



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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NYS Department of Health

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

PUBLIC

November 29, 2004

CERTIFIED MAIL-RETURN RECEIPT REQUESTED

Marvin Berkowitz, D.O.
614 North Roxbury Drive
Beverly Hills, CA 90210

Re: License No. 089938

Dear Dr. Berkowitz:

Enclosed please find Order #BPMC 04-265 of the New York State Board for Professional Medical Conduct. This order and any penalty provided therein goes into effect December 6, 2004.

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 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: Carolyn Shearer, Esq.
Bond, Schoeneck & King, PLLC
111 Washington Avenue
Albany, NY 12210

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

IN THE MATTER
OF
MARVIN BERKOWITZ, D.O.

CONSENT
ORDER

BPMC No. 04-265

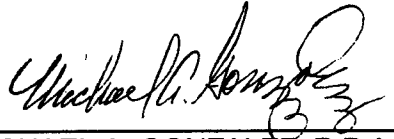
Upon the proposed agreement of **MARVIN BERKOWITZ, D.O.**, (Respondent) for Consent Order, which application is made a part hereof, it is agreed and

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: 11/24/04


MICHAEL A. GONZALEZ, R.P.A.
Vice Chair
State Board for Professional
Medical Conduct

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

IN THE MATTER
OF
MARVIN BERKOWITZ, D.O.
CO-03-01-5616-A

CONSENT
AGREEMENT
AND ORDER

MARVIN BERKOWITZ, D.O., (Respondent) being duly sworn deposes and says:

That on or about February 25, 1963, I was licensed to practice as a physician in the State of New York, having been issued License No. 089938 by the New York State Education Department.

My current address is 614 North Roxbury Drive, Beverly Hills, CA 90210, 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 of 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 have never practiced medicine in New York State and I do not intend to come to New York State to practice medicine. In order to fully dispose of the charges against me, I agree, not to contest the one (1) specification, in full satisfaction of the charges against me, and agree, hereby, to the following penalty:

I shall never activate my registration to practice medicine in New York state or seek to reapply for a license to practice medicine in New York state.

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

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 respond promptly and provide any and all documents and information within 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/her 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).

I agree that in the event that I am charged with professional misconduct in the future, the 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, whichever is earliest.

class mail, a copy of the Consent Order to me at the address set forth in this agreement, or to 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: 11-17-04

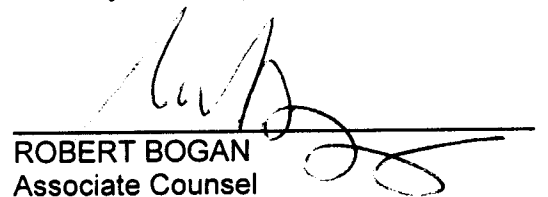

MARVIN BERKOWITZ, D.O.
Respondent

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

DATE: 11-18-04


CAROLYN SHEARER, ESQ.
BOND, SCHOENECK & KING, PLLC
Attorneys for Respondent

DATE: 19 Nov 2004


ROBERT BOGAN
Associate Counsel
Bureau of Professional Medical Conduct

DATE: 22 November 2004


DENNIS J. GRAZIANO
Director
Office of Professional Medical Conduct

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

IN THE MATTER
OF
MARVIN BERKOWITZ, D.O.
CO-03-01-5616-A

STATEMENT
OF
CHARGES

MARVIN BERKOWITZ, D.O., the Respondent, was authorized to practice medicine in New York state on February 25, 1963, by the issuance of license number 089938 by the New York State Education Department.

FACTUAL ALLEGATIONS

A. On or about August 13, 2002, the Division of Medical Quality, Medical Board of California, Department of Consumer Affairs (hereinafter "California Board"), by a Decision (hereinafter "California Decision"), revoked Respondent's license to practice medicine, stayed the revocation and placed him on three (3) years probation, on terms and conditions, based on failure to monitor the blood pressure of one patient at the required frequency, and failure to timely note diagnostic test results for another patient.

B. The conduct resulting in the California Board disciplinary action against Respondent would constitutes misconduct under the laws of New York state, pursuant to the following sections of New York state Law:

1. New York Education Law §6530(32) (failure to maintain a record for each patient which accurately reflects the evaluation and treatment for the patient).


SPECIFICATION

Respondent violated New York Education Law §6530(9)(d) by having his license to practice medicine revoked or having other disciplinary action taken by a duly authorized professional disciplinary agency of another state, where the conduct resulting in the revocation

or other disciplinary action would, if committed in New York state, constitute professional misconduct under the laws New York state, in that Petitioner charges:

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

DATED: *Nov. 17*, 2004
Albany, New York


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