



New York State Board for Professional Medical Conduct

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

Antonla C. Novello, M.D., M.P.H., Dr. P.H.
*Commissioner
NYS Department of Health*

Dennis P. Whalen
*Executive Deputy Commissioner
NYS Department of Health*

Dennis J. Graziano, Director
Office of Professional Medical Conduct

PUBLIC

Michael A. Gonzalez, R.P.A.
Vice Chair

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

October 22, 2003

CERTIFIED MAIL-RETURN RECEIPT REQUESTED

Alan P. Putterman, D.O.
1532 Union Street
Schenectady, NY 12309

Re: License No. 147981

Dear Dr. Putterman:

Enclosed please find Order #BPMC 03-273 of the New York State Board for Professional Medical Conduct. This order and any penalty provided therein goes into effect October 29, 2003.

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 the 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: Carolyn Shearer, Esq.
Bond, Schoeneck & King, PLLC
111 Washington Avenue
Albany, NY 12210-2211

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

IN THE MATTER
OF
ALAN PUTTERMAN, D.O.

CONSENT
ORDER

BPMC No. 03-273

Upon the application of Alan Putterman, D.O., Respondent, in the attached Consent Agreement and Order, which is made a part of this Consent Order; it is


ORDERED, that the Consent Agreement, and its terms, are adopted and SO ORDERED; and it is further

ORDERED, that this Order shall be effective upon issuance by the Board, either

- by mailing of a copy of this Consent Order, either by first class mail to Respondent at the address in the attached Consent Agreement or by certified mail to Respondent's attorney, OR
- upon facsimile transmission to Respondent or Respondent's attorney, whichever is first.

SO ORDERED.

DATED: 12/27/03


MICHAEL A. GONZALEZ, R.P.A.
Vice Chair
State Board for Professional
Medical Conduct

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

IN THE MATTER
OF
ALAN PUTTERMAN, D.O.

CONSENT
AGREEMENT
AND
ORDER

Alan Putterman, D.O., Respondent, representing that all of the following statements are true, deposes and says:

That on or about October 23, 1981, I was licensed to practice as a physician in the State of New York, and issued License No. 147981 by the New York State Education Department.

My current address is 1532 Union Street, Schenectady, New York 12309, and I will advise the Director of the Office of Professional Medical Conduct of any change of address.

I understand that the New York State Board for Professional Medical Conduct has charged me with two specifications of professional misconduct.

A copy of the Statement of Charges, marked as Exhibit "A", is attached to and part of this Consent Agreement.

I agree not to contest the specifications in full satisfaction of the charges against me, and agree to the following penalty:

Pursuant to §230-a(2) of the Public Health Law, my license to practice medicine in the State of New York shall be suspended for a period of 60 months, with the duration of said suspension to be stayed on the condition of my compliance with Probationary Terms set forth in Exhibit "B" attached hereto.

Pursuant to §230-a(9) of the Public Health Law, I shall be placed on probation for a period of 60 months, subject to the terms set forth in Exhibit "B."

And I further agree that the Consent Order shall impose the following conditions:

- a. That Respondent shall cooperate fully with the Office of Professional Medical Conduct (OPMC) in its administration and enforcement of this Order and in its investigations of matters concerning Respondent. Respondent shall respond in a timely manner to all OPMC requests for written periodic verification of Respondent's compliance with this Order. Respondent shall meet with a person designated by the Director of OPMC, as directed. Respondent shall respond promptly and provide all documents and information within Respondent's control, as directed. This condition shall take effect upon the Board's issuance of the Consent Order and will continue so long as Respondent remains licensed in New York State; and

I stipulate that my failure to comply with any conditions of this Order shall constitute misconduct as defined by New York State Education Law §6530(29).

I agree that if I am charged with professional misconduct in future, this Consent Agreement and Order **shall** be admitted into evidence in that proceeding.

I ask the Board to adopt this Consent Agreement.

I understand that if the Board does not adopt this Consent Agreement, none of its terms shall bind me or constitute an admission of any of the acts of alleged misconduct; this Consent Agreement shall not be used against me in any way and shall be kept in strict confidence; and the Board's denial shall be without prejudice to the pending disciplinary proceeding and the Board's final determination pursuant to the Public Health Law.

I agree that, if the Board adopts this Consent Agreement, the Chair of the Board shall issue a Consent Order in accordance with its terms. I agree that this Order shall take effect upon its issuance by the Board, either by mailing of a copy of the Consent Order by first class mail to me at the address in this Consent Agreement, or to my attorney by certified mail, OR upon facsimile transmission to me or my attorney, whichever is first.

