



**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

January 15, 1998

**CERTIFIED MAIL-RETURN RECEIPT REQUESTED**

Mordechai Gemer, M.D.  
7 Ardis Lane  
Plainview, New York 11803

RE: License No. 124664

Dear Dr. Gemer:

Enclosed please find Order #BPMC 98-15 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: Wilfred T. Friedman, PC  
The Bar Building  
36 West 44th Street  
New York, New York 10036

Claudia M. Bloch, Esq.

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

IN THE MATTER  
OF  
MORDECHAI GEMER, M.D.

CONSENT  
AGREEMENT  
AND  
ORDER  
BPMC #98-15

STATE OF NEW YORK )  
COUNTY OF *New York* ) ss.:

MORDECHAI GEMER, M.D., being duly sworn, deposes and says:

That on or about June 1, 1975, I was licensed to practice as a physician in the State of New York, having been issued License No. 124664 by the New York State Education Department.

My current address is 7 Ardis Lane, Plainview, New York 11803, 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 two specifications of professional misconduct.

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

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

A three (3) year period of suspension, stayed, and a three (3) year <sup>CONCURRENT</sup> period of probation in accordance with the terms set forth in Exhibit "B" and Exhibit "C".

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).

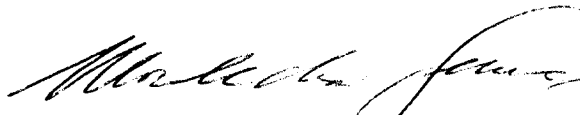
I agree that in the event I am charged with professional misconduct in the future, this agreement and order shall be admitted into evidence in that proceeding.

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.

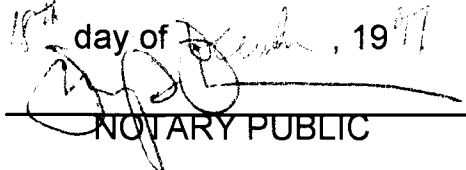
I am making this Application of my own free will and accord and not under duress, compulsion or restraint of any kind or manner. In consideration of the value to me of the acceptance by the Board of this Application, allowing me to resolve this matter without the various risks and burdens of a hearing 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.



MORDECHAI GEMER, M.D.  
RESPONDENT

Sworn to before me this

15<sup>th</sup> day of *December*, 19*97*

  
NOTARY PUBLIC

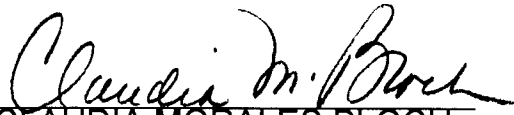
WILFRED T. FRIEDMAN  
NOTARY PUBLIC, State of New York  
No. 31-4954326  
Qualified in New York County  
by Commission Expires August 11, *1999*

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

DATE: 12/31/97

  
WILFRED FRIEDMAN, ESQ.  
Attorney for Respondent

DATE: 1/6/98

  
CLAUDIA MORALES BLOCH  
Associate Counsel  
Bureau of Professional  
Medical Conduct

DATE: 1/9/98

  
ANNE F. SAILE  
Director  
Office of Professional  
Medical Conduct

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

IN THE MATTER  
OF  
MORDECHAI GEMER, M.D.

CONSENT  
ORDER

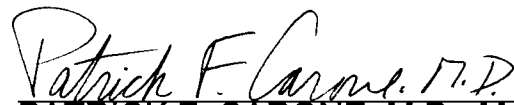
Upon the proposed agreement of MORDECHAI GEMER, M.D.  
(Respondent) for Consent Order, which application is made a part hereof, it is  
agreed to and

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: 1/12/98

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

**IN THE MATTER  
OF  
MORDECHAI GEMER, M.D.**

**STATEMENT  
OF  
CHARGES**

MORDECHAI GEMER, M.D., the Respondent, was authorized to practice medicine in New York State on or about June 1, 1975, by the issuance of license number 124664 by the New York State Education Department.

**FACTUAL ALLEGATIONS**

- A. On or about June 13, 1996, Patient A presented at Syosset Hospital with signs and symptoms of acute and chronic cholecystitis. On that date, Patient A was taken to the operating room where Respondent attempted to perform a laparoscopic cholecystectomy. During the course of this procedure, Respondent:
1. Failed to properly identify the neck of the gallbladder and surrounding structures prior to dissection;
  2. Inappropriately lacerated the right hepatic artery and transected the common bile duct.
- B. On or about August 16, 1995, Patient B was admitted to LaGuardia Hospital with a diagnosis of ampullary cancer with biliary and pancreatic stents inserted. During the course of hospitalization, Patient B experienced episodes

of vomiting, became dehydrated despite IV fluids, and developed electrolyte abnormalities. The impression after an upper G.I. series was a partial obstruction or gastric outlet obstruction secondary to a pancreatic mass. On September 28, 1995, Patient B was taken to the operating room where Respondent was to perform a gastrojejunostomy. During this procedure, Respondent:

1. Inappropriately and without medical indication decided to perform a vagotomy;
2. Failed to appropriately control intra-operative bleeding;
3. Failed to properly identify and control the source of the hemorrhage.

