



New York State Board for Professional Medical Conduct

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

Antonia C. Novello, M.D., M.P.H., Dr. P.H.
*Commissioner
NYS Department of Health*

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

Dennis J. Graziano, Director
Office of Professional Medical Conduct

PUBLIC

Kendrick A. Sears, M.D.
Chairman

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

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

May 4, 2005

CERTIFIED MAIL-RETURN RECEIPT REQUESTED

David Wayne Stephenson, M.D.
Albany County Correctional Facility
840 Albany Shaker Road
Albany, NY 12211

Re: License No. 190843

Dear Dr. Stephenson:

Enclosed is a copy of Order #BPMC 05-93 of the New York State Board for Professional Medical Conduct. This order and any penalty provided therein goes into effect May 11, 2005.

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 to the Board for Professional Medical Conduct, New York State Department of Health, Hedley Park Place, Suite 303, 433 River Street, Troy, New York 12180.

Sincerely,

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

Executive Secretary

Board for Professional Medical Conduct

Enclosure

cc: F. Stanton Ackerman, Esq.
Ackerman, Wachs and Finton, P.C.
90 State Street, Suite 911
Albany, NY 12207

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

IN THE MATTER
OF
DAVID WAYNE STEPHENSON, M.D.

**SURRENDER
ORDER**

BPMC # 05-93

DAVID WAYNE STEPHENSON, M.D., says:

On or about November 23, 1992, I was licensed to practice medicine as a physician in the State of New York having been issued License No. 190843 by the New York State Education Department. My address is 6436 Emerald Circle North, Rome, New York, 13442.

I understand that I have been charged with 4 specifications of professional misconduct as set forth in the Statement of Charges, annexed hereto, made a part hereof, and marked as Exhibit "A".

I am applying to the State Board for Professional Medical Conduct for an agreement to allow me to surrender my license as a physician in the State of New York and request that the Board issue this Surrender Order.

I admit guilt to the 4 Specification(s) set forth in the Statement of Charges.

I understand that, in the event that this proposed agreement is not granted by the State Board for Professional Medical Conduct, 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 proposed agreement 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 State Board for Professional Medical Conduct shall be made without prejudice to the continuance of any disciplinary proceeding and the final determination by a Committee on Professional Medical Conduct pursuant to the provisions of the Public Health Law.

I agree that in the event the State Board for Professional Medical Conduct agrees with my proposal, this Order shall be issued striking my name from the roster of physicians in the State of New York without further notice to me. I agree that this Order shall be effective upon issuance by the Board, which may be accomplished by mailing, by first class mail, a copy of the Order to me at the address set forth above, or to my attorney, or upon transmission via facsimile to me or my attorney, whichever is earliest.

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

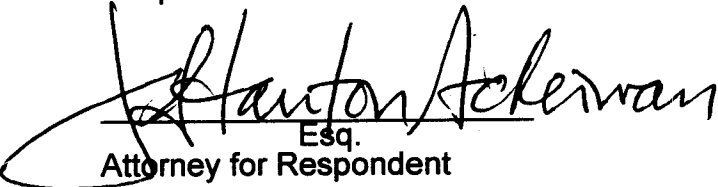
AGREED TO:

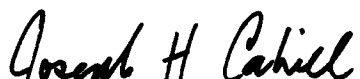
Date: 04/24/, 2005

Date: April 22,, 2005

Date: May 3,, 2005


David Wayne Stephenson, M.D.
Respondent


Stanton Ackerman
Esq.
Attorney for Respondent


Joseph M. Cahill
Associate Counsel
Bureau of Professional
Medical Conduct


DENNIS J. GRAZIANO
Director, Office of
Professional Medical Conduct

ORDER


Upon the proposed agreement of David Wayne Stephenson, M.D., to Surrender his license as a physician in the State of New York, which proposed agreement is made a part hereof, it is AGREED TO and

ORDERED, that the proposed agreement and the provisions thereof are hereby adopted; it is further

ORDERED, that the name of Respondent be stricken from the roster of physicians in the State of New York; it is further

ORDERED, that this Order shall be effective upon issuance by the Board, which may be accomplished by mailing, by first class mail, a copy of this Order to Respondent at the address set forth in this agreement or to Respondent's attorney, or upon transmissions via facsimile to Respondent or Respondent's attorney, whichever is earliest.

DATED: 5-4-2005


KENDRICK A. SEARS, M.D.
Chair
State Board for Professional Medical
Conduct

IN THE MATTER
OF
DAVID WAYNE STEPHENSON, M.D.

STATEMENT
OF
CHARGES

David Wayne Stephenson, M.D., the Respondent, was authorized to practice medicine in New York State on or about November 23, 1992, by the issuance of license number 190843 by the New York State Education Department. Respondent is currently registered with the New York State Education Department.

FACTUAL ALLEGATIONS

- A. Respondent, on or about January 21, 2004 in the Criminal Court of the Town of Lee, County of Oneida and State of New York, pleaded guilty to Assault in the 3rd Degree, a violation of New York Penal Law § 120.00(1), a Class A misdemeanor. Respondent was sentenced to pay a \$1000 fine and was required to pay restitution to repair the victim's front teeth which he had broken by punching her in the mouth on August 23, 2003.
- B. Respondent provided medical care and treatment to Patient A, during July and August of 2003. Respondent's care and treatment of Patient A failed to meet accepted standards of care in that:
1. Respondent engaged in a personal relationship with Patient A that violated proper physician-patient boundaries.

