



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*

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

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Office of Professional Medical Conduct

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

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

September 28, 2006

CERTIFIED MAIL-RETURN RECEIPT REQUESTED

Mitchell A. Cohn, M.D.
3 The Grasslands #2
Woodbury, NY 11797-118

RE: License No. 170790

Dear Dr. Cohn:

Enclosed is a copy of Order #BPMC 06-231 of the New York State Board for Professional Medical Conduct. This Order and any penalty provided therein goes into effect October 5, 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:

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 fluid and cursive, with a large initial "A" and "M".

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

cc: Anthony Z. Scher, Esq.
Wood and Scher
222 Bloomingdale Road, Suite 311
White Plains, New York 10605

IN THE MATTER
OF
MITCHELL ALAN COHN, M.D.

CONSENT
ORDER

BPMC No. #06-231

Upon the application of (Respondent) Mitchell Alan Cohn, 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 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: 9.27.06


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
Mitchell Alan Cohn, M.D.**

**CONSENT
AGREEMENT
AND
ORDER**

Mitchell Alan Cohn, M.D., representing that all of the following statements are true, deposes and says:

That on or about July 1st, 1987, I was licensed to practice as a physician in the State of New York, and issued License No. 170790 by the New York State Education Department.

My current address is 3 The Grasslands ~~#2~~, Woodbury, N.Y. 11797-1118, 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 agree not to contest the Statement Of Charges, in full satisfaction of the charges against me and all matters currently known to the Office of Professional Medical Conduct, and further agree to the following penalty:

Pursuant to § 230-a(1) of the Public Health Law, I shall be subject to a Censure and Reprimand.

I shall be subject to a fine in the amount of \$15,000, pursuant to §§ 230-a(7) and (9) of the Public Health Law, to be paid in full within 30 days of the

effective date of this order. Payments must be submitted to:

Bureau of Accounts Management
New York State Department of Health
Empire State Plaza
Corning Tower, Room 1245
Albany, New York 12237

Pursuant to §230-a(9) of the Public Health Law, I shall be placed on probation for a period of three years, subject to the terms set forth in the attached Exhibit "B". Such probation is to begin immediately on the effective date of this Order. Upon my successful completion of two years of the period of probation, I may petition the Director for an early release therefrom and the Director shall exercise reasonable discretion in deciding whether to grant my petition.

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

That Respondent shall maintain active registration of Respondent's license with the New York State Education, Department Division of Professional Licensing Services (except during periods of actual suspension), and shall pay all registration fees. This condition shall take effect thirty days after the Consent Order's effective date and will continue so long as Respondent remains licensed 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 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 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 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. The 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 Order are authorized by Public Health Law Sections 230 and 230-a and that the Board for Professional Medical Conduct and the Office of Professional Medical Conduct 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 ask that the Board adopt this Consent Agreement.

I understand and agree that the attorney for the Department, the Director of the Office of Professional Medical Conduct and the Chair of the State Board for Professional Medical Conduct each retain complete discretion either to enter into the proposed agreement and 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.

DATED

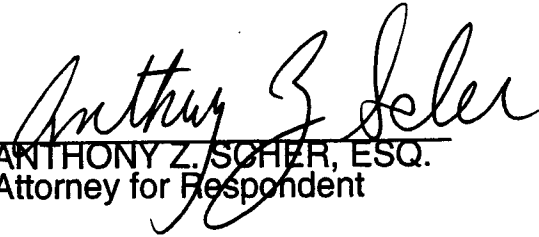
9/7/06




MITCHELL ALAN COHN, M.D.
RESPONDENT

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

DATE: 9/11/06


ANTHONY Z. SCHER, ESQ.
Attorney for Respondent

DATE: 9/12/2006


CHRISTINE M. RADMAN
Associate Counsel
Bureau of Professional Medical Conduct

DATE: 26 September 2006


DENNIS J. GRAZIANO
Director
Office of Professional Medical Conduct

IN THE MATTER
OF
MITCHELL ALAN COHN, M.D.

STATEMENT
OF
CHARGES

Mitchell Alan Cohn, M.D., the Respondent, was authorized to practice medicine in New York State on or about July 1, 1987, by the issuance of license number 170790 by the New York State Education Department.

FACTUAL ALLEGATIONS

- A. During the period from on or about February 20, 2004 through April 23, 2004, Respondent treated Patients A-C in his internal medicine practice and failed to maintain a record for each patient which accurately reflected his or her evaluation and treatment.

