



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*

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*Executive Deputy Commissioner
NYS Department of Health*

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Office of Professional Medical Conduct

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Chair

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

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

September 18, 2002

CERTIFIED MAIL-RETURN RECEIPT REQUESTED

Ned Elton Weiner, M.D.
2423 Bromley Heights
University Heights, Ohio 44118

RE: License No. Resident

Dear Dr. Weiner:

Enclosed please find Order #BPMC 02-290 of the New York State Board for Professional Medical Conduct. This Order and any penalty provided therein goes into effect September 18, 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 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: Eric J. Plinke, Esq.
Porter Wright Morris and Arthur, LLP
41 South High Street
Columbus, Ohio 43215-6194

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

IN THE MATTER
OF
NED ELTON WEINER, M.D.

CONSENT
ORDER

BPMC No. 02-290

Upon the application of **NED ELTON WEINER, M.D.**, (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.

DATE: 9/16/02



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

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

**IN THE MATTER
OF
NED ELTON WEINER , M.D.**

**CONSENT
AGREEMENT
AND
ORDER**

NED ELTON WEINER, M.D., representing that all of the following statements are true, deposes and says:

That on or about July 1, 2001, I was authorized to practice as a physician in the State of New York as an unlicensed resident, pursuant to New York Education Law section 6526.

My current address is 2423 Bromley Heights, University Heights, Ohio 448118, 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 four 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 admit guilt to all of the specifications, in full satisfaction of the charges against me, and agree to the following penalty: a permanent limitation prohibiting me from applying for a license to practice medicine in New York State, and a permanent limitation prohibiting me from practicing medicine in New York State under any exemption from licensure, including but not limited to, participation in a residency training program.

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, and that service of this order upon me shall be effective 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.


DATE: 8-25-02




NED ELTON WEINER, M.D.
RESPONDENT

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

DATE: 9/5/02


ERIC J. PLINKE
Attorney for Respondent

DATE: 9/10/02


KEVIN P. DONOVAN
Associate Counsel
Bureau of Professional Medical Conduct

DATE: 9/14/02


DENNIS J. GRAZIANO
Director
Office of Professional Medical Conduct

IN THE MATTER
OF
NED ELTON WEINER, M.D.

STATEMENT
OF
CHARGES

NED ELTON WEINER, M.D., the Respondent, was authorized to practice medicine in New York State beginning on or about July 2001, as an unlicensed resident pursuant to New York Education Law § 6526.

FACTUAL ALLEGATIONS

- A. In a consent order of the State Medical Board of Ohio effective July 14, 2000, Respondent admitted: that beginning around December 1998 he began diverting Percocet from family members for his own daily use; that on or about December 21, 1999, he stole two syringes of Fentanyl; and that he had been stealing narcotics waste from a hospital since at least June of 1999.
- B. The conduct which Respondent admitted and/or was disciplined for in Ohio would, if committed in New York State, constitute professional misconduct under the laws of New York State, namely being dependent on or an habitual user of narcotics, fraud in the practice of medicine, negligence, and/or gross negligence with in the meaning of New York Education Law Sections 6530 (2), (3), (4) and (8).
- C. On or about November 21, 2001, Respondent stole vials of Fentanyl and/or Propofol from Strong Memorial Hospital, Rochester, New York, and self-administered some of the drug to himself.

SPECIFICATIONS OF MISCONDUCT

FIRST SPECIFICATION

GUILTY OF MISCONDUCT IN ANOTHER STATE

Respondent is charged with professional misconduct within the meaning of New York Education Law § 6530 (9)(b) in that he was found guilty of improper professional practice or professional misconduct by a duly authorized professional disciplinary agency of another state, where the conduct on which the finding was based would, if committed in New York State, constitute professional misconduct under the laws of New York State, in that Petitioner charges:

1. The facts of paragraphs A and B.

SECOND SPECIFICATION

DISCIPLINARY ACTION IN ANOTHER STATE

Respondent is charged with professional misconduct within the meaning of New York Education Law § 6530 (9)(d) in that he had disciplinary action taken against his license by a duly authorized professional disciplinary agency of another state, where the the conduct resulting in the disciplinary action would, if committed in New York State, constitute professional misconduct under the laws of New York State, in that Petitioner charges:

2. The facts of paragraphs A and B.

THIRD SPECIFICATION

FRAUD

Respondent is charged with practicing the profession fraudulently as defined in New York Education Law § 6530 (2) as set forth in the following:

3. The facts of paragraphs C.

FOURTH SPECIFICATION

GROSS NEGLIGENCE

Respondent is charged with committing professional misconduct as defined in New York Education Law § 6530 (4) by practicing the profession of medicine with gross negligence on a particular occasion as set forth in:

4. The facts of paragraph C.

DATED:

Sept. 10
~~June~~, 2002
Albany, New York



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