



Board for Professional Medical Conduct

Corning Tower • Empire State Plaza • Albany, NY 12237 • (518) 474-8357

Mark R. Chassin, M.D., M.P.P., M.P.H.
Commissioner

C. Maynard Guest, M.D.
Executive Secretary

March 15, 1994

CERTIFIED MAIL-RETURN RECEIPT REQUESTED

Francis Stellaccio, M.D.
113 N. Radcliff Drive
E. Norwich, New York 11732

RE: License No. 141810
Effective Date: 3/22/94.

Dear Dr. Stellaccio:

Enclosed please find Order #BPMC 94-38 of the New York State Board for Professional Medical Conduct. This Order and any penalty provided therein goes into effect upon receipt of this letter or seven (7) days after the date of this letter, whichever is earlier.

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
Empire State Plaza
Tower Building-Room 438
Albany, New York 12237-0756

Sincerely,

C. Maynard Guest, M.D.
Executive Secretary
Board for Professional Medical Conduct

Enclosure

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

-----X

IN THE MATTER :
OF : ORDER
FRANCIS STELLACCIO, M.D. : BPMC 94-38

-----X

Upon the application of FRANCIS STELLACCIO, M.D., Respondent, for Consent Order, which application is made a part hereof, it is

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

ORDERED, that this order shall take effect as of the date of the personal service of this order upon Respondent, upon receipt by Respondent of this order via certified mail, or seven days after mailing of this order by certified mail, whichever is earliest.

SO ORDERED,

DATED: 25 February 1994

Charles J. Vacanti
Charles J. Vacanti, M.D.
Chairperson
State Board for Professional
Medical Conduct

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

-----X
 : APPLICATION
 IN THE MATTER :
 : FOR
 OF :
 : CONSENT
 FRANCIS STELLACCIO, M.D. :
 : ORDER
 -----X

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

FRANCIS STELLACCIO, M.D., being duly sworn, deposes and says:

That on or about April 4, 1980 I was licensed to practice as a physician in the State of New York, having been issued License No. 141810 by the New York State Education Department.

I am currently registered with the New York State Education Department to practice as a physician in the State of New York for the period January 1, 1993 through December 31, 1994.

I understand that the New York State Board of Professional Medical Conduct has charged me with three specifications of professional misconduct.

A copy of the Statement of Charges is annexed hereto, made a part hereof, and marked as Exhibit "A".

I admit guilt to the following specifications of the statement of charges: the Second Specification, Abandoning or

Neglecting a Patient Under and In Need of Immediate Professional Care, as set forth in factual allegations A, A.4, A.4(a), A.4(b), and A.4(c), except to the limited extent that as to paragraph A.4(a), I only admit being out of the operating room between approximately 11:55 p.m. and 11:59 p.m., and the Third Specification, Failing to Maintain Accurate Records, as set forth in factual allegations A and A.5, in full satisfaction of the charges against me.

I hereby agree to the penalty of a two year suspension of license, of which the first three months shall be a period of actual suspension and the last twenty-one months shall be a period of stayed suspension, and that I be placed on probation for the entire two year period in accordance with the attached Terms of Probation, Exhibit "B".

I hereby make this Application to the State Board for Professional Medical Conduct (the Board) and request that it be granted. (See Exhibit C.)

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 am making this Application of my own free will and accord and not under duress, compulsion or restraint of any kind or manner.

Francis Stellaccio, M.D.
FRANCIS STELLACCIO, M.D.
RESPONDENT

Sworn to before me this
15 day of February 1994.

[Signature]
NOTARY PUBLIC

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

-----X
: APPLICATION
IN THE MATTER :
: FOR
OF :
: CONSENT
FRANCIS STELLACCIO, M.D. :
: ORDER
-----X

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

Date: 2/15/94

Francis Stellaccio M.D.
FRANCIS STELLACCIO, M.D.
RESPONDENT

Date: FEB 15, 1994

Barry Gold
BARRY GOLD, ESQ.
ATTORNEY FOR RESPONDENT

Date: 3/3/94

Marcia E. Kaplan
MARCIA E. KAPLAN
ASSOCIATE COUNSEL
BUREAU OF PROFESSIONAL
MEDICAL CONDUCT

Date:

