



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

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Chairman

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

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

April 5, 2006

CERTIFIED MAIL-RETURN RECEIPT REQUESTED

CORRECTED LETTER

Marina Margolin, M.D.
10 Greenway
Oyster Bay, NY 11741

RE: License No. 200159

Dear Dr. Margolin:

Enclosed is a copy of Order #BPMC 06-71 of the New York State Board for Professional Medical Conduct. This Order and any penalty provided therein goes into effect April 12, 2006.

If the penalty imposed by this Order is a surrender, revocation or suspension, you are required to deliver your license and registration within five (5) days of receipt of this 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

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,

A handwritten signature in black ink, appearing to read "Ansel R. Marks". The signature is fluid and cursive, with a large initial "A" and "M".

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

**IN THE MATTER
OF
MARINA MARGOLIN, M.D.**

**CONSENT
ORDER**

BPMC No. 06-71

Upon the application of (Respondent) MARINA MARGOLIN, M.D. in the attached Consent Agreement and Order, which is made a part of this Consent Order, it is

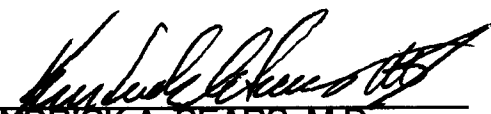
ORDERED, that the Consent Agreement, and its terms, are adopted and it is further

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: 4-3-2006


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

**IN THE MATTER
OF
MARINA MARGOLIN, M.D.**

**CONSENT
AGREEMENT
AND
ORDER**

MARINA MARGOLIN, M.D., representing that all of the following statements are true, deposes and says:

That on or about July 18, 1995, I was licensed to practice as a physician in the State of New York, and issued License No. 200159 by the New York State Education Department.

My current address is 10 Greenway, Oyster Bay, NY 11741, 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 17 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 can not successfully defend against at least one of the charges in the statement of charges., in full satisfaction of the charges against me, and agree to the following penalty:

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 24 months, with said suspension to be entirely stayed.

Pursuant to § 230-a(9) of the Public Health Law, I shall be

placed on probation for a period of 36 months, subject to the terms set forth in attached Exhibit "B."

I shall be subject to a fine in the amount of \$125,000, pursuant to §§ 230-a(7) and (9) of the Public Health Law, to be paid in as follows: The first \$50,000 shall be paid within six months of the issuance of this order. The second \$40,000 shall be paid within 15 months of the issuance of this order. The final \$35,000 shall be paid within 23 months of the issuance of this order. Payments must be submitted to:

Bureau of Accounts Management
New York State Department of Health
Empire State Plaza
Corning Tower, Room 1245
Albany, New York 12237

Pursuant to § 230-a(8) of the Public Health Law, I shall be required to complete a course of education and retraining. This program shall include satisfactory completion of 140 hours of "MKSAP 13 Programs," (further identified in Exhibit "C") within six months of the issuance of this order.

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

That Respondent shall maintain active registration of Respondent's license 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 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. The Order, this agreement, and all attached Exhibits shall be public documents, with only patient identities, if any, redacted.

I stipulate that the proposed sanction and Order are authorized by Public Health Law §§ 230 and 230-a and that the Board for Professional Medical Conduct and the Office of Professional Medical Conduct have the requisite powers to carry out all included terms. 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.

I understand and agree that the attorney for the Department, the Director of

the Office of Professional Medical Conduct and the Chair of the State Board for Professional Medical Conduct each retain complete discretion either to enter into the proposed agreement and 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.

DATE 03.13.06



MARINA MARGOLIN, M.D.
RESPONDENT

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

DATE: 3-13-06


AMY T. KULB, ESQ.
Attorney for Respondent

DATE: 3/14/06


TERRENCE J. SHEEHAN
Associate Counsel
Bureau of Professional Medical Conduct

DATE: 3/20/06


DENNIS J. GRAZIANO
Director
Office of Professional Medical Conduct

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

IN THE MATTER
OF
MARINA MARGOLIN, M.D.

STATEMENT
OF
CHARGES

Marina Margolin, M.D., the Respondent, was authorized to practice medicine in New York State by the issuance of license number 200159 by the New York State Education Department.

