



New York State Board for Professional Medical Conduct

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

Barbara A. DeBuono, M.D., M.P.H.
Commissioner of Health

Patrick F. Carone, M.D., M.P.H.
Chair
Ansel R. Marks, M.D., J.D.
Executive Secretary

July 8, 1997

CERTIFIED MAIL-RETURN RECEIPT REQUESTED

Mario L. Giampe, M.D.
760 Route 52 Glenham
Beacon, New York 12601

RE: License No. 074300

Dear Dr. Giampe:

Enclosed please find Order #BPMC 97-164 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
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: T. Lawrence Tabak, Esq.
Kern & Augustine
420 Lakeville Road
Lake Success, New York 11042

Claudia Morales Bloch, Esq.

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

**IN THE MATTER
OF
MARIO LAWRENCE GIAMPE, M.D.**

**CONSENT
ORDER**

BPMC #97-164


Upon the proposed agreement of MARIO LAWRENCE GIAMPE, M.D. (Respondent) for Consent Order, which application is made a part hereof, it is agreed to and

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: June 30, 1997


PATRICK F. CARONE, M.D., M.P.H.
Chairperson
State Board for Professional
Medical Conduct

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

IN THE MATTER
OF
MARIO LAWRENCE GIAMPE, M.D.

CONSENT
AGREEMENT
AND
ORDER

STATE OF NEW YORK)
COUNTY OF **NASSAU**) ss.:

MARIO LAWRENCE GIAMPE, M.D., being duly sworn, deposes and says:
That on or about October 9, 1953, I was licensed to practice as a
physician in the State of New York, having been issued License No. 074300 by
the New York State Education Department.

My current address is 760 Route 52 Glenham, Beacon, N.Y. 12601, and I
will advise the Director of the Office of Professional Medical Conduct of any
change of my address.

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

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

I agree not to contest the allegations set forth in the Statement of Charges,
in full satisfaction of the charges against me. I hereby agree to the following
penalty:

A limitation on my license to practice medicine in the State of
New York precluding the practice of Obstetrics.

I further agree that the Consent Order for which I hereby apply
shall impose a condition that I maintain current

registration of my license with the New York State Education Department Division of Professional Licensing Services, and pay all registration fees. This condition shall be in effect beginning thirty days after the effective date of the Consent Order and continuing until the full term of the Order has run, and until any associated period of probation and all probation terms have been completed and satisfied. I hereby stipulate that any failure by me to comply with such condition shall constitute misconduct as defined by New York State Education Law §6530(29)(McKinney Supp 1997).

I agree that in the event I am charged with professional misconduct in the future, this agreement and order shall be admitted into evidence in that proceeding.

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. In consideration of the value to me of the acceptance by the Board of this Application, allowing me to resolve this matter without the various risks and burdens of a hearing on the merits, I knowingly waive any right I may have to contest the Consent Order for which I hereby apply, whether administratively or judicially, and ask that the Application be granted.


MARIO LAWRENCE GIAMPE, M.D.
RESPONDENT

Sworn to before me this

11th day of June, 1997

NOTARY PUBLIC

Notary Public, State of New York
No. 31-498505b
Qualified in New York County
Expiration Date August 12, 2000

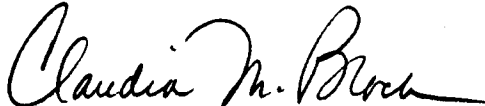
The undersigned agree to the attached application of the Respondent and to the proposed penalty based on the terms and conditions thereof.

DATE: June 11, 1997



T. LAWRENCE TABAK, ESQ.
Attorney for Respondent

DATE: June 24, 1997



CLAUDIA MORALES BLOCH
Associate Counsel
Bureau of Professional
Medical Conduct

DATE: June 26 1997



ANNE F. SAILE
Director
Office of Professional
Medical Conduct

IN THE MATTER
OF
MARIO LAWRENCE GIAMPE, M.D.

