



***New York State Board for Professional Medical Conduct***

*433 River Street, Suite 303 • Troy, New York 12180-2299 • (518) 402-0863*

Antonia C. Novello, M.D., M.P.H.  
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*NYS Department of Health*  
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*NYS Department of Health*  
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*Vice Chair*

Ansel R. Marks, M.D., J.D.  
*Executive Secretary*

June 14, 2000

***CERTIFIED MAIL-RETURN RECEIPT REQUESTED***

Richard Lewis Weiss, M.D.  
154 Four Seasons East  
Amherst, New York 14226

RE: License No. 092842

Dear Dr. Weiss:

Enclosed please find Order #BPMC 00-176 of the New York State Board for Professional Medical Conduct. This Order and any penalty provided therein goes into effect June 14, 2000.

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 to 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: Joseph V. McCarthy, Esq.  
Roach, Brown, McCarthy & Gruber, P.C.  
1620 Liberty Building  
420 Main Street  
Buffalo, New York 14202-3616

Mark T. Fantauzzi, Esq.

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

IN THE MATTER  
OF  
RICHARD LEWIS WEISS, M.D.

CONSENT  
AGREEMENT  
FOR SURRENDER  
OF CLINICAL  
PRIVILEGES AND  
ORDER

BPMC #00-176

Richard Lewis Weiss, M.D., (Respondent) says:

That on or about August 18, 1964, I was licensed to practice as a physician in the State of New York, having been issued License No. 092842 by the New York State Education Department.

My current address is 154 Four Seasons East, Amherst, New York, 14226, 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 three specifications of professional misconduct.

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

I agree not to contest the factual allegations, specifications of misconduct, and charges against me. I hereby agree to the following penalty:

My license to practice medicine in the State of New York shall be permanently limited, pursuant to section 230-a of the Public

Health Law, to preclude the practice of medicine. I shall be precluded from patient contact, diagnosing, treating, prescribing or operating for any human condition. I shall be precluded from teaching medicine or consulting on medical issues. I agree to comply with the terms of practice limitation attached hereto as Exhibit B.

I further agree that the Consent Order for which I hereby apply shall impose a condition that Respondent shall change his registration status to "inactive" with the New York State Education Department Division of Professional Licensing Services and provide proof of such change to the Director of the Office of Professional Medical Conduct within thirty days of the effective date of this Order. Failure to comply with such condition shall constitute misconduct as defined by New York State Education Law section 6530(29).

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.

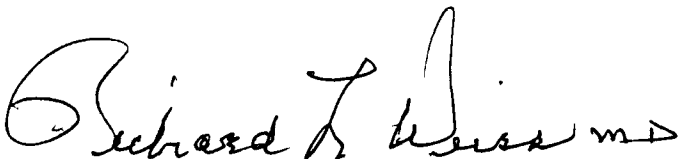
I understand that, in the event that this Application is not granted by the Board, nothing contained herein shall be binding upon me or construed to be an admission of any act of misconduct alleged or charged against me, such Application shall not

be used against me in any way and shall be kept in strict confidence during the pendency of the professional misconduct disciplinary proceeding; and 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 agree that such 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 me at the address set forth in this agreement, or to my attorney, or upon transmission via facsimile to me or my attorney, whichever is earliest.

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.

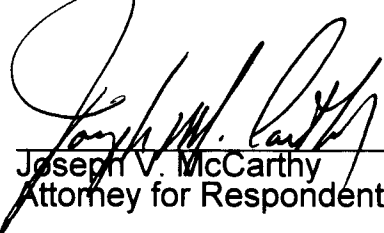
AFFIRMED:

  
RICHARD LEWIS WEISS, M.D.  
Respondent

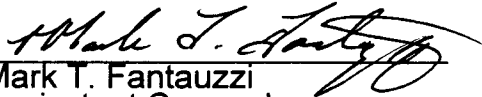
DATED 5/31/00

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

DATE: 5/31/00

  
\_\_\_\_\_  
Joseph V. McCarthy  
Attorney for Respondent

DATE: 6/5/00

  
\_\_\_\_\_  
Mark T. Fantauzzi  
Assistant Counsel  
Bureau of Professional  
Medical Conduct

DATE: June 7, 2000

  
\_\_\_\_\_  
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  
RICHARD LEWIS WEISS, M.D.

CONSENT  
ORDER

Upon the proposed agreement of Richard Lewis Weiss, 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: 6/10/00


  
WILLIAM P. DILLON, M.D.  
Chair  
State Board for Professional  
Medical Conduct

EXHIBIT "A"

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

-----X

IN THE MATTER : STATEMENT  
OF : OF  
RICHARD LEWIS WEISS, M.D. : CHARGES

-----X

RICHARD LEWIS WEISS, M.D., the Respondent, was authorized to practice medicine in New York State on August 18, 1964 by the issuance of license number 092842 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 March 1, 2000, through February 28, 2002, with a registration address of 154 Four Seasons East, Amherst, New York, 14226.

