



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., Dr. P.H.
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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

March 22, 2004

CERTIFIED MAIL-RETURN RECEIPT REQUESTED

Elizabeth M. Reszel, D.O.
624 River Road, Suite 1
North Tonawanda, NY 14120

Re: License No. 188335

Dear Dr. Reszel:

Enclosed please find Order #BPMC 04-57 of the New York State Board for Professional Medical Conduct. This order and any penalty provided therein goes into effect March 29, 2004.

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: J. Michael Lennon, Esq.
Edward C. Cosgrove
525 Delaware Avenue
Buffalo, NY 14202-1303

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

**IN THE MATTER
OF
ELIZABETH M. RESZEL, D.O.**

**CONSENT
ORDER**

BPMC No. 04-57

Upon the application of Elizabeth M. Reszel, 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: 3/19/04


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
ELIZABETH M. RESZEL, D.O.**

**CONSENT
AGREEMENT
AND
ORDER**

Elizabeth M. Reszel, D.O., representing that all of the following statements are true, deposes and says:

That on or about February 14, 1992, I was licensed to practice as a physician in the State of New York, and issued License No. 188335 by the New York State Education Department.

My current address is 624 River Road, Suite 1, North Tonawanda, New York 14120, 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 six 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 plead guilty to paragraphs A.1, A.2, B.1, B.2, C.1 and C.2 of the first specification, in full satisfaction of the charges against me, and agree to the following penalty:

A three year suspension of my medical license, with the suspension stayed, pending satisfactory compliance with a three year term of probation in accordance with the terms set forth in Exhibit B, which require, among other things, the successful completion of a clinical competency assessment and a personalized education program.

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

That 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. This condition shall take effect thirty (30) days after the Consent Order's effective date and will continue so long as Respondent remains licensed in New York State; and

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.

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

March 5, 2004


ELIZABETH M. RESZEL, D.O.
RESPONDENT

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

DATE: March 5, 2004


J. MICHAEL LENNON, ESQ.
Attorney for Respondent

DATE: March 8, 2004


TIMOTHY J. MAHAR
Associate Counsel
Bureau of Professional Medical Conduct

DATE: March 17 2004


DENNIS J. GRAZIANO
Director
Office of Professional Medical Conduct

IN THE MATTER
OF
ELIZABETH M. RESZEL, M.D.

ELIZABETH M. RESZEL, M.D., the Respondent, was authorized to practice medicine in New York State on or about February 14, 1992, by the issuance of license number 188335 by the New York State Education Department.

FACTUAL ALLEGATIONS

- A. Respondent provided medical care to Patient A (patients are identified in Appendix A, hereto) during an admission to DeGraff Hospital beginning on July 10, 1998 for a cerebrovascular accident, among other conditions. Respondent's medical care of Patient A deviated from accepted standards in the following respects:
1. Respondent, on various occasions, failed to perform an adequate evaluation of Patient A.
 2. Respondent failed to adequately evaluate, assess and/or in indicated, treat Patient A's atrial fibrillation.
 3. Respondent failed to maintain an adequate medical record for Patient A.
- B. Respondent provided medical care to Patient B during an admission to DeGraff Hospital beginning on August 19, 1998 for complications of heart and liver disease, among other conditions. Respondent's medical care of Patient B deviated from accepted standards in the following respects:

1. Respondent, on various occasions, failed to obtain an adequate medical history from Patient B.
 2. Respondent ordered the concurrent use of Lasix and Demadex in the treatment of Patient B.
 3. Respondent failed to maintain an adequate medical record for Patient B.
- C. Respondent provided medical care to Patient C during hospital admissions on July 5, 1998, July 15, 1998 and August 4, 1998 at DeGraff Hospital for seizure disorder and a right hip fracture. Respondent's medical care of Patient C deviated from accepted standards in the following respects:
1. Respondent, on various occasions, failed to obtain an adequate medical history from Patient C.
 2. Respondent failed to adequately evaluate Patient C's hips and/or legs during the July 15, 1998 admission.
 3. Respondent failed to maintain an adequate medical record for Patient C.
- D. Respondent provided medical care to Patient D during an admission to DeGraff Hospital beginning on April 30, 1998 for orthostasis and diarrhea, among other conditions. Respondent's medical care of Patient D deviated from accepted standards in the following respects:
1. Respondent, on various occasions, failed to obtain an adequate medical history from Patient D.
 2. Respondent failed to adequately evaluate Patient D for evidence of bleeding during the admission.
 3. Respondent failed to provide adequate hydration therapy to Patient D.

