



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

PUBLIC

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

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

June 28, 2004

CERTIFIED MAIL-RETURN RECEIPT REQUESTED

Wayne Joseph Farnsworth, M.D.
P.O. Box 27
Jamesville, NY 13078-0027

Re: License No. 193034

Dear Dr. Farnsworth:

Enclosed please find Order #BPMC 04-144 of the New York State Board for Professional Medical Conduct. This order and any penalty provided therein goes into effect July 5, 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: Wilfred Friedman, Esq.
Friedman & Mahdavian, P.C.
36 West 44th Street
New York, NY 10036

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

IN THE MATTER
OF
WAYNE JOSEPH FARNSWORTH, M.D.

CONSENT
ORDER

BPMC No. 04-144

Upon the application of WAYNE JOSEPH FARNSWORTH, M.D. 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: 6/25/04


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
WAYNE JOSEPH FARNSWORTH, M.D.

CONSENT
AGREEMENT
AND
ORDER

WAYNE JOSEPH FARNSWORTH, M.D., representing that all of the following statements are true, deposes and says:

That on or about ^{July 22} ~~October 11~~, 1993, I was licensed to practice as a physician in the State of New York, and issued License No. 193034 by the New York State Education Department.

My current address is ^{PO Box 27} ~~_____~~, Jamesville, New York, 13078, ¹³⁰⁷⁸ 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 One specification 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 to the First, in full satisfaction of the charges against me, and agree to the following penalty:

1. 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 25 months, with first 30 days to be served as a period of actual suspension and with the last 24 months of said suspension to be stayed.

Pursuant to §230-a(9) of the Public Health Law, I shall be placed on probation for a period of 24 months, subject to the terms set forth in attached Exhibit "B."

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.

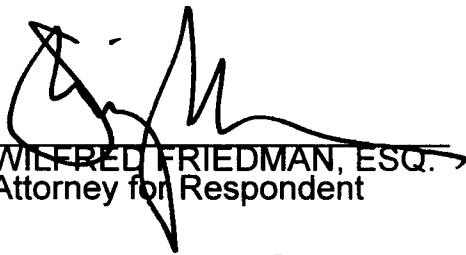
I ask the Board to adopt this Consent Agreement of my own free will and not under duress, compulsion or restraint. In consideration of the value to me of the Board's adoption of this Consent Agreement, allowing me to resolve this matter without the various risks and burdens of a hearing on the merits, 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 5/24/04

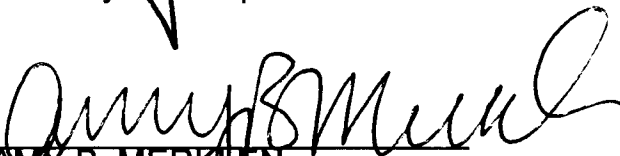

WAYNE JOSEPH FARNSWORTH, M.D.
RESPONDENT

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

DATE: 5/24/04


WILFRED FRIEDMAN, ESQ.
Attorney for Respondent

DATE: 6/14/04


AMY B. MERKLE
ASSISTANT COUNSEL
Bureau of Professional Medical Conduct

DATE: 6/23/04


DENNIS J. GRAZIANO
Director
Office of Professional Medical Conduct

Exhibit A

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

IN THE MATTER
OF
WAYNE JOSEPH FARNSWORTH, M.D.

STATEMENT
OF
CHARGES

WAYNE JOSEPH FARNSWORTH, M.D., the Respondent, was authorized to practice medicine in New York State on or about ^{July 22} ~~October 11~~, 1993, by the issuance of license number 193034 by the New York State Education Department.

