



Mark R. Chassin, M.D., M.P.P., M.P.H.  
Commissioner

**Board for Professional Medical Conduct**

Corning Tower • Empire State Plaza • Albany, NY 12237 • (518) 474-8357

C. Maynard Guest, M.D.  
Executive Secretary

February 18, 1994

**CERTIFIED MAIL-RETURN RECEIPT REQUESTED**

Valentin Lyubarsky, M.D.  
4600 Ninth Avenue  
Apartment 604  
Brooklyn, New York 11220-2320

RE: License No. 161918  
Effective Date: 2/25/94

Dear Dr. Lyubarsky:

Enclosed please find Order #BPMC 94-23 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.

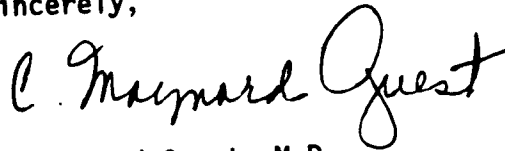
If the penalty imposed by the Order is a surrender, revocation or suspension of this license, you are required to deliver to the Board the license and registration within five (5) days of receipt of the Order.

Board for Professional Medical Conduct  
New York State Department of Health  
Empire State Plaza  
Tower Building-Room 438  
Albany, New York 12237-0756

If the penalty imposed by the Order is a fine, please write the check payable to the New York State Department of Health. Noting the BPMC Order number on your remittance will assist in proper crediting. Payments should be directed to the following address:

Bureau of Accounts Management  
New York State Department of Health  
Empire State Plaza  
Tower Building-Room 1245  
Albany, New York 12237

Sincerely,

A handwritten signature in cursive script that reads "C. Maynard Guest". The signature is written in black ink and is positioned to the right of the word "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  
VALENTIN LYUBARSKY, M.D. : BPMC #94-23

-----X

Upon the application of VALENTIN LYUBARSKY, 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: 10 February 1994

Charles J. Vacanti  
Charles J. Vacanti, M.D.  
Chairperson  
State Board for Professional  
Medical Conduct



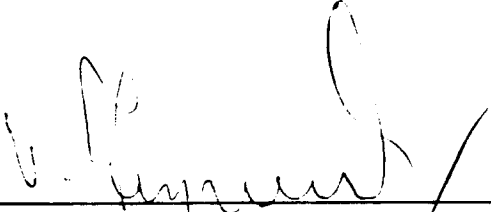
I hereby agree to the penalty of a one (1) year suspension, stayed; a one (1) year period of probation (the terms of probation are annexed hereto as Exhibit B); 50 hours of community service to be performed during said period of probation (See Exhibit B); and a fine in the amount of \$5,000.00.

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.

  
\_\_\_\_\_  
VALENTIN LYUBARSKY, M.D.  
RESPONDENT

Sworn to before me this  
26<sup>th</sup> day of January, 1974.

  
\_\_\_\_\_  
NOTARY PUBLIC

**DORIS G. TRAUB**  
Notary Public, State of New York  
No. 24-4901853  
Qualified in Kings County <sup>95</sup>  
Commission Expires July 06, 1985

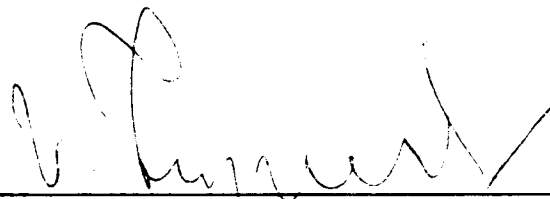
STATE OF NEW YORK : DEPARTMENT OF HEALTH  
STATE BOARD FOR PROFESSIONAL MEDICAL CONDUCT

-----X  
: APPLICATION  
IN THE MATTER :  
: FOR  
OF :  
: CONSENT  
VALENTIN LYUBARSKY, 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:

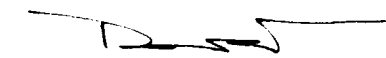
1/26/94



VALENTIN LYUBARSKY, M.D.  
RESPONDENT

Date:

1/26/94



DORIS TRAUB, ESQ.  
ATTORNEY FOR RESPONDENT

Date:

1/26/94



CLAUDIA MORALES BLOCH  
ASSOCIATE COUNSEL  
BUREAU OF PROFESSIONAL  
MEDICAL CONDUCT

Date:

Feb. 14, 1994

Kathleen M. Tanner

KATHLEEN M. TANNER  
DIRECTOR  
OFFICE OF PROFESSIONAL  
MEDICAL CONDUCT

Date:

10 February 1994

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

IN THE MATTER : STATEMENT  
OF : OF  
VALENTIN LYUBARSKY, M.D. : CHARGES

-----X

VALENTIN LYUBARSKY, M.D., the Respondent, was authorized to practice medicine in New York State on April 15, 1985 by the issuance of license number 161918 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, at Apt. 604, 4600 Ninth Avenue, Brooklyn, NY 11220-2320.

