

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

**IN THE MATTER
OF
MICHAEL GERARD WAYNE , D.O.**

**NONDISCIPLINARY
ORDER OF
CONDITIONS
PURSUANT TO
PUB. HEALTH LAW
SEC. 230**

Upon the application of MICHAEL GERARD WAYNE, D.O. (Licensee) in the attached Stipulation and Application for a Monitoring Order Pursuant to §230 of The Public Health Law, which is made a part of this Monitoring Order, it is

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

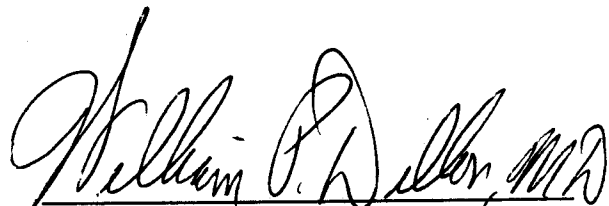
ORDERED, that this Monitoring Order shall be effective upon issuance by the Board, either :

- by mailing of a copy of this Monitoring Order, either by first class mail to Licensee at the address in the attached application or by certified mail to Licensee's attorney, OR
- upon facsimile transmission to Licensee or Licensee's attorney,

Whichever is earliest.

SO ORDERED.

DATED: 1/22/03



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
MICHAEL GERARD WAYNE, D.O.

STIPULATION AND
APPLICATION FOR
NONDISCIPLINARY
ORDER OF
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PURSUANT TO
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SEC. 230

MICHAEL GERARD WAYNE, D.O., representing that all of the following statements are true, deposes and says:

That on or about May 14, 1996, I was licensed to practice as a physician in the State of New York, and issued License No. 203000 by the New York State Education Department.

My current residence address is: 306 E. 96TH Street, Apt. 5H, New York, NY 10128, and my current practice address is: Mt. Sinai Hospital, New York, NY.

The following is a complete list of the hospitals and facilities with which I am affiliated:

- Mt. Sinai Hospital.

I will notify the Director of the Office of Professional Medical Conduct ("the Director") of any change in my residence, employment or medical practice addresses or hospital affiliations.

I understand that the New York State Office of Professional Medical Conduct (OPMC) is investigating the matters identified in attached Appendix "I."

I hereby request that the State Board for Professional Medical Conduct ("the Board") and the Director, in reliance upon its own investigation and my representations, through my attorneys, that I have practiced medicine otherwise without incident for at least one year before this Application, conclude the investigation of the matters set forth in Appendix "I" provided I successfully, and without incident, complete a five year period of monitoring of my medical practice, as set forth in attached Exhibit "A", and only after I have complied fully with the terms and conditions set forth in this Application and its attached Exhibits.

In consideration of the Board and the Director's granting this Application, I consent to the issuance of an Order, by the Chair of the Board, that will have the full force and effect of a Monitoring Order issued pursuant to N.Y. Pub. Health Law Sec. 230, except that either I or the Department shall be permitted to publically disclose the existence and or text of this Order and of Exhibit "A." I further understand and agree that this Nondisciplinary Order or its existence may be reported by the Director to the Federal National Practitioner Data Bank, the Federation of State Medical Boards, or any facility at which I maintain privileges, but that any such report will indicate that the Order is nondisciplinary in nature and that no professional misconduct charges have been brought or sustained.

This Order shall remain in effect for a period of five years and shall set monitoring terms upon my practice as set forth in Exhibit "A". Violation(s) of those terms, if proven and found at a hearing pursuant to N.Y. Pub. Health Law Sec.

230(10), shall constitute professional misconduct as defined in N.Y. Educ. Law Sec. 6530(15) and/or (29).

I understand that nothing in this Application, or in the terms and conditions set forth in Exhibit "A", shall constitute an admission by me, or a finding by the Board, of any professional misconduct as to the matters referred to in Appendix "I." I deny any acts of misconduct and reserve my rights to assert any and all defenses on my behalf in any later or other proceeding.

I understand and agree that I shall bear the cost of compliance with this Application and with all of the terms and conditions set forth in Exhibit "A." I understand and agree that my failure to comply with, successfully complete, and satisfy any material conditions set forth in this Application and in Exhibit "A", and/or any unsatisfactory report by the designated monitor under the terms of Exhibit "A", shall permit the Director, in his discretion, to vacate this agreement and pursue further investigation and/or prosecution of misconduct charges against me with respect to the matters set forth in Appendix "I" to the full extent authorized by the Public Health Law and Education Law.

I understand that an Order issued upon this Application does not bar prosecution for professional misconduct based upon allegations of violations of Educ. Law Sec. 6530 unrelated to the matters identified in Appendix "I" , whether those alleged violations occurred before or after the date of this Application.


I ask the Board to grant this Application.

I understand that if the Board does not grant this Application, none of its terms shall bind me or constitute an admission of any act of alleged misconduct; this Application 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 Department's initiation or continuance of any disciplinary proceeding and the Board's final determination pursuant to the Public Health Law.

I agree that if the Board grants this Application, the Chair of the Board shall issue a Monitoring Order in accordance with the terms.