2. Respondent gave Patient A prescriptions for controlled substances without adequate medical justification and/or without documenting such justification.
3. Respondent failed to take timely measures to treat Patient A's drug dependence, or to timely refer her to treatment for such dependence.

C. Respondent gave his brother several prescriptions during 2002 but intentionally documented a false name on each prescription.

SPECIFICATION OF CHARGES

FIRST SPECIFICATION

Respondent violated New York Education Law § 6530(a)(i) by being convicted of committing an act constituting a crime in New York State Law, in that Petitioner charges:

1. The facts in Paragraph A.

SECOND SPECIFICATION

Respondent is charged with professional misconduct in the practice of medicine by practicing the profession fraudulently, in violation of New York Education Law, § 6530(2) in that Petitioner charges:

2. The facts in Paragraph C.

THIRD SPECIFICATION

Respondent is charged with professional misconduct by reason of his committing conduct in the practice of medicine which evidences moral unfitness to practice medicine in violation of New York Education Law § 6530(20), in that Petitioner charges:


3. The facts in Paragraph B and B1.

FOURTH SPECIFICATION
NEGLIGENCE ON MORE THAN ONE OCCASION

Respondent is charged with practicing medicine with negligence on more than one occasion, in violation of New York Education Law § 6530(3) in that Petitioner charges two or more of the following:

4. The facts in Paragraphs B and B.2, and/or B and B.3

DATED: April 26, 2005
Albany, New York


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

**PROPOSED APPENDIX TO ALL BPMC ORDERS FOR NULLIFICATION,
REVOCATION, SURRENDER OR SUSPENSION (of 6 months or more)
OF A MEDICAL LICENSE**

1. Respondent shall immediately cease and desist from engaging in the practice of medicine in accordance with the terms of the Order. In addition, Respondent shall refrain from providing an opinion as to professional practice or its application and from representing himself as being eligible to practice medicine.
2. Respondent shall have delivered to OPMC at Hedley Park Place, 433 River Street 4th Floor, Troy, NY 12180-2299 his original license to practice medicine in New York State and current biennial registration within thirty (30) days of the effective date of the Order.
3. Respondent shall within fifteen (15) days of the Order notify his patients of the cessation of his medical practice and will refer all patients to another licensed practicing physician for their continued care, as appropriate.
4. Respondent shall make arrangements for the transfer and maintenance of the medical records of his patients. Within thirty days of the effective date of the Order, Respondent shall notify OPMC of these arrangements including the appropriate and acceptable contact person's name, address, and telephone number who shall have access to these records. Original records shall be retained for at least six years after the last date of service rendered to a patient or, in the case of a minor, for at least six years after the last date of service or three years after the patient reaches the age of majority whichever time period is longer. Records shall be maintained in a safe and secure place which is reasonably accessible to former patients. The arrangements shall include provisions to ensure that the information on the record is kept confidential and made available only to authorized persons. When a patient or and/or his or her representative requests a copy of the patient's medical record or requests that the original medical record be forwarded to another health care provider, a copy of the record shall be promptly provided or forwarded at a reasonable cost to the patient (not to exceed seventy-five cents per page.) Radiographic, sonographic and like materials shall be provided at cost. A qualified person shall not be denied access to patient information solely because of their inability to pay.
5. In the event that Respondent holds a Drug Enforcement Agency (DEA) certificate, Respondent shall within fifteen (15) days advise the DEA in writing of the licensure action and shall surrender his DEA controlled substance privileges to the DEA. Respondent shall promptly surrender any unused DEA #222 U.S. Official Order Forms Schedules 1 and 2 to the DEA.
6. Respondent shall within fifteen (15) days return any unused New York State official prescription forms to the Bureau of Controlled Substances of the New York State Department of Health. Respondent shall cause all prescription pads bearing his name to be destroyed. If no other licensee is providing services at his practice location, all medications shall be properly disposed.
7. Respondent shall not share, occupy or use office space in which another licensee provides health care services. Respondent shall cause all signs to be removed within fifteen (15) days and stop all advertisements, professional listings whether in telephone directories or otherwise, professional stationery or billings by which his eligibility to practice is represented.

8. Respondent shall not charge, receive or share any fee or distribution of dividends for professional services rendered by himself or others while barred from engaging in the practice of medicine. Respondent may be compensated for the reasonable value of services lawfully rendered and disbursements incurred on a patient's behalf prior to the effective date of this Order.
9. If Respondent is a shareholder in any professional service corporation organized to engage in the practice of medicine and if his license is revoked, surrendered or suspended for a term of six months or more under the terms of this Order, Respondent shall divest himself of all financial interest in the professional services corporation in accordance with New York Business Corporation Law. Such divestiture shall occur within 90 days. If Respondent is the sole shareholder in a professional services corporation, the corporation must be dissolved or sold within ninety (90) days of the effective date of this Order.
10. Failure to comply with the above directives may result in a civil penalty or further criminal penalties as may be authorized pursuant to the law. Under Section 6512 of the Education Law it is a Class E Felony, punishable by imprisonment of up to 4 years, to practice the profession of medicine when such professional license has been suspended, revoked or annulled. Such punishment is in addition to the penalties for professional misconduct set forth in section 230 a1. of the Public Health Law, which includes fines of up to \$10,000 for each specification of charges of which the Respondent is found guilty and may include revocation of a suspended license.