



New York State Board for Professional Medical Conduct

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

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

Charles J. Vacanti, M.D.
Chair

August 20, 1996

CERTIFIED MAIL-RETURN RECEIPT REQUESTED

David Rabinowitz, M.D.
1400 E. 18th Street
Brooklyn, New York 11230

RE: License No. 157252

Dear Dr. Rabinowitz:

Effective Date: 08/27/96

Enclosed please find Order #BPMC 96-193 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

Sincerely,

Charles Vacanti, M.D.
Chair

Board for Professional Medical Conduct

Enclosure

cc: Marvin Tenzer, Esq.
Tenzer, Greenblatt LLP
305 Broadway, Suite 300
New York, New York 10007

Daniel Guenzburger, Esq.

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

IN THE MATTER
OF
DAVID RABINOWITZ, M.D.

CONSENT
ORDER

BPMC #96-193

Upon the application of DAVID RABINOWITZ, 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: 16 August 1996

Charles J. Vacanti

CHARLES J. VACANTI, M.D.
Chairperson
State Board for Professional
Medical Conduct

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

**IN THE MATTER
OF
DAVID RABINOWITZ, M.D.**

**APPLICATION
FOR
CONSENT ORDER**

STATE OF NEW YORK)
COUNTY OF NEW YORK) ss.:

DAVID RABINOWITZ, M.D., being duly sworn, deposes and says:

That on or about January 31, 1984, I was licensed to practice as a physician in the State of New York, having been issued License No. 157252 by the New York State Education Department.

My current address is 1400 E. 18th Street, Brooklyn, NY, 11230 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 fourteen specifications of professional misconduct.

A copy of the Statement of Charges is annexed hereto, made a part hereof, and marked as Exhibit "A".

I admit to the first specification of the Statement of Charges, insofar as the specification relates to the following allegations: A1 and A4, which allegations arose out of the facts set forth in paragraph A; B2, which allegation arose out of the facts set forth in paragraph B; D1 and D2, which allegations arose out of the facts set forth in paragraph D; and to the eighth, ninth, tenth, and twelfth specifications of the Statement of Charges, in full satisfaction of the charges against me. I deny the allegations of the Statement of Charges not specifically admitted to, including but not limited to the following subparagraphs in the first specification: A2, A3, and B1. I hereby agree to the penalty of 30 days stayed

suspension and two years probation, with the terms of probation set forth in Exhibit B, annexed hereto, and made a part herof.

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. 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.


DAVID RABINOWITZ, M.D.
RESPONDENT

Sworn to before me this
day of , 19 .


NOTARY PUBLIC

NATALIE AMONICA
Notary Public of New Jersey
My Commission Expires September 27, 2000

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

IN THE MATTER
OF
DAVID RABINOWITZ, M.D.

APPLICATION
FOR
CONSENT ORDER

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

DATE: _____


David Rabinowitz, M.D.
Respondent

DATE: _____

8/5/96

Marvin Tenzer, Esq.
Tenzer, Greenblatt LLP
Attorney for Respondent

DATE: _____

8/13/96

Daniel Guenzburger, Esq.
Assistant Counsel
Bureau of Professional
Medical Conduct

DATE: Aug 15, 1996

Anne F. Saile

ANNE F. SAILE
Acting Director
Office of Professional Medical
Conduct

DATE: 16 August 1996

Charles J. Vacanti

CHARLES J. VACANTI, M.D.
Chairperson
State Board for Professional
Medical Conduct

"EXHIBIT A"

**IN THE MATTER
OF
DAVID RABINOWITZ, M.D.**

**STATEMENT
OF
CHARGES**

DAVID RABINOWITZ, M.D., the Respondent, was authorized to practice medicine in New York State on or about January 31, 1984, by the issuance of license number 157252 by the New York State Education Department.

FACTUAL ALLEGATIONS

A. On or about July 3, 1991, the Respondent performed an exploratory laparotomy on Patient A, an 80 year old female, at Maimonides Hospital, Brooklyn, 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. Inadequately controlled Patient A's bleeding.
2. Inappropriately transferred Patient A to the recovery room.
3. Failed to adequately monitor Patient A's condition in the recovery room.
4. Failed to maintain a record that adequately reflected the evaluation and treatment.