I ask the Board to adopt this Consent Agreement of my own free will and not under duress, compulsion or restraint. In consideration of the value to me of the Board's adoption of this Consent Agreement, allowing me to resolve this matter without the various risks and burdens of a hearing on the merits, I knowingly waive my right to contest the Consent Order for which I apply, whether administratively or judicially, I agree to be bound by the Consent Order, and ask that the Board adopt this Consent Agreement.

DATED: 08.25.03


ALAN PUTTERMAN, D.O.
RESPONDENT

The undersigned agree to Respondent's attached Consent Agreement and to its proposed penalty, terms and conditions.

DATED: 9/23/03


CAROLYN SHEARER, ESQ.
Attorney for Respondent

DATED: 9/25/03


JEFFREY J. CONKLIN, ESQ.
ASSOCIATE COUNSEL
Bureau of Professional Medical Conduct

DATED: 10/17/03


DENNIS J. GRAZIANO
Director
Office of Professional Medical Conduct

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

IN THE MATTER
OF
ALAN PUTTERMAN, D.O.

STATEMENT
OF
CHARGES

ALAN PUTTERMAN, D.O., Respondent, was authorized to practice medicine in New York State on or about October 23, 1981, by the issuance of license number 147981 by the New York State Education Department.

FACTUAL ALLEGATIONS

- A. Respondent treated Patient A from May 1991 through July 2000. Patient A underwent a laparoscopy, lysis of adhesions and chromotubation on May 9, 1991. Patient A submitted to a laparotomy, salpingolysis, fimbrioplasty, right wedge of ovary, repair of broad ligament defect, appendectomy, and chromotubation on July 17, 1991. On the 30th day of November, 1992, Patient A underwent an exploratory laparotomy, right ovarian cystectomy, bilateral salpingolysis, and excision of endometriosis. On August 4, 1994, Patient A submitted to a laparoscopy, right salpingolysis, and chromotubation. Patient A underwent a laparoscopy, lysis of adhesions, salpingolysis, right ovarian cystectomy, and chromotubation on September 7, 1999. Patient A submitted to an exploratory laparotomy, right fimbrioplasty, salpingolysis, lysis of adhesions, right ovarian cystectomy, myomectomy, left tubal transfixation, and chromotubation on October 4, 1999. On the 8th day of February, 2000, Patient A underwent an exploratory laparotomy, salpingolysis, lysis of adhesions, chromotubation, laparoscopy, dilation and curettage, and hysteroscopy. On May 18, 2000,

Patient A underwent a dilation and curettage and hysteroscopy. On July 31, 2000, Patient A submitted to an exploratory laparotomy, total abdominal hysterectomy, right salpingo oophorectomy, extensive enterolysis, and right ureterolysis. The surgeries were performed at Bellevue Maternity Hospital, Schenectady, New York. Respondent's care and treatment of Patient A did not meet minimum standards of care in that:

1. Respondent performed multiple, repetitive, unnecessarily aggressive and nonindicated surgeries upon Patient A; and
2. Respondent failed to maintain proper medical records for Patient A.

B. Respondent treated Patient B from September 1993 through April 1999. Patient B underwent a hysteroscopy, laparoscopy, ablation of endometriosis, uterosacral denervation, lysis of adhesions, cauterization of hemorrhaged cyst, left ovarian biopsy and uterine suspension on October 1, 1993. On the 16th day of October, 1993, Patient B submitted to a total abdominal hysterectomy, left salpingo oophorectomy, right salpingoectomy, and excision, and cautery of endometriotic implants. Patient B underwent a laparoscopic right salpingo oophorectomy, and extensive lysis of adhesions on August 19, 1997. Subsequently, Patient B submitted to a laparoscopic excision of ovarian remnant, and lysis of adhesions on April 26, 1999. The surgeries were performed at Bellevue Maternity Hospital. Respondent's care and treatment of Patient B did not meet minimum standards of care in that:

1. Respondent performed nonindicated surgeries upon Patient B on December 16, 1993, August 19, 1997, and April 26, 1999; and
2. Respondent failed to maintain proper medical records for Patient B.

C. Respondent treated Patient C from February 1997 through February 2001. Patient C submitted to a laparoscopic left ovarian wedge resection, and chromotubation on April 11, 1997. On the 3rd day of May, 1999, Patient C underwent a left salpingo oophorectomy.

