



Dennis P. Whalen
Executive Deputy Commissioner of Health
Anne F. Salle, 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

February 23, 1999

CERTIFIED MAIL-RETURN RECEIPT REQUESTED

Michael Kalisman, M.D.
116 East 68th Street
New York, New York 10021

RE: License No. 132279

Dear Dr. Kalisman:

Enclosed please find Order #BPMC 99-42 of the New York State Board for Professional Medical Conduct. This Order and any penalty provided therein goes into effect **February 23, 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: Kevin Porter, Esq.
Thurm & Heller, LLP
261 Madison Avenue
New York, New York 10016-2303

Daniel Guenzburger, Esq.

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

IN THE MATTER
OF
MICHAEL KALISMAN, M.D.

SURRENDER
OF
LICENSE
BPMC #99-42

STATE OF NEW YORK)
COUNTY OF NEW YORK)

ss.:

Michael Kalisman, M.D., being duly sworn, deposes and says:

On or about September 16, 1999, I was licensed to practice medicine as a physician in the State of New York having been issued License No. 132279 by the New York State Education Department.

My current address is 116 East 68th St., New York, NY.

I understand that I have been charged with 65 specifications of professional misconduct as set forth in the Statement of Charges, annexed hereto, made a part hereof, and marked as Exhibit "A".

I am applying to the State Board for Professional Medical Conduct for permission to surrender my license as a physician in the State of New York, effective February 1, 1999, on the grounds that I agree not contest the specifications of misconduct in full satisfaction of the Statement of Charges.

I hereby make this application to the State Board for Professional Medical Conduct and request that it be granted.

I understand that, in the event that the application is not granted by the State Board for Professional Medical Conduct, nothing contained herein shall be binding

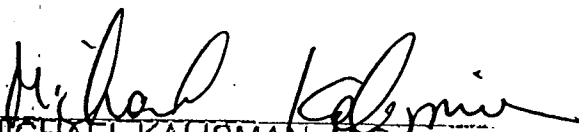
upon me or construed to be an admission of any act of misconduct alleged or charged against me, such application shall not be used against me in any way, and shall be kept in strict confidence during the pendency of the professional misconduct disciplinary proceeding; and such denial by the State Board for Professional Medical Conduct shall be made without prejudice to the continuance of any disciplinary proceeding and the final determination by a Committee on Professional Medical Conduct pursuant to the provisions of the Public Health Law.

I agree that, in the event the State Board for Professional Medical Conduct grants my application, an order shall be issued striking my name from the roster of physicians in the State of New York without further notice to me. 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 Surrender 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 Surrender Order for which I hereby apply, whether administratively or judicially, and ask that the Application be granted.

AFFIRMED:

DATED 1/26/99


MICHAEL KALISMAN, M.D.
RESPONDENT

The undersigned agree to the attached application of the Respondent to surrender his license.

Date: 1/26/99

Kevin D. Porter
Kevin Porter, Esq.
Thurm and Heller, P.C.
Attorney for Respondent

Date: 2/8/98

Daniel Guenzburger
Daniel Guenzburger
Assistant Counsel
Bureau of Professional
Medical Conduct

Date: 2/12/98

Anne F. Saile
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
MICHAEL KALISMAN, M.D.

SURRENDER
ORDER

Upon the proposed agreement of MICHAEL KALISMAN, M.D. (Respondent) to Surrender his license as a physician in the State of New York, which proposed agreement is made a part hereof, it is agreed to and

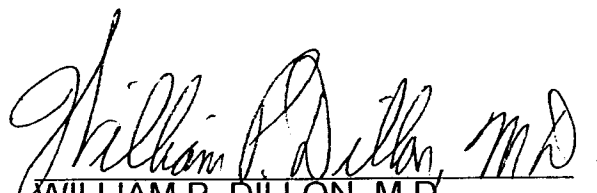
ORDERED, that the application and the provisions thereof are hereby adopted; it is further

ORDERED, that the name of Respondent be stricken from the roster of physicians in the State of New York; 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 Surrender 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: 2/19/99


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

"EXHIBIT A"

IN THE MATTER
OF
MICHAEL KALISMAN, M.D.

AMENDED
STATEMENT
OF
CHARGES

MICHAEL KALISMAN, M.D., the Respondent, was authorized to practice medicine in New York State on or about September 16, 1977, by the issuance of license number 132279 by the New York State Education Department.

FACTUAL ALLEGATIONS

- A. On or about February 4, 1988 the Respondent submitted an application to the St. Clare's Hospital and Health Center in which he denied ever having been the subject of disciplinary action by any local, state or national medical society or by any other professional society. On or about July 13, 1989, the Respondent made a similar representation on an application for reappointment to the medical staff of Cabrini Medical Center, New York, New York. Contrary to his assertion on the application, on or about September 21, 1984, Respondent's candidacy for membership in the American Society of Plastic and Reconstructive Surgeons, Inc. was suspended for a one year period based on findings that Respondent submitted an insurance claim for a surgical procedure that "was described and coded in such a fashion as to indicate that it was more complex and of a higher magnitude than in fact was the case."
1. Respondent knowingly and falsely represented to the St. Clare's Hospital and to the Cabrini Medical Center that he had never

been the subject of disciplinary action by a professional medical society, when in fact, he knew that he had been the subject of disciplinary action by the American Society of Plastic and Reconstructive Surgeons, Inc.