March 1, 1994

Kathleen M. Tanner

**KATHLEEN M. TANNER
DIRECTOR
OFFICE OF PROFESSIONAL
MEDICAL CONDUCT**

Date:

28 February 1994

Charles J. Vacanti

**CHARLES J. VACANTI, M.D.
CHAIRPERSON
STATE BOARD FOR
PROFESSIONAL MEDICAL CONDUCT**

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

-----X
 IN THE MATTER : STATEMENT
 OF : OF
 FRANCIS STELLACCIO, M.D. : CHARGES
 -----X

FRANCIS STELLACCIO, M.D., the Respondent, was authorized to practice medicine in New York State on April 4, 1980 by the issuance of license number 141810 by the New York State Education Department. The Respondent is currently registered with the New York State Education Department to practice medicine for the period January 1, 1993 through December 31, 1994 from Bellevue-Womans Hospital, Department of Anesthesia, 2210 Troy Road, Schenectady, N.Y. 12301.

FACTUAL ALLEGATIONS

A. On or about February 22, 1990 at approximately 11:40 p.m., Patient A, a 33 year old female, was taken to the delivery room at Winthrop-University Hospital, Mineola, N.Y. 11501, for a caesarean section. Respondent was the anesthesiologist responsible for her care, and had been administering epidural labor analgesia to Patient A since about 6 p.m. (The identity of Patient A is disclosed in the attached Appendix). At or about

EXHIBIT "A"

11:45 p.m., Respondent administered a 3 cc. test dose of 2% Xylocaine and epinephrine 1:200,000. At or about 11:48 p.m., Respondent administered 12 cc. of 2% Xylocaine with epinephrine 1:200,000 through the epidural catheter. Shortly thereafter, Respondent left the operating room, leaving Patient A alone with nurses. At or about 11:50 p.m., Patient A complained of nausea. At or about 11:55 p.m., Patient A complained of difficulty breathing, and a nurse alerted Patient A's obstetrician, Dr. Plotnick, who was standing just outside the operating room. Dr. Plotnick ordered a nurse to get Respondent because Patient A was in respiratory distress. Respondent returned to the operating room. Respondent then left the room a second time to get his tackle box, which was in another room. After Respondent returned, at or about 12:01 a.m., Respondent intubated Patient A. Patient A became asystolic. Cardiopulmonary resuscitation was started and the baby was delivered at or about 12:09 a.m. Surgery was completed at or about 1:15 a.m.

1. Respondent failed to continuously monitor Patient A's oxygenation through the use of a pulse oximeter.
2. Respondent failed to have appropriate equipment and medications in the operating room for use in the event of an emergency and/or a need for immediate cardiopulmonary resuscitation.
3. Respondent administered 12 ml. of 2% Xylocaine with epinephrine through an epidural catheter inappropriately, i.e. too rapidly, in one quick dose rather than in several measured doses over a period of time.

4. Respondent failed to be continuously present in the operating room to monitor Patient A's anesthesia care throughout the conduct of the regional anesthetic he administered to Patient A and/or failed to provide for appropriate monitoring of her anesthesia care and her condition in his absence.
 - a. Respondent left Patient A soon after administering 12 ml. of 2% Xylocaine with epinephrine at or about 11:48 p.m., before he could adequately assess the level of analgesia and the stability of the patient's cardiorespiratory systems, and without providing for appropriate monitoring of her anesthesia care and her condition by a qualified individual in his absence.
 - b. Respondent failed to recognize and treat Patient A's complication in a timely manner.
 - c. Respondent left Patient A a second time to get his equipment, leaving no one capable of monitoring or ventilating the patient appropriately, after she developed serious respiratory problems.

5. Respondent failed to enter appropriate notes in the hospital medical record for Patient A accurately reflecting his evaluation and treatment on or about February 22-23, 1990.

