



New York State Board for Professional Medical Conduct

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

Barbara A. DeBuono, M.D., M.P.H.
Commissioner of Health

Patrick F. Carone, M.D., M.P.H.
Chair
Ansel R. Marks, M.D., J.D.
Executive Secretary

April 29, 1997

CERTIFIED MAIL-RETURN RECEIPT REQUESTED

Peter O'Brien, M.D.
3568 West Lake Road
Canandaigua, New York 14424

RE: License No. 106808

Dear Dr. O'Brien:

Enclosed please find Order #BPMC 97-98 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
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: Thomas VanStrydonck, Esq.
Trevett, Lenweaver & VanStrydonck, P.C.
700 Reynolds Arcade
1600 E. Main Street
Rochester, New York 14614-1803

Timothy J. Mahar, Esq

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

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IN THE MATTER	:	CONSENT
OF	:	AGREEMENT
PETER R. O'BRIEN, M.D.	:	AND ORDER
	:	BPMC # 97-98

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PETER R. O'BRIEN, M.D., says:

On or about August 4, 1970, I was licensed to practice as a physician in the State of New York, having been issued license number 106808 by the New York State Education Department.

I understand that I have been charged with five specification(s) of professional misconduct as set forth in the Statement of Charges, annexed hereto, made a part hereof, and marked as Exhibit A.

I plead no contest to the specifications and allegations set forth in the Statement of Charges.

I hereby agree to the following penalty:

a) I shall serve a five year stayed suspension of my medical license with probation in accordance with the terms set forth in Appendix B hereto.

b) There shall be a permanent limitation on my medical license prohibiting the practice of obstetrics.

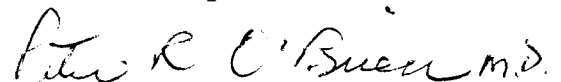
I agree that in the event that I am charged with professional misconduct in the future, this agreement and order shall be admitted into evidence in that proceeding.

I agree that, as a condition of this Order, I will maintain current registration of my license. Within 90 days of the date of this Order, I will provide proof of current registration to the Director of OPMC.

I understand that, in the event that the Board does not grant this application, 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 State Board for Professional Medical Conduct grants my application, an order of the Chairperson of the Board shall be issued in accordance with same.

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


PETER R. O'BRIEN, M.D.
RESPONDENT

Subscribed before me this

11 day of April, 1997.


NOTARY PUBLIC

THOMAS M. VANSTRYDONCK
Notary Public in the State of New York
Qualified in Monroe County
My Commission Expires August 30, 1998

AGREED TO:

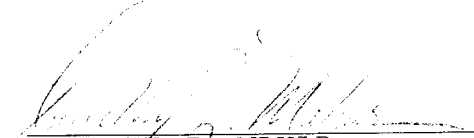
DATE:

8/11/97


THOMAS M. VANSTRYDONCK, ESQ.
Attorney for Respondent
PETER R. O'BRIEN, M.D.

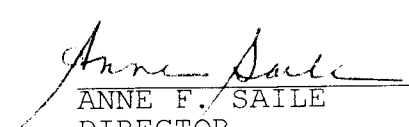
DATE:

April 11, 1997


TIMOTHY J. MAHAR
ASSISTANT COUNSEL
Bureau of Professional
Medical Conduct

DATE:

April 21, 1997


ANNE F. SAILE
DIRECTOR
Office of Professional
Medical Conduct

ORDER

Upon the proposed agreement of PETER R. O'BRIEN, M.D.
(Respondent) for Consent Order, which proposed agreement is made
a part hereof, it is AGREED TO and

ORDERED, that the proposed agreement and the provisions
thereof are hereby adopted; 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.

DATED: _____



PATRICK F. CARONE, M.D., M.P.H.
Chair
State Board for Professional
Medical Conduct

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

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IN THE MATTER : STATEMENT
OF : OF
PETER R. O'BRIEN, M.D. : CHARGES

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PETER R. O'BRIEN, M.D., the Respondent, was authorized to practice medicine in New York State on August 4, 1970, by the issuance of license number 106808 by the New York State Education Department.