I ask the Board to grant this Application of my own free will and not under duress, compulsion or restraint. In consideration of the value to me of the Board's granting this Application, 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 Monitoring Order for which I apply, whether administratively or judicially, I agree to be bound by the Monitoring Order, and ask that the Board grant this Application.

DATED: 1/3/03


MICHAEL GERARD WAYNE, M.D. (BW)
Licensee 17.6.

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

IN THE MATTER

OF

MICHAEL GERARD WAYNE, ^{Dr} M.D.

STIPULATION AND
APPLICATION FOR
NONDISCIPLINARY
ORDER OF
CONDITIONS
PURSUANT TO
PUB. HEALTH LAW
SEC. 230

The undersigned agree to the attached Application of the Licensee and to the issuance of the proposed Monitoring Order Pursuant to Sec. 230 of the Public Health Law.

DATE:

1/7/03



BARBARA RYAN, ESQ.
Attorney for Licensee

DATE:

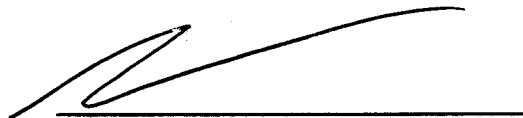
1/8/03



DIANNE ABELOFF
Associate Counsel
Bureau of Professional Medical Conduct

DATE:

1/17/03



DENNIS J. GRAZIANO
Director
Office of Professional Medical Conduct

EXHIBIT "A"

MONITORING TERMS

1. Licensee's conduct shall conform to moral and professional standards of conduct and governing law.
2. Licensee shall provide the Director, Office of Professional Medical Conduct (OPMC), Hedley Park Place, 433 River Street Suite 303, Troy, NY 12180-2299, with the following information, in writing, and ensure that such information is kept current: a full description of Licensee'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.
3. Licensee shall cooperate fully with the Office of Professional Medical Conduct (OPMC) in its administration and enforcement of this Order and in its investigation of matters concerning Licensee. Licensee shall respond in a timely manner to all OPMC requests for written periodic verification of Licensee's compliance with this Order. Licensee shall meet with a person designated by the Director of OPMC, as directed. Licensee shall respond promptly and provide all documents and information within Licensee's control, as directed. This condition shall take effect upon the Board's issuance of the Monitoring Order and will continue so long as Licensee remains licensed in New York State.
4. Licensee'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 Licensee and his staff at practice locations or OPMC offices.

5. Licensee shall maintain legible, complete office and hospital medical records that accurately reflect the evaluation and treatment of Licensee's patients. Licensee's office record for each patient admitted to a hospital shall include copies of the following entries in the patient's hospital record: the face sheet, admission note, discharge summary, and operative report.
6. The monitoring period shall be tolled during periods in which Licensee is not engaged in the active practice of medicine in New York State. Licensee shall notify the Director of OPMC, in writing, if Licensee 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. Licensee shall then notify the Director again prior to any change in that status. The monitoring period shall resume and any monitoring terms that were not fulfilled shall be fulfilled upon Licensee's return to practice in New York State.
7. Licensee shall practice medicine only when supervised in his/her medical practice. Such practice shall take place in a facility licensed pursuant to Article 28 of the Public Health Law or other similar setting subject to the approval of the Director of OPMC. The practice supervisor shall be on-site at all locations, unless determined otherwise by the Director of OPMC. Licensee shall not practice medicine until a practice supervisor has been approved.
8. Licensee shall ensure that the practice supervisor is in a position to regularly observe and assess Licensee's medical practice. Licensee shall ensure that the practice supervisor is familiar with the Order and terms of probation, and willing to report to OPMC.

9. Licensee shall authorize the practice supervisor to have access to his/her patient records and to submit quarterly written reports, to the Director of OPMC, regarding Licensee's practice. The Supervisor's review and narrative reports shall address all aspects of Licensee's clinical practice and conduct including, but not limited to, the evaluation and treatment of patients, general demeanor, time and attendance, the supervisor's assessment of patient records selected for review and other such on-duty conduct as the supervisor deems appropriate to report.
10. During the first two years of the five year monitoring period Licensee shall meet the monitoring requirements through participation in a fellowship or equivalent program, proposed by Licensee and subject to the approval of the Director. All terms of this order shall remain in effect during said fellowship.
11. The Licensee shall comply with any other monitoring and/or reporting conditions, and shall provide or make available to the Director any and all documents and information, as may be deemed appropriate by the Director in the Director's duty and discretion exercised reasonably and to the full extent as set forth in §230 of the Public Health Law and §6530 of the N.Y. Education Law.
12. Licensee shall be solely responsible for all expenses associated with monitoring.
13. Licensee shall cause the practice supervisor to submit quarterly reports to OPMC regarding the quality of Licensee's medical practice, including the evaluation and treatment of patients, physical and mental condition, time and attendance or any unexplained absences from work, prescribing practices, and compliance or failure to comply with any condition herein.

14. Licensee 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 prior to Licensee's practice after the effective date of this Order.

15. Should evidence of an additional instance of professional misconduct regarding the Licensee's medical practice, other than the matters set forth in Appendix "I", come to the attention of OPMC, and the Director determines that a hearing is warranted as provided under N.Y. Pub. Health Law Section 230, the Director may, at such time, also direct counsel to prepare charges to include allegations as to the matter set forth in Appendix "I".