STATEMENT
OF
CHARGES

MARIO LAWRENCE GIAMPE, M.D., the Respondent, was authorized to practice medicine in New York State on or about October 9, 1953, by the issuance of license number 074300 by the New York State Education Department. The identity's of Patients JS and CS are listed in the Appendix annexed hereto.

FACTUAL ALLEGATIONS

- A. On or about March 30, 1992, Respondent and his partner, PATRICK WILLIAM O'DALY, M.D., undertook the prenatal care and treatment of Patient JS. On or about November 1, 1992, Patient JS was admitted to the Julia L. Butterfield Memorial Hospital (hereinafter referred to as "Butterfield") under the care and treatment of Respondent and PATRICK WILLIAM O'DALY, M.D. Patient JS was later transferred by Respondent to Westchester County Medical Center (WCMC) where a live female infant weighing 2,840 grams (6 pounds, 4 ounces) with an Apgar of 1-1 was delivered via cesarean section. The infant expired on January 3, 1993.
1. On admission to Butterfield, Patient JS presented at or about 37 weeks gestation, with apparent cessation of fetal movement for approximately 4 hours; premature rupture of the fetal

membranes, with meconium-containing amniotic fluid; and a fetal heart rate fixed at 150 beats per minute with no beat-to-beat variability. Her cervix was noted to be a finger-tip dilated and 50% effaced. Respondent failed to:

- a. In a timely manner, move Patient JS into a lateral recumbent position and administer oxygen via mask to her,
 - b. expeditiously deliver Patient JS via cesarean section,
 - c. prepare and/or order that Patient JS be prepared for immediate cesarean section,
 - d. arrange for an operating room to be prepared on an emergent basis for immediate cesarean section,
 - e. call for an anesthesiologist to be in attendance at the delivery,
 - f. call for a pediatrician to be in attendance at the delivery,
 - g. arrange for another physician to assist in the delivery of Patient JS.
2. Respondent inappropriately and without appropriate medical

justification had Patient JS transferred to WCMC and disregarded the advise of a physician at WCMC who told Respondent to perform an immediate delivery at Butterfield with subsequent transport of the neonate to WCMC's Neonatal Intensive Care Unit.

3. Respondent failed to demonstrate an acceptable level of knowledge of the accurate interpretation of fetal heart rate monitor tracings.
4. Respondent failed to appreciate and/or demonstrate knowledge of the indications for cesarean section.
5. Respondent failed to maintain a hospital record for Patient JS which accurately reflects the history, examination, diagnosis, orders, and care and treatment rendered.

B. On or about March 9, 1989, Respondent and his partner, PATRICK WILLIAM O'DALY, M.D., undertook the prenatal care and treatment of Patient CS. Patient CS was admitted to Butterfield under the care and treatment of Respondent and PATRICK WILLIAM O'DALY, M.D., on or about June 16, 1989, at or about 5:00 p.m., following an office visit to Respondent at which time the patient appeared febrile with a noted complaint of backache. Patient CS was delivered by PATRICK WILLIAM O'DALY, via forcep extraction, at or about 8:45 a.m. on or about June 17, 1989. The neonate weighed 2,608 grams, (5 pounds 12 ounces) had an Apgar of 1-5, required endotracheal intubation, and suctioning of meconium from the trachea.

1. On admission, Patient CS's cervix was noted by Respondent to be 1 finger-tip dilated and 50% effaced. Respondent did not order Patient CS transferred to the Labor floor of the hospital until at or about 4:30 a.m. on June 17, 1989, nor was she ordered by Respondent to be placed on continuous fetal heart rate monitoring until her arrival on the Labor floor at or about one half hour later. From the time the monitoring began, and throughout, the fetal heart rate remained relatively fixed at 150 beats per minute with no beat-to-beat variability. Respondent artificially rupture the fetal membranes, with release of meconium-containing amniotic fluid at or about 5:35 a.m. At that time, Patient CS's cervix was noted to be 5 centimeters dilated and the presenting part to be at station -1. Respondent:

a. Failed to timely and appropriately assess the status of the fetus and to monitor the fetal heart rate commencing at the time of Patient CS's admission to the hospital, in that Respondent:

i. Failed to timely and appropriately admit Patient CS to the Labor floor where assessment of the status of the fetus can be accomplished,

ii. Failed to timely and appropriately evaluate the status of the fetus at Patient CS's bedside before her transfer to the Labor floor.

