



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

August 17, 1998

CERTIFIED MAIL-RETURN RECEIPT REQUESTED

Michael Romano, M.D.
4125 Hearthstone Drive
Sarasota, Florida 34238

RE: License No. 163985

Dear Dr. Romano:

Enclosed please find Order #BPMC 98-182 of the New York State Board for Professional Medical Conduct. This Order and any penalty provided therein goes into effect **August 17, 1998**.

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: Hermes Fernandez, Esq.
Bond, Schoeneck & King, LLP
111 Washington Avenue
Albany, New York 12210-2211

Robert Bogan, Esq.

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

IN THE MATTER
OF
MICHAEL ROMANO, M.D.

CONSENT
AGREEMENT
AND
ORDER
BPMC #98-182

STATE OF FLORIDA)
COUNTY OF) ss.:

MICHAEL ROMANO, M.D., being duly sworn, deposes and says:

On or about September 16, 1985, I was licensed to practice medicine as a physician in the State of New York having been issued License No. 163985 by the New York State Education Department.

My current address is ^{4125 HEARTHSTONE DR., SARASOTA FL 34238} ~~96 Azure Lane, Weston, Florida 33326~~ and I will ^{MR} advise the Director of the Office of Professional Medical Conduct of any change of my address.

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

I admit guilt to Specifications Nine through Twelve, in full satisfaction of the Charges against me. I hereby agree to the following penalty:

My license to practice medicine in the State of New York shall be suspended wholly and indefinitely.

With the proviso that such indefinite period of suspension shall continue for no less than two years, I shall be permitted, after the passage of said minimum period, to petition the State Board for Professional Medical Conduct for a Modification Order, staying such suspension and permitting me to practice medicine under whatever limitation(s), term(s) of probation, or further conditions the Board may deem appropriate in its reasonable discretion, such discretion to be exercised by a Committee on Professional Conduct, after I have met a burden of proof and persuasion in a proceeding as set forth in this agreement. I understand and agree that the Committee's exercise of such discretion shall not be reviewable through recourse to the Administrative Review Board.

This agreement does not prohibit me from practicing medicine in a jurisdiction other than New York State in which I am duly licensed to practice medicine.

I shall be subject to the following Condition, which I hereby stipulate and agree may be imposed pursuant to §230 of the Public Health Law:

- Except during periods of actual suspension, 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 Consent Order and continuing until the full term of the Order has run. I hereby stipulate that any failure by me to comply with such condition shall constitute misconduct as defined by New York State Education Law

§6530(29)(McKinney Supp 1998).

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

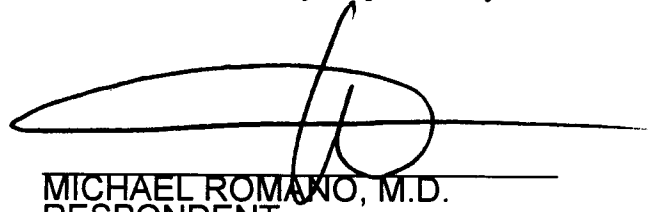
I hereby make this Application to the State Board for Professional Medical Conduct (the Board) and request that it be granted.

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 thereafter; 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.

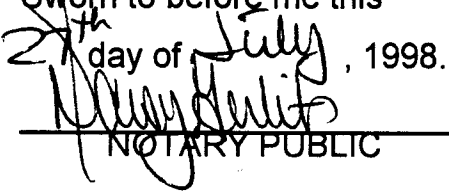
I agree that, in the event the Board grants my Application, as set forth herein, an order of the Chairperson of the Board shall be issued in accordance with this Application.

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 further proceedings

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.



MICHAEL ROMANO, M.D.
RESPONDENT

STATE OF FLORIDA
COUNTY OF SARASOTA
Sworn to before me this
27th day of July, 1998.

NOTARY PUBLIC


OFFICIAL NOTARY SEAL
DAISY OSALITS
NOTARY PUBLIC STATE OF FLORIDA
COMMISSION NO. CC546032
MY COMMISSION EXP. APR. 7, 2000

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

DATE: 7/17/98


HERMES FERNANDEZ ESQ.,
Attorney for Respondent

DATE: 30 July 98


ROBERT BOGAN
Assistant Counsel
Bureau of Professional
Medical Conduct

DATE: July 4, 1998


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 ROMANO, M.D.

CONSENT
ORDER


Upon the proposed agreement of MICHAEL ROMANO, M.D.,
(Respondent) for Consent Order, 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.