B. On or about and between May 5, 1992, 12:14 P.M. and 1:30 P.M., at

Maimonides Hospital, Respondent performed a cholecystectomy on Patient B, an 82 year old male. Prior to surgery Patient B's hemoglobin ("Hb") was 10.2 and hematocrit ("Hct") was 31. Post-operatively, on or about May 5, 1992, 11:16 P.M., Patient B's Hb had dropped to 7.5. and his Hct had dropped to 23.8. After being transfused with 2 units of red blood cells on or about May 6, 1992, Patient B's Hb and Hct returned to normal. However, by on or about May 7, 1992, 10:54 A.M., Patient B's Hb had once again fallen to 7.9 and his Hct had fallen to 24.2. During the period of treatment regarding Patient B, Respondent:

1. Failed to appropriately diagnose internal bleeding.
2. Inappropriately delayed surgical intervention for internal bleeding by failing to order an exploratory laparotomy until on or about May 7, 1992, 5:00 P.M.
3. Failed to maintain a record that adequately reflected the evaluation and treatment.

C. On or about January 10, 1991, Respondent performed a laparoscopic cholecystectomy on Patient C, a 36 year old female, at Maimonides Hospital. Patient C was discharged from the hospital on January 11, 1991. On or about January 12, 1991, Patient C presented to the emergency room with complaints of severe abdominal pain, nausea and vomiting. Respondent performed an exploratory laparotomy and repair of the right hepatic duct. During the course of treatment regarding Patient C, Respondent:

1. Failed to perform a cholangiogram on or about January 10, 1991.

2. Knew or had reason to know that he was not competent to perform a laparoscopic cholecystectomy without assistance of a practitioner with appropriate qualifications for supervision of laparoscopic cholecystectomies.
3. Failed to maintain a record that adequately reflected the evaluation and treatment.

D. On or about November 6, 1992, at Maimonides Hospital, Respondent performed an emergency wide debridement of the right thigh on Patient D, a 64 year old male. Patient D had been diagnosed with necrotizing fasciitis. A resident advised Respondent that Patient D needed further emergency debridement in a telephone conversation on or about November 10, 1992, 2:00 A.M. Respondent did not present to the hospital until on or about November 10, 1992, 7:30 P.M. During the period of treatment regarding Patient D, Respondent:

1. Abandoned or neglected Patient D, a patient under and in need of immediate care, without making reasonable arrangements for the continuation of such care.
2. Failed to maintain a record that adequately reflected the evaluation and treatment.

- E. On an application for reappointment to the medical staff of Methodist Hospital, Brooklyn, New York, dated January 6, 1994, Respondent knowingly concealed with the intent to mislead that his practice had been monitored at Maimonides Hospital, Brooklyn, New York, from on or about March, 1992 to on or about December 31, 1993.

SPECIFICATION OF CHARGES

FIRST SPECIFICATION

NEGLIGENCE ON MORE THAN ONE OCCASION

Respondent is charged with committing professional misconduct as defined in N.Y. Educ. Law §6530(3)(McKinney Supp. 1996) by practicing the profession of medicine with negligence on more than one occasion as alleged in the facts of two or more of the following:

1. Paragraphs A, A1, A2, A3, A4; B, B1, B2, B3; C, C1, C2, C3; D, D1, and/or D2.

SECOND SPECIFICATION

INCOMPETENCE ON MORE THAN ONE OCCASION

Respondent is charged with committing professional misconduct as defined in N.Y. Educ. Law §6530(5)(McKinney Supp. 1996) by practicing the profession of medicine with incompetence on more than one occasion as alleged in the facts of two or more of the following:

2. Paragraphs A, A1, A2, A3, A4; B, B1, B2, B3; C, C1, C2, C3; D, D1, and/or D2.

THIRD AND FOURTH SPECIFICATIONS

GROSS NEGLIGENCE

Respondent is charged with committing professional misconduct as defined in N.Y. Educ. Law §6530(4)(McKinney Supp. 1996) by practicing the profession of medicine with gross negligence as alleged in the facts of the following:

3. Paragraphs A, A1, A2, A3 and A4.
4. Paragraphs B, B1, B2 and B3.

FIFTH AND SIXTH SPECIFICATIONS

GROSS INCOMPETENCE

Respondent is charged with committing professional misconduct as defined in N.Y. Educ. Law §6530(6)(McKinney Supp. 1996) by practicing the profession of medicine with gross incompetence as alleged in the facts of the following:

5. Paragraphs A, A1, A2, A3 and A4.
6. Paragraphs B, B1, B2 and B3.

SEVENTH SPECIFICATION

LACK OF COMPETENCE TO PERFORM **PROFESSIONAL RESPONSIBILITIES**

Respondent is charged with committing professional misconduct as defined in N.Y. Educ. Law §6530(24)(McKinney Supp. 1996) by performing professional responsibilities which the licensee knows or has reason to know that he or she is not competent to perform as alleged in the facts of:

7. Paragraphs C and C2.

EIGHTH SPECIFICATION

PATIENT ABANDONMENT

Respondent is charged with committing professional misconduct as defined in N.Y. Educ. Law §6530(30)(McKinney Supp. 1996) by abandoning or neglecting a patient under and in need of immediate professional care without making reasonable arrangements for the continuation of such care as alleged in the facts of:

8. Paragraphs D and D1.

NINTH THROUGH TWELFTH SPECIFICATIONS
RECORDKEEPING

Respondent is charged with committing professional misconduct as defined in N.Y. Educ. Law §6530(32)(McKinney Supp. 1996) by failing to maintain a record for each patient which accurately reflects the evaluation and treatment of the patient as alleged in the facts of:

- 9. Paragraphs A and A4.
- 10. Paragraphs B and B3.
- 11. Paragraphs C and C3.
- 12. Paragraphs D and D2.

THIRTEENTH SPECIFICATION
FRAUDULENT PRACTICE

Respondent is charged with committing professional misconduct as defined by N.Y. Educ. Law §6530(2)(McKinney Supp. 1996) by practicing the profession of medicine fraudulently as alleged in the facts of the following:

- 13. Paragraph E.

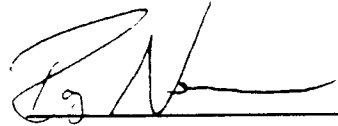
FOURTEENTH SPECIFICATION

FILING A FALSE REPORT

Respondent is charged with committing professional misconduct as defined in N.Y. Educ. Law §6530(21)(McKinney Supp. 1996) by wilfully making or filing a false report, as alleged in the facts of

14. Paragraph E.

DATED: June 11, 1996
New York, New York

A handwritten signature in black ink, appearing to read 'R. Nemerson', is written over a horizontal line.

ROY NEMERSON
Deputy Counsel
Bureau of Professional
Medical Conduct

EXHIBIT "B"
TERMS OF PROBATION

1. **DAVID RABINOWITZ, M.D., during the period of probation, 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 imposed by law and by his/her 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, New York State Department of Health, Corning Tower Building, 4th Floor, Empire State Plaza, Albany, New York 12237 of any employment and practice, of Respondent's residence and telephone number, and 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, within 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 and shall assume and bear all costs related to compliance with the Terms of Probation;**
6. **Respondent shall be supervised in his hospital-based medical practice, at all locations, by an individual selected by Respondent and approved in advance, in writing, by the Director of the Office of Professional Medical Conduct or designee. Respondent may not practice medicine until an approved practice supervisor is in place. Any practice of medicine prior to the submission and approval of a proposed practice supervisor will be determined to be a violation of probation.**
7. **Respondent shall ensure that the practice supervisor is familiar with the Order and terms of probation, and willing to report to OPMC.**

8. The practice supervisor shall provide quarterly written reports, to the Director of the Office of Professional Medical Conduct or designee, regarding the Respondent's practice. These narrative reports shall address clinical practice including findings of selected patient record reviews, medical record keeping practices, the names of any patients in which the care and treatment rendered by Respondent failed to meet minimally acceptable medical standards, general demeanor, time and attendance behavior, relationships with staff and patients, and other such on-duty conduct as the supervisor deems appropriate to report.
9. Should the approved practice supervisor indicate an inability or unwillingness to continue in that role, Respondent shall submit the name of a proposed successor with ten (10) days of learning that the approved practice supervisor is no longer willing or able to serve.
10. 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.
11. Subject to an exception for any period of time that Respondent is engaged in a full time hospital-based medical practice at Englewood Hospital and Medical Center, Englewood, NJ, the period of probation shall be tolled until and unless Respondent engages in the active practice of medicine in the State of New York. The period of probation shall not be tolled during the period in which the Respondent is engaged in a Fellowship in vascular surgery at Englewood Hospital and Medical Center, or for any additional period after completion of the aforementioned Fellowship in which Respondent is engaged in a full time hospital-based medical practice at Englewood Hospital and Medical Center, either as a private physician with privileges, or as a house staff physician. Further, the period of probation shall not be tolled in the event that Respondent performs routine pre-operative evaluations and routine post-operative care in a private office in connection with his practice at Englewood Hospital and Medical Center. Respondent shall, within 30 days of the effective date of this Consent Order, notify the Director of the Office of Professional Medical Conduct, in writing, as to whether or not he/she is so engaged. Furthermore, until completion of the term of probation, he/she shall notify the Director, in writing, prior to any change in that status.