

Board for Professional Medical Conduct

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

Mark S. Chassin, M.D., M.P.P., M.P.H.
Commissioner

C. Maynard Guest, M.D.
Executive Secretary

July 29, 1994

CERTIFIED MAIL-RETURN RECEIPT REQUESTED

Alan S. Rubin, M.D.
Given Pine
310 Pine Street
Burlington, VT 05401

RE: License No. 104774
Effective Date: 8/5/94

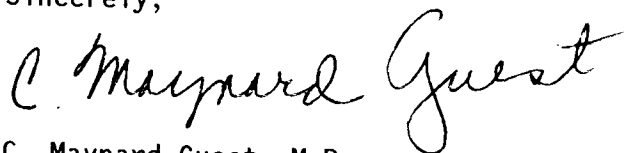
Dear Dr. Rubin:

Enclosed please find Order #BPMC 94-129 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,



C. Maynard Guest, M.D.
Executive Secretary
Board for Professional Medical Conduct

Enclosure

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

-----x

IN THE MATTER :
OF : ORDER
ALAN S. RUBIN, M.D. : BPMC #94-129

-----x

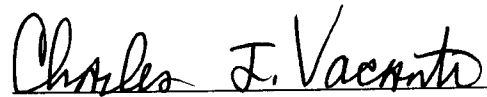
Upon the application of ALAN S. RUBIN, M.D. (Respondent) for Consent Order, which application is made a part hereof, it is

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: 27 July 1994



Charles J. Vacanti, M.D.
Chairperson
State Board for Professional
Medical Conduct

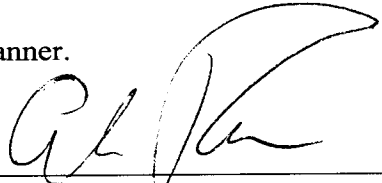
- a) a censure and reprimand;
- b) one year probation under the Terms of Probation set forth and attached hereto as Exhibit B, said period of probation to begin at such time as I commence to practice medicine in the State of New York.

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.



ALAN S. RUBIN, M.D.
RESPONDENT

Sworn to before me this

20th day of July, 1994.

Brenda A. Couture
Notary Public

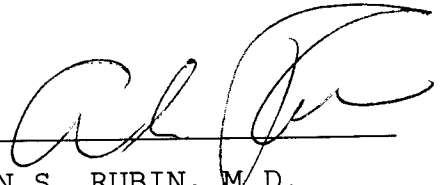
[bcoutu.sgn.rubin]cons.order

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

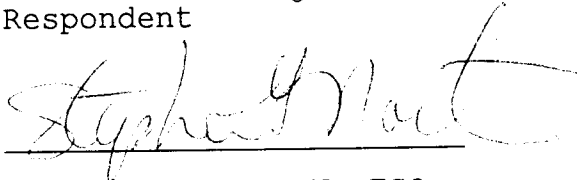
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IN THE MATTER : APPLICATION
OF : FOR
ALAN S. RUBIN, M.D. : CONSENT
: ORDER
-----X

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

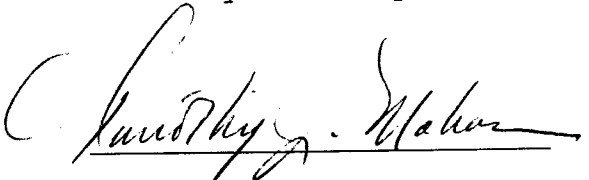
DATE: 7/19/94


ALAN S. RUBIN, M.D.
Respondent

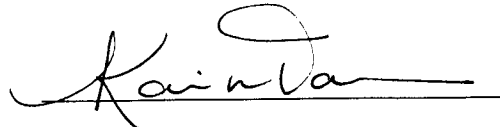
DATE: 7/20/94


STEPHEN T. NORTEN, ESQ.
Attorney for Respondent

DATE: 7/21/94

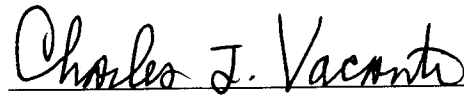

TIMOTHY J. MAHAR
Assistant Counsel
Bureau of Professional
Medical Conduct

DATE: July 27 1994



KATHLEEN M. TANNER
DIRECTOR
Office of Professional Medical
Conduct

DATE: 27 July 1994



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 : STATEMENT
OF : OF
ALAN S. RUBIN, M.D. : CHARGES
-----X