4. Respondent failed to document the indications for ordering Trental for Patient D.
 5. Respondent failed to maintain an adequate medical record for Patient D.
- E. Respondent provided medical care to Patient E during an admission to DeGraff Hospital beginning on April 28, 1998, for diabetes, among other conditions. Respondent's medical care of Patient E deviated from accepted standards in the following respects:
1. Respondent prescribed an inappropriate dose of glyburide to Patient E.
 2. Respondent failed to maintain an adequate medical record for Patient E.
- F. Respondent provided medical care to Patient F during an admission to DeGraff Hospital beginning on October 16, 1997, for dyspnea and weakness, among other conditions. Respondent's medical care of Patient F deviated from accepted standards in the following respects:
1. Respondent, on various occasions, failed to perform an adequate evaluation of Patient F.
 2. Respondent inappropriately ordered the concurrent use of furosemide and torsenide for Patient F.
 3. Respondent failed to maintain an adequate medical record for Patient F.

- G. Respondent provided medical care to Patient G at the DeGraff Hospital Skilled Nursing Facility for the effects of a stroke. Respondent's medical care of Patient G deviated from accepted standards in the following respects:
1. Respondent failed to adequately evaluate Patient G during the period including January 2000 to June 2002.
 2. Respondent failed to maintain an adequate medical record for Patient G.
- H. Respondent provided medical care to Patient H during an admission at DeGraff Hospital commencing on September 21, 1997 for diabetes and hypertension, among other conditions. Respondent's medical care of Patient H deviated from accepted standards in the following respects:
1. On September 29, 1997, Respondent wrote a progress note in Patient H's hospital record which Respondent dated "9/28/97" with the knowledge that she had post-dated the note. Respondent post-dated the subject progress note at a time when she was aware of complaints of her having failed to see hospitalized patients.
 2. Respondent failed to maintain an adequate and/or accurate medical record for Patient H.
- I. Respondent provided medical care to Patient I during an admission to DeGraff Hospital beginning September 2, 1998 for chronic airway obstruction, among other conditions. Respondent's medical care of Patient I deviated from accepted standards in the following respects:
1. On September 8, 1998, Respondent wrote a progress note in Patient I's hospital record which Respondent dated "9/7/98", with the

knowledge that she had post-dated the note. Respondent post-dated the subject progress note at a time when she was aware of complaints of her having failed to see hospitalized patients.

SPECIFICATION OF CHARGES

FIRST SPECIFICATION

NEGLIGENCE ON MORE THAN ONE OCCASION

Respondent is charged with professional misconduct under N.Y. Educ. Law § 6530(3) by reason of his having practiced medicine with negligence on more than one occasion, in that Petitioner charges:

1. The facts set forth in paragraphs: A and A.1, A and A.2, B and B.1, B and B.2, C and C.1, C and C.2, D and D.1, D and D.2, D and D.3, D and D.4, E and E.1, F and F.1, F and F.2, and/or G and G.1.

SECOND SPECIFICATION

INCOMPETENCE ON MORE THAN ONE OCCASION

Respondent is charged with professional misconduct under N.Y. Educ. Law § 6530(5) by reason of his having practiced medicine with incompetence on more than one occasion, in that Petitioner charges:

2. The facts set forth in paragraphs: A and A.1, A and A.2, B and B.1, B and B.2, C and C.1, C and C.2, D and D.1, D and D.2, D and D.3, D and D.4, E and E.1, F and F.1, F and F.2, and/or G and G.1.

