



New York State Board for Professional Medical Conduct

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

Antonia C. Novello, M.D., M.P.H.

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NYS Department of Health

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NYS Department of Health

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Office of Professional Medical Conduct

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Vice Chair

Ansel R. Marks, M.D., J.D.

Executive Secretary

September 25, 2000

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Edward Lee Batzel, M.D.



RE: License No. 139433

Dear Dr. Batzel:

Enclosed please find Order #BPMC 00-267 of the New York State Board for Professional Medical Conduct. This Order and any penalty provided therein goes into effect September 25, 2000.

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

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
Corning Tower, Room 1258
Empire State Plaza
Albany, New York 12237

Sincerely,



Ansel R. Marks, M.D., J.D.
Executive Secretary
Board for Professional Medical Conduct

Enclosure

cc: Peter J. Millock, Esq.
Nixon, Peabody, LLP
Omni Plaza, Suite 900 30 So. Pearl Street
Albany, New York 12207-3497

Richard Zahnleuter, Esq.

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

IN THE MATTER
OF
EDWARD LEE BATZEL, M.D.
AND
BROOKLYN HEALTH MEDICAL GRP, P.C.

**CONSENT
AGREEMENT
AND
ORDER**
BPMC No. 00-267

EDWARD LEE BATZEL, M.D., the Respondent, says:

That on or about August 17, 1979, I was licensed to practice as a physician in the State of New York, having been issued License No. 139433 by the New York State Education Department.

My current address is [REDACTED], 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 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 allegations set forth in paragraphs H, I, and M of the Statement of Charges and I do not contest the Sixth Specification of the Statement of Charges, in full satisfaction of the charges against me. As I was

unaware that RPA#1, referred to in the Statement of Charges, was conducting a medical practice in my name or under my direction, I did not intend to violate the law or commit professional misconduct.

I hereby agree to the following penalty:

I shall be fined thirty-two thousand dollars (\$32,000.00), payable in ten equal quarterly installments beginning ninety days after the effective date of the order issued hereunder.

I shall be on probation for one year pursuant to the terms set forth in the Terms of Probation annexed hereto, made a part hereof, and marked as Exhibit "B".

My license to practice medicine shall be limited and restricted for five years to prohibit me from supervising a physician assistant in New York State.

My license to practice medicine shall be limited and restricted for five years to prohibit me from simultaneously incorporating, acquiring, owning or being a shareholder, director, officer, or partner of more than one professional service corporation practicing medicine, professional limited liability corporation practicing medicine, or registered limited liability partnership practicing medicine, in New York State, with such professional service corporation, professional limited liability corporation, or registered limited liability partnership simultaneously having no more than one practice location in New York State.

The five year limitations and restrictions set forth above concerning supervising a physician assistant and being a shareholder, director, officer or

partner shall be tolled during periods in which I am not engaged in the active practice of medicine in New York State. I am not currently engaged in the active practice of medicine in New York State. I will contemporaneously notify the Director of the Office of Professional Medical Conduct in writing if and when I do engage in the active practice of medicine in New York State and thereafter I will notify the Director of the Office of Professional Medical Conduct of any change in the status of my active practice of medicine in New York State.

I shall use my best efforts to dissolve Brooklyn Health Medical GRP, P.C., as soon as possible, with the objective of effecting formal dissolution, in accordance with Department of State requirements, within thirty days of the effective date of the order issued hereunder. Until formal dissolution is effected, I shall take any formal action necessary to prevent the practice of medicine by Brooklyn Health Medical GRP, P.C.

I shall voluntarily and willingly participate in the Office of Professional Medical Conduct's investigation and/or prosecution of the physician assistant identified in the Statement of Charges as RPA #1.

I further agree that the Consent Order for which I hereby apply shall impose the following conditions:

I shall 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 order issued hereunder and will continue while I possess

my license; and

I shall fully cooperate in every respect with the Office of Professional Medical Conduct in its administration and enforcement of the order issued hereunder and in its investigation of all matters regarding me. I shall respond in a timely manner to each and every request by the Office of Professional Medical Conduct to provide written periodic verification of my compliance with the terms of the order issued hereunder. I shall meet with a person designated by the Director of the Office of Professional Medical Conduct as directed. I shall respond promptly and provide any and all documents and information within my control upon the direction of the Office of Professional Medical Conduct. This condition shall be in effect beginning upon the effective date of the order issued hereunder and will continue while I possess my license.

