



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

December 30, 1993

CERTIFIED MAIL-RETURN RECEIPT REQUESTED

Rafael Infante, M.D.
Apartment 1D
470 West End Avenue
New York, New York 10024

RE: License No. 087262
Effective Date: 1/5/94

Dear Dr. Infante:

Enclosed please find Order #BPMC 93-211 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

Sincerely,

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
RAFAEL INFANTE, M.D. : BPMC #93-211
-----X

Upon the application of RAFAEL INFANTE, 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: 23 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
: APPLICATION
IN THE MATTER :
: FOR
OF :
: CONSENT
RAFAEL INFANTE, M.D. :
: ORDER
-----X

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

RAFAEL INFANTE, M.D., being duly sworn, deposes and says:
I was licensed to practice as a physician in the State of
New York, having been issued License No. 087262 by the New York
State Education Department.

I am currently registered with the New York State
Education Department to practice as a physician in the State of
New York for the period January 1, 1993 through December 31,
1994.

I understand that the New York State Board for
Professional Medical Conduct has charged me with six (6)
Specifications of professional misconduct.

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

I admit guilt to the Second, ~~Third and Fourth~~^{12/11}
Specifications of the Statement of Charges in full satisfaction
of the charges against me.

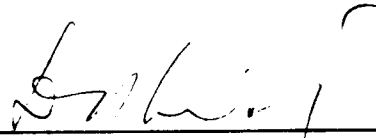
I hereby agree to the penalty that my license be suspended for a period of two (2) years, that said suspension be stayed in its entirety, and that I be placed on probation, in accordance with the attached Exhibit B, Terms of Probation, for a period beginning upon service of the Consent Order and ending twenty-four (24) months after my successful completion of Phase II of the Physicians Prescribed Educational Program (PPEP) described in Exhibit B.

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.

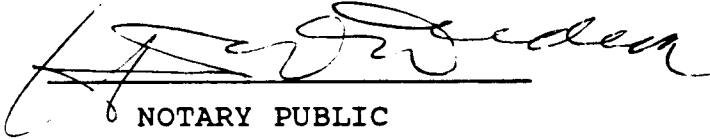
I agree that, in the event the Board grants my Application as set forth herein, an order of the Chairperson of the Board shall be issued in accordance with same.

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



RAFAEL INFANTE, M.D.
RESPONDENT

Sworn to before me this
4 day of Dec, 1983.


NOTARY PUBLIC

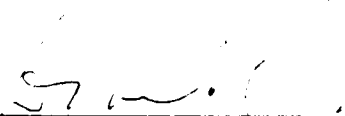
HERBERT W. DODD
Notary Public, State of New York
No. 611115
Qualified in Nassau County
Commission Expires May 22, 1984

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

-----X
: APPLICATION
IN THE MATTER :
: FOR
OF :
: CONSENT
RAFAEL INFANTE, M.D. :
: ORDER
-----X

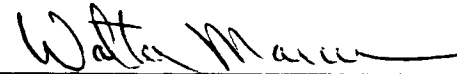
The undersigned agree to the attached application of the Respondent and to the proposed penalty based on the terms and conditions thereof.

Date: 12/6/03



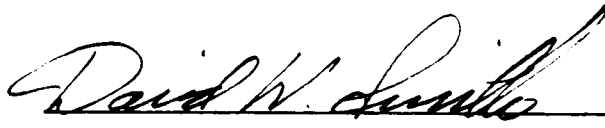
RAFAEL INFANTE, M.D.
RESPONDENT

Date: 12/7/03



WALTER MARCUS, ESQ.
ATTORNEY FOR RESPONDENT

Date: 10/18/93



DAVID W. SMITH
ASSISTANT COUNSEL
BUREAU OF PROFESSIONAL
MEDICAL CONDUCT

Date: Dec. 28, 1993

Kathleen M. Tanner

KATHLEEN M. TANNER
DIRECTOR
OFFICE OF PROFESSIONAL
MEDICAL CONDUCT

Date: 23 December 1993

Charles J. Vacanti

CHARLES J. VACANTI, M.D.
CHAIRPERSON
STATE BOARD FOR
PROFESSIONAL MEDICAL CONDUCT

EXHIBIT "A"

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

-----X

IN THE MATTER : STATEMENT
OF : OF
RAFAEL INFANTE, M.D. : CHARGES

-----X

RAFAEL INFANTE, M.D., the Respondent, was authorized to practice medicine in New York State in 1962 by the issuance of license number 087262 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.

FACTUAL ALLEGATIONS

- A. From in or about 1970 through in or about 1992, Respondent treated Patient A for obesity and other medical conditions at his office at 470 West End Avenue, New York, New York 10024. (The identity of all patients is listed in the Appendix attached hereto).
1. Respondent failed, throughout the period, to perform and note an adequate physical examination.