ALAN S. RUBIN, M.D., the Respondent, was authorized to practice medicine in New York State on September 26, 1969 by the issuance of license number 104774 by the New York State Education Department. The Respondent is not currently registered with the New York State Education Department to practice medicine.

FACTUAL ALLEGATIONS

1. By Stipulation and Consent Order last dated February 23, 1993, the State of Vermont, Board of Medical Practice (Vermont Board) alleged that Respondent engaged in conduct constituting unprofessional conduct in violation of Title 26 of the Vermont Statutes Annotated (VSA) §1354 (22) [in the course of professional practice, the gross failure on a particular occasion or the failure on repeated occasions to exercise that degree of care commonly exercised by a prudent physician]. More specifically, the Vermont Board alleged that Respondent had

injudiciously prescribed or excessively prescribed controlled medications, including narcotics, for some of his patients over prolonged periods of time.

2. The Vermont Board disciplined the Respondent by limiting his ability to prescribe controlled substances (DEA classification Schedule II, III and IV).

3. More specifically, the following restrictions were placed on Respondent's prescription practice:

a) Respondent is prohibited from prescribing controlled substances to manage chronic pain except for those patients identified in the consent order and for the relief of intractable cancer. Respondent was to make available for the Vermont Board's review a current diagnostic assessment and treatment plan for each of the identified chronic pain patients. Respondent's treatment plans were to be reviewed and countersigned every three months by a licensed physician approved by the Vermont Board.

b) Respondent is prohibited from prescribing for any patient DEA Schedule III and IV controlled substances for the treatment of short-term acute pain for more than seven days.

c) Respondent is prohibited from accepting any new narcotic-using patients into his practice except for patients with intractable cancer pain.

d) Respondent is required to provide a copy of all prescriptions for Schedule II, III and IV drugs written by him to the Vermont Board each month.

e) Respondent is required within 12 months of the date of the order to successfully complete Board approved continuing medical education courses in the areas of chronic pain management and the judicious prescription of regulated drugs. Upon timely and successful completion of such courses, Respondent may petition the Vermont Board to remove the restrictions placed on Respondent's authority to prescribe controlled substances, including the supervision of his prescription practices (see, subparagraphs 3a-d, above).

4. The conduct upon which the Vermont Board took disciplinary action against Respondent's license would, if committed in New York State, constitute professional misconduct under N.Y. Educ. Law §6530(3) [practicing the profession with negligence on more than one occasion] and §6530(4) [practicing the profession with gross negligence].

SPECIFICATION

Respondent is charged with professional misconduct within the meaning of N.Y. Educ. Law §6530(9)(d)(McKinney Supp. 1994) by reason of having disciplinary action taken against his license to practice medicine by a duly authorized professional disciplinary agency of another state, where the conduct resulting in disciplinary action involving the license would, if committed in New York State, constitute professional misconduct under the laws of New York State, in that Petitioner charges:

1. The facts in paragraphs 1 through 4.

DATED: Albany, New York

June 2, 1994

Peter D. Van Buren

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

EXHIBIT "B"

TERMS OF PROBATION

1. ALAN S. RUBIN, 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 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.
8. Respondent shall submit written notification to the NYSDOH, addressed to the Director, Office of Professional Medical Conduct, New York State Department of Health, Empire State Plaza, Albany, New York 12237 of his intention to practice medicine in the State of New York, 30 days prior to the date his practice or employment in New York State is to commence.