I hereby stipulate that any failure by me to comply with such conditions, including, but not limited to, the timely submission of installment payments of the fine, shall constitute misconduct as defined by New York State Education Law §6530(29)(McKinney Supp 2000).

I agree that in the event I am charged with professional misconduct in the future, this agreement and order issued hereunder 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 were to grant 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 order issued hereunder 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, whether administratively or judicially, the order issued hereunder for which I hereby apply

and I ask that the application be granted.

AFFIRMED:



EDWARD LEE BATZEL, M.D.

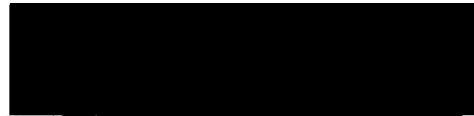
DATE:

9/3/00

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

DATE:

9/8/00



PETER J. MILLOCK
Attorney for Respondent

DATE:

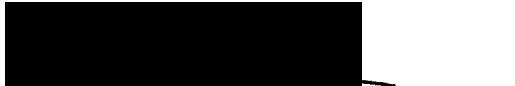
9/13/00



RICHARD J. ZAHNLEUTER
Associate Counsel
Bureau of Professional
Medical Conduct

DATE:

September 15, 2000



ANNE F. SAILE
Director
Office of Professional
Medical Conduct

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

**IN THE MATTER
OF
EDWARD LEE BATZEL, M.D.
AND
BROOKLYN HEALTH MEDICAL GRP, P.C.**

STATEMENT
OF
CHARGES

EDWARD LEE BATZEL, M.D., the Respondent, was authorized to practice medicine in New York State on August 17, 1979, by the issuance of license number 139433 by the New York State Education Department. Dr. Batzel's current address, upon information and belief, is 1416 Monroe Avenue, Dunmore, PA 18509.

EDWARD LEE BATZEL, M.D., is subject to the jurisdiction of the State Board for Professional Medical Conduct, pursuant to the prehearing and hearing procedures of Title II-A of Article 2 of the New York Public Health Law.

BROOKLYN HEALTH MEDICAL GRP, P.C., also a Respondent, is a professional service corporation that was authorized to practice medicine in New York State on or about November 1, 1996 by the New York State Department of State.

BROOKLYN HEALTH MEDICAL GRP, P.C., is subject to the jurisdiction of the State Board for Professional Medical Conduct, and the prehearing and hearing procedures of Title II-A of Article 2 of the New York Public Health Law, pursuant to Section 1503(d) of the New York Business Corporation Law.

ALLEGATIONS

A. A professional service corporation may be organized by one or more individuals who are authorized by law to render the same professional service, pursuant

to Section 1503(a) of the New York Business Corporation Law.

B. No professional service corporation may render professional services except through individuals authorized by law to render such professional services, pursuant to Section 1504(a) of the New York Business Corporation Law.

C. No individual may be a shareholder, director or officer of a professional service corporation unless that individual is authorized by law to practice the same profession as the professional service corporation, pursuant to Sections 1507 and 1508 of the New York Business Corporation Law.

D. Any transfer of authority from such a qualified individual to a person ineligible to be a shareholder, director or officer is void, pursuant to Section 1507 of the New York Business Corporation Law.

E. The individuals who are the original shareholders, directors and officers of a professional services corporation must be identified by name and address on the certificate of incorporation of the professional service corporation, and the certificate of incorporation must identify the profession to be practiced by the professional service corporation, pursuant to Section 1503(b)(i) of the New York Business Corporation Law.

F. Each shareholder, employee, or agent of a professional service corporation is "personally and fully liable and accountable for any negligent or wrongful act or misconduct committed by him or by any person under his direct supervision and control while rendering professional services" on behalf of a professional service corporation.

G. Each "report, diagnosis, prognosis, and prescription made or issued" by a corporation practicing medicine "shall bear the signature of one or more physicians ... who are in responsible charge of such report, diagnosis, prognosis or prescription," pursuant to Section 1504(c) of the Business Corporation Law.

H. On or about November 1, 1996, a certificate of incorporation for Brooklyn Health Medical GRP, P.C., a professional service corporation organized to practice medicine in compliance with Section 1503(a) of the New York Business Corporation

Law, was filed with the New York State Department of State.

I. Dr. Batzel was the physician who, in compliance with Sections 1503(a) and 1504(a) of the New York Business Corporation Law, was one of the original shareholders of Brooklyn Health Medical GRP, P.C.

