



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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Office of Professional Medical Conduct

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

August 30, 2001

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Rosita Hernandez, M.D.
6538 North Trumbel
Lincolnwood, IL 60645

RE: License No. 121947

Dear Dr. Hernandez:

Enclosed please find Order #BPMC 01-193 of the New York State Board for Professional Medical Conduct. This Order and any penalty provided therein goes into effect August 30, 2001.

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 1258
Empire State Plaza
Albany, New York 12237

Sincerely,

A handwritten signature in black ink, appearing to read "Ansel R. Marks". The signature is stylized and cursive.

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

Enclosure

cc: T. Lawrence Tabak, Esq.
Karn, Augustine, Conroy and Schoppmann, PC
420 Lakeville Road
Lake Success, NY 11042

Robert Bogan, Esq.

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

IN THE MATTER

OF

ROSITA HERNANDEZ, M.D.
CO-00-10-4666-A

CONSENT

AGREEMENT

AND ORDER

BPMC No. 01-193

ROSITA HERNANDEZ, M.D., (Respondent) deposes and says:

That on or about September 17, 1974, I was licensed to practice as a physician in the State of New York, having been issued License No. 121947 by the New York State Education Department.

My current address is 6538 North Trumbel, Lincolnwood, IL 60645, and I will advise the Director of the Office of Professional Medical Conduct of any change of my address within thirty (30) days thereof.

I understand that the New York State Board of Professional Medical Conduct has charged me with four (4) specifications 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 four (4) specifications, in full satisfaction of the charges against me. I, hereby, agree to the following penalties:

Censure and Reprimand;

and a \$1,000.00 fine.

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

That, except during periods of actual suspension, Respondent shall maintain active registration of 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 days after the effective date of the Consent Order and will continue while the licensee possess his/her license; and

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 meet with a person designated by the Director of OPMC as directed. 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.

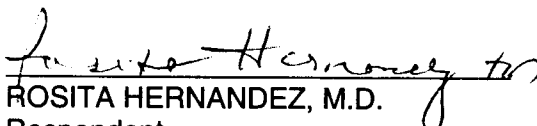
I agree that, in the event the Board grants my Application, as set forth herein, an order of the Chairperson of the Board shall be issued in accordance with same. I agree that such order shall be effective upon issuance by the Board, which may be accomplished by mailing, by first class mail, a copy of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

AFFIRMED:


DATED: _____

8/14/01


ROSITA HERNANDEZ, M.D.
Respondent

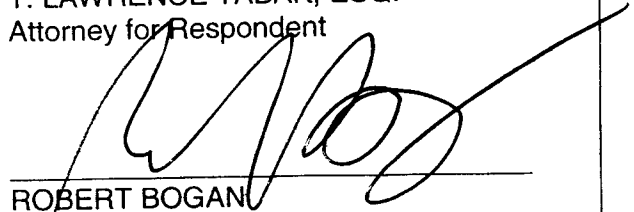
The undersigned agree to the attached application of the Respondent and to the proposed penalty based on the terms and conditions thereof

DATE: August 29, 2001



T. LAWRENCE TABAK, ESQ.
Attorney for Respondent

DATE: 22 August 01



ROBERT BOGAN
Associate Counsel
Bureau of Professional Medical Conduct

DATE: 22 August 01



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

STATEMENT

OF

OF

ROSITA HERNANDEZ, M.D.
CO-00-10-4666-A

CHARGES

ROSITA HERNANDEZ, M.D., the Respondent, was authorized to practice medicine in New York state on September 17, 1974, by the issuance of license number 121947 by the New York State Education Department.

FACTUAL ALLEGATIONS

A. On or about July 14, 1989, the State of Illinois Department of Professional Regulation (hereinafter "Illinois Board"), by a Consent Order (hereinafter "Illinois Order 1"), reprimanded Respondent's license and imposed a \$1,000.00 fine, based upon aiding and abetting a physician assistant in the unlicensed practice of medicine.

B. On or about June 11, 1993, the State of Florida, Department of Professional Regulation, Board of Medicine, (hereinafter "Florida Board") by a Final Order (hereinafter "Florida Order") suspended Respondent's license to practice medicine until such time as she appears before the Florida Board and establishes her ability to practice medicine with skill and safety, based upon the action taken by the Illinois Board against Respondent's license in the state of Illinois as described in Paragraph A above and her failure to report the action to the Florida Board.

C. On or about August 30, 2000, the Illinois Board, by a Consent Order (hereinafter "Illinois Order 2"), reprimanded Respondent's Physician and Surgeon's license, based on failure to transfer medical records in a timely manner.

D. The conduct resulting in the Illinois Board 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(11) (permitting, aiding, or abetting an unlicensed person to perform activities requiring a license);
2. New York Education Law §6530(16) (failure to comply with federal, state, or local laws, rules, or regulations governing the practice of medicine);
3. New York Education Law §6530(22) (failing to make documents available);
4. New York Education Law §6530(25) (delegating professional responsibilities to a person not qualified); and/or
5. New York Education Law §6530(33) (failing to exercise appropriate supervision over persons who are authorized to practice only under supervision of the licensee).

E. The conduct resulting in the Florida Board disciplinary action against Respondent would constitute misconduct under the laws of New York state, pursuant to the following section of New York state law:

1. New York Education Law §6530(9)(d) (having disciplinary action taken by another state); and/or
2. New York Education Law §6530(16) (failure to comply with federal, state, or local laws, rules, or regulations governing the practice of medicine).

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, D and/or E.

SECOND THROUGH FOURTH SPECIFICATION

Respondent violated New York Education Law §6530(9)(d) by having had 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 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 and/or D.
3. The facts in paragraphs A, B, D, and/or E.
4. The facts in paragraphs C and/or D.

DATED: *May 14*, 2001
Albany, New York


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

Standard Terms of Probation

1. Respondent shall conduct himself/herself in all ways in a manner befitting his/her professional status, and shall conform fully to the moral and professional standards of conduct and obligations imposed by law and by his/her profession.
2. Respondent shall submit written notification to the New York State Department of Health addressed to the Director, Office of Professional Medical Conduct (OPMC), Hedley Park Place, 433 River Street Suite 303, Troy, New York 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. Respondent shall fully cooperate with and respond in a timely manner to requests from OPMC to provide written periodic verification of Respondent's compliance with the terms of this Order. 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 section 171(27)]; State Finance Law section 18; CPLR section 5001; Executive Law section 32].
5. The period of probation shall be tolled during periods in which Respondent is not engaged in the active practice of medicine in New York State. Respondent shall notify the Director of OPMC, in writing, if 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. 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 Respondent's return to practice in New York State.
6. 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 Respondent and his/her staff at practice locations or OPMC offices.
7. 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. Respondent shall comply with all terms, conditions, restrictions, limitations and penalties to which he or she 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 Respondent as may be authorized pursuant to the law.

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

IN THE MATTER
OF
ROSITA HERNANDEZ, M.D.

CONSENT
ORDER

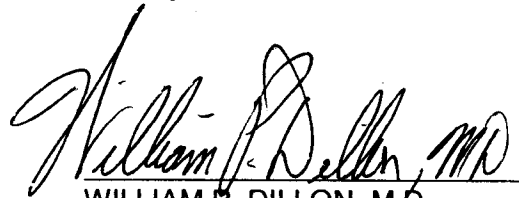
Upon the proposed agreement of **ROSITA HERNANDEZ, M.D.** (Respondent) for Consent Order, which application is made a part hereof, it is agreed and

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: 8/27/01



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