



*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 23, 1998

**CERTIFIED MAIL-RETURN RECEIPT REQUESTED**

Barry E. Cohen, M.D.  
15 Chestnut Hill  
Roslyn, New York 11576

RE: License No. 160334

Dear Dr. Cohen:

Enclosed please find Order #BPMC 98-150 of the New York State Board for Professional Medical Conduct. This Order and any penalty provided therein goes into effect **July 23, 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: H. Elliot Wales, Esq.  
26 Broadway  
20th Floor  
New York, NY 10004

Paul Stein, Esq.



which time said suspension shall again be stayed for the balance of the twenty-four month period. I shall be placed on probation with practice monitoring, as specified in Exhibit B below, for a period of twenty-four months.

I further agree that the Consent Order for which I hereby apply shall impose a condition that, except during periods of actual suspension, 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 probation and all probation 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) (McKinney Supp 1998).

I agree that in the event 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.

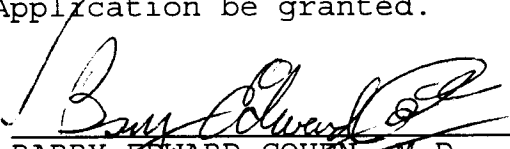
I understand that, in the event that this Application is not granted by the Board, nothing contained herein shall be binding upon me or construed to be an admission of any act of misconduct alleged or charged against me, such Application shall not be used against me in any way and shall be kept in strict 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 upon issuance by the Board, which may be accomplished by mailing, by first class mail, a copy of the Consent Order to me at the address set forth in this agreement, or to my attorney, 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.

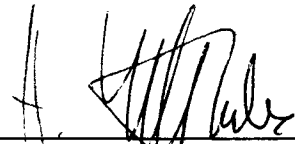
AFFIRMED:

DATED June 30, 1998

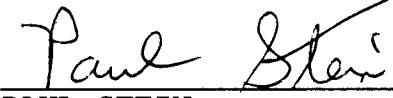
  
BARRY EDWARD COHEN, M.D.  
Respondent

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

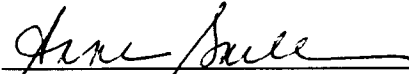
DATE: June 30, 1998

  
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H. ELLIOT WALEs  
Attorney for Respondent

DATE: July 3, 1998

  
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PAUL STEIN  
Associate Counsel  
Bureau of Professional  
Medical Conduct

DATE: July 13, 1998

  
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ANNE F. SAILE  
Director  
Office of Professional  
Medical Conduct

**IN THE MATTER**  
**OF**  
**BARRY EDWARD COHEN, M.D.**

STATEMENT  
OF  
CHARGES

BARRY EDWARD COHEN, M.D., the Respondent, was authorized to practice medicine in New York State on October 1, 1984 by the issuance of license number 160334 by the New York State Education Department.

**FACTUAL ALLEGATIONS**

- A. On or about May 2, 1997, Respondent administered spinal anesthesia to Patient A (Patient A is identified in Appendix A), a 31 year old female, at Catholic Medical Center-St. John's Queens Hospital, 90-02 Queens Boulevard, Elmhurst, New York, for a Cesarean section. While under anesthesia, Patient A suffered a cardiopulmonary arrest and severe hypoxic brain damage.
1. Respondent failed to appropriately monitor Patient A.
  2. Respondent failed to timely and appropriately respond to Patient A's complaints of difficulty breathing.
  3. Respondent failed to timely and appropriately diagnose Patient A's cardiopulmonary arrest.
  4. Respondent failed to timely and appropriately treat Patient A's cardiopulmonary arrest.
  5. Respondent failed to keep an adequate record for Patient A.

**SPECIFICATIONS**

**FIRST SPECIFICATION**

**GROSS NEGLIGENCE**

Respondent is charged with committing professional misconduct as defined in N.Y. Educ. Law §6530(4) (McKinney Supp. 1998) by practicing the profession of medicine with gross negligence as alleged in the facts of the following:

1. Paragraphs A, A1, A2, A3, and/or A4.

**SECOND SPECIFICATION**

**GROSS INCOMPETENCE**

Respondent is charged with committing professional misconduct as defined in N.Y. Educ. Law §6530(6) (McKinney Supp. 1998) by practicing the profession of medicine with gross incompetence as alleged in the facts of the following:

2. Paragraphs A, A1, A2, A3, and/or A4.

**THIRD SPECIFICATION**

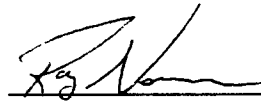
**FAILING TO MAINTAIN A RECORD**

Respondent is charged with committing professional misconduct as defined in N.Y. Educ. Law §6530(32) (McKinney Supp. 1998) by

failing to maintain a record for each patient which accurately reflects the evaluation and treatment of the patient as alleged in the facts of the following:

3. Paragraphs A and A5.

DATED: New York, New York  
June 30, 1998



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ROY NEMERSON  
Deputy Counsel  
Bureau of Professional Medical  
Conduct



Exhibit B

Terms of Probation

1. Respondent shall conduct himself in all ways in a manner befitting his professional status, and shall conform fully to the moral and professional standards of conduct and obligations imposed by law and by his profession.
2. Respondent shall submit written notification to the New York State Department of Health addressed to the Director of the Office of Professional Medical Conduct, New York State Department of Health, 433 River Street, Suite 303, Troy, NY 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 probation 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 probation shall resume and any terms of probation 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 staff at practice locations or OPMC offices.

7. Respondent shall practice medicine only when monitored by a licensed physician, board certified in anesthesiology, ("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 no less than ten 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.
8. 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.
9. Respondent shall comply with all terms, conditions, restrictions, limitations and penalties to which he 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 probation proceeding and/or any such other proceeding against Respondent as may be authorized pursuant to the law.

**IN THE MATTER  
OF  
BARRY EDWARD COHEN, M.D.**

CONSENT  
ORDER


Upon the proposed agreement of BARRY EDWARD COHEN, M.D. (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 upon issuance by the Board, which may be accomplished by mailing, by first class mail, a copy of the Consent Order to Respondent at the address set forth in this agreement.

SO ORDERED.

DATED: 7/16/98

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