FACTUAL ALLEGATIONS

- A. Between on or about September 24, 1988 and on or about April 8, 1989, Respondent treated Patient A at a medical practice called "Doctor's Office", located at 461 Lenox Avenue, New York, New York (Respondent's office), on approximately 3 occasions. (Patient A and all other patients are identified in the attached Appendix.)

1. Respondent failed to:

- a. Obtain and note an adequate history.
  - b. Perform and note an adequate physical examination.
2. Respondent inappropriately prescribed:
- a. Valium on one (1) occasion.
  - b. Naprosyn on three (3) occasions.
  - c. Lotrisone cream on two (2) occasions.
  - d. Valisone Cream on one (1) occasion.
  - e. Zantac on three (3) occasions.
  - f. Cipro on one (1) occasion.
  - g. Ventolin inhaler on one (1) occasion.
  - h. Proventil inhaler on one (1) occasion.
  - i. Procardia on one (1) occasion.
  - j. Seldane on one (1) occasion.

3. Respondent inappropriately ordered:
    - a. Pulmonary function test on or about September 24, 1988 and April 8, 1989.
    - b. Renal and hepatic sonogram on or about February 11, 1989.
    - c. Renal, hepatic sonogram and retroperitoneal sonogram on or about April 8, 1989.
    - d. Thyroid studies, CBC, chemistry profile, hepatitis screen and transferrin on or about April 8, 1989.
  4. Respondent failed to adequately follow-up on and evaluate Patient A's diagnosis of angina.
- B. On or about April 22, 1989, Respondent treated Patient B at Respondent's office on approximately one (1) occasion.
1. Respondent failed to:
    - a. Obtain and note an adequate history.

- b. Perform and note an adequate physical examination.
- 2. Respondent inappropriately prescribed:
  - a. Zantac
  - b. Naprosyn
  - c. Ceclor
  - d. Ventolin inhaler
  - e. Procardia
- 3. Respondent inappropriately ordered a pulmonary function test.
- 4. Respondent failed to adequately follow-up on and evaluate Patient B's noted complaints and/or diagnoses of:
  - a. Angina
  - b. Urinary tract infection

c. Dysuria and a physical finding of genital discharge.

C. Between on or about April 22, 1989 and on or about May 13, 1989, Respondent treated Patient C at Respondent's office on approximately two (2) occasions.

1. Respondent failed to:

- a. Obtain and note an adequate history.
- b. Perform and note an adequate physical examination.

2. Respondent inappropriately prescribed:

- a. Pepcid on two (2) occasions.
- b. Naprosyn on two (2) occasions.
- c. Ventolin inhaler on two (2) occasions.
- d. Seldane on two (2) occasions.
- e. Lotrisone cream on one (1) occasion.

3. Respondent inappropriately ordered:

a. Pulmonary function test on or about  
April 22, 1989.

b. Thyroid studies.

4. Respondent failed to adequately follow-up on  
and evaluate Patient C's:

a. Noted complaints and/or diagnosis of  
sinusitis.

b. Abnormal test results including:

i. WBC

ii. LDH

D. On or about September 17, 1988, Respondent treated Patient D  
at Respondent's office on approximately one (1) occasion.

1. Respondent failed to:

a. Obtain and note an adequate history.

b. Perform and note an adequate physical examination.

2. Respondent inappropriately prescribed:

a. Valium

b. Tagamet

c. Lotrisone Cream

d. Dolobid

3. Respondent inappropriately ordered:

a. Ultrasound of the retroperitoneum, liver and spleen.

b. Lipoprotein analysis and sed rate.

E. Between on or about July 23, 1988 and or about March 18, 1989, Respondent treated Patient E at Respondent's office on approximately two (2) occasions.

1. Respondent failed to:

- a. Obtain and note an adequate history.
  - b. Perform and note an adequate physical examination.
2. Respondent inappropriately prescribed:
- a. Ativan on one (1) occasion.
  - b. Tagamet on one (1) occasion.
  - c. Proventil inhaler on two (2) occasions.
  - d. Lotrimin cream on two (2) occasions.
  - e. Flexeril on one (1) occasion.
  - f. Naprosyn on two (2) occasions.
  - g. Zantac on one (1) occasion.
3. Respondent inappropriately ordered:
- a. Retroperitoneal, abdominal and renal sonograms on or about March 18, 1989.



b. Blood tests for progesterone,  
estradiol, prolactin, LH, FSH, DEA,  
and cortisol.