FACTUAL ALLEGATIONS

- A. Between on or about March 18, 1998 and October 22, 1998, Respondent treated Patient A at her private medical office. Respondent's management and treatment of Patient A departed from accepted standards of medical practice in the following respects:
1. Respondent failed to take and note adequate complaint histories and physical examinations.
 2. Respondent ordered and/or performed numerous diagnostic tests including echocardiogram, sonograms of the abdomen and retroperitoneum, EKG, arterial and venous dopplers of the legs, spirometry, a respiratory flow volume loop, and a sonogram of the breast. These tests were not indicated.
 3. Respondent performed the tests set forth in paragraph A(2), above, knowingly and intentionally without a bona fide medical justification.

4. Respondent improperly allowed and relied on Co-Respondent Vladimir Margolin, M.D. to interpret the echocardiogram, sonograms and EKG referred to in paragraph A(2), above. Respondent knew or should have known that Co-Respondent Vladimir Margolin, M.D. was not qualified to interpret said tests.

5. Respondent billed Patient A's insurance carrier for several visits, including March 19, 1998, April 8, 1998, October 7, 1998, which did not in fact take place. These bills were knowingly false in that Respondent submitted them in the knowledge that there had been no such visits and that no services had been provided, and with the intention of causing the insurance carrier to disburse funds to which Respondent knew she was not entitled.

6. Respondent billed Patient A's insurance carrier for an EKG, carotid doppler and pelvic ultrasound purportedly performed on March 19, 1998. In fact, no such tests were performed. These bills were knowingly false in that Respondent submitted them in the knowledge that no such services had been provided, and with the intention of causing the insurance carrier to disburse funds to which Respondent knew she was not entitled.

7. Respondent billed the Patient's insurance carrier for the incision and drainage of an abscess on two occasions, March 18, 1998 and April 8, 1998. In fact, these procedures were not performed. These bills were knowingly false in that Respondent submitted them in the knowledge that no such services had been provided, and with the intention of

causing the insurance carrier to disburse funds to which Respondent knew she was not entitled.

8. Respondent failed to order a mammogram to evaluate the fibrocystic changes which she noted.
9. Respondent failed to provide any appropriate treatment for Patient A.
10. Respondent failed to maintain a medical record for Patient A which accurately reflects the evaluation and treatment provided, including patient complaints, history, diagnoses, rationales for diagnostic testing, treatment plans and insurance forms.

B. Between on or about 4/8/98 and on or about 8/26/99, Respondent treated Patient B at her private medical office. Respondent's management and treatment of Patient B departed from accepted standards of medical practice in the following respects:

1. Respondent failed to take and note adequate complaint histories and physical examinations.
2. Respondent ordered and performed numerous diagnostic tests including, two echocardiograms, an EKG, holter monitor, spirometry with flow loop study, ultrasounds of the thyroid, abdomen and pelvis, two retroperitoneal ultrasounds, two breast ultrasounds, carotid doppler, EMG/NCS and five pulse oximetries. These tests were not indicated.

3. Respondent performed the tests set forth in paragraph B(2), above, knowingly and intentionally without a bona fide medical justification
4. Respondent improperly allowed and relied on Co-Respondent Vladimir Margolin, M.D. to interpret the echocardiogram, sonograms and EKG referred to in paragraph B(2), above. Respondent knew or should have known that Co-Respondent Vladimir Margolin, M.D. was not qualified to interpret said tests.
5. Respondent improperly received a portion of the fees paid by the insurance carrier to the radiologist who interpreted some of the diagnostic tests set forth in paragraph B(2), above.
6. Respondent billed Patient B's insurance carrier for several visits, including 5/11/98, 5/13/98, 5/19/98, 6/1/98, and 7/8/98, which did not in fact take place. These bills were knowingly false in that Respondent submitted them in the knowledge that there had been no such visits and that no services had been provided, and with the intention of causing the insurance carrier to disburse funds to which Respondent knew she was not entitled.
7. Respondent failed to maintain a medical record for Patient B which accurately reflects the evaluation and treatment provided, including patient complaints, history, diagnoses, rationales for diagnostic testing, treatment plans and insurance forms.