FACTUAL ALLEGATIONS

A. From November 1, 1993 through April 7, 1994, Respondent provided obstetrical care to Patient A (All patients are identified in Appendix A) at his office located in Canandaigua, New York, (hereinafter "his office") and the F.F. Thompson Hospital located at 350 Parrish Street Canandaigua, New York. Respondent's medical care and treatment of Patient A deviated from accepted standards of medical care in the following respects:

1. Respondent failed to hospitalize and/or adequately evaluate Patient A and/or Patient A's fetus between March 29, 1994, and April 7, 1994.
2. Respondent failed to timely and adequately evaluate and/or treat Patient A and/or Patient A's fetus on April 7, 1994.

3. Respondent was under the influence of alcohol on April 7, 1994 and failed to timely relinquish the care of Patient A to another physician.
4. Respondent prescribed Aldomet for Patient A on April 7, 1994, which was inappropriate.

B. From December 10, 1992 through May 19, 1993, Respondent provided obstetrical care to Patient B at his office, and the F.F. Thompson Hospital, Respondent's medical care and treatment of Patient B deviated from accepted standards of medical care in the following respects:

1. Respondent failed to adequately evaluate Patient B and/or Patient B's fetus during the period between April 5, 1993 through May 17, 1993.
2. Respondent prescribed Aldomet for Patient B which was inappropriate.

C. From January 14, 1993 through August 25, 1993, Respondent provided obstetrical care to Patient C at his office and F.F. Thompson Hospital. Respondent's medical care and treatment of Patient C deviated from accepted standards of care in the following respects:

1. Respondent failed to adequately evaluate Patient C's condition of thrombocytopenia in January, 1993.
2. Respondent diagnosed preeclampsia and/or borderline HELLP syndrome in Patient C in the absence of sufficient symptoms of such disorders.

3. Respondent failed to maintain Patient C on an adequate trial of Pitocin to induce labor prior to performing a cesarean section on August 21, 1993.
4. Respondent performed a cesarean section on Patient C on August 21, 1993 which was not at that time medically indicated.

D. During the period in which Respondent treated Patients A, B and C, herein, and prior thereto, Respondent consumed excessive quantities of alcohol on a daily and/or regular basis.

SPECIFICATION OF CHARGES

FIRST SPECIFICATION

Practicing With Gross Negligence On
A Particular Occasion

Respondent is charged with Professional Misconduct under N.Y. Educ. Law §6530(4) (McKinney Supp. 1996) by reason of his practicing the profession of medicine with gross negligence on a particular occasion in that Petitioner charges the following:

1. The facts in paragraphs A and A.(1), and/or A and A(3).

SECOND SPECIFICATION

Practicing the Profession With Gross Incompetence

Respondent is charged with Professional Misconduct under N.Y. Educ. Law §6530(6) (McKinney Supp. 1996) by reason of his practicing the profession of medicine with gross incompetence, in that Petitioner charges the following:

2. The facts in paragraphs A and A(1), and/or A and A(3).

THIRD SPECIFICATION

Practicing With Negligence On More Than One Occasion

Respondent is charged with Professional Misconduct under N.Y. Educ. Law §6530(3) (McKinney Supp. 1996) 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:

3. The facts in paragraphs A and A(1), A and A(2), A and A(3), A and A(4), B and B(1), B and B(2), C and C(1), C and C(2), C and C(3), and/or C and C(4).

FOURTH SPECIFICATION

Practicing With Incompetence On More Than One Occasion

Respondent is charged with Professional Misconduct under N.Y. Educ. Law §6530(5) (McKinney Supp 1996) 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:

4. The facts in paragraphs A and A(1), A and A(2), A and A(3), A and A(4), B and B(1), B and B(2), C and C(1), C and C(2), C and C(3), and/or C and C(4).