SPECIFICATION OF CHARGES**FIRST SPECIFICATION****PRACTICING WITH GROSS NEGLIGENCE**

Respondent is charged with practicing the profession with gross negligence under N.Y. Educ. Law Section 6530(4) (McKinney Supp. 1993), in that Petitioner charges:

1. The facts in paragraphs A and A.1, A.2, A.3, A.4, A.4(a), A.4(b), A.4(c), and/or A.5.

SECOND SPECIFICATION**ABANDONING OR NEGLECTING A PATIENT UNDER
AND IN NEED OF IMMEDIATE PROFESSIONAL CARE**

Respondent is charged with abandoning or neglecting a patient under and in need of immediate professional care, without making reasonable arrangements for the continuation of such care, under N.Y. Educ. Law Section 6530(30) (McKinney Supp. 1993), in that Petitioner charges:


- 2. The facts in paragraphs A and A.4, A.4(a), A.4(b), and/or A.4(c).

THIRD SPECIFICATION

FAILING TO MAINTAIN ACCURATE RECORDS

Respondent is charged with failing to maintain a record which accurately reflects the evaluation and treatment of Patient A under N.Y. Educ. Law Section 6530(32) (McKinney Supp. 1993), in that Petitioner charges:

- 3. The facts in paragraphs A and A.5.


 CHRIS STERN HYMAN
 Counsel
 Bureau of Professional Medical
 Conduct

DATED: New York, New York
 December 2, 1993

EXHIBIT "B"

TERMS OF PROBATION

1. FRANCIS STELLACCIO, M.D., during the period of probation, 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 imposed by law and by his profession;
2. Respondent shall submit written notification to the New York State Department of Health (NYSDOH), addressed to the Director, Office of Professional Medical Conduct, New York State Health Department, Corning Tower Building, 4th Floor, Empire State Plaza Albany, New York 12237 of any employment and practice, of Respondent's residence and telephone number, or any change in Respondent's residence and telephone number, or any proposed change in Respondent's employment or practice within or without the State of New York;
3. Respondent shall not begin any new employment until after he has obtained the approval of the Director of OPMC as to the terms of the monitoring and supervision at his new employment. The monitoring and supervision required as part of the Terms of Probation shall remain in effect and shall not be interrupted or interfered with in any way.
4. Respondent shall submit written proof from the Division of Professional Licensing Services (DPLS), New York State Education Department (NYSED), that Respondent has paid all registration fees due and owing to the NYSED and Respondent shall cooperate with and submit whatever papers are requested by DPLS in regard to said registration fees, said proof from DPLS to be submitted by Respondent to the New York State Department of Health, addressed to the Director, Office of Professional Medical Conduct, as aforesaid, no later than the first three months of the period of probation;
5. Respondent shall submit written proof to the NYSDOH, addressed to the Director, Office of Professional Medical Conduct, as aforesaid, that 1) Respondent is currently registered with the NYSED, unless Respondent submits written proof that Respondent has advised DPLS, NYSED, that Respondent is not engaging in the practice of Respondent's profession in the State of New York and does not desire to register, and that 2) Respondent has paid any fines which may have previously been imposed upon Respondent by the Board or by the Board of Regents; said proof to be submitted no later than the first two months of the period of probation;

6. Any civil penalty not paid by the date prescribed herein shall be subject to all provisions of law relating to debt collection by the State of New York. 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).
7. During the term of probation, after the period of actual suspension, Respondent's hospital practice shall be supervised and monitored by a licensed physician in his department in each hospital in which he maintains privileges ("practice supervisor"). The practice supervisor(s), and any successor practice supervisor(s), shall be selected by the chief of the department, subject to approval by the Director of OPMC. No practice supervisor shall be a personal friend or a relative of Respondent. The practice supervisor(s) shall be in a position to regularly observe and assess Respondent's professional performance and practice and shall evaluate whether Respondent's care and treatment comport with generally accepted standards of medical practice. The practice supervisor(s) shall meet bi-weekly with the Respondent to discuss his practice. Supervision by the practice supervisor(s) shall include monitoring and review of each of Respondent's hospital cases, and may include: unannounced review of Respondent's patient records; unannounced actual observation of his treatment of patients; unannounced review of his ordering, administering and inventorying of all controlled substances, interviews of Respondent, and any other reasonable means of monitoring Respondent's practice. The practice supervisor(s) shall be familiar with the Terms of Probation contained herein, and shall acknowledge his/her willingness to comply with the supervision and monitoring by executing an acknowledgement provided by OPMC. The practice supervisor(s) shall submit to OPMC quarterly reports regarding the quality of Respondent's medical practice, and certifying his compliance or detailing his failure to comply with the Terms of Probation. The practice supervisor(s) shall report immediately to OPMC any failure of the Respondent, at any time, to comply with the Terms of Probation.
8. Respondent shall meet with an OPMC Medical Coordinator on a quarterly basis for review of Respondent's patient records and discussion of Respondent's medical practice to determine whether Respondent's care and treatment comport with generally accepted standards of practice. Respondent will maintain legible and complete medical records which accurately reflect his evaluation and treatment of patients. Any deviation from accepted medical practice identified during the probation period may result in an