C. Between on or about 3/16/98 and on or about 9/21/98, Respondent treated

Patient C at her private medical office. Respondent's management and treatment of Patient C departed from accepted standards of medical practice in the following respects:

1. Respondent failed to take and note adequate complaint histories and physical examinations.
2. Respondent ordered and/or performed numerous diagnostic tests including two echocardiograms, two pelvic ultrasounds, two retroperitoneal ultrasounds, two abdominal ultrasounds, spirometry, a flow volume loop and multiple determinations of pulse oximetry. These tests were not indicated.
3. Respondent performed the tests set forth in paragraph C(2), above, knowingly and intentionally without a bona fide medical justification.
4. Respondent improperly allowed and relied on Co-Respondent Vladimir Margolin, M.D. to interpret the echocardiogram, sonograms and EKG referred to in paragraph C(2), above. Respondent knew or should have known that Co-Respondent Vladimir Margolin, M.D. was not qualified to interpret said tests.
5. Respondent failed to provide appropriate treatment for Patient C's numerous purported complaints.
6. Respondent failed to maintain a medical record for Patient C which accurately reflects the evaluation and treatment provided, including

patient complaints, history, diagnoses, rationales for diagnostic testing, treatment plans and insurance forms.

- D. Between on or about 2/2/98 and on or about 8/13/99, Respondent treated Patient D at her private medical office. Respondent's management and treatment of Patient D departed from accepted standards of medical practice in the following respects:
1. Respondent failed to take and note adequate complaint histories and physical examinations.
 2. Respondent ordered and/or performed numerous diagnostic tests including an EKG, two echocardiograms, two pelvic ultrasounds, two retroperitoneal ultrasounds, two abdominal ultrasounds, a breast ultrasound, two EMG/NCS studies, three pulmonary function tests, three arterial and venous dopplers, four extracranial arterial studies and eleven pulse oximetries. These tests were not indicated.
 3. Respondent performed the tests set forth in paragraph D(2), above, knowingly and intentionally without a bona fide medical justification
 4. Respondent improperly allowed and relied on Co-Respondent Vladimir Margolin, M.D. to interpret the echocardiogram, sonograms and EKG referred to in paragraph D(2), above. Respondent knew or should have known that Co-Respondent Vladimir Margolin, M.D. was not qualified to interpret said tests.

5. Respondent failed to maintain a medical record for Patient D which accurately reflects the evaluation and treatment provided, including patient complaints, history, diagnoses, rationales for diagnostic testing, treatment plans and insurance forms.

FIRST TO FOURTH SPECIFICATIONS

FRAUDULENT PRACTICE

Respondent is charged with committing professional misconduct as defined by N.Y. Educ. Law §6530(2) by practicing the profession of medicine fraudulently as alleged in the facts of the following paragraphs:

1. A and A(3), (5), (6), (7).
2. B and B(3), (5).
3. C and C(3).
4. D and D(3).

FIFTH SPECIFICATION

NEGLIGENCE ON MORE THAN ONE OCCASION

Respondent is charged with committing professional misconduct as defined in N.Y. Educ. Law §6530(3) by practicing the profession of medicine with negligence on more than one occasion as alleged in the facts of two or more of the following paragraphs:

5. A and A(1), (2), (4), (8), (9), (10), B and B(1), (2), (4), (6), C and C(1), (2), (4), (5), (6) and D and D(1), (2), (4), (5).

SIXTH SPECIFICATION

INCOMPETENCE ON MORE THAN ONE OCCASION

Respondent is charged with committing professional misconduct as defined in N.Y. Educ. Law §6530(5) by practicing the profession of medicine with incompetence on more than one occasion as alleged in the facts of two or more of the following paragraphs:

6. A and A(1), (2), (4), (8), (9), (10), B and B(1), (2), (4), (6), C and C(1), (2), (4), (5), (6) and D and D(1), (2), (4), (5).