FACTUAL ALLEGATIONS

- A. Dr. Farnsworth (hereinafter "Respondent") provided care and treatment for Patient A on July 19, 2001 in the Emergency Department at Community General Hospital, Syracuse, New York. Respondent's care and treatment of Patient A failed to meet accepted standards of medical care, in that:
1. Patient A went to the Emergency Department of Community General Hospital when she was experiencing a migraine headache.
 2. While at the ED on July 19, 2001, Respondent examined Patient A.
 3. During the course of Respondent's physical examination of Patient A, Respondent inappropriately touched Patient A's breast.

FIRST SPECIFICATION

WILLFUL HARASSMENT OF A PATIENT

Respondent is charged with committing professional misconduct as defined in N.Y. Educ. Law §6530(31) by willfully harassing, abusing or intimidating a patient either physically or verbally while practicing the profession of medicine as alleged in the facts of the following:

1. Paragraphs A, A1, A2 and A3.

DATED:

June 1
~~January~~, 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. Respondent shall attend a seminar and/or conference on maintaining proper physician/patient boundaries. The seminar/conference is subject to the Director of OPMC's prior written approval and shall be attended and completed by Respondent within one year of the date of this Order.
10. Respondent shall be subject to a behavior monitor in his medical practice for a period of two (2) years. The behavior monitor shall be proposed by Respondent and subject to the written approval of the Director of OPMC. The behavior monitor shall not be a family member or personal friend, or be in a professional relationship which could pose a conflict with supervision responsibilities. The behavior monitor should be a licensed or certified health care professional with experience dealing with professional behavior issues. The Behavior Monitor Program shall include, but not be limited to, completion of the Staff and Patient Feedback Survey, attached as Exhibit B.1, by all of Respondent's patients and co-workers. The behavior monitor will collect the forms from a designated staff member during site visits to Respondent's place of employment and will review the forms and then, submit quarterly written reports to OPMC. These narrative reports shall address the information compiled on Respondent's on-duty conduct and other matters regarding Respondent's practice of medicine as the behavior monitor deems appropriate to report and as may be requested by OPMC. OPMC and the behavior monitor shall have full access to the information collected in the Behavior Monitoring Program and access to staff to the extent necessary for monitoring.
11. Respondent shall ensure that the behavior monitor is familiar with the terms and conditions of the Order and willing to report to OPMC. Respondent shall ensure that the behavior monitor is in a position to regularly observe and assess Respondent's behavior in his medical practice and to have access to patients and staff working with Respondent. The behavior monitor shall report within 24 hours any suspected inappropriate behavior and/or patient or staff complaints regarding behavior, or possible misconduct to OPMC.
12. Respondent shall, in the course of practicing medicine in New York State, examine and/or treat any female patient only in the presence of a chaperone. The chaperone shall be a female licensed or registered health care professional or other health care worker, shall not be a family member, personal friend, or be in a professional relationship with Respondent which could pose a conflict with the chaperone's responsibilities. The chaperone shall be proposed by Respondent and subject to the written the approval of the Director of OPMC.
13. Prior to the approval of any individual as chaperone, Respondent shall cause the proposed chaperone to execute and submit to the Director of OPMC an acknowledgment of her agreement to undertake all of the responsibilities of the role of chaperone. Said acknowledgment shall be made upon a form provided by and acceptable to the Director. Respondent shall provide the chaperone with a copy of the Order and all of its attachments and shall, without fail, cause the approved chaperone to:

