



New York State Board for Professional Medical Conduct

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

Dennis P. Whalen
Executive Deputy Commissioner of Health
Anne F. Saile, Director
Office of Professional Medical Conduct
William J. Comiskey, Chief Counsel
Bureau of Professional Medical Conduct

William P. Dillon, M.D.
Chair
Denise M. Bolan, R.P.A.
Vice Chair
Ansel R. Marks, M.D., J.D.
Executive Secretary

January 20, 1999

CONFIDENTIAL

CERTIFIED MAIL-RETURN RECEIPT REQUESTED

Jerry Jacobson, M.D.
3 Lyon Street
Ogdensburg, NY 13669

RE: License No. 047600

Dear Dr. Jacobson:

Enclosed please find Order #BPMC 99-10 of the New York State Board for Professional Medical Conduct. This Order and any penalty provided therein goes into effect **January 20, 1999**.

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: T. Lawrence Tabak, Esq.
Kern, Augustine, Conroy & Schoppmann, P.C.
420 Lakeville Road
Lake Success, NY 11042

Anthony M. Benigno, Esq.

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

IN THE MATTER
OF
JERRY JACOBSON, M.D.

CONSENT
AGREEMENT
AND
ORDER
BPMC #99-10

JERRY JACOBSON, M.D., (Respondent) says:

That on or about January 1, 1948, I was licensed to practice as a physician in the State of New York, having been issued License No. 047600 by the New York State Education Department.

My current address is 3 Lyon Street, Ogdensburg, NY 13669, 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 four 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 first specification, in full satisfaction of the charges against me. I deny the allegations contained in the second, third and fourth specifications. I hereby agree to the following penalty:

My license to practice medicine in the State of New York shall be permanently limited, pursuant to section 230-a of the Public Health Law, to preclude the practice of medicine. I shall be

precluded from patient contact, diagnosing, treating, prescribing or operating for any human condition. I shall be precluded from teaching medicine or consulting on medical issues. I agree to comply with the terms of practice limitation attached hereto as Exhibit B.

I further agree that the Consent Order for which I hereby apply shall impose a condition that Respondent shall change his registration status to "inactive" with the New York State Education Department Division of Professional Licensing Services and provide proof of such change to the Director of the Office of Professional Medical Conduct within thirty days of the effective date of this Order. Failure to comply with such condition shall constitute misconduct as defined by New York State Education Law section 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.


AFFIRMED:

DATED 12/31/98

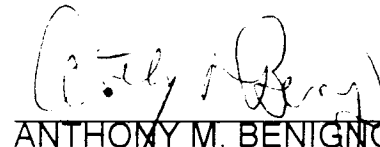

JERRY JACOBSON, M.D.
Respondent

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


DATE: 1/4/99


T. LAWRENCE TABAK, ESQ.
Attorney for Respondent

DATE: 1/6/99


ANTHONY M. BENIGNO, ESQ.
Assistant Counsel
Bureau of Professional
Medical Conduct

DATE: Jan. 12, 1999


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
JERRY JACOBSON, M.D.

CONSENT
ORDER

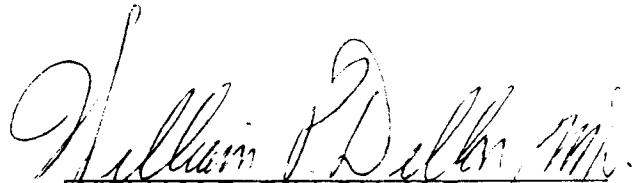
Upon the proposed agreement of JERRY JACOBSON, M.D. (Respondent) for Consent Order, which application is made a part hereof, it is agreed to and

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: 1/13/99


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

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

-----X

IN THE MATTER	:	STATEMENT
OF	:	OF
JERRY JACOBSON, M.D.	:	CHARGES

-----X

JERRY JACOBSON, M.D., the Respondent, was authorized to practice medicine in New York State on January 1, 1948 by the issuance of license number 047600 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 September, 1997, through August, 1999, with a registration address of 3 Lyon Place, Ogdensburg, NY 13669.