C. Patient C was admitted to LaGuardia Hospital on or about January 23, 1995 via the emergency room with a five day history of diffuse abdominal pain, vomiting, and diarrhea, however, no bowel movement or flatus in the preceding 12 hours. The patient had a hypaque enema on the day of admission, which showed an area of narrowing in the junction between the cecum and ascending colon. On or about January 24, 1995, Respondent performed exploratory surgery on Patient C where he found inspissated material, however, missed a cecal carcinoma. Postoperatively, Patient C developed an acute abdomen necessitating a second operation performed by Respondent on or about January 28, 1995, at which time a right hemicolectomy and an ileostomy were performed. Post-operatively, Patient C suffered severe electrolyte abnormalities and a drop in his albumen to 1.3. In



his surgical care and management of Patient C, Respondent:

1. Failed to read and/or appropriately interpret the pre-operative enema;
2. Failed to palpate and/or appropriately palpate the area of the mass during the first operation of on or about January 24, 1995;
3. Inadequately and improperly managed the patient's electrolytes after the second operation.

### **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 A, A(1), A(2), B, B(1), B(2), B(3), C, C(1), C(2), and C(3).

**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 A, A(1), A(2), B, B(1), B(2), B(3), C, C(1), C(2), and C(3).

DATED:      October     , 1997  
              New York, New York

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ROY NEMERSON  
Deputy Counsel  
Bureau of Professional  
Medical Conduct

## EXHIBIT "B"

### Terms of Probation

1. Respondent 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 and obligations imposed by law and by his profession.
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. Respondent shall fully cooperate with and respond in a timely manner to requests from OPMC to provide written periodic verification of Respondent's compliance with the terms of this Order. Respondent shall personally meet with a person designated by the Director of OPMC as requested by the Director.
4. 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 section 171(27)]; State Finance Law section 18; CPLR section 5001; Executive Law section 32].
5. The period of probation 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 probation shall resume and any terms of probation which were not fulfilled shall be fulfilled upon Respondent's return to practice in New York State.
6. 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 staff at practice locations or OPMC offices.
7. 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.
8. Respondent shall comply with all terms, conditions, restrictions, limitations

and penalties to which he 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 a violation of probation proceeding and/or any such other proceeding against Respondent as may be authorized pursuant to the law.

EXHIBIT "C"

IMPAIRMENT MONITORING

9. Respondent shall remain drug/alcohol free.
10. Respondent shall remain active in self help groups such as, but not limited to, Narcotics Anonymous, Alcoholics Anonymous and Caduceus.
11. Respondent shall notify all treating physicians of his history of alcohol/chemical dependency. Respondent shall advise PMC of any controlled or mood-altering substance given or prescribed by treating physicians.
12. Respondent shall practice only when monitored by qualified health care professional monitors (sobriety monitor, practice supervisor, and therapist) proposed by Respondent and approved, in writing, by the Director of OPMC. Monitors shall not be family members or personal friends, or be in professional relationships which would pose a conflict with monitoring responsibilities.
13. Respondent shall ensure that the monitors are familiar with Respondent's drug/alcohol dependency and with the terms of this Order. Respondent shall cause the monitors to report any deviation from compliance with the terms of this Order to OPMC. Respondent shall cause the monitors to submit required reports on a timely basis.
14. Respondent shall submit, at the request of a monitor, to random, unannounced observed blood, breath and/or urine screens for the presence of drugs/alcohol. This monitoring will be on a random, seven-days a week, twenty-four hours a day basis. Respondent shall report for a drug screen within four (4) hours of being contacted by the monitor. Respondent shall cause the monitor to report to OPMC within 24 hours if a test is refused or delayed by Respondent or a test is positive for any unauthorized substance.
15. Respondent shall meet with a sobriety monitor on a regular basis who will submit quarterly reports to OPMC certifying Respondent's sobriety. These reports are to include a) forensically valid results of all drug/alcohol monitoring tests to be performed at a frequency of no less than four (4) times a month for the first 12 months of the period of probation, then at a frequency to be proposed by the sobriety monitor and approved by OPMC and b) an assessment of self-help group attendance (e.g., AA/NA/Caduceus, etc.), 12 step progress, etc.
16. Respondent shall practice medicine only when supervised in his medical practice. The practice supervisor shall be on-site at all locations, unless determined otherwise by the Director of OPMC. Respondent shall not practice medicine until a practice supervisor has been approved. Respondent shall ensure that the practice supervisor is in a position to regularly observe and assess Respondent's medical practice. Respondent shall cause the practice supervisor to report within 24 hours any suspected impairment, inappropriate behavior, questionable medical practice or possible misconduct to OPMC.
17. Respondent shall cause the practice supervisor to review Respondent's practice regarding the prescribing, administering, dispensing, inventorying,

and disposal of controlled substances.

18. Respondent shall cause the practice supervisor to submit quarterly reports to OPMC regarding the quality of Respondent's medical/surgical practice, including the evaluation and treatment of patients, physical and mental condition, time and attendance or any unexplained absences from work, prescribing practices, and compliance or failure to comply with any term of probation.
19. Respondent shall continue in counseling or other therapy with a therapist as long as the therapist determines is necessary, or for the period of time dictated in the Order.
20. Respondent shall cause the therapist to submit a proposed treatment plan and quarterly reports to OPMC certifying whether Respondent is in compliance with the treatment plan. Respondent shall cause the therapist to report to OPMC within 24 hours if Respondent leaves treatment against medical advice, or displays any symptoms of a suspected or actual relapse.
21. Respondent shall comply with any request from OPMC to obtain an independent psychiatric/chemical dependency evaluation by a health care professional proposed by the Respondent and approved, in writing, by the Director of OPMC.