DATED: *August 10, 1998*


PATRICK F. CARONE, M.D., M.P.H.
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
MICHAEL ROMANO, M.D. : CHARGES

-----X

MICHAEL ROMANO, M.D., the Respondent, was authorized to practice medicine in New York State on September 16, 1985 by the issuance of license number 163985 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 July 1, 1996 through June 30, 1998 , with a registration address of 15 Amity Point Court, Clifton Park, New York 12065.

FACTUAL ALLEGATIONS

A. Respondent prescribed medication for Patient A on or about March 1, 1996. Respondent's care and treatment failed to meet acceptable standards of medical care in that:

1. Respondent did not maintain an adequate medical record and/or an adequate record of medications prescribed for Patient A.
2. Respondent did not perform an adequate history or physical exam of Patient A for the alleged medical condition for which he prescribed controlled substances.
3. Respondent prescribed Lortab, a controlled substance, for Patient A without adequate medical indication.
4. Respondent prescribed excessive medication for Patient A, namely Lortab.

5. Respondent inappropriately wrote a prescription for Lortab in Patient A's name which was not intended for Patient A.
6. Respondent inappropriately wrote a prescription for Lortab in Patient A's name which was intended for the Respondent.

B. Respondent prescribed medication for Patient B on or about March 6, 1996 through on or about June 20, 1996.

Respondent's care and treatment failed to meet acceptable standards of medical care in that:

1. Respondent did not maintain an adequate medical record and/or an adequate record of medications prescribed for Patient B.
2. Respondent did not perform an adequate history or physical exam of Patient B for the alleged medical condition for which he prescribed controlled substances.
3. Respondent prescribed Lortab, a controlled substance, for Patient B without adequate medical indication.
4. Respondent prescribed excessive medication for Patient B, namely Lortab.
5. Respondent inappropriately wrote 3 prescriptions for Lortab in Patient B's name which were not intended for Patient B.
6. Respondent inappropriately wrote 3 prescriptions for Lortab in Patient B's name which were intended for the Respondent.

C. Respondent prescribed medication for Patient C on or about March 14, 1996 through on or about July 3, 1996.

Respondent's care and treatment failed to meet acceptable standards of medical care in that:

1. Respondent did not maintain an adequate medical record and/or an adequate record of medications prescribed for Patient C.

2. Respondent did not perform an adequate history or physical exam of Patient C for the alleged medical condition for which he prescribed controlled substances.
3. Respondent prescribed Lortab, a controlled substance, for Patient C without adequate medical indication.
4. Respondent prescribed excessive medication for Patient C, namely Lortab.
5. Respondent inappropriately wrote 13 prescriptions for Lortab in Patient C's married and maiden names which were not intended for Patient C.

D. Respondent prescribed medication for himself on or about May 16, 1996 through on or about October 14, 1996. Respondent's care and treatment failed to meet acceptable standards of medical care in that:

1. Respondent did not maintain an adequate medical record and/or an adequate record of medications prescribed for himself.
2. Respondent prescribed Lortab, a controlled substance, for himself without adequate medical indication.
3. Respondent prescribed excessive medication for himself, namely Lortab.
4. Respondent inappropriately wrote 5 prescriptions for Lortab in his own name that were not medically indicated.

SPECIFICATIONS OF MISCONDUCT

FIRST THROUGH FOURTH SPECIFICATIONS

PRACTICING FRAUDULENTLY

Respondent is charged with practicing fraudulently in violation of N.Y. Educ. Law §6530(2) in that Petitioner charges:

1. The facts in paragraph A and A.5 and/or A.6.
2. The facts in paragraph B and B.5 and/or B.6.
3. The facts in paragraph C and C.5.
4. The facts in paragraph D and D.2, D.3 and/or D.4.

FIFTH THROUGH EIGHTH SPECIFICATIONS

MORAL UNFITNESS

Respondent is charged with practicing medicine which evidences moral unfitness in violation of N.Y. Educ. Law §6530(20) in that Petitioner charges:

5. The facts in paragraph A and A.5 and/or A.6.
6. The facts in paragraph B and B.5 and/or B.6.
7. The facts in paragraph C and C.5.
8. The facts in paragraph D and D.3 and/or D.4.

NINTH THROUGH TWELFTH SPECIFICATIONS

RECORD KEEPING

Respondent is charged with failing to maintain a record which accurately reflects the evaluation and treatment of patients in violation of N.Y. Educ. Law §6530(32) in that the Petitioner charges:

9. The facts in paragraph A and A.1.
10. The facts in paragraph B and B.1.
11. The facts in paragraph C and C.1.
12. The facts in paragraph D and D.1.

