

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

IN THE MATTER
OF
MERAB BOTER, M.D.

CONSENT
ORDER
BPMC 95-88

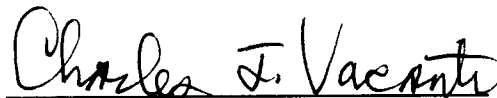
Upon the application of Merab Boter, M.D. (Respondent) for Consent Order, which application is made a part hereof, it is

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: 30 March 1995



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

 IN THE MATTER
 OF
 MERAB BOTER, M.D.

: APPLICATION FOR
 :
 : CONSENT
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 : ORDER
 :

STATE OF NEW YORK)
) SS.:
 COUNTY OF NEW YORK)

MERAB BOTER, M.D., being duly sworn, deposes and says:

On or about November 17, 1987, I was licensed to practice as a physician in the State of New York having been issued License No. 173014 by the New York State Education Department.

I am not currently registered with the New York State Education Department to practice as a physician in the State of New York. My former registration address was 170 Old Country Road, Riverhead, New York 11901.

I understand that I have been found guilty of professional misconduct by a hearing committee of the State Board for Professional Medical Conduct (hereinafter "State Board"), as reflected in Determination and Order No. BPMC-93-58, issued on or about April 23, 1993.

I understand further that the State Board's Administrative Review Board, sustained the determination of the hearing committee and imposed a disciplinary sanction against me effective on or about November 10, 1993.

As a result of the disciplinary action taken against me by the State Board, I filed suit in New York State Supreme Court, Appellate Division, Third Department, to wit: In the Matter of the Application of Merab Boter, M.D., against Honorable Mark Chassin, Commissioner of Health of the State of New York and the Department of Health of the State of New York, Docket Numbers 69824 and 69824B.

In a mutual effort to settle the above-described suits, I am applying to the State Board for an Order which shall include the following provisions: 1.) I shall accept the Determination and Order of the Hearing Committee No. BPMC-93-58; 2.) Instead of the sanction imposed by the Administrative Review Board, the disciplinary sanction imposed upon me shall be a three year suspension, stayed, and probation effective November 10, 1993. The terms of probation, annexed hereto and marked as Exhibit A, shall include requirements that my practice be monitored by a physician approved by the Office of Professional Medical Conduct, and that I obtain an informed

review and concurrence from a qualified physician prior to performing any surgery requiring monitored anesthesia except for those minor surgical procedures specified in Exhibit A, paragraph 6. Said informed review and concurrence shall be appropriately documented in writing and entered in the patient record.

I hereby make this application to the State Board for Professional Medical Conduct and request that it be granted.

I understand that, in the event that the application is not granted, nothing contained herein shall be binding upon me or construed against me.

I agree that in the event the State Board grants my application, an order of the Chairperson of the Board shall be issued in accordance with same. I further agree to withdraw with prejudice the above-described suits filed in the New York State Supreme Court, Appellate Division.

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

M. Boter

MERAB BOTER, M.D.
Respondent

Sworn to before me this
9th day of March, 1995

Richard M. Bethel

NOTARY PUBLIC

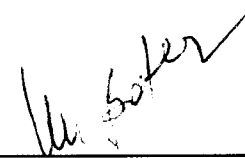
RICHARD M. BETHEIL
Notary Public, State of New York
No. 31-4735223
Qualified in New York County
Commission Expires May 31, 1995

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

IN THE MATTER : APPLICATION FOR
OF : CONSENT
MERAB BOTER, M.D. : ORDER

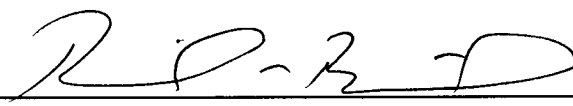
The undersigned agree to the attached application of the Respondent for Consent Order.

Date: March 9, 1995




MERAB BOTER, M.D.
Respondent

Date: March 9, 1995



RICHARD M. BETHEIL, ESQ.
Attorney for Respondent

Date: March 10, 1995



RALPH J. BAVARO
Associate Counsel
Bureau of Professional
Medical Conduct

MERAB BOTER, M.D.

Date: March 17, 1995

Kathleen M. Tanner

KATHLEEN M. TANNER
Director, Office of Professional
Medical Conduct

Date: 30 March 1995

Charles J. Vacanti

CHARLES J. VACANTI, M.D.
Chairperson, State Board for
Professional Medical Conduct

EXHIBIT "A"

TERMS OF PROBATION

1. MERAB BOTER, 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 comply with all terms, conditions, restrictions, and penalties to which he is subject pursuant to order of the State Board for Professional Medical Conduct (Board) on the instant application;
3. 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, of any change in Respondent's employment, practice, residence, or telephone number within or without the State of New York during the period of probation;
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 is 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 after the issuance of an Order on the instant application.
5. Respondent's practice of medicine shall be monitored by a physician monitor, board certified in an appropriate specialty, ("practice monitor") approved in advance, by the Director of the Office of Professional Medical Conduct. Respondent may not practice medicine until an approved practice monitor and monitoring program is in place.
 - a. The practice monitor shall report in writing to the Director of the Office of Professional Medical Conduct or her designee, on a schedule to be determined by the Office. The practice monitor shall visit Respondent's medical practice at each and every location including hospitals, on a random basis, and shall examine a random selection of office and hospital records of Respondent's patients. Respondent will make available

to the monitor any and all records or access to the practice requested by the monitor, including on-site observation. Any perceived deviation of accepted standards of medical care or refusal to cooperate with the monitor shall immediately be reported to the Office of Professional Medical Conduct by the monitor.

- b. Any change in practice monitor must be approved in writing, in advance, by the Office of Professional Medical Conduct.
 - c. All expenses associated with monitoring, including fees to the monitoring physician, shall be the sole responsibility of the Respondent.
 - d. It is the responsibility of the Respondent to ensure that the reports of the practice monitor are submitted in a timely manner. A failure of the practice monitor to submit required reports on a timely basis will be considered a possible violation of the terms of probation.
 - e. It is the responsibility of the Respondent to ensure that all hospitals at which he practices are aware of and willing to cooperate with the monitoring program.
6. Respondent shall obtain an informed review and concurrence from a qualified physician prior to his performance of any surgery requiring monitored anesthesia except for the minor surgical procedures listed below. Said informed review and concurrence shall be appropriately documented in writing and entered in the patient record.
- Excision and biopsy of skin, subcutaneous and breast masses.
 - Incision and draining of abscesses.
 - Repair of hernias.
 - Placement of peripheral and central venous access lines.
 - Tracheostomies
 - Creation of subcutaneous pockets for cardiac pacemakers.
 - Placement of feeding tubes.
 - Placement of chest tubes.
 - Ligation and stripping of veins of the extremities.

7. So long as there is full compliance with every term herein set forth, Respondent may continue to practice his 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.