

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

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IN THE MATTER :
OF : ORDER
GIL ROTER, M.D. : BPMC #94-278

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Upon the application of GIL ROTER, 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: 22 December, 1994

Redacted Signature

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 : APPLICATION
OF : FOR
GIL ROTER, M.D. : CONSENT
: ORDER
-----X

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

GIL ROTER, M.D., being duly sworn, deposes and says:

That on or about September 16, 1985, I was licensed to practice as a physician in the State of New York, having been issued License No. 164190 by the New York State Education Department.

I am currently registered with the New York State Education Department to practice as a physician in the State of New York for the period January 1, 1993 through December 31, 1994.

I understand that the New York State Board for Professional Medical Conduct has charged me with eight 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 guilt to the fourth through eighth specifications in full satisfaction of the charges against me.

I hereby agree to the penalty of one year stayed suspension

probation and a five thousand dollar (\$5,000.00) fine. 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.

Redacted Signature

Gil Roter, M.D.

Sworn to before me this

12th day of December, 1994.

Redacted Signature

NOTARY PUBLIC

WINIFRED WOYTHALER
Notary Public, State of New York
No. 4509531
Qualified in Nassau County
Commission Expires November 23, 1995

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

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IN THE MATTER : APPLICATION
OF : FOR
GIL ROTER, M.D. : CONSENT
: ORDER
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The undersigned agree to the attached application of the Respondent and to the proposed penalty based on the terms and conditions thereof.

DATE: 12/12/94 Redacted Signature
GIL ROTER, M.D.
Respondent

DATE: 12/12/94 Redacted Signature
Lois K. Ottombrino, ESQ.
Attorney for Respondent

DATE: 12/13/94 Redacted Signature
Daniel Guenzburger
Assistant COUNSEL
Bureau of Professional
Medical Conduct

DATE: Dec. 16, 1994

Redacted Signature

KATHLEEN M. TANNER
DIRECTOR
Office of Professional Medical
Conduct

DATE: 22 December 1994

Redacted Signature

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

EXHIBIT "B"

TERMS OF PROBATION

1. GIL ROTER, 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 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, 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. 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).

7. 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.

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

-----X
IN THE MATTER : STATEMENT
OF : OF
GIL ROTER, M.D. : CHARGES
-----X

GIL ROTER, M.D., the Respondent, was authorized to practice medicine in New York State on September 16, 1985 by the issuance of license number 164190 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 to December 31, 1994 at
Redacted Address

FACTUAL ALLEGATIONS

- A. On or about April 13, 1992, Patient A, an investigator for the Office of the Inspector General of the Metropolitan Transit Authority, held himself out to Respondent as a New York City Transit Authority ("NYCTA") employee at Respondent's office located at 6410 Veterans Avenue, Brooklyn, New York. (Patient A and the other patient in the Statement of Charges are identified in the Appendix.)

1. Respondent knowingly misrepresented on a NYCTA Application for Leave of Absence that on or about and between April 13, 1992 and April 15, 1992, Patient A had an illness that incapacitated him and made him incapable of performing his duties for the NYCTA when, in fact, Respondent knew that Patient A had no such illness.
 2. Respondent failed to maintain a record which accurately reflected the evaluation and treatment of Patient A.
- B. On or about October 2, 1991, Patient B, an investigator, held himself out to Respondent as a NYCTA employee at Respondent's office.
1. Respondent knowingly misrepresented on a NYCTA Application for Leave of Absence that on or about and between October 2, 1991 and October 3, 1991, Patient B had an illness that incapacitated him and made him incapable of performing his duties for the NYCTA when, in fact, Respondent knew that Patient B had no such illness.
 2. Respondent knowingly misrepresented on a health insurance claim form submitted to the Group Health Incorporated that he diagnosed and treated Patient B for an upper respiratory infection, when in fact, Respondent knew that

he had neither diagnosed nor treated Patient B for such a condition.

3. Respondent failed to maintain a record which accurately reflected the evaluation and treatment of Patient B.

SPECIFICATION OF CHARGES

FIRST THROUGH THIRD SPECIFICATIONS

FRAUDULENT PRACTICE

Respondent is charged with professional misconduct by reason of practicing the profession fraudulently within the meaning of N.Y. Educ. Law Section 6530(2) (McKinney Supp. 1994), in that Petitioner charges:

1. The facts in paragraphs A and A1.
2. The facts in paragraphs B and B1.
3. The facts in paragraphs B and B2.

FOURTH THROUGH SIXTH SPECIFICATIONS

FILING A FALSE REPORT

Respondent is charged with professional misconduct pursuant to N.Y. Educ. Law Section 6530(21) (McKinney Supp. 1994), by reason of willfully making and filing and/or inducing another person to file a false report, in that Petitioner charges:

4. The facts in paragraphs A and A1.
5. The facts in paragraphs B and B1.
6. The facts in paragraphs B and B2.

SEVENTH THROUGH EIGHTH SPECIFICATIONS

FAILING TO MAINTAIN AN ADEQUATE RECORD

Respondent is charged with professional misconduct pursuant to N.Y. Educ. Law Section 6530(32) (McKinney Supp. 1994), by failing to maintain a record for each patient which accurately reflects the evaluation and treatment of the patient, in that Petitioner charges:

7. The facts in paragraphs A and A2.

8. The facts in paragraphs B and B3.

DATED: New York, New York

October 6, 1994

Redacted Signature

Chris Stern Hyman
Counsel
Bureau of Professional Medical
Conduct