4. Respondent failed to adequately follow-up on  
and evaluate Patient E's.:

a. Noted complaints and/or diagnoses of:

i. Toe abscess

ii. Chest pain

b. Abnormal test results including:

i. An hematocrit of 24.4 on or  
about July 23, 1988.

ii. A positive VDRL and FTA on or  
about July 23, 1988.

F. On or about May 5, 1989, Respondent treated Patient F, at  
Respondent's office on approximately one (1) occasion.

1. Respondent failed to:

- a. Obtain and note an adequate history.
  - b. Perform and note an adequate physical examination.
2. Respondent inappropriately prescribed:
- a. Procardia
  - b. Zantac
  - c. Naprosyn
  - d. Lotrisone
3. Respondent inappropriately ordered a pulmonary function test.
4. Respondent failed to adequately follow-up on and evaluate Patient F's:
- a. Noted diagnosis of angina.
  - b. Abnormal blood calcium result of 7.9.

G. On or about October 1, 1988, Respondent treated Patient G at Respondent's office on approximately one (1) occasion.

1. Respondent failed to:

- a. Obtain and note an adequate history.
- b. Perform and note an adequate physical examination.

2. Respondent inappropriately prescribed:

- a. Ativan
- b. Proventil inhaler
- c. Dolobid
- d. Zantac
- e. Seldane

3. Respondent inappropriately ordered:

- a. An abdominal and hepatic sonogram.

b. hemoglobin, electrophoresis, B12,  
Folic Acid, ferritin transferrin,  
haptoglobin and an apolipoprotein A.

4. Respondent failed to adequately follow-up on  
and evaluate Patient G's noted diagnosis and/or  
physical finding of tremors.

H. Between on or about April 1, 1989 and on or about May 13,  
1989, Respondent treated Patient H at Respondent's office on  
approximately two (2) occasions.

1. Respondent failed to:

a. Obtain and note an adequate history.

b. Perform and note an adequate physical  
examination.

2. Respondent inappropriately prescribed:

a. Zantac on two (2) occasions

b. Feldane on one (1) occasion

c. Lotrisone cream on one (1) occasion

d. Ventolin inhaler on one (1) occasion

e. Seldane on one (1) occasion

f. Naprosyn on one (1) occasion

g. Elavil on one (1) occasion

h. Fergon on one (1) occasion

3. Respondent inappropriately ordered:

a. Pulmonary function test on or about  
April 1, 1989.

b. Hepatic and retroperitoneal sonogram  
on or about April 1, 1989.

4. Respondent failed to adequately follow-up on  
and evaluate Patient H's abnormal test result  
of renal cysts.

I. Between on or about September 17, 1988 and on or about  
February 18, 1989, Respondent treated Patient I at  
Respondent's office on approximately three (3) occasions.

1. Respondent failed to:
  - a. Obtain and note an adequate history
  - b. Perform and note an adequate physical examination.
  
2. Respondent inappropriately prescribed:
  - a. Ativan on two (2) occasions
  - b. Zantac on three (3) occasions
  - c. Dolobid on three (3) occasions
  - d. Seldane on three (3) occasions
  - e. Lotrisone Cream on one (1) occasion
  - f. Alupent inhaler on one (1) occasion
  - g. Valison Cream on two (2) occasions
  - h. Ventolin inhaler on one (1) occasion
  
3. Respondent inappropriately ordered:

- a. Pulmonary function test on or about September 17, 1988.
  - b. Ultrasound of the liver/spleen and retroperitoneum on or about September 17, 1988.
4. Respondent failed to adequately follow-up on and evaluate Patient I's:
- a. Abnormal test results including a positive VDRL.
  - b. A physical examination finding of leg rash and swollen sinuses.
- J. On or about October 22, 1988, Respondent treated Patient J at Respondent's office on approximately one (1) occasion:
- 1. Respondent failed to:
    - a. Obtain and note an adequate history.
    - b. Perform and note an adequate physical examination.

2. Respondent inappropriately prescribed:

- a. Ativan
- b. Dolobid
- c. Tagamet
- d. Seldane

3. Respondent inappropriately ordered laboratory tests including:

- a. transferrin
- b. haptoglobin
- c. B12
- d. folate
- e. hemoglobin
- f. electrophoresis
- g. ferritin



- h. TIBC levels
  - i. apolipoprotein analysis
4. Respondent failed to follow-up, and to note such follow-up, on a positive VDRL.