THIRTEENTH THROUGH SIXTEENTH SPECIFICATIONS

NEGLIGENCE ON MORE THAN ONE OCCASION

Respondent is charged with negligence on more than one occasion in violation of N.Y. Educ. Law §6530(3) in that the Petitioner charges:

13. The facts in paragraph A and A.1, A.2, A.3, and/or A.4.
14. The facts in paragraph B and B.1, B.2, B.3, and/or B.4.
15. The facts in paragraph C and C.1, C.2, C.3, and/or C.4.
16. The facts in paragraph D and D.1, D.2, and/or D.3.

SEVENTEENTH THROUGH TWENTIETH

INCOMPETENCE ON MORE THAN OCCASION

Respondent is charged with incompetence on more than one occasion in violation of N.Y. Educ. Law §6530(5) in that the Petitioner charges:

17. The facts in paragraph A and A.1, A.2, A.3, and/or A.4.
18. The facts in paragraph B and B.1, B.2, B.3, and/or B.4.
19. The facts in paragraph C and C.1, C.2, C.3, and/or C.4.
20. The facts in paragraph D and D.1, D.2, and/or D.3.

DATED: _____, 1998
Albany, New York

7/30/98

Peter D. Van Buren

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

EXHIBIT "B"

1. I request, agree, and understand that the suspension of my license shall be terminated only upon a showing to the satisfaction of a Committee on Professional Conduct of the State Board for Professional Medical Conduct (henceforth "Committee") that I am both fit and clinically competent to practice medicine.

2. I request, agree, and understand that upon my request, a meeting of a Committee shall be convened for the purpose of my making the showing referred to in paragraph 1. The Board will make reasonable attempts to convene a Committee not later than 90 days after my request, which shall not be deemed to have been perfected until receipt, by the Director of the Office of Professional Medical Conduct, of all that is required to be provided by me pursuant to paragraph 3 below. I understand and agree that the procedural nature of said proceeding shall be determined by the State Board for Professional Medical Conduct through the discretion of the Director of the Office of Professional Medical Conduct upon consultation with Counsel, Bureau of Professional Medical Conduct. I understand and agree that proceedings before said Committee shall *not* be in the nature of a *hearing* pursuant to New York Public Health Law §230, but shall, instead, be informal and intended only for the purpose of addressing any and all facts, evidence, information, circumstances, or issues which do or may relate to the advisability of terminating the suspension of my license. I understand I may be represented by counsel in any such proceeding, and shall have the right to introduce evidence, review any evidence presented, to object to the same, and to examine witnesses. The Committee shall be given access to evidence including but not limited to:

Any evidence which the Director of the Office of
Professional Medical Conduct or Counsel, Bureau of
Professional Medical Conduct deems appropriate.

3. I request, agree, and understand that at the time that I request that a meeting of a Committee be scheduled, pursuant to paragraph 2, I will provide the Director of the Office of Professional Medical Conduct, New York State Department of Health, 433 River Street, Suite 303, Troy, NY 12180-2299, with the following:

- a. Certified true and complete copies of records of all evaluation and treatment, relating to my fitness, whether that evaluation and treatment occurred prior to or during the time this suspension is in effect. These records shall include documentation of the results of all urine/blood/breath tests conducted to detect the presence of drugs and/or alcohol.
- b. Fully executed waivers of patient confidentiality concerning any previous and prospective treatment records.
- c. Upon request of the Director of OPMC, a current in-depth chemical dependency evaluation by a health care professional, approved in advance and in writing by the Director.
- d. Upon request of the Director of OPMC, a report of a complete clinical competency assessment, performed by a program for such assessment, such program to be proposed by Respondent and subject to the prior written approval of the Director.
- e. My attendance at, participation in, and cooperation with an interview conducted by personnel of OPMC, upon the request of the Director thereof.

I understand that compliance with requirements of this paragraph does not, in and of itself, constitute a showing that I am fit for the active practice of medicine.

4. At the proceeding referred to in paragraph 2, I will provide the committee, at a minimum, with the following:

- a. Certified true and complete records of any and all rehabilitation, treatment, evaluation, and/or testing, whether in an out-patient, in-patient, office, or consultation setting.

- b. Evidence that I have maintained adequate knowledge and competence to practice as a physician. Such evidence shall include documentation of continuing medical education and, if so requested by the Director of OPMC, a report of an independent evaluation of my medical knowledge and competence.

I understand that compliance with the requirements of this paragraph does not, in and of itself, constitute a showing that I am fit for the active practice of medicine.