



New York State Board for Professional Medical Conduct

433 River Street, Suite 303 Troy, New York 12180-2299 • (518) 402-0863

Barbara A. DeBuono, M.D., M.P.H.
Commissioner of Health

Patrick F. Carone, M.D., M.P.H.
Chair
Ansel R. Marks, M.D., J.D.
Executive Secretary

July 16, 1998

CERTIFIED MAIL-RETURN RECEIPT REQUESTED

Charles T. Cavallaro, D.O.
276 South Ridge Drive
Rochester, New York 14626

RE: License No. 180124

Dear Dr. Cavallaro:

Enclosed please find Order #BPMC 98-138 of the New York State Board for Professional Medical Conduct. This Order and any penalty provided therein goes into effect **July 16, 1998.**

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

Sincerely,

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

Enclosure

cc: Jeffrey M. Wilkens, Esq.
Osborn, Reed & Burke, LLP
1 Exchange Street
Rochester, New York 14616

Robert Bogan, Esq.

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

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IN THE MATTER : CONSENT
OF : AGREEMENT
CHARLES THOMAS CAVALLARO, D.O. : AND ORDER
: BPMC # 98-138

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STATE OF NEW YORK)
COUNTY OF *Monroe*)

CHARLES THOMAS CAVALLARO, D.O., deposes and says:

That on or about September 25, 1989, I was licensed to practice as a physician in the State of New York, having been issued license number 180124 by the New York State Education Department.

My current address is 276 South Ridge Drive, Rochester, N.Y. 14626, and I will advise the Director of the Office of Professional Medical Conduct of any change of my address.

I understand that the New York State Board for Professional Medical Conduct has charged me with nineteen specifications of professional misconduct as set forth in the Statement of Charges, annexed hereto, made a part hereof, and marked as Exhibit A.

I admit guilt to Specifications two, four, five, and six, in full satisfaction of the charges against me. I hereby agree to the following penalty:

Censure and Reprimand and Monitoring for a period of three years.

I further agree that the Consent Order for which I hereby apply shall impose a condition that I maintain current registration of my 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 continuing until the full term of the Order has run, and until any associated period of monitoring and all monitoring terms have been completed and satisfied. I hereby stipulate that any failure by me to comply with such condition 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, this agreement and order shall be admitted into evidence in that proceeding.

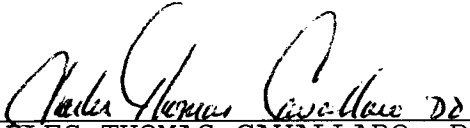
I hereby make this Application to the State Board for Professional Medical Conduct (the Board) and request that it be granted.

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 as of the date of the personal service of this order upon me, upon mailing of this order to me at the address set forth in this agreement or to my attorney by certified mail, 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.

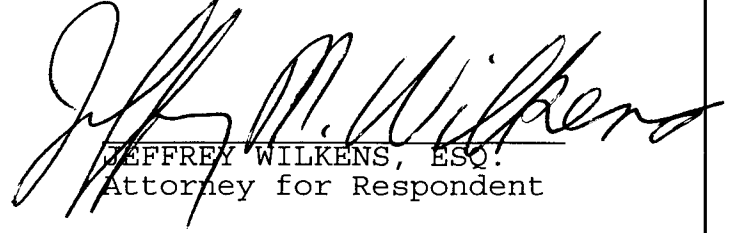
AFFIRMED:



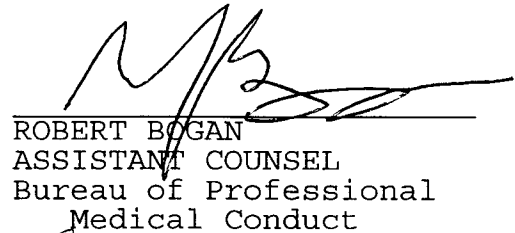
CHARLES THOMAS CAVALLARO, D.O.
RESPONDENT

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

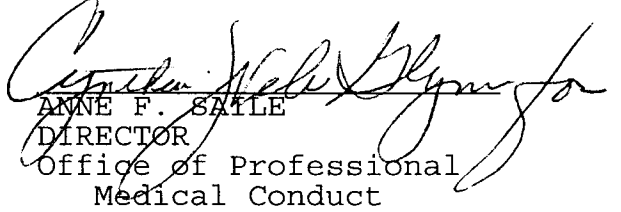
DATE: 6/21/98


JEFFREY WILKENS, ESQ.
Attorney for Respondent

DATE: 6 July 1998


ROBERT BOGAN
ASSISTANT COUNSEL
Bureau of Professional
Medical Conduct

DATE: 7/8/98


ANNE F. SAILE
DIRECTOR
Office of Professional
Medical Conduct

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

-----X

IN THE MATTER :
OF : CONSENT
CHARLES THOMAS CAVALLARO D.O. : ORDER

:
-----X


Upon the proposed agreement of CHARLES THOMAS CAVALLARO, D.O. (Respondent) for Consent Order, which application is made a part hereof, it is agreed to 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 as of the date of the personal service of this order upon Respondent, upon mailing of this 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: July 11, 1998


PATRICK F. CARONE, M.D., M.P.H.
Chairperson
State Board for Professional
Medical Conduct

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

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IN THE MATTER : STATEMENT
OF : OF
CHARLES THOMAS CAVALLARO, D.O. : CHARGES

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CHARLES THOMAS CAVALLARO, D.O., the Respondent, was authorized to practice medicine in New York State on September 25, 1989 by the issuance of license number 180124 by the New York State Education Department. The Respondent is currently registered with the New York State Education Department to practice medicine for the period March 1, 1997, through February 28, 1999, with a registration address of 276 South Ridge Drive, Rochester, NY 14626.