SPECIFICATIONS OF CHARGES

FIRST SPECIFICATION

NEGLIGENCE ON MORE THAN ONE OCCASION

Respondent is charged with committing professional misconduct within the meaning of N.Y. Educ. Law Section 6530(3) (McKinney Supp. 1993) by practicing the profession with negligence on more than one occasion in that Petitioner charges two or more of the following:

1. The facts in paragraphs A(1)(a), A(1)(b), A(2)(a) through A(2)(j), A(3)(a) through A(3)(d), A(4); B(1)(a), B(1)(b), B(2)(a) through B(2)(e), B(3), B(4)(a), B(4)(b), B(4)(c), C(1)(a), C(1)(b), C(2)(a) through C(2)(e), C(3)(a), C(3)(b), C(4)(a), C(4)(b)(i), C(4)(b)(ii), D(1)(a), D(1)(b), D(2)(a) through D(2)(d), D(3)(a), D(3)(b), E(1)(a), E(1)(b),

E(2)(a) through E(2)(g), E(3)(a), E(3)(b),  
E(4)(a)(i), E(4)(a)(ii), E(4)(b)(i),  
E(4)(b)(ii), F(1)(a), F(1)(b), F(2)(a) through  
F(2)(d), F(3), F(4)(a), F(4)(b), G(1)(a),  
G(1)(b), G(2)(a) through G(2)(e), G(3)(a),  
G(3)(b), G(4), H(1)(a), H(1)(b), H(2)(a)  
through H(2)(h), H(3)(a), H(3)(b), H(4),  
I(1)(a), I(1)(b), I(2)(a) through I(2)(h),  
I(3)(a), I(3)(b), I(4)(a), I(4)(b), J(1)(a),  
J(1)(b), J(2)(a) through J(2)(d), J(3)(a)  
through J(3)(i) and J(4).

**SECOND THROUGH ELEVENTH SPECIFICATIONS**

**UNNECESSARY TESTS AND/OR TREATMENT**

Respondent is charged with committing professional misconduct within the meaning of N.Y. Educ. Law Section 6530(35) (McKinney Supp. 1993) by ordering excessive tests and/or treatment not warranted by the condition of the patient in that Petitioner charges:

2. The facts in paragraphs A(2)(a) through A(2)(j) and A(3)(a) through A(3)(d).
3. The facts in paragraphs B(2)(a) through B(2)(e) and B(3).

4. The facts in paragraphs C(2)(a) through C(2)(e) and C(3)(a) and C(3)(b).
5. The facts in paragraphs D(2)(a) through D(2)(d) and D(3)(a) and D(3)(b).
6. The facts in paragraphs E(2)(a) through E(2)(g) and E(3)(a) and E(3)(b).
7. The facts in paragraphs F(2)(a) through F(2)(d) and F(3).
8. The facts in paragraphs G(2)(a) through G(2)(e) and G(3)(a) and G(3)(b).
9. The facts in paragraphs H(2)(a) through H(2)(h) and H(3)(a) and H(3)(b).
10. The facts in paragraphs I(2)(a) through I(2)(h) and I(3)(a), and I(3)(b).
11. The facts in paragraphs J(2)(a) through J(2)(d) and J(3)(a), through J(3)(i).

TWELFTH THROUGH TWENTY-FIRST SPECIFICATIONS

FAILURE TO MAINTAIN RECORDS

Respondent is charged with committing professional misconduct within the meaning of NY Educ. Law Section 6530(32) (McKinney Supp. 1993) by failing to maintain a record for each patient which accurately reflects the evaluation and treatment of the patient in that Petitioner charges:

12. The facts in paragraphs A(1)(a) and A(1)(b).
13. The facts in paragraphs B(1)(a) and B(1)(b).
14. The facts in paragraphs C(1)(a) and C(1)(b).
15. The facts in paragraphs D(1)(a) and D(1)(b).
16. The facts in paragraphs E(1)(a) and E(1)(b).
17. The facts in paragraphs F(1)(a) and F(1)(b).
18. The facts in paragraphs G(1)(a) and G(1)(b).
19. The facts in paragraphs H(1)(a) and H(1)(b).
20. The facts in paragraphs I(1)(a) and I(1)(b).

21. The facts in paragraphs J(1)(a) and J(1)(b).

DATED: New York, New York

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CHRIS STERN HYMAN  
Counsel  
Bureau of Professional Medical  
Conduct

EXHIBIT "B"

TERMS OF PROBATION

1. VALENTIN LYUBARSKY, 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. During the period of probation, Respondent shall meet quarterly with a medical coordinator from the Office of Professional Medical Conduct for a review of Respondent's

medical records. The time and place of said meeting shall be set by the Director of the Office of Professional Medical Conduct. At each meeting, Respondent shall submit to the medical coordinator current patient records which reflect his care and treatment of said patients. A failure to comply with a request for records and/or a failure to appear for a scheduled meeting shall constitute a violation of the terms of probation.

7. Respondent shall perform 50 hours of community service in a manner and at a time and place approved by the Director of the Office of Professional Medical Conduct, such community service to be performed within a one-year period from the effective date of the order of the Board. Failure to complete 50 hours of approved community service within one year shall constitute a violation of the terms of probation.
8. 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).
9. 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.