



New York State Board for Professional Medical Conduct

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

Barbara A. DeBuono, M.D., M.P.H.
Commissioner of Health

Charles J. Vacanti, M.D.
Chair

August 20, 1996

CERTIFIED MAIL-RETURN RECEIPT REQUESTED

Russell H. Zelman, M.D.
HC 65, Box 66
Bovia, New York 13740

RE: License No. 148542

Dear Dr. Zelman:

Effective Date: 08/27/96

Enclosed please find Order #BPMC 96-192 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,

Charles Vacanti, M.D.
Chair
Board for Professional Medical Conduct

Enclosure

cc: Vincent W. Prior, Esq.
1 Church Street, P.O. Box 368
Arkville, New York 12406

Joseph Huberty, Esq.

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

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IN THE MATTER :
OF : ORDER
RUSSELL H. ZELMAN, M.D. : BPMC #96-192

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Upon the application of RUSSELL H. ZELMAN, M.D. 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: 16 August 1996

Charles J. Vacanti

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

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IN THE MATTER

: APPLICATION

OF

: FOR

RUSSELL H. ZELMAN, M.D.

: CONSENT

: ORDER

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

RUSSELL H. ZELMAN, M.D., being duly sworn, deposes and says:

On October 30, 1981 I was licensed to practice as a physician in the State of New York, having been issued License No. 148542 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 May 1, 1996 through April 30, 1998. My address, as shown on my last registration with the New York State Education Department, is HC 65, Box 66, Bovia, New York 13740.

I understand that the New York State Board for Professional Medical Conduct has charged me with seven (7) 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 Specifications set forth in the Statement of Charges attached hereto, marked Exhibit "A" and made a part hereof by reference.

I hereby agree to the penalty that my license to practice medicine in the State of New York be suspended for a period of five (5) years; that said suspension be stayed; and that I be placed on probation for a period of five (5) years under the Terms of Probation annexed hereto, marked Exhibit "B" and incorporated herein by reference.


In addition to the above and as part of the penalty imposed upon me, I agree that I will not at any time hereafter engage in the practice of surgery in the State of New York. It is understood that I am currently practicing as a primary care emergency room physician and that I intend to continue in that line of practice.

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.

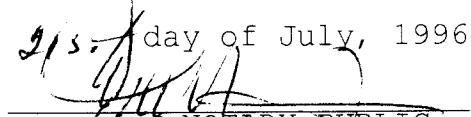
I agree that, in the event the Board grants my Application, as set forth herein, an order of the Chairperson of the Board shall be issued in accordance with same.

I am making this Application of my own free will and accord and not under duress, compulsion or restraint of any kind or manner.



RUSSELL H. ZELMAN, M.D.
RESPONDENT

Sworn to before me this
21st day of July, 1996.



NOTARY PUBLIC
STATE OF NEW YORK

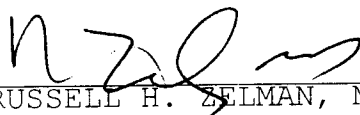
DENT W. PRIOR
Notary Public, State of New York
Qualified in Delaware County
Reg. # 02PR4988327
Commission Expires 11/04/99

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

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: APPLICATION
IN THE MATTER :
OF : FOR
RUSSELL H. ZELMAN, 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: July 8, 1996



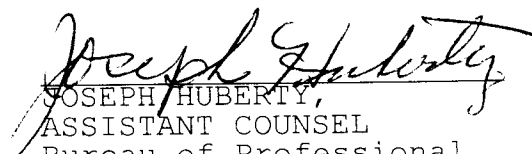
RUSSELL H. ZELMAN, M.D.
Respondent

DATE: July 21, 1996



VINCENT W. PRIOR, ESQ.
Attorney for Respondent

DATE: July 26, 1996



JOSEPH HUBERTY,
ASSISTANT COUNSEL
Bureau of Professional
Medical Conduct

DATE:

Aug. 15, 1996

Anne F. Saile

ANNE F. SAILE
ACTING DIRECTOR
Office of Professional Medical
Conduct

DATE:

16 August 1996

Charles J. Vacanti

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

TERMS OF PROBATION

EXHIBIT B

1. Respondent will personally meet with a member of the Office of Professional Medical Conduct staff on a random basis at the discretion of the Director of the Office or designee.
2. Respondent will conform fully:
 - a. to the professional standards of conduct imposed by law and by his or her profession;
 - b. with all civil and criminal laws, rules and regulations.
3. Respondent will notify the Office of Professional Medical Conduct of:
 - a. any and all investigations, charges, convictions or disciplinary actions taken by any local, state or federal agency, institution or facility, within thirty days of each action;
 - b. any and all changes in personal and professional addresses and telephone numbers and facility affiliations, within 30 days of such changes. This will include any change in practice location, within or outside of the State of New York. The date of departure from the State of New York, and the date of return, if any, must be reported in writing.

Failure to notify the Office of Professional Medical Conduct of any of the above will be considered a violation of probation.

4. Respondent will maintain legible and complete medical records which accurately reflect the evaluation and treatment of patients. Records will contain a comprehensive history, physical examination findings, chief complaint, present illness, diagnosis and treatment. In cases of prescribing, dispensing, or administering of controlled substances, the medical record will contain all information required by state rules and regulations regarding controlled substances.
5. So long as there is full compliance with every term herein set forth, Respondent may continue to practice his or her profession in accordance with the terms of probation. Upon receipt of evidence of non compliance 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 any such other proceeding against Respondent as may be authorized by law.

- a. Respondent shall assume and bear all costs related to compliance with the terms of probation.
6. The terms of probation set forth herein shall be tolled during any period of time in which I am not engaged in the active practice of medicine in the State of New York and extended accordingly upon my return to active practice in the State of New York.