2. Respondent failed, throughout the period, to obtain and note an adequate medical history.

3. Patient A had three psychiatric hospitalizations, one each in 1984, 1991 and 1992. Respondent failed to record any of them in his patient notes even though he was aware of them.

4. The last two of those hospitalizations involved phentermine abuse. Nevertheless throughout the period, Respondent continued to inappropriately prescribe phentermines for Patient A, failed to consult with the treating psychiatrist of Patient A, and failed to obtain the hospital records.

5. During 1989, Respondent inappropriately prescribed Mevacor for Patient A, failing to make an appropriate diagnosis of Patient A or note such diagnosis, if any, failing to evaluate her condition, or note such evaluations, if any, and failing to seek or obtain the hospital records relating to her condition.

B. From in or about 1984 through in or about 1991, Respondent treated Patient B for gynecological problems and other medical conditions at Respondent's office at 470 West End Avenue, New York City.

1. Throughout the period, Respondent failed to perform or note an adequate physical examination.
2. Throughout the period, Respondent failed to obtain or note an adequate medical history.
3. In or about October, 1984, Patient B complained of abdominal tenderness. Respondent failed to diagnose the cause of such tenderness or note such diagnosis, if any, and failed to remove the intrauterine device of Patient B or note such removal, if any.
4. At various times throughout the period, Patient B complained of sore throat. Respondent failed to diagnose the cause thereof or note such diagnosis, if any; failed to order appropriate laboratory and other diagnostic tests; and inappropriately prescribed

penicillin and various other antibiotics to be taken orally and parenterally.

C. Patient C was treated by Respondent for respiratory problems and other medical conditions from in or about January, 1989, when he was a 3-month old infant, through in or about December, 1992, at Respondent's office at 470 West End Avenue, New York City.

1. Throughout the period, Respondent failed to perform or note an adequate physical examination.
2. Throughout the period, Respondent failed to obtain or note an adequate medical history.
3. Throughout the period, Respondent inappropriately prescribed antibiotics, including penicillin and lincomycin, and inappropriately ordered them to be taken orally and parenterally simultaneously.

D. Patient D was treated by Respondent for respiratory problems and other medical conditions from in or about October, 1989, when he was 1-year old,

through in or about December, 1991, at Respondent's office at 470 West End Avenue, New York City.

1. Throughout the period, Respondent failed to perform or note an adequate physical examination.
2. Throughout the period, Respondent failed to obtain or note an adequate medical history.
3. Throughout the period, Respondent inappropriately prescribed various antibiotics, including penicillin and lincomycin, and inappropriately ordered them to be taken orally and parenterally.

SPECIFICATIONS

FIRST SPECIFICATION

GROSS NEGLIGENCE ON A PARTICULAR OCCASION

Respondent is charged with practicing the profession with gross negligence on a particular occasion within the meaning of N.Y. Educ. Law Section 6530(4) (McKinney Supp. 1993). Specifically, Petitioner charges:

1. The facts in Paragraphs A and A1-4.

SECOND SPECIFICATION

NEGLIGENCE ON MORE THAN ONE OCCASION

Respondent is charged with practicing the profession with negligence on more than one occasion within the meaning of N.Y. Educ. Law Section 6539(3) (McKinney Supp. 1993).

Specifically, Petitioner charges:

2. The facts in Paragraphs A and A1-5; B and B1-4; C and C1-3; and/or D and D1-3.

THIRD THROUGH SIXTH SPECIFICATIONS

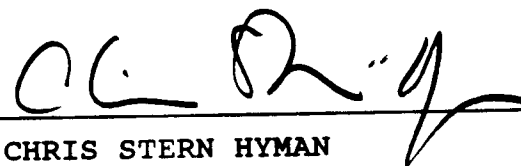
FAILURE TO KEEP RECORDS

Respondent is charged with failing to maintain a record for each patient which accurately reflects the evaluation and treatment of the patient within the meaning of N.Y. Educ. Law Section 6530(32) (McKinney Supp. 1993). Specifically, Petitioner charges:

3. The facts in Paragraphs A and A1, 2, 3 and 5.
4. The facts in Paragraphs B and B1-4.
5. The facts in Paragraphs C and C1-2.
6. The facts in Paragraphs D and D1-2.