B. On or about and between September 6, 1990 and April 6, 1993, Respondent, a board certified plastic surgeon, treated Patient A, a 41 year old female, at St. Luke's Roosevelt Hospital, New York, NY and at his office located at 116 East 68th St., New York, NY. Patient A, and the other patients in the Statement of Charges, are identified in the attached appendix. During the period of treatment regarding Patient A, Respondent:

1. Knowingly and falsely represented in an operative report dated February 13, 1991 that he had excised a 2 cm. x 2 cm. scar of the left upper eyelid, a 3 cm. x 3 cm. scar of the right upper eyelid, a 2 cm. x 2 cm. tumor of the forehead, and a 3 cm. x 2 cm. tumor of the forehead, when in fact, Respondent knew that the excised lesions were significantly smaller than what he represented in the operative report.

2. Knowingly and falsely represented on a Guardian health Insurance claim form dated February 20, 1991 that on February 13, 1991 he had excised a tumor in the range of 1.1 cm. to 2 cm., a second tumor in the range of 2.1 cm. to 3 cm., and a third tumor in the range of 3.1 cm. to 4 cm., when in fact, Respondent knew that the lesions he excised were significantly smaller than what he represented on the insurance claim form.

3. Knowingly and falsely represented in an operative report dated March 4, 1991, that he had excised a 3 cm. x 3 cm. tumor of the right neck and performed nerve decompression, when in fact, Respondent knew that:
 - a. the size of the excised lesion was significantly smaller than what he represented.
 - b. he had not performed nerve decompression.

4. Knowingly and falsely represented on a Guardian health insurance claim form dated March 4 1991 that he had excised a tumor in the range of 2 cm. to 3 cm. and performed nerve decompression, when in fact, he knew that:
 - a. the excision was significantly smaller than what he represented on the health insurance claim form.
 - b. he had not performed nerve decompression.

5. Knowingly and falsely represented on a health insurance claim form that he submitted in connection with a bilateral and partial mastectomy and reconstruction performed on April 16, 1991 that the indication for the surgery was a malignant tumor of the breast, when in fact, Respondent knew that Patient A did not have a mass or tumor of the breast.

6. Knowingly and falsely represented in an operative report dated

May 5, 1992, that he had excised tumors measuring 3 cm. x 2 cm. from the right shoulder, 2 cm. x 2 cm. from the left shoulder, and 2 cm. x 1 cm. on the left arm, when in fact, he knew that:

- a. the sizes of the excised lesions were significantly smaller than what he represented.
- b. the excisions from the left shoulder, right shoulder and left arm were not tumors.

7. Knowingly and falsely represented on a Guardian health insurance claim form dated May 6, 1992 that he had excised a tumor/lesion over 4 cm. in diameter, a second tumor/lesion in the range of 1.1 cm. to 2 cm. in diameter, a third tumor/lesion in the range of 2.1 cm. to 3 cm., when in fact, he knew that:

- a. the three excisions were significantly smaller than what he represented on the health insurance claim form.
- b. the excised lesions were not tumors.

C. On or about June 18, 1991 the Respondent treated Patient B, a 46 year old male, at the Beth Israel Medical Center, Doctor's Hospital division, New York, NY. In an operative report, Respondent :

1. Knowingly and falsely represented that he had excised a 4cm. x 4 cm. tumor and performed nerve decompression and a reconstruction of a 4 cm. x 4 cm. defect with advancement z plasty skin flaps, when in fact, he knew that:

a. the size of the surgical excision was significantly smaller than 4 cm. by 4 cm.

b. he had not performed nerve decompression.

c. he had not reconstructed a 4 cm. x 4 cm. defect.

2. Knowingly and falsely represented as an indication for surgery that Patient B was experiencing pain in the lower right area of the ear, when in fact, Respondent knew that Patient B had not reported such a symptom.

D. On or about June 18, 1991, the Respondent treated Patient C, a 52 year old female, at Beth Israel Medical Center, Doctor's Hospital division. Respondent:

1. Knowingly and falsely represented in an operative report that he had excised a 3 cm. x 2 cm. pigmented skin tumor, performed decompression of nerves, microsurgical epineurolysis, and a reconstruction of a 4 x 3 cm. defect with advancement skin flaps, when in fact, he knew that:

a. the size of the excision was significantly smaller than

what he represented in the report.