SEVENTH TO TENTH SPECIFICATION

EXCESSIVE TESTS, TREATMENT

Respondent is charged with committing professional misconduct as defined in N.Y. Educ. Law §6530(35) by the ordering of excessive tests, treatment, or use of treatment facilities not warranted by the condition of the patient as alleged in the facts of the following paragraphs:

7. A and A(2).
8. B and B(2).
9. C and C(2).
10. D and D(2).

ELEVENTH AND TWELFTH SPECIFICATION

FALSE REPORT

Respondent is charged with committing professional misconduct as defined in N.Y. Educ. Law §6530(21) by wilfully making or filing a false report, or failing to file a report required by law or by the department of health or the education department, as alleged in the facts of:

11. A and A(5), (6), (7).
12. B and B(5).

THIRTEENTH SPECIFICATION

MORAL UNFITNESS

Respondent is charged with committing professional misconduct as defined in N.Y. Educ. Law §6530(20) by engaging in conduct in the practice of the profession of medicine that evidences moral unfitness to practice as alleged in the facts of the following:

13. A and A(3), (5), (6), (7), B and B(3), (5), C and C(3), D and D(3).

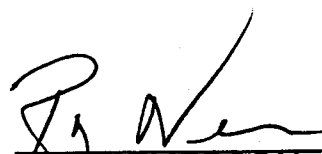
FOURTEENTH TO SEVENTEENTH SPECIFICATION

FAILURE TO MAINTAIN RECORDS

Respondent is charged with committing professional misconduct as defined in N.Y. Educ. Law §6530(32) by failing to maintain a record for each patient which accurately reflects the care and treatment of the patient, as alleged in the facts of:

14. A and A(1), (10).
15. B and B(1), (6).
16. C and C(1), (6).
17. D and D(1), (5).

DATED: November 30, 2005
New York, New York



ROY NEMERSON
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 active registration of Respondent's license (except during periods of actual suspension) with the New York State Education Department Division of Professional Licensing Services, 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 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 § 171(27)]; State Finance Law § 18; CPLR § 5001; Executive Law § 32].
6. As set forth in the Order, Respondent is subject to a fine in the amount of \$125,000, pursuant to §§ 230-a(7) and (9) of the Public Health Law, to be paid in as follows: The first \$50,000 shall be paid within six months of the issuance of this order. The second \$40,000 shall be paid within 15 months of the issuance of this order. The final \$35,000 shall be paid within 23 months of the issuance of this order. Payments must be submitted to:

Bureau of Accounts Management
New York State Department of Health
Empire State Plaza
Corning Tower, Room 1245
Albany, New York 12237

Failure to make the required payments shall be a violation of probation.

7. The probation period shall toll when Respondent is not engaged in active medical practice in New York State for a period of thirty 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 day period. Respondent shall then notify the Director again at least fourteen 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 and such additional requirements as the Director may impose as reasonably relate to the matters set forth in Exhibit "A" or are necessary to protect the public health.
8. 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.
9. 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.
10. Respondent shall bill for medical services only through a medical billing service proposed in advance and in writing by Respondent, and subject to the prior written approval of the Director of OPMC.
11. Within thirty days of the effective date of the order, Respondent shall practice medicine 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.
 - a. Respondent shall make available to the monitor any and all records or access to the practice requested by the 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 fewer 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 be solely responsible for all expenses associated with monitoring, including fees, if any, to the monitoring physician.
 - c. Respondent shall cause the practice monitor to report quarterly, in writing, to the Director of OPMC.

- d. 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.
12. Respondent shall a continuing education program in the areas of medical record keeping and medical ethics, as directed by the Director of OPMC. Such program shall be subject to the Director's prior written approval and shall be completed within the first year of the probation period. Respondent shall enroll in and complete 25 Category 1 CME in Family Medicine during the second year of probation.
13. 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.

EXHIBIT "C"
MKSAP 13 Program

The Medical Knowledge Self-Assessment Program (MKSAP 13 Program) administered by the American College of Physicians that I am required to complete shall consist of the following courses and credits:

	<u>Course</u>	<u>Credits</u>
1.	Primary Care Medicine	20.00
2.	Cardiovascular Medicine	15.00
3.	Hematology and Oncology	14.00
4.	Infectious Disease Medicine	14.00
5.	Nephrology and Hypertension	13.00
6.	Endocrinology and Metabolism	14.00
7.	Gastroenterology and Hepatology	14.00
8.	Neurology	11.00
9.	Pulmonary Medicine and Critical Care	14.00
10.	Rheumatology	11.00