Patient C underwent a laparoscopically assisted supracervical hysterectomy, right salpingo oophorectomy, extensive lysis of adhesions, and left utero-lysis on February 27, 2001. Respondent's care and treatment of Patient C did not meet minimum standards of care in that:

1. Respondent performed non-indicated surgeries upon Patient C on May 3, 1999, and February 27, 2001;
2. Respondent failed to provide Patient C with appropriate and indicated medical therapy; and
3. Respondent failed to maintain proper medical records for Patient C.

D. Respondent treated Patient D from October 1992 through July 2001. Patient D underwent a laparoscopic ovarian drilling on February 2, 1993. On the 7th day of December, 1994, Patient D underwent a bilateral wedge resection. On the 27th day of May, 1998, Patient D submitted to a laparoscopic wedge resection, ovarian drilling, salpingolysis, and chromotubation. Patient D underwent a laparoscopic left salpingo oophorectomy, and extensive lysis of adhesions on May 11, 1999. Subsequently, Patient D submitted to a laparoscopy, ovarian wedge resection, right ovarian cystectomy, dilation and curettage, chromotubation, and appendectomy on April 20, 2001. Respondent's care and treatment of Patient D did not meet minimum standards of care in that:

1. Respondent performed nonindicated surgeries upon Patient D on May 27, 1998, May 11, 1999, and April 20, 2001; and
2. Respondent failed to provide Patient D with appropriate and indicated medical therapy.

SPECIFICATIONS OF CHARGES

FIRST SPECIFICATION

(Negligence on More than One Occasion)

Respondent is charged with professional misconduct as defined by New York Education Law §6530(3) by practicing the profession of medicine with negligence on more than one occasion as alleged in the facts of the following:

1. The facts set forth in Paragraphs A and A1; B and B1; and C and C1, and C and C2; and D and D1, and D and D2.

SECOND SPECIFICATION

(Failing to Maintain Accurate Records)

Respondent is charged with professional misconduct as defined by New York Education Law § 6530(32) by failing to maintain a record for each patient which accurately reflects the evaluation and treatment of the patient, as alleged in the facts of the following:

2. The facts set forth in Paragraphs A and A2; B and B2; and C and C3.

DATED: September 25, 2003
Albany, New York

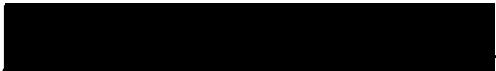

Peter D. Van Buren
Deputy Counsel
Bureau of Professional Medical Conduct

EXHIBIT "B"

Terms of Probation

1. Respondent's conduct shall conform to moral and professional standards of conduct and governing law. Any act of professional misconduct by Respondent as defined by New York State Education Law §6530 or §6531 shall constitute a violation of probation and may subject Respondent to an action pursuant to New York State Public Health Law §230(19).
2. Respondent shall maintain current registration of licensure with the New York State Education Department Division of Professional Licensing Services (except during periods of actual suspension), and shall pay all registration fees.
3. Respondent shall provide the Director, Office of Professional Medical Conduct (OPMC), Hedley Park Place, 433 River Street Suite 303, Troy, New York 12180-2299 with the following information, in writing, and ensure that such information is kept current: a full description of Respondent's employment and practice; all professional and residential addresses and telephone numbers within and outside New York State; and all investigations, charges, convictions or disciplinary actions by any local, state or federal agency, institution or facility, within thirty (30) days of each action.
4. Respondent shall cooperate fully with, and respond in a timely manner to, OPMC requests to provide written periodic verification of Respondent's compliance with the terms of this Consent Order. Upon the Director of OPMC's request, Respondent shall meet in person with the Director's designee.
5. Respondent's failure to pay any monetary penalty by the prescribed date shall subject Respondent to all provisions of law relating to debt collection by New York State, including but 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].
6. The probation period shall toll when Respondent is not engaged in active medical practice in New York State for a period of thirty (30) consecutive days or more. Respondent shall notify the Director of OPMC, in writing, if Respondent is not currently engaged in, or intends to leave, active medical practice in New York State for a consecutive thirty (30) day period. Respondent shall then notify the Director again at least fourteen (14) days before returning to active practice. Upon Respondent's return to active practice in New York State, the probation period will resume and Respondent shall fulfill any unfulfilled probation terms.
7. The Director of OPMC may review Respondent's professional performance. This review may include but shall not be limited to: a review of office records, patient records and/or hospital charts; and interviews with or periodic visits with Respondent and staff at practice locations or OPMC offices.
8. Respondent shall maintain complete and legible medical records that accurately reflect the evaluation and treatment of patients and contain all information required by State rules and regulations concerning controlled substances.