DATED: New York, New York

October 7, 1993



CHRIS STERN HYMAN
Counsel
Bureau of Professional
Medical Conduct

EXHIBIT "B"

TERMS OF PROBATION

1. RAFAEL INFANTE, M.D., during the period of probation, 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 imposed by law and by his profession;
2. That Respondent shall submit written notification to the New York State Department of Health (NYSDOH), addressed to the Director, Office of Professional Medical Conduct, New York State Health Department, Corning Tower Building, 4th Floor, Empire State Plaza Albany, New York 12237 of any employment and practice, of Respondent's residence and telephone number, of any change in Respondent's employment, practice, residence, or telephone number within or without the State of New York;
3. Respondent shall submit written proof from the Division of Professional Licensing Services (DPLS), New York State Education Department (NYSED), that Respondent has paid all registration fees due and owing to the NYSED and Respondent shall cooperate with and submit whatever papers are requested by DPLS in regard to said registration fees, said proof from DPLS to be submitted by Respondent to the New York State Department of Health, addressed to the Director, Office of Professional Medical Conduct, as aforesaid, no later than the first three months of the period of probation;
4. Respondent shall submit written proof to the NYSDOH, addressed to the Director, Office of Professional Medical Conduct, as aforesaid, that 1) Respondent is currently registered with the NYSED, unless Respondent submits written proof that Respondent has advised DPLS, NYSED, that Respondent is not engaging in the practice of Respondent's profession in the State of New York and does not desire to register, and that 2) Respondent has paid any fines which may have previously been imposed upon Respondent by the Board or by the Board of Regents; said proof of the above to be submitted no later than the first two months of the period of probation;
5. Respondent shall comply with all terms, conditions, restrictions, and penalties to which he is subject pursuant to the order of the Board;
6. Any civil penalty not paid by the date prescribed herein shall be subject to all provisions of law relating to debt collection by the State of New York. 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).

7. Respondent, within the first three (3) months of the period of probation, shall complete the evaluation phase (Phase I) of the Physician Prescribed Educational Program (PPEP), Department of Family Medicine, 475 Irving Avenue No. 200, Syracuse, N.Y. 13210. Dr. William D. Grant, Director of the PPEP, shall inform Kathleen M. Tanner, Director of OPMC, of Respondent's satisfactory completion of Phase I of the program and of the results of Respondent's evaluation.
8. Upon completion of Phase I of the PPEP Program and within six months of the commencement of the period of probation, Respondent shall apply for and enroll in the reeducation phase (Phase II) of the PPEP. Respondent shall be placed at one of the participating hospitals in the Syracuse area for completion of Phase II, a course of retraining consistent with the findings made in Phase I.
9. In the sole discretion of the Director, upon review of the results of Phase I, Respondent may be allowed to complete Phase II at a participating hospital in the New York City area.
10. The elements of Phase II shall be determined by the participating institution upon reviewing the findings of Phase I and the results of any evaluation provided by the Office of Professional Medical Conduct. The length of the Phase II program shall be determined by the Phase II preceptor assigned to the Licensee in consultation with the Office of Professional Medical Conduct, but shall be no less than 3 months and no more than 12 months.
11. During the retraining phase, the preceptor assigned to Respondent:
 - a. Shall submit monthly reports to OPMC certifying that Respondent is fully participating in the retraining program;
 - b. Shall promptly report to OPMC any significant pattern of absences by Respondent;
 - c. Shall immediately report to OPMC if Respondent withdraws from the program;
 - d. Shall acknowledge in advance his/her willingness to comply with the above mentioned reporting by executing the acknowledgement provided by OPMC.

12. During the period of probation beginning after completion of Phase II, Respondent's practice shall be monitored by a licensed physician who shall review Respondent's professional performance and practice, and who:
 - a. Shall be selected by the Respondent, subject to the approval of the Director;
 - b. Shall be familiar with the terms of probation contained herein;
 - c. Shall meet bi-weekly with the Respondent during the first year of monitoring and monthly thereafter to discuss his private practice and review randomly selected office patient records and evaluate whether Respondent's care and treatment conform with generally accepted standards of medical practice;
 - d. Shall not be a personal friend or relative of Respondent;
 - e. Shall submit to OPMC monthly reports during the first year of such monitoring, and quarterly thereafter; and
 - f. Shall acknowledge in advance his/her willingness to comply with the above mentioned reporting by executing the acknowledgement provided by OPMC.
13. Respondent shall assume and bear all costs related to compliance with the Terms of Probation.
14. Respondent shall comply with all terms, conditions, restrictions, and penalties to which he is subject pursuant to the order of the Board.
15. So long as there is full compliance with every term herein set forth, Respondent may continue to practice his or her aforementioned profession in accordance with the terms of probation; provided, however, that upon receipt of evidence of noncompliance with, or any violation of these terms, the Director of the Office of Professional Medical Conduct and/or the Board may initiate a violation of probation proceeding and/or such other proceeding against Respondent as may be authorized pursuant to the Public Health Law.