J. On or about February 9, 1996, a certificate of incorporation for Primary Care Extenders, Inc., was filed with the New York State Department of State.

K. A registered physician assistant, RPA #1¹, was the President and Chief Executive Officer of Primary Care Extenders, Inc. The function of Primary Care Extenders, Inc., was to provide management, supervisory, and administrative services, including staffing, billing, and collection services, to professional medical corporations.

L. Brooklyn Health Medical GRP, P.C., entered into a management services agreement with Primary Care Extenders, Inc., and RPA #1 under which Primary Care Extenders, Inc., and RPA #1 provided management, supervisory, and administrative services, including staffing, billing, and collection services, to Brooklyn Health Medical GRP, P.C.

M. By the beginning of 1997, Dr. Batzel allowed Primary Care Extenders, Inc., and RPA #1 to oversee, be involved in, and participate in, the operation of Brooklyn Health Medical GRP, P.C. Dr. Batzel, contrary to Sections 1503(a) and 1504(a) of the New York Business Corporation Law, did not prevent Primary Care Extenders, Inc., and RPA #1 to carry on indefinitely the business of Brooklyn Health Medical GRP, P.C., with Dr. Batzel remaining an owner of Brooklyn Health Medical GRP, P.C., in name only.

N. Pursuant to Section 1505(a) of the New York Business Corporation Law, Dr. Batzel is "personally and fully liable and accountable for any negligent or wrongful act or misconduct" committed by RPA #1, while rendering professional services on

¹To preserve privacy throughout this document, registered physician assistants (RPA) and physicians (MD) are referred to by numerical designation, and patients are referred to by letter designation. An Appendix is attached hereto for appropriate recipients.

behalf of Brooklyn Health Medical GRP, P.C.

O. Between approximately July 1997 and July 1999, and at other times, RPA #1 provided care as a registered physician assistant at Brooklyn Health Medical GRP, P.C., without being supervised by a physician.

P. On or about February 23, 1998, RPA #1 hired RPA #2 to work for Brooklyn Health Medical GRP, P.C., under the supervision of Dr. Batzel, even though Dr. Batzel had long since relinquished all oversight, involvement, and participation in the operation of Brooklyn Health Medical GRP, P.C. Between February 23, 1998 and March 27, 1998, which was when RPA #2 resigned, RPA #1 required RPA #2 to work at Brooklyn Health Medical GRP, Inc., without supervision by a physician.

Q. On or about November 16, 1998, RPA #1 posed as a physician, MD #1, who had ceased employment with another professional medical corporation, Stuyvesant Heights Medical Group, P.C., approximately three years earlier in June 1995, used MD #1's "personal identification number" to order 1,150 doses of free vaccines for immunizations from the New York State Department of Health Immunization Program's "Vaccines for Children" Program, and had the vaccines delivered to himself at Brooklyn Health Medical GRP, P.C.

R. In or about May 28, 1998 through August 1, 1998, RPA #1 billed a third party insurer, Fidelis, for care for approximately 38 patients representing approximately 99 patient contacts at Brooklyn Health Medical GRP, P.C., under the name of MD #2, even though MD #2 had not had any oversight, involvement, or participation in the operation of Brooklyn Health Medical GRP, P.C., since on or about January 1997.

S. In or about July and October 1998, RPA #1 billed two third party insurers, Empire Blue Cross and Blue Shield, and Medicaid, for care for Patients A, B, C, D, E, F, and G at Brooklyn Health Medical GRP, P.C., under the name of MD #3, even though MD #3 had no oversight, involvement, or participation in the operation of Brooklyn Health Medical GRP, P.C.

T. On or about August 5, 1998, September 29, 1998, October 3, 1998, and

November 7, 1998, RPA #1 provided care at Brooklyn Health Medical GRP, P.C., to Patients H, I, J, and K and billed a third party insurer, Genesis, under the name of MD #4, even though MD #4 had not had any oversight, involvement, or participation in the operation of Brooklyn Health Medical GRP, P.C., since in or about 1997.

U. RPA #1 billed a third party insurer, 1199 National Benefit Fund, for care for approximately 25 patients at Brooklyn Health Medical GRP, P.C., at the reimbursement rate for a physician instead of the lower physician assistant rate.