- a. Report quarterly to OPMC regarding her chaperoning of Respondent's practice.
 - b. Report within 24 hours any failure of Respondent to comply with the Order, including, but not limited to, any failure by Respondent to have the chaperone present when required, any sexually suggestive or otherwise inappropriate comments or behavior by Respondent to any patient, staff or any other individual.
 - c. Confirm the chaperone's presence at each and every examination and treatment of a female patient by Respondent, by placing her name, title and date for each and every visit in a separate log, kept in her own possession, listing the patient name and date of visit for each and every patient visit chaperoned.
 - d. Provide copies of the log described in paragraph c, above, to OPMC at least quarterly and also immediately upon the Director's request.
14. Respondent shall continue in counseling or other therapy with a therapist as long as the therapist determines it is necessary, or for the period of time dictated in the Order. Said counseling is to include, but not limited to the following:
- a. Respondent shall undergo cognitive behavioral therapy to teach him how to interact with patients.
 - b. Respondent shall practice only when monitored by a therapy monitor, a qualified health care professional proposed by Respondent and approved, in writing, by the Director of OPMC. Monitors shall not be family members or personal friends, or be in professional relationships which would pose a conflict with monitoring responsibilities.
 - c. Respondent shall ensure that the monitor is familiar with the nature of Respondent's consent and with the terms of this Order. Respondent shall cause the monitor to report any deviation from compliance with the terms of this Order to OPMC. Respondent shall cause the monitor to submit required reports on a timely basis.
 - d. Respondent shall obtain a copy of Principles of Practice and post it wherever he sees patients.
 - e. The Staff and Patient Survey, Exhibit B, shall be completed and forwarded to Respondent's current therapist.
 - f. Respondent shall cause the therapist to submit a proposed treatment plan and quarterly reports to OPMC certifying whether Respondent is in compliance with the treatment plan. Respondent shall cause the therapist to report to OPMC within 24 hours if Respondent leaves treatment against medical advice, or displays any symptoms of a suspected or actual relapse.
 - g. Respondent shall comply with any request from OPMC to obtain an independent psychiatric/chemical dependency evaluation by a health care professional proposed by the Respondent and approved, in writing, by the Director of OPMC.

15. 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.

THERAPY MONITOR ACKNOWLEDGMENT FORM

I have agreed to act as therapy monitor for ("Licensee").

I am familiar with the Licensee's history of professional misconduct.

I have read and am familiar with the minimum terms and conditions outlined in the Consent Order.

I have read and am familiar with the OPMC ***"Therapy monitor/Therapist Responsibilities."***

I am not a personal friend or relative of the licensee, nor a member of the NYS Board for Professional Medical Conduct.

I will submit quarterly reports to the Office of Professional Medical Conduct regarding the licensee's compliance, or any pattern of non-compliance, with the terms and conditions of the Order. Should problems arise, or should I become aware that the licensee has violated any term of the Order, I will contact the Office of Professional Medical Conduct within twenty-four (24) hours.

I will ensure that the Office of Professional Medical Conduct is notified should the licensee drop out of treatment or fall into a significant pattern of absences.

NAME: _____

ADDRESS: _____

PHONE: _____

**FAILURE TO REPORT TO OPMC A PHYSICIAN WHO MAY BE IMPAIRED
AND/OR GUILTY OF PROFESSIONAL MISCONDUCT IS A VIOLATION OF
PUBLIC HEALTH AND EDUCATION LAW**

SIGNED: _____

DATE: _____

Return completed form and a current copy of your curriculum vitae to:

PHYSICIAN MONITORING PROGRAMS
HEDLEY PARK PLACE, SUITE 303
433 RIVER STREET
TROY, NY 12180-2299
PHONE: (518) 402-0845

EXHIBIT B.1

STAFF AND PATIENT FEEDBACK SURVEY

Name (Please Print) _____

Evaluation Period Starting Date _____

Evaluation Period Ending Date _____

Signature _____

- | | | |
|--|-----|----|
| 1. Dealt with staff and patients in an ethical manner. | Yes | No |
| 2. Was polite and courteous to all staff and patients. | Yes | No |
| 3. Has not been physically abusive to patients and/or staff. | Yes | No |
| 4. Has not been verbally abusive to patients and/or staff. | Yes | No |
| 5. Has not sexually harassed staff members. | Yes | No |
| 6. Was receptive to all feedback regarding behavioral management issues. | Yes | No |

Please provide specific comments below:

Please add any additional comments that you feel would help us to improve your care and make you feel more at ease during the course of your office visit.

Patient's initials _____