



**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

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NYS Department of Health

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

Public

October 10, 2001

**CERTIFIED MAIL-RETURN RECEIPT REQUESTED**

David Allen Gershon, M.D.  
225 East 70th Street  
New York, NY 10021

RE: License No. 194701

Dear Dr. Gershon:

Enclosed please find Order #BPMC 01-232 of the New York State Board for Professional Medical Conduct. This Order and any penalty provided therein goes into effect October 10, 2001.

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 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: Paul Stein, Esq.

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

IN THE MATTER  
OF  
DAVID ALLEN GERSHON, M.D.

CONSENT  
ORDER

BPMC No. 01-232

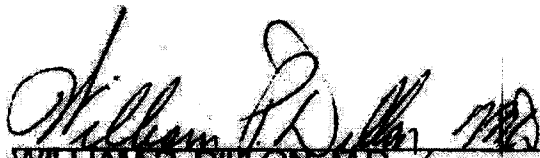
Upon the proposed agreement of DAVID ALLEN GERSHON, M.D.  
(Respondent) for Consent Order, which application is made a part hereof, it is agreed to  
and

ORDERED, that the application and the provisions thereof are hereby adopted  
and so ORDERED, and it is further

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

SO ORDERED.

DATED: 10/5/01

  
WILLIAM P. DILLON, M.D.  
Chair  
State Board for Professional  
Medical Conduct

IN THE MATTER  
OF  
DAVID ALLEN GERSHON, M.D.

CONSENT  
AGREEMENT  
AND  
ORDER

DAVID ALLEN GERSHON, M.D., representing all statements except the charges and factual allegations herein made to be true, deposes and says:

That on or about January 7, 1994, I was licensed to practice as a physician in the State of New York, having been issued License No. 194701 by the New York State Education Department.

My current address is 225 East 70<sup>th</sup> Street, New York, NY 10021, I have not been actively practicing medicine in New York State since August 1999, and I will advise the Director of the Office of Professional Medical Conduct where I can be contacted, if I can no longer be contacted at the above address.

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

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

Plea:

~~I admit guilt to the \_\_\_\_\_ Specification(s) \_\_\_\_\_~~

DAG I agree not to contest the allegations of the SECOND Specification ~~(s)~~

~~I assert that I cannot successfully defend against at least one of the acts of misconduct alleged \_\_\_\_\_~~

in full satisfaction of all of the charges against me.

I hereby agree to the following penalty:

That a censure and reprimand be imposed upon my license; and that I be subject to a three-year term of conditions as specified in Exhibit "B", below, such conditions to begin and be in effect only when I am engaged in the practice of medicine in New York State.

I further agree that the Consent Order for which I hereby apply shall impose the following conditions:

That, except during periods of actual suspension, Respondent shall maintain active registration of Respondent's 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 will continue while the licensee possesses his/her license; and

That Respondent shall fully cooperate in every respect with the Office of Professional Medical Conduct (OPMC) in its administration and enforcement of this Order and in its investigation of all matters regarding Respondent. Respondent shall respond in a timely manner to each and every request by OPMC to provide written periodic verification of Respondent's compliance with the terms of this Order. Respondent shall meet with a person designated by the Director of OPMC as directed. Respondent shall respond promptly and provide any and all documents and information within Respondent's control upon the direction of OPMC. This condition shall be in

effect beginning upon the effective date of the Consent Order and will continue while the licensee possesses his/her license.

I hereby stipulate that any failure by me to comply with such conditions shall constitute misconduct as defined by New York State Education Law §6530(29).

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 agree that such order shall be effective upon issuance by the Board, which may be accomplished by mailing, by first class mail, a copy of the Consent Order to me at the address set forth in this agreement, or to my attorney, or upon transmission via facsimile to me or my attorney, whichever is earliest.

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.

DATED 9/12/2001

  
DAVID ALLEN GERSHON, M.D.  
Respondent

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

DATE: 9/12/2001

N.A. DAG

Attorney for Respondent

DATE: 9-14-01

Paul Stein

PAUL STEIN  
Associate Counsel  
Bureau of Professional  
Medical Conduct

DATE: 10/2/01

[Signature]

DENNIS J. GRAZIANO  
Director  
Office of Professional  
Medical Conduct

IN THE MATTER  
OF  
DAVID ALLEN GERSHON, M.D.