FACTUAL ALLEGATIONS

A. Respondent treated Patient A on or about July 9, 1996 at Lakeside Memorial Hospital, Brockport, New York 14420 (hereinafter "the hospital"). Respondent's care and treatment failed to meet acceptable standards of medical care, in that:

1. Respondent did not maintain an adequate medical record for Patient A.
2. Respondent did not perform an adequate history and/or physical examination of Patient A.
3. Respondent failed to consider a dissecting Aorta as a diagnosis for Patient A.

B. Respondent treated Patient B on or about June 28, 1996 at the hospital. Respondent's care and treatment failed to meet acceptable standards of medical care, in that:

1. Respondent did not maintain an adequate medical record for Patient B.
2. Respondent did not perform an adequate history/and or physical examination of Patient B.
3. Respondent did not insure that appropriate medical and/or laboratory tests were performed on Patient B.

C. Respondent treated Patient C on or about February 1, 1996 at the hospital. Respondent's care and treatment failed to meet acceptable standards of medical care, in that:

1. Respondent improperly ordered an IVP for Patient C.

D. Respondent treated Patient D on or about April 30, 1992 at the hospital. Respondent's care and treatment failed to meet acceptable standards of medical care, in that:

1. Respondent failed to properly diagnosis Patient D.

SPECIFICATIONS

FIRST THROUGH SECOND SPECIFICATIONS RECORD KEEPING

Respondent is charged with failing to maintain a record for each patient which accurately reflects the evaluation and treatment of the patient in violation of New York Educ. Law §6530 (32) in that Petitioner charges:

1. The facts in paragraph A and A.1.
2. The facts in paragraph B and B.1.

THIRD THROUGH SIXTH SPECIFICATIONS

NEGLIGENCE ON MORE THAN ONE OCCASION

Respondent is charged with practicing the profession with negligence on more than one occasion in violation of New York Educ. Law §6530 (3) in that the Petitioner charges:

3. The facts in paragraph A and A.1, A.2, and/or A.3.
4. The facts in paragraph B and B.1, B.2, and/or B.3.
5. The facts in paragraph C and C.1.
6. The facts in paragraph D and D.1.

SEVENTH THROUGH TENTH SPECIFICATIONS

GROSS NEGLIGENCE

Respondent is charged with practicing the profession with gross negligence in violation of New York Educ. Law §6530 (4) in that the Petitioner charges:

7. The facts in paragraph A and A.1, A.2, and/or A.3.
8. The facts in paragraph B and B.1, B.2, and/or B.3.
9. The facts in paragraph C and C.1.
10. The facts in paragraph D and D.1.

ELEVENTH THROUGH FOURTEENTH SPECIFICATIONS

INCOMPETENCE ON MORE THAN ONE OCCASION

Respondent is charged with practicing the profession with incompetence on more than one occasion in violation of New York Educ. Law §6530 (5) in that the Petitioner charges:

11. The facts in paragraph A and A.1, A.2, and/or A.3.
12. The facts in paragraph B and B.1, B.2, and/or B.3.
13. The facts in paragraph C and C.1.
14. The facts in paragraph D and D.1.

FIFTEENTH THROUGH NINETEENTH SPECIFICATIONS

GROSS INCOMPETENCE

Respondent is charged with practicing the profession with gross incompetence in violation of New York Educ. Law §6530 (6) in that the Petitioner charges:

15. The facts in paragraph A and A.1, A.2, and/or A.3.
16. The facts in paragraph B and B.1, B.2, and/or B.3.
17. The facts in paragraph C and C.1.
18. The facts in paragraph D and D.1.

DATED: _____, 1998

Albany, New York

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

APPENDIX B

PATIENT A	--
PATIENT B	--
PATIENT C	--
PATIENT D	--

EXHIBIT "B"

TERMS OF MONITORING

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 (NYSDOH), addressed to the Director, Office of Professional Medical Conduct (OPMC), New York State Department of Health, Hedley Park Place, 4th Floor, 433 River Street, 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 monitoring 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 monitoring shall resume and any terms of monitoring 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 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 practice monitor any and all records or access to the practice requested by the practice 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 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.

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9. Respondent shall comply with all terms, conditions, restrictions, and penalties to which he/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 this agreement and/or any such other proceeding against Respondent as may be authorized pursuant to the law.