I, Russell H. Zelman, M.D. do hereby this day acknowledge receipt of a copy of my Application For Consent Order, with a copy of the Statement of Charges (Exhibit "A") and Terms of Probation (Exhibit "B") attached thereto.

Dated: July 21 1996



Russell H. Zelman, M.D.

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

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IN THE MATTER : STATEMENT
OF : OF
RUSSELL H. ZELMAN, M.D. : CHARGES

-----X

RUSSELL H. ZELMAN, M.D., the Respondent, was authorized to practice medicine in New York State on October 30, 1981 by the issuance of license number 148542 by the New York State Education Department.

FACTUAL ALLEGATIONS

A. On or about January 30, 1992, the Board of Medical Examiners, Department of Commerce, State of Montana (hereafter, "Montana Board") issued a Notice of Proposed Board Action and opportunity for hearing in Docket No. CC-91-44-MD. This Notice of Proposed Board Action was personally served on the Respondent on February 4, 1992, in Margaretville, New York. In the Notice, Respondent was charged with failing to properly diagnose, treat, or otherwise care for patients identified as Nos. "1"- "6". Respondent was also charged with making false statements regarding his care of Patient "6". The charged conduct was alleged to constitute grounds for discipline under the Montana Code Annotated, Sections 37-3-322 and 37-3-323.

B. On or about September 28, 1992, Respondent entered into a Stipulation and Agreement, and an Order of Restriction and Probation with the Montana Board in Docket No. CC-91-44,

F. U. P. I. S. N.

effective October 9, 1992.

C. By the terms of the Stipulation and Agreement, Respondent agreed that, until such time as he gave written notice to the Montana Board of his intention to resume surgical practice, his license to practice medicine in the State of Montana would be restricted to prohibit any surgical practice whatsoever. From the time Respondent gives such notice of intent to resume surgical practice, Respondent was to be placed on a five year probationary period during which his general and surgical practice was to be supervised by peer review. Respondent's general practice was to be subject to review during the entire 5 years of probation. Additionally, during the first year of probation, Respondent's practice of surgery was to be subject to monitoring prior to surgery, in that Respondent was to obtain a second opinion prior to the performance of any surgeries, and perform no surgeries not approved by the second physician. Respondent was also to submit each of his surgical cases for post-operative review during the first year of probation. After the first year of probation, Respondent was to submit cases with specific complications or characteristics for review.

D. The conduct of Respondent that resulted in the Montana disciplinary action would, if committed in New York State, constitute professional misconduct under the laws of New York State, specifically, New York State Education Law §6530(2) (McKinney Supp. 1995) (practicing the profession fraudulently); §6530(3) (McKinney Supp. 1995) (practicing the profession with negligence on more than one occasion); and/or §6530(5) (McKinney Supp. 1995) (practicing the profession with gross negligence).

Supp. 1995) (practicing the profession with incompetence on more than one occasion).

E. Respondent, on or about September 9, 1992, signed a written application to the New York State Education Department to be registered as a physician in the State of New York for the period January 1, 1993 through December 31, 1994. Respondent fraudulently answered "no" to the question whether, since the date of his last registration, any state other than New York had instituted charges against him for professional misconduct, unprofessional misconduct, incompetence or negligence, or had revoked, suspended, or accepted surrender of a professional license held by Respondent. In fact, Respondent had been personally served with notice of the Montana Board action on February 4, 1992.

F. Respondent, on or about December 2, 1992, submitted an application to join the medical staff of Delaware Valley Hospital, One Titus Place, Walton, New York 13856.

1. Respondent fraudulently answered "No" to the question, "Have any disciplinary actions or misconduct investigations been initiated or are any pending against you by any state licensure board?"
2. Respondent fraudulently answered "No" to the question, "Has your license to practice in any state ever been denied, limited, suspended or revoked?"

SPECIFICATION OF CHARGES

FIRST SPECIFICATION

HAVING DISCIPLINARY ACTION TAKEN BY A DULY
AUTHORIZED DISCIPLINARY AGENCY OF ANOTHER STATE

Respondent is charged with having disciplinary action taken against him by a duly authorized disciplinary agency of another state, where the conduct resulting in Respondent's disciplinary action would, if committed in New York State, constitute professional misconduct under the laws of New York State, within the meaning of N.Y. Educ. Law §6530(9)(d) (McKinney Supp. 1995), in that Petitioner charges:

1. The facts in Paragraphs A, B, C, and/or D.

SECOND AND THIRD SPECIFICATIONS

PRACTICING THE PROFESSION FRAUDULENTLY

Respondent is charged with practicing the profession fraudulently within the meaning of N.Y. Educ. Law §6530(2) (McKinney Supp. 1995), in that Petitioner charges:

2. The facts in Paragraphs E.
3. The facts in Paragraph F and F.1 and/or F and F.2.

FOURTH AND FIFTH SPECIFICATIONS

WILLFULLY MAKING OR FILING A FALSE REPORT

Respondent is charged with willfully making or filing a false report required by law or by the Department of Health or the Education Department, within the meaning of N.Y. Educ. Law §6530(21) (McKinney Supp. 1995), in that Petitioner charges:

4. The facts in Paragraphs A, B, C, and E.
5. The facts in Paragraph F.

SIXTH AND SEVENTH SPECIFICATIONS

MORAL UNFITNESS

Respondent is charged with moral unfitness in the practice of medicine, within the meaning of N.Y. Educ. Law §6530(20) (McKinney Supp. 1995) in that Petitioner charges:

6. The facts in Paragraphs A, B, C, and E.
7. The facts in Paragraphs F and F.1 and/or F.2.

DATED: July , 1996
Albany, New York

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