- b. Failed to timely and appropriately order that Patient CS be placed on continuous fetal heart rate monitoring,
 - c. Failed to perform fetal scalp blood pH testing,
 - d. Failed to expeditiously deliver Patient CS via cesarean section,
 - e. Failed to prepare and/or order that Patient CS be prepared for immediate cesarean section.
2. Respondent failed to demonstrate an acceptable level of knowledge of the accurate interpretation of fetal heart rate monitor tracings.
 3. Respondent failed to appreciate and/or demonstrate knowledge of the indications for cesarean section.
 4. Respondent failed to maintain a hospital record for Patient JS which accurately reflects the history, examination, diagnosis, orders, and care and treatment rendered.

SPECIFICATION OF CHARGES

FIRST SPECIFICATION

NEGLIGENCE ON MORE THAN ONE OCCASION

Respondent is charged with committing professional misconduct as defined in N.Y. Educ. Law §6530(3)(McKinney Supp. 1997) by practicing the profession of medicine with negligence on more than one occasion as alleged in the facts of two or more of the following:

1. The facts in paragraphs The facts in paragraphs A, A(1)(a) through A(1)(g), A(2), A(3), A(4), A(5), B, B(1)(a), B(1)(a)(i), B(1)(a)(ii), B(1)(b) through B(1)(e), B(2), B(3), and B(4).

SECOND SPECIFICATION

INCOMPETENCE ON MORE THAN ONE OCCASION

Respondent is charged with committing professional misconduct as defined in N.Y. Educ. Law §6530(5)(McKinney Supp. 1997) by practicing the profession of medicine with incompetence on more than one occasion as alleged in the facts of two or more of the following:

2. The facts in paragraphs The facts in paragraphs A, A(1)(a) through A(1)(g), A(2), A(3), A(4), A(5), B, B(1)(a), B(1)(a)(i), B(1)(a)(ii), B(1)(b) through B(1)(e), B(2), B(3), and B(4).

THIRD AND FOURTH SPECIFICATIONS

GROSS NEGLIGENCE

Respondent is charged with committing professional misconduct as defined in N.Y. Educ. Law §6530(4)(McKinney Supp. 1997) by practicing the profession of medicine with gross negligence as alleged in the facts of the following:

3. The facts in paragraphs A, A(1)(a) through A(1)(g), A(2), A(3), A(4), and A(5).
4. The facts in paragraphs B, B(1)(a), B(1)(a)(i), B(1)(a)(ii), B(1)(b) through B(1)(e), B(2), B(3), and B(4).

FIFTH AND SIXTH SPECIFICATIONS

GROSS INCOMPETENCE

Respondent is charged with committing professional misconduct as defined in N.Y. Educ. Law §6530(6)(McKinney Supp. 1997) by practicing the profession of medicine with gross incompetence as alleged in the facts of the following:

5. The facts on paragraphs A, A(1)(a) through A(1)(g), A(2), A(3), A(4), and A(5).
6. The facts in paragraphs B, B(1)(a), B(1)(a)(i), B(1)(a)(ii), B(1)(b) through B(1)(e), B(2), B(3), and B(4).

SEVENTH AND EIGHTH SPECIFICATIONS

FAILURE TO MAINTAIN RECORDS

Respondent is charged with committing professional misconduct within the meaning of N.Y. Educ. Law Section 6530(32) (McKinney Supp. 1997) by failing to maintain a record for each patient which accurately reflects the evaluation and treatment of the patient, as alleged in the facts of the following:

7. The facts in paragraphs A(5).

8. The facts in paragraphs B(4).

DATED: March , 1997
New York, New York

ROY NEMERSON
Deputy Counsel
Bureau of Professional
Medical Conduct