Harvey Levine, M.D.
1 Columbus Place
Apt. 543C
New York, NY 10019

Re: License No. 089213

Dear Dr. Levine:

Enclosed is a copy of Order #BPMC 06-262 of the New York State Board for Professional Medical Conduct. This order and any penalty provided therein goes into effect November 28, 2006.

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 the 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: Wendy Ann Stimpfl, Esq.
Rivkin, Radler, LLP
926 EAB Plaza
Uniondale, NY 11556-0926

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

IN THE MATTER
OF
HARVEY LEVINE, M.D.

CONSENT
ORDER

BPMC NO. #06-262

Upon the application of (Respondent) HARVEY LEVINE, 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: 11/19/06


KENDRICK A. SEARS, 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
HARVEY LEVINE, M.D.

CONSENT
AGREEMENT
AND
ORDER

HARVEY LEVINE, M.D., representing that all of the following statements are true, deposes and says:

That on or about 1962, I was licensed to practice as a physician in the State of New York, and issued License No. 089213 by the New York State Education Department.

My current address is *One Columbus Place, Apt. 543C, New York, NY 10019* ~~62 Beverly Road, Great Neck, New York 11021~~, 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 seven (7) 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 agree not to contest the allegations set forth in the First Specification, in full satisfaction of the charges against me, and agree to the following penalty:

Pursuant to §230-a(3) of the Public Health Law, my license to practice medicine in the State of New York shall be limited to preclude treatment of any patient and to preclude prescribing, ordering, or dispensing any controlled substance, drug, medicine, or therapeutic device. I shall be permitted to engage in the practice of

medicine to the extent that I may only examine and evaluate persons on behalf third-party administrators engaged by insurance companies, and may issue reports documenting the results of such examinations.

Pursuant to §230-a(9) of the Public Health Law, I shall be placed on probation for a period of three years beginning on the effective date of the Order and subject to the terms set forth in Exhibit "B".

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

Within 15 days of the Consent Order's effective date, if Respondent holds a Drug Enforcement Agency (DEA) certificate, Respondent shall advise the DEA in writing of the licensure action and shall surrender his or her DEA controlled substance certificate, privileges, and any used DEA #222 U.S. Official Order Forms Schedules 1 and 2, to the DEA.

Within 15 days of the Consent Order's effective date, Respondent shall return any unused New York State official prescription forms to the Bureau of Narcotic Enforcement of the New York State Department of Health. Respondent shall have all prescription pads bearing Respondent's name destroyed. If no other licensee is providing services at Respondent's practice location, Respondent shall dispose of all medications.

Respondent shall not charge, receive or share any fee or distribution of dividends for professional services rendered by others. Respondent may receive compensation for the reasonable value of services lawfully rendered by him in compliance with this order.

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.

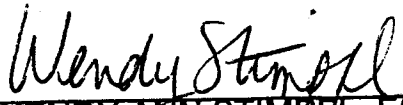
I understand and agree that the attorney for the Department, the Director of OPMC and the Chair of the Board each retain complete discretion either to enter into the proposed agreement and Consent Order, based upon my application, or to decline to do so. I further understand and agree that no prior or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

DATE 12/20/14

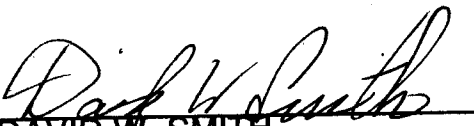
Harvey Levine, M.D.
HARVEY LEVINE, M.D.
RESPONDENT

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

DATE: 11/7/06


WENDY ANN STIMPFL, ESQ.
Attorney for Respondent

DATE: 11/8/06


DAVID W. SMITH
Associate Counsel
Bureau of Professional Medical Conduct

DATE: 11/16/06


DENNIS J. GRAZIANO
Director
Office of Professional Medical Conduct

EXHIBIT "A"

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

IN THE MATTER
OF
HARVEY LEVINE, M.D.

STATEMENT
OF
CHARGES

HARVEY LEVINE, M.D., the Respondent, was authorized to practice medicine in New York State in or about 1962, by the issuance of license number 089213 by the New York State Education Department.

FACTUAL ALLEGATIONS

- A. Respondent treated Patient A for back pain between in or about December, 2001 and September, 2003.
1. Throughout the period Respondent failed to perform an adequate physical examination or note such examination, if any.
 2. Throughout the period Respondent failed to obtain an adequate medical history or note such history, if any.
 3. Throughout the period Respondent inappropriately prescribed various narcotics for Patient A including Percocet, Darvocet and Oxycontin.
 4. Throughout the period Respondent failed to properly evaluate , treat or follow-up Patient A's medical condition, or note such evaluation, treatment or follow-up, if any.