PRACTICE MONITOR

9. Within thirty days of the effective date of the order and for the duration of the probation period, Respondent shall practice medicine only when monitored by a licensed physician, board certified in an appropriate specialty, ("practice monitor") proposed by Respondent and subject to the written approval of the Director of OPMC.
- a. Respondent shall make available to the monitor any and all records or access to the practice requested by the monitor, including on-site observation. The practice monitor shall visit Respondent's medical practice at each and every location, on a random unannounced basis at least monthly and shall examine a selection (no fewer than 20) of records maintained by Respondent, including patient records, prescribing information and office records. The review will determine whether the Respondent's medical practice is conducted in accordance with the generally accepted standards of professional medical care. Any perceived deviation of accepted standards of medical care or refusal to cooperate with the monitor shall be reported within 24 hours to OPMC.
 - b. Respondent shall be solely responsible for all expenses associated with monitoring, including fees, if any, to the monitoring physician.
 - c. Respondent shall cause the practice monitor to report quarterly, in writing, to the Director of OPMC.
 - d. Respondent shall maintain medical malpractice insurance coverage with limits no less than \$2 million per occurrence and \$6 million per policy year, in accordance with Section 230(18)(b) of the Public Health Law. Proof of coverage shall be submitted to the Director of OPMC prior to Respondent's practice after the effective date of this Order.

PRE-SURGERY MONITOR

10. For the duration of the probation period, all of the Respondent's proposed surgical cases shall be submitted to a licensed physician, board certified in an appropriate specialty ("pre-surgery monitor") for approval prior to surgery. Respondent shall perform surgery done on a non-emergency basis only when pre-approved by the pre-surgery monitor, proposed by the Respondent and subject to the written approval of the Director of OPMC, and when said pre-surgery monitor shall have certified that he or she has received and reviewed all office and hospital records pertaining to the proposed surgery, the reports of all diagnostic studies and all films relating to the condition(s) for which surgery is proposed. The OPMC shall be copied on all such approvals for surgery and shall be notified in writing if surgery is not approved.
- a. Respondent shall make available to the pre-surgery monitor any and all records or access to the practice requested by said pre-surgery monitor, including on-site observation and the entire office record of the patient, including all written laboratory or other test results, and a meeting with an evaluation of the patient where necessary. Such pre-surgical approval shall indicate, among other relevant factors, whether the surgery proposed by the Respondent for the patient is medically indicated and whether all appropriate pre-operative testing has been performed. The pre-surgery monitor shall review the indications for surgery at least 48 hours before each such procedure. Any perceived deviation from

- accepted standards of medical care or refusal to cooperate with the pre-surgery monitor shall be reported within 24 hours to OPMC.
- b. Respondent shall not need prior approval to perform episiotomies, circumcisions, endometrial biopsies, cervical biopsies, cervical polypectomies, loop electrosurgical excisions, cervical dilations, dilations and curettages, abortions, excisions of skin tag and cryocauteries.
 - c. To the extent Respondent performs surgery on an emergency basis, said Respondent shall make available to the pre-surgery monitor any and all relevant medical and hospital records, including all written laboratory or other test results, within a reasonable period of time after said emergency surgery. Thereafter, the pre-surgery monitor shall review the indications for the emergency surgery. Any perceived deviation from accepted standards of medical care or refusal to cooperate with the pre-surgery monitor shall be reported within 24 hours to OPMC.
 - d. Respondent shall be solely responsible for all expenses associated with pre-surgery monitoring, including fees, if any, to the pre-surgery monitor.
 - e. Respondent shall ensure that the pre-surgery monitor is familiar with the Order and Terms of Probation, and willing to report to OPMC. Respondent shall further ensure that the pre-surgery monitor is in a position to regularly assess Respondent's medical practice.
 - f. Respondent shall cause the pre-surgery monitor to report quarterly, in writing, to the Director of OPMC.
11. Respondent shall comply with this Order and all its terms, and shall bear all associated compliance costs. Upon receiving evidence of noncompliance with, or violation of, these terms, the Director of OPMC and/or the Board may initiate a violation of probation proceeding, and/or any other such proceeding authorized by law, against Respondent.