



New York State Board for Professional Medical Conduct

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

Kendrick A. Sears, M.D.
Chair

Dennis J. Graziano, Director
Office of Professional Medical Conduct

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

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

Public

January 3, 2007

CERTIFIED MAIL-RETURN RECEIPT REQUESTED

Mark H. Fleischer, M.D.
1694 Highland Avenue
Rochester, NY 14618

Re: License No. 126371

Dear Dr. Fleischer:

Enclosed is a copy of Order #BPMC 07-01 of the New York State Board for Professional Medical Conduct. This order and any penalty provided therein goes into effect January 10, 2007.

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. If the document(s) are lost, misplaced or destroyed, you are required to submit to this office an affidavit to that effect. Enclosed for your convenience is an affidavit. Please complete and sign the affidavit before a notary public and return it to: Office of Professional Medical Conduct, New York State Department of Health, 433 River Street, Suite 303, Troy, NY 12180-2299

Sincerely,

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

Enclosure

cc: Fredric Goldfein, Esq.
Goldfein & Joseph, P.C.
1600 Market Street, 33rd Floor
Philadelphia, PA 19103-7288

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

IN THE MATTER
OF
MARK H. FLEISCHER, M.D.

CONSENT
ORDER

BPMC No. #07-01

Upon the application of (Respondent), Mark H. Fleischer, 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 SO ORDERED; and it is further

ORDERED, that this 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.

DATED: 12/29/06


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
MARK H. FLEISCHER, M.D.

CONSENT
AGREEMENT
AND
ORDER

Mark H. Fleischer, M.D., representing that all of the following statements are true, deposes and says:

That on or about March 5, 1976, I was licensed to practice as a physician in the State of New York, and issued License No. 126371 by the New York State Education Department.

My current address is 1694 Highland Avenue, Rochester, New York 14618, 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 has charged me with one specification of professional misconduct.

A copy of the Statement of Charges, marked as Exhibit "A", is attached to and part of this Consent Agreement.

I plead no contest to the First Specification, in full satisfaction of the charges against me. I hereby agree to the following penalty:

My license and registration shall be voluntarily surrendered to the State Board for Professional Conduct. I understand that this surrender is permanent, that there shall be no restoration of my license, and that I am not authorized to practice medicine.

Prior to entering into this agreement, I did not hold any current hospital privileges or have any other hospital affiliations.

I shall notify all persons who request my medical services that I have permanently withdrawn from the practice of medicine in the State of New York. I understand that the Department of Health shall notify hospitals and other health care facilities where I have privileges, if any, the Federation of State Medical Boards, the Federal National Practitioner Databank, and other parties inquiring as to my licensure status, that I have permanently surrendered my New York medical license and registration.

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

That Respondent shall cooperate fully with the Office of Professional Medical Conduct (OPMC) in its administration and enforcement of this Order. Respondent shall respond in a timely manner to requests for written periodic verification of Respondent's compliance with this 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.

I stipulate that my failure to comply with any conditions of this Order shall constitute misconduct as defined by New York State Education 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.

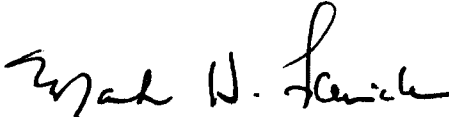
I ask the Board to adopt this Consent Agreement.

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 the Public 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 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.

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 ask that the Board adopt this Consent Agreement.

DATED: December 15, 2006



MARK H. FLEISCHER, M.D.,
RESPONDENT


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

DATED: 12-17-06

GOLDFEIN
~~GOLDFINE~~ AND JOSEPH, P.C.

By: 
~~RICHARD GOLDFINE, ESQ.~~
Attorney for Respondent
Freddie Goldfein

DATED: 12/20/06


JEFFREY J. CONKLIN
Associate Counsel
Bureau of Professional Medical Conduct

DATED: 12/29/06


DENNIS J. GRAZIANO
Director
Office of Professional Medical Conduct

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

IN THE MATTER
OF
MARK H. FLEISCHER

STATEMENT
OF
CHARGES

Mark H. Fleischer, M.D., the Respondent, was authorized to practice medicine in New York State on or about March 5, 1976, by the issuance of license number 126371 by the New York State Education Department. The Respondent is currently registered with the New York State Education Department to practice medicine.

FACTUAL ALLEGATIONS

- A. On or about the 29th day of April, 2004, the New York State Board for Professional Medical Conduct issued Consent Order #BPMC 04-86, wherein Mark H. Fleischer, M.D., Respondent, did not contest two specifications of professional misconduct. The penalties included, inter alia: pursuant to Section 230-a(2) of the Public Health Law of the State of New York, 60 months suspension of Respondent's medical license, the term of said suspension stayed; pursuant to Section 230-a(9) of the Public Health Law, 60 months probation, with practice monitoring; and continuing medical education. Paragraph "9" of the Terms of Probation required that, "Within thirty days of the effective date of the order, Respondent shall practice medicine only when monitored by a licensed physician, board certified in an appropriate specialty..." Subsequent to the effective date of the order, Respondent practiced medicine without being monitored by a physician as required by Consent Order #BPMC 04-86.

SPECIFICATION OF CHARGES


FIRST SPECIFICATION

(Violation of Probation)

Respondent is charged with professional misconduct under New York Education Law Section 6530(29) by violating a Term of Probation imposed upon him pursuant of Section 230 of the Public Health Law, as alleged in:

1. The facts as alleged in paragraphs A.

DATED: December 28, 2006
Albany, New York


Peter D. Van Buren
Deputy Counsel
Bureau of Professional
Medical Conduct