FACTUAL ALLEGATIONS

A. Between January 1, 1992 and his retirement on August 30, 1997, Respondent performed numerous procedures for which he submitted billings which were inappropriate, as a result of which Respondent received remuneration to which he was not entitled.

**SPECIFICATIONS**

**FIRST SPECIFICATION**

**THE FRAUDULENT PRACTICE OF MEDICINE**

Respondent is charged with professional misconduct, namely, the fraudulent practice of medicine pursuant to New York Education Law section 6530(2), in that Petitioner charges:

1. The facts in Paragraph A.

**SECOND SPECIFICATION**

**WILLFUL FILING OF FALSE REPORTS OR FAILURE TO FILE REPORTS  
REQUIRED BY LAW OR GOVERNMENTAL AGENCY**

Respondent is charged with professional misconduct in violation of New York Education Law section 6530(21) for having willfully made or filed a false report, or failed to file a report required by law or by the department of health or the education department, in that Petitioner charges:

1. The facts in paragraph A.




THIRD SPECIFICATION

WILLFUL OR GROSSLY NEGLIGENT FAILURE TO COMPLY WITH  
SUBSTANTIAL PROVISIONS OF FEDERAL, STATE, OR LOCAL LAWS,  
RULES, OR REGULATIONS GOVERNING THE PRACTICE OF MEDICINE

Respondent is charged with professional misconduct in violation of New York Education Law section 6530(16) for having willfully failed to comply with substantial provisions of federal, state, or local laws, rules, or regulations governing the practice of medicine, or for having failed to so comply by having acted in a grossly negligent manner, in that Petitioner charges:

1. The facts in paragraph A.

DATED: *June 5*, 2000  
Albany, New York

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

## **Exhibit B**

### **TERMS OF MEDICAL PRACTICE CESSATION**

1. Respondent shall immediately cease and desist from engaging in the practice of medicine in accordance with the terms of the Order. In addition, Respondent shall permanently refrain from providing an opinion as to professional practice or its application and from representing himself as being eligible to practice medicine.
2. Respondent shall within fifteen (15) days of the Order notify his patients of the cessation of his medical practice and will refer all patients to another licensed practicing physician for their continued care, as appropriate.
3. Respondent shall make arrangements for the transfer and maintenance of the medical records of his patients. Within thirty days of the effective date of the Order, Respondent shall notify OPMC of these arrangements including the appropriate and acceptable contact person's name, address, and telephone number who shall have access to these records. Original records shall be retained for at least six years after the last date of service rendered to a patient or, in the case of a minor, for at least six years after the last date of service or three years after the patient reaches the age of majority whichever time period is longer. Records shall be maintained in a safe and secure place which is reasonably accessible to former patients. The arrangements shall include provisions to ensure that the information on the record is kept confidential and made available only to authorized persons. When a patient or and/or his or her representative requests a copy of the patient's medical record or requests that the original medical record be forwarded to another health care provider, a copy of the record shall be promptly provided or forwarded at a reasonable cost to the patient (not to exceed seventy-five cents per page.) Radiographic, sonographic and like materials shall be provided at cost. A qualified person shall not be denied access to patient information solely because of their inability to pay.
4. In the event that Respondent holds a Drug Enforcement Agency (DEA) certificate, Respondent shall within fifteen (15) days advise the DEA in writing of the licensure action, and shall surrender his DEA controlled substance privileges to the DEA. Respondent shall promptly surrender any unused DEA #222 U.S. Official Order Forms Schedules 1 and 2 to the DEA.
5. Respondent shall within fifteen (15) days return any unused New York State official prescription forms to the Bureau of Controlled Substances of the New York State Department of Health. Respondent shall cause all prescription pads bearing his name to be destroyed. If no other licensee is providing services at his practice location, all medications shall be properly disposed.
6. Respondent shall not share, occupy or use office space in which another licensee provides health care services. Respondent shall cause all signs to be removed within fifteen (15) days and stop all advertisements, professional listings whether in telephone directories or otherwise, professional stationery or billings by which his eligibility to practice is represented.
7. Respondent shall not charge, receive or share any fee or distribution of dividends for professional services rendered by himself or others while barred from engaging in the practice of medicine. Respondent may be compensated for the reasonable value of services lawfully rendered and disbursements incurred on a patient's behalf prior to the effective date of this Order.

8. If Respondent is a shareholder in any professional service corporation organized to engage in the practice of medicine he shall divest himself of all financial interest in the professional services corporation in accordance with New York Business Corporation Law. Such divestiture shall occur within 90 days. If Respondent is the sole shareholder in a professional services corporation, the corporation must be dissolved or sold within ninety (90) days of the effective date of this Order.

9. Failure to comply with the above directives may result in a civil penalty or further criminal penalties as may be authorized pursuant to the law. Under Section 6512 of the Education Law it is a Class E Felony, punishable by imprisonment of up to 4 years, to practice the profession of medicine when such professional license has been suspended, revoked or annulled. Such punishment is in addition to the penalties for professional misconduct set forth in section 230-a of the Public Health Law, which includes fines of up to \$10,000 for each specification of charges of which the Respondent is found guilty and may include revocation of a suspended license.