THIRD THROUGH FOURTH SPECIFICATION
FRAUD IN THE PRACTICE OF MEDICINE

Respondent is charged with professional misconduct under N.Y. Educ. Law §6530(2) by reason of his having practiced the profession of medicine fraudulently in that Petitioner charges the following:

3. The facts set forth in paragraphs H and H.1.
4. The facts set forth in paragraphs I and I.1.

FIFTH AND SIXTH SPECIFICATIONS
FILING A FALSE REPORT

Respondent is charged with professional misconduct under N.Y. Educ. Law §6530(21) by reason of his having made or filed a false report, in that Petitioner charges the following:

5. The facts set forth in paragraphs H and H.1.
6. The facts set forth in paragraphs I and I.1.

DATED: *March 8*
~~February~~, 2004
Albany, New York

Peter D. Van Buren
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.
9. Within the 30 days of the effective date of this Order, Respondent shall obtain a clinical competency assessment (CCA) performed by a program for such assessment as directed by the Director of OPMC. Respondent shall cause a written report of such assessment to be provided directly to the Director of OPMC within thirty (30) days of the effective date of the evaluation.
 - a. Respondent shall be responsible for all expenses related to the clinical competency assessment and shall provide to the Director of OPMC proof of full payment of all costs that may be charged. This term shall not be satisfied in the absence of actual receipt, by the Director, of such documentation, and any failure to satisfy shall provide a basis for a Violation of Probation proceeding.
10. Within 60 days of the completion of the CCA, Respondent shall be enrolled in a course of personalized continuing medical education [PCME], which includes an assigned preceptor, preferably a physician board certified in the same specialty, to be approved, in writing, by the Director of OPMC. The PCME shall be directed to remediating any deficiencies identified in the Clinical Competency Assessment. The Respondent shall remain enrolled and shall fully participate in the program for a period of not less than three months nor more than twelve months, at the discretion of the Director of OPMC.
11. At the direction of the Board and within 60 days following the completion of the clinical competency assessment (CCA) the Respondent shall identify a Preceptor, preferably a physician who is board certified in the same specialty, to be approved in writing, by the Director of OPMC.

Respondent shall cause the preceptor to

- a. Develop and submit to the Director of OPMC for written approval a remediation plan, which addresses the deficiencies/retraining recommendations identified in the CCA. Additionally, this proposal shall establish a time frame for completion of the remediation program of not less than three months and no longer than twelve months.
- b. Submit progress reports at periods identified by OPMC certifying whether the Respondent is fully participating in the personalized continuing medical education program and is making satisfactory progress towards the completion of the approved remediation plan.
- c. Report immediately to the Director of OPMC if Respondent withdraws from the program and report promptly to OPMC any significant pattern of non-compliance by Respondent.
- d. At the conclusion of the program, submit to the Director of OPMC a detailed assessment of the progress made by Respondent toward remediation of all identified deficiencies.

Respondent shall be solely responsible for all expenses with these terms, including fees, if any, for the clinical competency assessment, the personalized continuing medical education program, or to the monitoring physician.

12. Respondent shall practice medicine in either private practice, hospitals or other institutional settings outside of the PCME only with the approval of the Director of OPMC based upon the results of the CCA and then, 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. Following the Respondent's completion of the PCME, Respondent shall practice medicine as described above during the balance of the probation period only when monitored by a practice monitor, as described above.
 - a. Respondent shall make available to the practice monitor any and all records or access to the practice requested by the practice 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 less 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 cause the practice monitor to report quarterly, in writing, to the Director of OPMC.
 - c. 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.
 - d. Respondent shall cause the practice monitor to report to OPMC on a quarterly basis regarding Respondent's compliance with the approved monitoring plan. These narrative reports shall address all aspects of Respondent's clinical practice including, but not limited to, the evaluation and treatment of patients, the monitor's assessment of patient records selected for review, detailed case description of any case found to not meet the established standards of care and Respondent's remediation of previously identified deficiency areas. The Respondent shall cause the practice monitor to monitor Respondent's medical practice in accordance with a monitoring plan to be approved by the Director of OPMC. Such monitoring plan shall include, but not be limited to, provisions for selected medical record reviews, occasional observation of the Respondent in practice settings, required participation in hospital departmental meetings and enrollment in ongoing education courses, if any.
 - e. Respondent shall be solely responsible for all expenses associated with these terms, including fees, if any, for the clinical competency assessment, the personalized continuing medical education program or to the monitoring physician.

13. After Respondent completes the PCME, Respondent shall annually enroll in and complete a continuing education program in the area of family medicine for a minimum of 24 credit hours. This continuing education program is subject to the Director of OPMC's prior written approval and shall be completed within the probation period, unless the Order specifies otherwise.
14. 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.