independent medical review and could lead to additional investigation or charges.

9. Respondent shall assume and bear all costs related to compliance with the Terms of Probation.
10. Respondent shall comply with all terms, conditions, restrictions, and penalties to which he is subject pursuant to the order of the Board.
11. So long as there is full compliance with every term herein set forth, Respondent may continue to practice his or her aforementioned profession in accordance with the terms of probation; provided, however, that upon receipt of evidence of noncompliance with, or any violation of these terms, the Director of the Office of Professional Medical Conduct and/or the Board may initiate a violation of probation proceeding and/or such other proceeding against Respondent as may be authorized pursuant to the Public Health Law.

TO: New York State Department of Health
FROM: Francis S. Stellaccio, M.D.
RE: Patient Issue - February 1990 - Winthrop-University Hospital

The following facts are pertinent with respect to this case which is currently pending before the Office of Professional Medical Conduct:

- 1) Patient A was admitted to Winthrop-University Hospital, Mineola, New York at approximately 4:05 p.m. on February 22, 1990 for a vaginal delivery. Upon admission she was 41 1/2 weeks pregnant with a frank breech presentation. Her cervix was dilated to 3 cm; the patient was pre-eclamptic, had elevated blood pressure and edematous legs.
- 2) At or about 6:00 p.m. I administered the first epidural analgesia to Patient A. The epidural was "spotty", leaving a tangerine-sized area at the right groin without pain relief. This is a common occurrence with epidural analgesia. Efforts were made to remedy the situation; at approximately 7:15 p.m. the first epidural catheter was removed intact, and a second epidural was inserted with excellent pain relief.
- 3) At approximately 8:15 p.m. Patient A was placed on Magnesium Sulfate.
- 4) At approximately 11:40 p.m. Patient A was taken to the delivery room for a Caesarean Section. About 5 minutes later I administered a 3 cc. test dose of 2% Xylocaine with epinephrine 1:200,000 through an epidural catheter. At approximately 11:48 p.m. I began administration of a total of 12 cc's - in 2 equally divided doses.
- 5) Between approximately 11:55 p.m. and 11:59 p.m. I left the operating room for the purpose of administering an epidural to Patient A.M. Patient A was tended to by members of the hospital nursing staff.
- 6) At or about 11:56 p.m., Patient A complained of nausea. Dr. Plotnick, her attending ob-gyn entered the operating room to check on Patient A and then walked out. Shortly thereafter, Patient A complained of difficulty breathing, and a nurse alerted Dr. Plotnick, who was standing just outside the operating room. He called for me to return to the operating room.
- 7) Between approximately 11:59 p.m. and 12:00 a.m. I returned to the operating room. Patient A was difficult to mask as her jaw was clenched. Medication was required in order to perform the intubation. I left to get my tackle box, which was in an adjacent operating room. At approximately 12:01 a.m. I successfully intubated the Patient. Surgery began 1 or 2 minutes later.
- 8) A Code was called because Patient A became bradycardic and did not respond to treatment. At approximately 12:09 a.m. the Code Team arrived, as the baby was delivered. Cardiopulmonary resuscitation was started. Surgery was completed at or about 1:15 a.m. My care of Patient A ended on February 23, 1990.
- 9) On March 5, 1990 a second Code was called for Patient A due to an 80.5 cm endotracheal tube of which 11.7 cm was almost totally occluded.