



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

October 31, 1997

CERTIFIED MAIL-RETURN RECEIPT REQUESTED

Fred Swerdloff, M.D.

Redacted Address

RE: License No. 132086

Dear Dr. Swerdloff:

Enclosed please find Order #BPMC 97-244 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,

Redacted Signature

Ansel R. Marks, M.D., J.D.
Executive Secretary
Board for Professional Medical Conduct

Enclosure

cc: Peter Aronson, Esq.
Foley, Ladner, Weissburg & Aronson
2029 Century Park East
Los Angeles, California 90067

Kimberly A. O'Brien, Esq.

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

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IN THE MATTER : CONSENT
OF : AGREEMENT
FRED SWERDLOFF, M.D. : AND ORDER
: BPMC # 97-244

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FRED SWERDLOFF, M.D., says:

On or about September 9, 1977, I was licensed to practice as a physician in the State of New York, having been issued license number 132086 by the New York State Education Department.

My current address is Redacted Address
and I will advise the Director of the Office of Professional Medical Conduct of any change of my address.

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

I do not contest the second specification.

I hereby agree to the following penalty: a one year term of probation, such probation to be tolled until such time as I return to practice in New York, and I shall comply with the Terms of Probation, annexed hereto, made a part hereof, and marked as Exhibit B.

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 with the New York State Education Department, Division of Professional Licensing Services, and pay all registration fees. This condition will remain in effect except during periods of actual suspension, if any, imposed by this Order. This condition shall be in effect beginning thirty days after the effective date of this Order and will continue until the full term of the Order has run, and until any associated period of probation and all probation terms have been completed and satisfied. I understand that any failure by me to comply with this condition shall constitute misconduct as defined by New York State Education Law §6530(29).

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.

Redacted Signature

~~FRED SWERDLOFF, M.D.~~
~~RESPONDENT~~

Subscribed before me this

day of , 1997.

NOTARY PUBLIC

ORDER

Upon the proposed agreement of FRED SWERDLOFF, 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: 10/19/97

Redacted Signature

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
FRED SWERDLOFF, M.D. : CHARGES

-----X

FRED SWERDLOFF, M.D., the Respondent, was authorized to practice medicine in New York State on September 9, 1977 by the issuance of license number 132086 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 Decision dated September 17, 1996, the Medical Board of California adopted the Proposed Decision of the Administrative Law Judge finding that Respondent engaged in anti-competitive behavior related to the promotion and sale of medical equipment. Respondent's physician's and surgeon's certificate was revoked and stayed, and he was placed on probation for one year.

2. The conduct of which Respondent was found guilty in California would, if committed in New York State, constitute professional misconduct under the laws of New York State, namely within the meaning of New York Education Law § 6530(2) (McKinney Supp. 1997) (practicing the profession fraudulently) and/or within the meaning of New York Education Law § 6530(17) (McKinney Supp.

EXHIBIT A

1997) (exercising undue influence on the patient by promoting the sale of medical goods for financial gain) and/or within the meaning of New York Education Law §6530(20) (McKinney Supp. 1997) (moral unfitness).

SPECIFICATIONS OF MISCONDUCT

FIRST SPECIFICATION

GUILTY OF MISCONDUCT IN ANOTHER STATE

Respondent is charged with professional misconduct within the meaning of New York Education Law § 6530(9) (b) (McKinney Supp. 1997) in that he was found guilty of improper professional practice or professional misconduct by a duly authorized professional disciplinary agency of another state, where the conduct upon which the finding was based would, if committed in New York State, constitute professional misconduct under the laws of New York State, in that Petitioner charges:

1. The facts of paragraphs 1 and/or 2.

SECOND SPECIFICATION

DISCIPLINARY ACTION BY ANOTHER STATE

Respondent is charged with professional misconduct within the meaning of New York Education Law § 6530(9) (d) (McKinney Supp. 1997) in that he had disciplinary action taken against his license by a duly authorized professional disciplinary agency of another state, where the conduct resulting in the disciplinary action would, if committed in New York State, constitute

professional misconduct under the laws of New York State, in that
Petitioner charges:

1. The facts of paragraphs 1 and/or 2.

DATED: *September 12*, 1997
Albany, New York

Redacted Signature

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

EXHIBIT "B"

TERMS OF PROBATION

1. Respondent 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 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.