



**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

January 11, 1994

**CERTIFIED MAIL-RETURN RECEIPT REQUESTED**

Alvin H. Morgenstern, M.D.  
70 Devonshire Drive  
Morganville, New Jersey 07751

RE: License No. 181060  
Effective Date: 1/18/94

Dear Dr. Morgenstern:

Enclosed please find Order #BPMC 93-203 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.

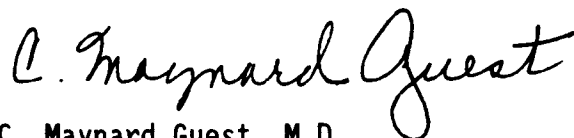
If the penalty imposed by the Order is a surrender, revocation or suspension of this license, you are required to deliver to the Board the license and registration within five (5) days of receipt of the Order.

Board for Professional Medical Conduct  
New York State Department of Health  
Empire State Plaza  
Tower Building-Room 438  
Albany, New York 12237-0756

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  
Empire State Plaza  
Tower Building-Room 1245  
Albany, New York 12237

Sincerely,

A handwritten signature in black ink that reads "C. Maynard Guest". The signature is written in a cursive style with a large, prominent "G" at the end.

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  
ALVIN H. MORGENSTERN, M.D. : BPMC #93-203

-----X

Upon the application of ALVIN H. MORGENSTERN, 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: 8 December 1993

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



I do not contest the First Specification.

I hereby agree to the following penalty: an issuance of a censure and reprimand and a payment of \$1,000 fine in full settlement of all charges.

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

*Alvin H. Morgenstern MD*

ALVIN H. MORGENSTERN, M.D.  
RESPONDENT

Sworn to before me this  
26<sup>th</sup> day of NOVEMBER, 1993.

*[Handwritten Signature]*

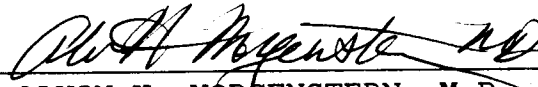
~~NOTARY PUBLIC~~  
~~ATTORNEY - AT LAW~~  
STATE OF NEW JERSEY

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

-----X  
: APPLICATION  
IN THE MATTER :  
: FOR  
OF :  
: CONSENT  
ALVIN H. MORGENSTERN, M.D. :  
: ORDER  
-----X

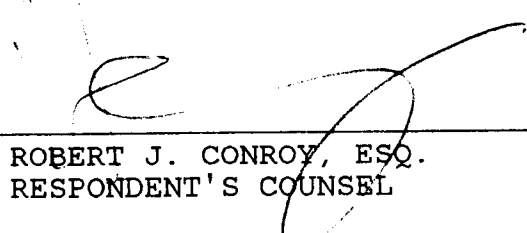
The undersigned agree to the attached application of the Respondent and to the proposed penalty based on the terms and conditions thereof.

Date: November 26, 1993



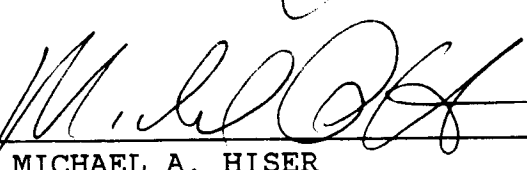
ALVIN H. MORGENSTERN, M.D.  
RESPONDENT

Date: 11/29/93



ROBERT J. CONROY, ESQ.  
RESPONDENT'S COUNSEL

Date: 12/1/93



MICHAEL A. HISER  
ASSISTANT COUNSEL  
BUREAU OF PROFESSIONAL  
MEDICAL CONDUCT

Date: Dec 14, 1993

Kathleen M. Tanner

KATHLEEN M. TANNER  
DIRECTOR  
OFFICE OF PROFESSIONAL  
MEDICAL CONDUCT

Date: 8 December 1993

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  
ALVIN H. MORGENSTERN, M.D. : CHARGES

-----X

ALVIN H. MORGENSTERN, M.D., the Respondent, was authorized to practice medicine in New York State on December 15, 1989, by the issuance of license number 181060 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 70 Devonshire Drive, Morganville, New Jersey 07751.

FACTUAL ALLEGATIONS

A. By verified complaint dated February 7, 1990, the Department of Law and Public Safety of the Division of Consumer Affairs, Board of Medical Examiners, State of New Jersey, ("New Jersey Board") charged Respondent with repeated acts of malpractice, negligence or incompetence and professional incompetence in Respondent's treatment of a two year old male patient "J.L." on September 24, 1986.

Specifically, Respondent performed anesthesia services for elective surgery on "J.L.", who was admitted for minor eye surgery. While under Respondent's care, Patient "J.L." suffered hypoxia and bradycardia, followed by seizures in the recovery room. Patient "J.L." subsequently developed cerebral palsy and mental retardation secondary to the reaction to anesthesia, and has never recovered fully. The New Jersey Board charged that Respondent failed to make adequate clinical observations, failed to take an adequate pre-operative history of Patient "J.L.", and failed to monitor Patient "J.L.'s" blood pressure or temperature.

B. On or about January 8, 1992, Respondent agreed to the entry of a Consent Order whereby Respondent was reprimanded for his conduct in the treatment of Patient "J.L.", and fined \$2,500. Respondent was also required to insure, in all cases in which he provides anesthesia services, that appropriate pre-surgical histories are taken and physical examinations conducted, that vital signs are properly monitored before, during and after surgery, and that all of the above are appropriately documented in the patient chart.

C. The conduct of Respondent that resulted in his receipt of a reprimand and other penalties by the State Board of Medical Examiners, State of New Jersey, would, if committed in New York State, constitute professional misconduct under the laws of New York State, specifically, New York Education Law §6530(3) (practicing the profession with

negligence on more than one occasion); §6530(4) (practicing the profession with gross negligence on a particular occasion); §6530(5) (practicing the profession with incompetence on more than one occasion); §6530(6) (practicing the profession with gross incompetence); and/or §6530(32) (failing to maintain a record for Patient "J.L." which accurately reflects the evaluation and treatment of the patient).

SPECIFICATION OF CHARGES

HAVING DISCIPLINARY ACTION TAKEN AGAINST  
RESPONDENT AFTER DISCIPLINARY ACTION WAS INSTITUTED

Respondent is charged with having disciplinary action taken against him 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 of New York State, within the meaning of N.Y. Educ. Law §6530(9)(d), in that Petitioner charges:

1. The facts in Paragraphs A, B, and C.

*New York*  
DATED: Albany, New York  
*9/27/93*

*Chris Stern Hyman for:*

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CHRIS STERN HYMAN  
Chief Counsel  
Bureau of Professional Medical  
Conduct