SPECIFICATION OF CHARGES


FIRST SPECIFICATION

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:

1. Paragraph A.

DATE: June 27, 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 New York State Education Law §6530 or §6531 shall constitute a violation of probation and may subject Respondent to an action pursuant to New York State Public 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 such 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, charges, convictions or disciplinary actions by any local, state or federal agency, institution or facility, within thirty (30) days of each action.
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 section 171(27)]; State Finance Law section 18; CPLR section 5001; Executive Law section 32].
6. The probation period shall toll when Respondent is not engaged in active medical practice in New York State for a period of thirty (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 thirty (30) day period. Respondent shall then notify the Director again at least fourteen (14) days before returning to active practice. Upon Respondent's return to active practice in New York State, the probation period will 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 are necessary to protect the public health.
7. The Director of OPMC may review Respondent's professional performance. This review may include but shall not be limited to: a review of office records, patient records and/or hospital charts; and interviews with or periodic visits with Respondent and staff at practice locations or OPMC offices.

8. Respondent shall maintain complete and legible medical records that accurately reflect the evaluation and treatment of patients and contain all information required by State rules and regulations concerning controlled substances.

PRACTICE MONITOR

9. 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, ("practice monitor") proposed by Respondent and subject to the written approval of the Director of OPMC.
- a. Respondent shall make available to the monitor any and all records or access to the practice requested by the monitor, including on-site observation at each and every practice site. Respondent shall maintain complete lists identifying every patient seen at each location, and shall indicate, on such lists, all patients who have undergone or are undergoing neurological testing as delineated in paragraph ten. These lists of all patients shall be provided to the practice monitor at the end of each month.
 - b. The records of patients who have undergone or who are undergoing neurological testing, regardless of the location of said testing, shall be kept at each of the two main office locations. The practice monitor shall visit Respondent's medical practice at each of its "main offices", presently located at 43-59 147th Street, Flushing, N.Y. 11355 and 149 Broadway, Lynbrook, N.Y. 11563, on a random unannounced basis at least monthly. [Respondent shall notify OPMC prior to any change in the number or location of his "main offices."] The practice monitor shall examine a selection (no fewer than 20, unless there actually are fewer than 20 patients at the particular site) of records maintained by Respondent from each and every practice site, including patient records, prescribing information and office records. The practice monitor may visit any and all practices locations at the monitor's discretion.
 - c. The review will determine whether the Respondent's medical practice is conducted in accordance with the generally accepted standards of professional medical care. Any perceived deviation of accepted standards of medical care or refusal to cooperate with the monitor shall be reported within 24 hours to OPMC.
 - d. Respondent shall be solely responsible for all expenses associated with monitoring, including fees, if any, to the monitoring physician, who shall not be a family member or personal friend of, or be in a professional relationship with Respondent which could pose a conflict with monitoring responsibilities.
 - e. Respondent shall cause the practice monitor to report quarterly, in writing, to the Director of OPMC.

NEUROLOGICAL TESTING

10. Respondent shall not order, perform, or interpret any Electromyography (EMG), Nerve Conduction Study (NCS), and/or Current Perception Threshold (CPT) testing. This shall not preclude Respondent from

engaging the services of a licensed physician, board certified in neurology or psychiatry, to determine the medical necessary, order, perform, and/or interpret such tests. The engaged physician shall be on-site whenever any such testing is undertaken. Respondent shall ensure that the engaged physician is familiar with the Order and terms of probation, willing to undertake full professional responsibility for such testing at Respondent's places of practice, and willing to provide OPMC and Respondent's Practice Monitor the same access to practice records as Respondent is required, by this Order, to provide.

11. Respondent shall maintain medical malpractice insurance coverage with limits no less than \$2 million per occurrence and \$6 million per policy year, in accordance with Section 230(18)(b) of the Public Health Law. Proof of coverage shall be submitted to the Director of OPMC prior to Respondent's practice after the effective date of this Order.
12. Respondent shall enroll in and complete a continuing education program in the areas of clinical neurophysiology, electromyography, nerve conduction studies, and medical ethics, record keeping, billing and coding. 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.
13. Respondent shall comply with this Order and all its terms, and shall bear all associated compliance costs. Upon receiving evidence of noncompliance with, or 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.