SPECIFICATION OF CHARGES

FIRST SPECIFICATION

Respondents are charged with professional misconduct by reason of his **PRACTICING THE PROFESSION FRAUDULENTLY OR BEYOND ITS AUTHORIZED SCOPE**, in violation of New York Education Law §6530(2) in that Petitioner charges:

1. The allegations in paragraphs A, B, C, D, E, F, G, H, I, J, K, L, M, N, O, P, Q, R, S, T, and/or U.

SECOND SPECIFICATION

Respondents are charged with professional misconduct by reason of his **PERMITTING, AIDING OR ABETTING AN UNLICENSED PERSON TO PERFORM ACTIVITIES REQUIRING A LICENSE**, in violation of New York Education Law §6530(11) in that Petitioner charges:

1. The allegations in paragraphs A, B, C, D, E, F, G, H, I, J, K, L, M, N, O, P, Q, R, S, T, and/or U.

THIRD SPECIFICATION

Respondents are charged with professional misconduct by reason of his **CONDUCT IN THE PRACTICE OF MEDICINE WHICH EVIDENCES MORAL UNFITNESS TO PRACTICE MEDICINE**, in violation of New York Education Law §6530(20) in that Petitioner charges:

1. The allegations in paragraphs A, B, C, D, E, F, G, H, I, J, K, L, M, N, O, P, Q, R, S, T, and/or U.

FOURTH SPECIFICATION

Respondents are charged with professional misconduct by reason of his **WILLFULLY MAKING OR FILING A FALSE REPORT, OR FAILING TO FILE A REPORT REQUIRED BY LAW OR BY THE DEPARTMENT OF HEALTH OR THE EDUCATION DEPARTMENT OR WILLFULLY IMPEDING OR OBSTRUCTING SUCH FILING, OR INDUCING ANOTHER PERSON TO DO SO**, in violation of New York Education Law §6530(21) in that Petitioner charges:

1. The allegations in paragraphs A, B, C, D, E, F, G, H, I, J, K, L, M, N, O, P, Q, R, S, T, and/or U.

FIFTH SPECIFICATION

Respondents are charged with professional misconduct by reason of his **DELEGATING PROFESSIONAL RESPONSIBILITIES TO A PERSON WHEN THE LICENSEE DELEGATING SUCH RESPONSIBILITIES KNOWS OR HAS REASON TO KNOW THAT SUCH PERSON IS NOT QUALIFIED, BY TRAINING, BY**

EXPERIENCE, OR BY LICENSURE, TO PERFORM THEM, in violation of New York Education Law §6530(25) in that Petitioner charges:

1. The allegations in paragraphs A, B, C, D, E, F, G, H, I, J, K, L, M, N, O, P, Q, R, S, T, and/or U.

SIXTH SPECIFICATION

Respondents are charged with professional misconduct by reason of his **FAILING TO EXERCISE APPROPRIATE SUPERVISION OVER PERSONS WHO ARE AUTHORIZED TO PRACTICE ONLY UNDER THE SUPERVISION OF THE LICENSEE**, in violation of New York Education Law §6530(33) in that Petitioner charges:

1. The allegations in paragraphs A, B, C, D, E, F, G, H, I, J, K, L, M, N, O, P, Q, R, S, T, and/or U.

DATED: *Aug. 2*, 2000
Albany, New York


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

EXHIBIT "B"

Terms of Probation

1. Respondent shall conduct himself/herself in all ways in a manner befitting his/her professional status, and shall conform fully to the moral and professional standards of conduct and obligations imposed by law and by his/her 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 the effective date of the order issued hereunder, and thereafter, within thirty days of each such action, change or occurrence.
3. 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].
4. Respondent shall comply with all terms, conditions, restrictions, limitations and penalties to which he or she is subject pursuant to the order issued hereunder, 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.
5. Respondent's professional performance may be reviewed by the Director of OPMC. This 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.
6. Respondent will maintain legible and complete medical records which accurately reflect evaluation and treatment of patients. Records will contain

a comprehensive history, physical examination, findings, chief complaint, present illness, diagnosis and treatment. In cases of prescribing, dispensing or administering of controlled substances, the medical record will contain all information required by applicable rules and regulations regarding controlled substances. These records shall be made available to the Director of OPMC upon request.

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

IN THE MATTER
OF
EDWARD LEE BATZEL, M.D.
AND
BROOKLYN HEALTH MEDICAL GRP, P.C.


**CONSENT
ORDER**

Upon the proposed Consent Agreement and Order of Edward Lee Batzel, M.D., (Respondent), 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.

DATE: 9/22/00


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