- b. he had not excised a pigmented skin tumor that required nerve decompression.
 - c. he had not reconstructed a 4 cm. x 3 cm. defect.
2. Knowingly and falsely represented on an insurance claim form submitted to the 1199 National Benefit Fund that he had excised a 2 to 3 cm. tumor, performed neurolysis/ epineurolysis of a peripheral nerve, and that he closed the wound with an adjacent tissue transfer flap when, in fact, he knew that:
- a. the size of the excision was significantly smaller than what he represented on the claim form.
 - b. he had not performed neurolysis/ epineurolysis of a peripheral nerve.
 - c. he had not closed the wound with a skin flap.

E. On or about April 11, 1991, the Respondent treated Patient D at Beth Israel Medical Center, Doctor's Hospital division.

- 1. Respondent knowingly and falsely represented in the operative

report the that he performed a left elbow epicondylectomy and that he reconstructed a 20 cm. x 4 cm. defect at the left elbow with advancement skin flaps, when in fact, he knew that:

- a. he had not repaired a 20 cm. x 4 cm. defect at the left elbow
 - b. he had not performed a reconstruction with advancement skin flaps.
2. Respondent knowingly and falsely represented in an insurance claim form submitted to Group Health Inc. that he performed a tendon graft, adjacent tissue transfer skin flap, repair of the ulnar nerve, microscopic nerve decompression, and neurolysis/epineurolysis of the peripheral nerve when, in fact, he knew that he had not performed:
- a. Neurolysis/Epineurolysis.
 - b. Microscopic nerve decompression.
 - c. Tendon graft.
 - d. Repair of the ulnar nerve.
 - e. Skin flap.

SPECIFICATION OF CHARGES

FIRST THROUGH TWENTY-NINTH SPECIFICATIONS FRAUDULENT PRACTICE

Respondent is charged with committing professional misconduct as defined by N.Y. Educ. Law §6530(2)(McKinney Supp. 1998) by practicing the profession of medicine fraudulently as alleged in the facts of the following:

1. A and A1.
2. B and B1.
3. B and B2.
4. B, B3, and B3(a).
5. B, B3, and B3(b).
6. B, B4, and B4(a).
7. B, B4, and B4(b).
8. B and B5.
9. B, B6 and B6(a).
10. B, B6 and B6(b).
11. B, B7 and B7(a).
12. B, B7 and B7(b).
13. C, C1, and C1(a).
14. C, C1, and C1(b).
15. C, C1, and C1(c).
16. C and C2.
17. D, D1 and D1(a).
18. D, D1 and D1(b).

19. D, D1, and D1(c).
20. D, D2 and D2(a).

21. D, D2 and D2(b).
22. D, D2 and D2(c).
23. E, E1 and E1(a).
24. E, E1 and E1(b).
25. E, E1 and E1(c).
26. E, E2 and E2(a).
27. E, E2 and E2(b).
28. E, E2 and E2(d).
29. E, E2 and E2(e).

THIRTIETH THROUGH FIFTY-EIGHTH SPECIFICATIONS
FALSE REPORTS

Respondent is charged with committing professional misconduct as defined in N.Y. Educ. Law §6530(21)(McKinney Supp. 1998) by willfully making or filing a false report, as alleged in the facts of:

30. A and A1.
31. B and B1.
32. B and B2.
33. B, B3, and B3(a).
34. B, B3, and B3(b).
35. B, B4, and B4(a).

36. B, B4, and B4(b).
37. B and B5.
38. B, B6 and B6(a).
39. B, B6 and B6(b).
40. B, B7 and B7(a).
41. B, B7 and B7(b).
42. C, C1, and C1(a).
43. C, C1, and C1(b).
44. C, C1, and C1(c).
45. C and C2.
46. D, D1 and D1(a).
47. D, D1 and D1(b).
48. D, D1, and D1(c).
49. D, D2 and D2(a).

50. D, D2 and D2(b).
51. D, D2 and D2(c).
52. E, E1 and E1(a).
53. E, E1 and E1(b).
54. E, E2 and E2(a).
55. E, E2 and E2(b).
56. E, E2 and E2(c).
57. E, E2 and E2(d).
58. E, E2 and E2(e).

FIFTY-NINTH THROUGH SIXTY-FIFTH SPECIFICATIONS

RECORDKEEPING

Respondent is charged with committing professional misconduct as defined in N.Y. Educ. Law §6530(32)(McKinney Supp. 1998) by failing to maintain a record that accurately reflects the evaluation and treatment of the patient, as alleged in the facts of:

59. B and B1.
60. B, B3, B3(a), and/or B3(b).
61. B and B5.
62. B, B6, B6(a)and/or B6(b).
63. C, C1, C1(a), C1(b), and/or C(2).
64. D, D1(a), D1(b), and/or D1(c).
65. E, E1(a), E1(b) and/or E1(c).

DATED: November 17, 1998
New York, New York



ROY NEMERSON
Deputy Counsel
Bureau of Professional
Medical Conduct