FIFTH SPECIFICATION

Being An Habitual Abuser of Alcohol

Respondent is charged with Professional Medical Conduct under N.Y. Educ. Law §6530(8) (McKinney Supp. 1996) by reason of his being an habitual abuser of alcohol, in that Petitioner charges the following:

5. The facts in paragraphs D and D(1).

DATED: , 1997
Albany, New York

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

EXHIBIT "B"

TERMS OF PROBATION

1. Respondent, Peter R. O'Brien, M.D., 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 and obligations imposed by law and by his profession.
2. Respondent shall submit written notification to the New York State Department of Health (NYSDOH), addressed to the Director, Office of Professional Medical Conduct (OPMC), New York State Department of Health, Hedley Park Place, 4th Floor, 433 River Street, Troy, New York 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 each action.
3. Respondent shall fully cooperate with and respond in a timely manner to requests from OPMC to provide written periodic verification of Respondent's compliance with the terms of this Order. Respondent shall personally meet with a person designated by the Director of OPMC as requested by the Director.
4. 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].
5. The period of probation shall be tolled during periods in which Respondent is not engaged in the active practice of medicine in New York State. Respondent shall notify the Director of OPMC, in writing, if Respondent is not currently engaged in or intends to leave the active practice of medicine in New York State for a period of thirty (30) consecutive days or more. Respondent shall then notify the Director again prior to any change in that status. The period of probation shall resume and any terms of probation which were not fulfilled shall be fulfilled upon Respondent's return to practice in New York State.

6. Respondent's professional performance may be reviewed by the Director of OPMC. This review 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.
7. Respondent shall maintain legible and complete medical records which accurately reflect the evaluation and treatment of patients. The medical records shall contain all information required by State rules and regulations regarding controlled substances.
8. Respondent shall continue to enroll in the program of the Committee for Physicians' Health of the Medical Society of the State of New York (CPH) for the entire term of his probation period. Respondent shall remain at all times in compliance with the terms of the CPH program during the entire term of probation. Respondent shall provide OPMC with written authorization as necessary to allow OPMC to review on a continuing basis Respondent's compliance with his CPH program.
9. Respondent shall notify OPMC if at any time he engages in the active practice of medicine at any location other than the Ontario County jail, either in private practice or an institutional setting. Such notice shall be provided in writing to the Director of OPMC at least 30 days in advance prior to the beginning of such practice.
10. The Director of OPMC may in her discretion require the Respondent to be monitored in such practice of medicine as described in term 9 above by a licensed physician, board certified in an appropriate specialty, ("practice monitor") proposed by Respondent and subject to the written approval of the Director of OPMC.
 - a. Respondent shall make available to the monitor any and all records or access to the practice requested by the monitor, including on-site observation. The practice monitor shall visit Respondent's medical practice at each and every location, on a random unannounced basis at least monthly and shall examine a selection (no less than 15) of records maintained by Respondent, including patient records, prescribing information and office records. The review will determine whether the Respondent's medical practice is conducted in accordance with the generally accepted standards of professional medical care. Any perceived deviation of accepted standards of medical care or refusal to cooperate with the monitor shall be reported within 24 hours to OPMC.
 - b. Respondent shall be solely responsible for all expenses associated with monitoring, including fees, if any, to the monitoring physician.

- c. Respondent shall cause the practice monitor to report quarterly, in writing, to the Director of OPMC.
 - d. Respondent shall maintain medical malpractice insurance coverage with limits no less than \$2 million per occurrence and \$6 million per policy year, in accordance with Section 230(18)(b) of the Public Health Law. Proof of coverage shall be submitted to the Director of OPMC prior to Respondent's practice after the effective date of this Order.
- 11. Respondent shall comply with any request from OPMC to obtain an independent alcohol and/or mental health evaluation by a health care professional proposed by the Respondent and approved in writing by the Director of OPMC.
 - 12. Respondent shall comply with all terms, conditions, restrictions, and penalties to which he is subject pursuant to the Order 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.