

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

IN THE MATTER
OF
ELLIOTT GELLMAN, M.D.

MODIFICATION
ORDER
BPMC No. 02-315

Upon the proposed Application for a Modification Order of **ELLIOTT GELLMAN, M.D.**,
(Respondent), that is made a part of this Modification Order, it is agreed and

ORDERED, that the attached Application and its terms are adopted and it is further

ORDERED, that this Modification Order shall be effective upon issuance by the Board,
either by mailing, by first class mail, a copy of the Modification Order to Respondent at the
address in the attached Application or by certified mail to Respondent's attorney or upon
transmission via facsimile to Respondent or Respondent's attorney, whichever is earliest.

SO ORDERED.

DATED: 7-10-2009

Redacted Signature

KENDRICK A. SEARS, M.D.
Chair
State Board for Professional
Medical Conduct

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

IN THE MATTER
OF
ELLIOTT GELLMAN, M.D.

APPLICATION FOR
MODIFICATION ORDER

ELLIOTT GELLMAN, M.D., (Respondent) being duly sworn deposes and says:

That on or about August 19, 1974, I was licensed to practice as a physician in the State of New York, having been issued license number 121153 by the New York State Education Department.

My current address is Redacted Address

I am currently subject to Consent Agreement and Order BPMC NO. 02-315, (hereinafter "Original Order"), annexed hereto, made a part, hereof, and marked as Exhibit 1, that was issued on October 3, 2002.

I apply, hereby, to the State Board for Professional Medical Conduct for a Modification Order (hereinafter "Modification Order"), modifying the Original Order, as follows: to delete the paragraph in the Original Order that states:

"That, except during periods of actual suspension, Respondent shall maintain active registration of Respondent's license with the New York State Education Department Division of Professional Licensing Services, and pay all registration fees. This condition shall be in effect beginning thirty days after the effective date of the Consent Order and will continue while the licensee possesses his/her license; and"

substituting:

" Respondent shall never practice medicine in New York state as a physician, activate his registration to practice medicine as a physician in New York state or seek to reapply for a license to practice medicine as a physician in New York state."

The Modification Order to be issued will not constitute a new disciplinary action against me, but will substitute the proposed language for the above described language in the Original Order.

I make this Application of my own free will and accord and not under duress, compulsion or restraint, and seek the anticipated benefit of the requested Modification. In consideration of the value to me of the acceptance of the Board of this Application, I knowingly waive the right to contest the Original Order or the Modification Order for which I apply, both administratively and judicially, and ask that the Board grant this Application.

I understand and agree that the attorney for the Bureau of Professional Medical Conduct, the Director of the Office of Professional Medical Conduct, and the Chair of the State Board for Professional Medical Conduct each retain complete discretion to either enter into the proposed Agreement and Modification Order, based upon my application, or to decline to do so. I further understand and agree that no prior or separate written or oral communication can limit that discretion.

AFFIRMED:

Redacted Signature

DATED: 6/30/09

ELLIOTT GELLMAN, M.D.
Respondent

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

DATE: 06 July 2009

ROBERT BOGAN
Associate Counsel
Bureau of Professional Medical Conduct

DATE: 7/10/09

KEITH W. SERVIS
Director
Office of Professional Medical Conduct

EXHIBIT 1



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.
Commissioner
NYS Department of Health

Dennis P. Whalen
Executive Deputy Commissioner
NYS Department of Health

Dennis J. Graziano, Director
Office of Professional Medical Conduct

William P. Dillon, M.D.
Chair

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

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

October 7, 2002

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Elliott Gellman, M.D.

Redacted Address

RE: License No. 121153

Dear Dr. Gellman:

Enclosed please find Order #BPMC 02-315 of the New York State Board for Professional Medical Conduct. This Order and any penalty provided therein goes into effect October 7, 2002.

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

If the penalty imposed by the Order is a fine, please write the check payable to the New York State Department of Health. Noting the BPMC Order number on your remittance will assist in proper crediting. Payments should be directed to the following address:

Bureau of Accounts Management
New York State Department of Health
Corning Tower, Room 1258
Empire State Plaza
Albany, New York 12237

Sincerely,

Redacted Signature

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

Enclosure

cc: Kevin M. Flynn, Esq.
Kostelanetz and Fink, LLP
530 Fifth Avenue
New York, NY 10036

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

IN THE MATTER
OF
ELLIOT GELLMAN, M.D.
CO-02-05-2311-A

CONSENT
AGREEMENT
AND ORDER
BPMC NO. 02-315

ELLIOT GELLMAN, M.D., (Respondent) deposes and says:

That on or about August 19, 1974, I was licensed to practice as a physician in the State of New York, having been issued License No. 121153 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 within thirty (30) days thereof.