STATEMENT  
OF  
CHARGES

DAVID ALLEN GERSHON, M.D., the Respondent, was authorized to practice medicine in New York State on or about January 7, 1994, by the issuance of license number 194701 by the New York State Education Department.

FACTUAL ALLEGATIONS

- A. Respondent treated Patient A (who is identified in the attached "Appendix A") either in his offices at 360 East 72nd Street, New York, New York or in his offices at Seven Reservoir Road, North White Plains, New York from on or about October 1, 1997 through on or about January 7, 1998 for complaints of pain.
1. In an undated letter soliciting referrals from Patient A's chiropractor "Dr. Frank Cartica", Respondent, after stating that he had seen Patient A on October 1, 1997, inaccurately stated, "I am the Director of the Pain Management Consultation Service at the Burke Rehabilitation Hospital and I work very closely with Westchester Bone and Joint Associates as the Director of Neurology and Pain Management".



SPECIFICATION OF CHARGES

SECOND SPECIFICATION

ADVERTISING OR SOLICITING NOT IN THE PUBLIC INTEREST

Respondent is charged with committing professional misconduct as defined by N.Y. Educ. Law §6530(27) by advertising or soliciting for patronage that is not in the public interest as alleged in the facts of the following:

2. Paragraphs A and A1.

DATED: July , 2001  
New York, New York

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ROY NEMERSON  
Deputy Counsel  
Bureau of Professional  
Medical Conduct

## EXHIBIT "B"

### CONDITIONS

1. Respondent shall conduct himself/herself in all ways in a manner befitting his/her professional status, and shall conform fully to the moral and professional standards of conduct and obligations imposed by law and by his/her profession. Respondent acknowledges that if s/he commits professional misconduct as enumerated in New York State Education Law §6530 or §6531, those acts shall be deemed to be a violation of the conditions imposed pursuant to this order and that an action may be taken against Respondent's license pursuant to New York State Public Health Law §230(19).
2. Respondent shall submit written notification to the New York State Department of Health addressed to the Director of the Office of Professional Medical Conduct, New York State Department of Health, 433 River Street, Suite 303, Troy, NY 12180-2299; said notice is to include a full description of any employment and practice, professional and residential addresses and telephone numbers within or without New York State, and any and all investigations, charges, convictions or disciplinary actions by any local, state or federal agency, institution or facility, within thirty days of each action.
3. Any civil penalty not paid by the date prescribed herein shall be subject to all provisions of law relating to debt collection by New York State. This includes but is 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 §171(27)]; State Finance Law §18; CPLR §5001; Executive Law §32].
4. The period of conditions imposed pursuant to this order shall be tolled during periods in which Respondent is not engaged in the active practice of medicine in New York State. Respondent shall notify the Director of OPMC, in writing, if Respondent is not currently engaged in or intends to leave the active practice of medicine in New York State for a period of thirty (30) consecutive days or more. Respondent shall then notify the Director again prior to any change in that status. The period of conditions imposed pursuant to this order shall resume and any conditions which were not fulfilled shall be fulfilled upon Respondent's return to practice in New York State.
5. Respondent's professional performance may be reviewed by the Director of OPMC. This review may include, but shall not be limited to, a review of office records, patient records and/or hospital charts, interviews with or periodic visits with Respondent and his/her staff at practice locations or OPMC offices.
6. Respondent shall maintain legible and complete medical records which accurately reflect the evaluation and treatment of patients. The medical records shall contain all information required by State rules and regulations regarding controlled substances.
7. Respondent shall comply with all terms, conditions, restrictions, limitations and penalties to which he or she is subject pursuant to the Order and shall assume and bear all costs related to compliance. Upon receipt of evidence of noncompliance with, or any violation of these terms, the Director of OPMC and/or the Board may initiate any proceeding against Respondent as may be authorized pursuant to the law.