B. Respondent treated Patient B for back pain between in or about 1994 and in or about 1998.

1. Throughout the period Respondent failed to perform an adequate physical examination or note such examination, if any.
2. Throughout the period Respondent failed to obtain an adequate medical history or note such history, if any.
3. Throughout the period Respondent inappropriately prescribed various narcotics including Demerol, Dilaudid and Percocet.
4. Throughout the period Respondent failed to properly evaluate, treat or follow-up Patient B's medical condition, or note such evaluation, treatment or follow-up, if any..

C. Respondent treated Patient C for neck and back pain between in or about July, 2000 and in or about December, 2001.

1. Throughout the period Respondent failed to perform an adequate physical examination or note such examination, if any.
2. Throughout the period Respondent failed to obtain an adequate medical history or note such history, if any.

3. Throughout the period Respondent inappropriately prescribed various narcotics including Oxycodoin, Fentanyl and Percocet.
 4. Throughout the period Respondent failed to properly evaluate, treat or follow-up Patient C's medical condition, or note such evaluation, treatment or follow-up, if any..
- D. Respondent treated patient D for back pain between in or about February, 2000 and in or about May, 2002.
1. Throughout the period Respondent failed to perform an adequate physical examination or note such examination, if any.
 2. Throughout the period Respondent failed to obtain an adequate medical history or note such history, if any.
 3. Throughout the period Respondent inappropriately prescribed various narcotics including Vicodin and Oxycontin.
 4. Throughout the period Respondent failed to properly evaluate, treat or follow-up Patient D's medical condition, or note such evaluation, treatment or follow-up, if any..
- E. Respondent treated Patient E, an alcoholic, for back and leg pain between in or about January, 2001 and in or about December, 2002.

1. Throughout the period Respondent failed to perform an adequate physical examination or note such examination, if any.
2. Throughout the period Respondent failed to obtain an adequate medical history or note such history, if any.
3. Throughout the period Respondent inappropriately prescribed various narcotics including Oxycontin.
4. Throughout the period Respondent failed to properly evaluate, treat or follow-up Patient E's medical condition, or note such evaluation, treatment or follow-up, if any.

SPECIFICATION OF CHARGES

FIRST 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:

1. Paragraphs A and A1-4; B and B1-4; C and C1-4; D and D1-4; and/or E and E1-4.

SECOND 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:

2. Paragraphs A and A1-4; B and B1-4; C and C1-4; D and D1-4; and/or E and E1-4.

THIRD THROUGH SEVENTH SPECIFICATIONS

FAILURE TO MAINTAIN RECORDS

Respondent is charged with committing professional misconduct as defined in N.Y. Educ. Law § 6530(32) by failing to maintain a record for each patient which accurately reflects the care and treatment of the patient, as alleged in the facts of:

3. Paragraphs A and A1-2, 4.
4. Paragraphs B and B1-2, 4.
5. Paragraphs C and C1-2, 4.
6. Paragraphs D and D1-2, 4.
7. Paragraphs E and E1-2, 4.

DATE:

November
~~September~~ 10, 2006
New York, New York



ROY NEMERSON
Deputy Counsel
Bureau of Professional Medical Conduct

EXHIBIT "B"

Terms of Probation

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 probation 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 probation 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 probation period shall resume and Respondent shall fulfill any unfulfilled probation terms 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 or his designee may review Respondent's professional performance on such dates and times and places as the Director or his designee shall establish. This review may include, but shall not be limited to: a review of all reports of examinations performed by Respondent, and all correspondence, patient records, hospital charts, x-rays and any other documentation and/or electronic records maintained or relied upon by Respondent in relation to Respondent's practice, whether such practice occurred before or after the effective date of this order. Respondent shall fully cooperate in such reviews, which, at the Director's discretion, shall include interviews with or periodic visits with Respondent and Respondent's staff at any practice locations or at OPMC offices.
8. Respondent shall maintain complete, accurate and legible medical records concerning his practice, including but not limited to all examinations conducted by Respondent and reports made.
9. Respondent shall enroll in and complete a continuing education program in a subject area designated by the Director of OPMC. This continuing education program is subject to the Director of OPMC's prior written approval and shall be completed within the first year of the probation period.
10. Respondent shall comply with this Consent Order and all its terms, and shall bear all associated compliance costs. Upon receiving evidence of non-compliance with, or a violation of, these terms, the Director of OPMC and/or the Board may initiate a violation of probation proceeding, and/or any other such proceeding authorized by law, against Respondent.