I understand that the New York State Board of Professional Medical Conduct has charged me with one (1) specification of professional misconduct.

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

I do not contest the one (1) specification, in full satisfaction of the charges against me. I, hereby, agree to the following penalties:

Three (3) year suspension of my New York State license to practice medicine, said suspension to be stayed, with three (3) years probation as described in the attached "Exhibit B"; and a \$10,000.00 fine.

The fine should be paid within thirty (30) days of the effective date of this Order to the NYS Department of Health, Bureau of Accounts Management, Revenue Unit, Empire State Plaza, Corning Tower, Room 1258, Albany, NY 12237-0016.

I further agree that the Consent Order for which I, hereby, apply shall impose the following conditions:

That, except during periods of actual suspension, Respondent shall maintain active registration of Respondent's license with the New York State Education Department Division of Professional Licensing Services, and pay all registration fees. This condition shall be in effect beginning thirty days after the effective date of the Consent Order and will continue while the licensee possess his/her license; and

That Respondent shall fully cooperate in every respect with the Office of Professional Medical Conduct (OPMC) in its administration and enforcement of this Order and in its investigation of all matters regarding Respondent. Respondent shall respond in a timely manner to each and every request by OPMC to provide written periodic verification of Respondent's compliance with the terms of this Order. Respondent shall meet with a person designated by the Director of OPMC as directed. Respondent shall respond promptly and provide any and all documents and information within Respondent's control upon the direction of OPMC.

This condition shall be in effect beginning upon the effective date of the Consent Order and will continue while the licensee possesses his/her license.

I, hereby, stipulate that any failure by me to comply with such conditions shall constitute misconduct as defined by New York State Education Law §6530(29).

I agree that in the event that I am charged with professional misconduct in the future, the 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:

Redacted Signature

DATED: 9/10/02

ELLIOT GELLMAN, M.D.
Respondent

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

DATE: 9/11/02

Redacted Signature

KEVIN M. FLYNN
Attorney for Respondent

DATE: 16 September 2002

Redacted Signature

ROBERT BOGAN
Associate Counsel
Bureau of Professional Medical Conduct

DATE: 30 September 2002

Redacted Signature

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
ELLIOT GELLMAN, M.D.
CO-02-05-2311-A

STATEMENT
OF
CHARGES

ELLIOT GELLMAN, M.D., the Respondent, was authorized to practice medicine in New York state on August 19, 1974, by the issuance of license number 121153 by the New York State Education Department.

FACTUAL ALLEGATIONS

A. On or about June 21, 2002, in the Supreme Court of the State of New York, County of New York: Part 72, Respondent was found guilty, based on a plea of guilty, of Repeated Failure to File; Personal Income & Earnings Taxes, in violation of New York State Tax Law §1802, and on or about August 2, 2001, was sentenced to a three (3) year Conditional Discharge.

SPECIFICATION

Respondent violated New York Education Law §6530(9)(a)(i) by being convicted of committing an act constituting a crime under New York State law, in that Petitioner charges:

1. The facts in Paragraph A.

DATED: *August 2*, 2002
Albany, New York

Redacted Signature

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

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

IN THE MATTER
OF
ELLIOT GELLMAN, M.D.

CONSENT
ORDER

Upon the proposed agreement of **ELLIOT GELLMAN, M.D.**, (Respondent) for Consent Order, which application is made a part hereof, it is agreed 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: _____

10/3/02

Redacted Signature

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

"Exhibit B"

Terms of Probation

1. Respondent shall conduct himself/herself in all ways in a manner befitting his/her professional status, and shall conform fully to the moral and professional standards of conduct and obligations imposed by law and by his/her profession.
2. Respondent shall submit written notification to the New York State Department of Health addressed to the Director, Office of Professional Medical Conduct (OPMC), Hedley Park Place, 433 River Street Suite 303, 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/her 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 enroll in and complete a continuing education program in the area of professional ethics subject to the prior written approval of the Director of OPMC and to be completed within the first six (6) months of probation or as otherwise specified in the Order.

9. Respondent shall comply with all terms, conditions, restrictions, limitations and penalties to which he or she 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.