FACTUAL ALLEGATIONS

A. Respondent treated Patient A (a list of patients' names is included as appendix A) at his office in Ogdensburg, New York from on or about May 22, 1989 through on or about January 20, 1992. On about May 22, 1989 the patient was examined by Respondent. No abnormalities in the retina were indicated in the patient's medical record, however, a fluorescein angiogram was ordered on or about June 1, 1989. On or about January 20, 1992 another fluorescein angiogram was ordered. Visual fields were performed as well. The patient had normal vision and normal appearing retinal vasculature. Respondent's medical care of Patient A failed to meet accepted standards of medical care in the following respects:

1. The angiograms and visual field testing were not medically justified given the patient's medical condition.
2. Respondent failed to conduct and/or document an adequate ophthalmologic examination of the patient.

B. Respondent treated Patient B at his office located in Ogdensburg, New York from on or about September 1986 through on or about January 1, 1996. On or about November 25, 1986 a laser trabeculoplasty was performed without first attempting maximal medication therapy with anti-glaucomatous drops. A second trabeculoplasty was performed OD on August 15, 1988 without appropriate visual field testing. Another laser trabeculoplasty was done on OS on May 4, 1989 without any indications of a pressure elevation. Another laser trabeculoplasty was done on February 13, 1990 without any indication of pressure elevation. YAG laser was done in May 1994 to "polish" the OD IOL. Respondent's medical care of Patient B failed to meet accepted standards of medical care in the following respects:

1. Respondent performed trabeculoplasty on Patient B without medical justification.
2. Respondent performed a YAG laser procedure on Patient B without medical justification.
3. Respondent failed to conduct and/or document an adequate ophthalmologic examination of the patient.

C. Respondent treated Patient C at his office located in Ogdensburg, New York from on or about January 24, 1982 through on or about July 19, 1994. On or about January 9, 1985 laser trabeculoplasty is performed despite a normal pressure and where the patient's visual field appeared normal. Fluorescein angiography is performed in 1985, 1987 and 1988 despite a normal fundus examination. In March 1993 a retinal hemorrhage is noted in the left eye and a fluorescein is performed and the eye is lasered in April of 1993. Respondent's medical care of Patient C failed to meet

accepted standards of medical care in the following respects:

1. Respondent performed laser trabeculoplasty on Patient C without medical justification.
2. Respondent performed fluorescein angiograms in 1985, 1987 and 1988 on Patient C without medical justification.
3. Respondent performed fluorescein angiograms and a laser procedure on or about April 1993 on Patient C without medical justification.
4. Respondent failed to conduct and/or document an adequate ophthalmologic examination of the patient.

SPECIFICATIONS OF MISCONDUCT

FIRST SPECIFICATION

UNWARRANTED TREATMENT

Respondent is charged with committing professional misconduct as defined in N.Y. Education Law §6530(35) by ordering excessive tests, treatment or use of treatment facilities not warranted by the condition of the patient as alleged in the following facts:

- 1 The facts in Paragraphs A and A1, B and B1, B and B2, C and C1, C and C2, C and C3.

SECOND SPECIFICATION

NEGLIGENCE ON MORE THAN ONE OCCASION

Respondent is charged with professional misconduct as defined in N.Y. Education Law §6530(3) by reason of his practicing the profession of medicine with

negligence on more than one occasion, in that Petitioner charges that Respondent committed two or more of the following:

2. The facts in Paragraphs A and A1, B and B1, B and B2, C and C1, C and C2, C and C3.

THIRD SPECIFICATION
INCOMPETENCE ON MORE THAN ONE OCCASION

Respondent is charged with professional misconduct as defined in N.Y. Education Law §6530(3) by reason of his practicing the profession of medicine with incompetence on more than one occasion, in that Petitioner charges that Respondent committed two or more of the following:

3. The facts in Paragraphs A and A1, B and B1, B and B2, C and C1, C and C2, C and C3.

FOURTH SPECIFICATION
FAILURE TO MAINTAIN RECORDS

Respondent is charged with professional misconduct under N.Y. Education Law § 6530(32) by reason that the Respondent failed to maintain a record for each patient which accurately reflects the evaluation and treatment of the patient in that Petitioner charges:

4. The facts in paragraphs A and A2, B and B3, C and C4.

DATED: *January 6*, 199*9*
Albany, New York

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

Exhibit B

TERMS OF MEDICAL PRACTICE CESSATION

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 permanently 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 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.
3. 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.

4. 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.

5. 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.

6. 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.

7. 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.

8. If Respondent is a shareholder in any professional service corporation organized

to engage in the practice of medicine he 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.

9. 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-a 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.