



New York State Board for Professional Medical Conduct

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

Richard F. Daines, M.D.

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NYS Department of Health

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Office of Professional Medical Conduct

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Chair

Carmela Torrelli

Vice Chair

Katherine A. Hawkins, M.D., J.D.

Executive Secretary

May 6, 2010

CERTIFIED MAIL-RETURN RECEIPT REQUESTED

Richard Lucente, D.O.

REDACTED

Re: License No. 215528

Dear Dr. Lucente:

Enclosed is a copy of Order BPMC #10-73 of the New York State Board for Professional Medical Conduct. This order and any penalty provided therein goes into effect May 13, 2010.

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: Office of Professional Medical Conduct, c/o Physician Monitoring Unit, New York State Department of Health, 433 River Street, Suite 303, Troy, NY 12180-2299.

If the document(s) are lost, misplaced or destroyed, you are required to submit to this office an affidavit to that effect. Enclosed for your convenience is an affidavit. Please complete and sign the affidavit before a notary public and return it to the Office of Professional Medical Conduct.

Sincerely,

REDACTED

Katherine A. Hawkins, M.D., J.D.

Executive Secretary

Board for Professional Medical Conduct

Enclosure

cc: Andrew Garson, Esq.
Garson, DeCorato & Cohen
110 Wall Street
New York, NY 10005

IN THE MATTER
OF
RICHARD LUCENTE, D.O. and
NEW YORK ANTI-AGING and WELLNESS
MEDICAL SERVICES, PLLC.

SURRENDER
ORDER

BPMC No. #10-73

Upon the application of Respondent Richard Lucente, D.O. to Surrender his license as a physician in the State of New York, and upon the application of Respondent NEW YORK ANTI-AGING and WELLNESS MEDICAL SERVICES, PLLC to Surrender its Article of Organization. which is made a part of this Surrender Order, it is

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

ORDERED, that Respondent Lucente's name be stricken from the roster of physicians in the State of New York; and it is further

ORDERED, that Respondent New York Anti-Aging and Wellness Medical Services PLLC name be stricken from the roster of professional service limited liability companies in the State of New York, and it is further

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

- by mailing of a copy of this Surrender Order, either by first class mail to Respondent Lucente at the address in the attached Surrender Application or by certified mail to Respondents' attorney, OR
- upon facsimile transmission to Respondents or Respondents' attorney,

Whichever is first.

SO ORDERED.

DATE: 5-5-2010

REDACTED

KENDRICK A. SEARS, 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
RICHARD LUCENTE, D.O. and
NEW YORK ANTI-AGING and WELLNESS
MEDICAL SERVICES, PLLC.**

SURRENDER
of
LICENSE

RICHARD LUCENTE, D.O, individually and on behalf of Respondent NEW YORK ANTI-AGING and WELLNESS MEDICAL SERVICES, PLLC represents that all of the following statements are true:

That on or about August 24, 1999, I was licensed to practice as a physician in the State of New York and issued License No. 215528 by the New York State Education Department.

That in or about February 2005, I formed Respondent NEW YORK ANTI-AGING AND WELLNESS MEDICAL SERVICES, PLLC., a professional service limited liability company. I am a member and manager of the professional service limited liability company.

My current address is REDACTED, 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 fourteen specifications of professional misconduct. I understand that Respondent NEW YORK ANTI-AGING AND WELLNESS MEDICAL SERVICES, PLLC. has been charged with five specifications of misconduct.

A copy of the Amended Statement of Charges, marked as Exhibit "A", is attached to and part of this Surrender of License.

I am applying to the State Board for Professional Medical Conduct for permission to surrender my license as a physician in the State of New York on the grounds that I cannot successfully defend against one of the acts of misconduct alleged in full satisfaction of the charges against me. I am also applying to the State Board of Professional Medical Conduct for permission to surrender the "Articles of Organization" of Respondent NEW YORK ANTI-AGING and WELLNESS MEDICAL SERVICES, PLLC.

I ask the Board to accept my Surrender of License, and the Surrender of the "Articles of Organization" of Respondent NEW YORK ANTI-AGING AND WELLNESS MEDICAL SERVICES, PLLC, I agree to be bound by all of the terms set forth in attached Exhibit "B".

I understand that, if the Board does not accept my Surrender of License, and/or the Surrender of the "Articles of Organization" of the professional service limited liability company, none of its terms shall bind either party respondent or constitute an admission of any of the acts of misconduct alleged; this application shall not be used against either Respondent 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 accepts my Surrender of License and the Surrender of the Articles of Organization of my professional service limited liability company, the Chair of the Board shall issue a Surrender 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 Surrender Order by first class mail to me at my address in this Surrender of License, or to my attorney by certified mail, or upon facsimile transmission to me or my attorney, whichever is

first. The Surrender Order, this agreement, and all attached exhibits shall be public documents, with only patient identities, if any, redacted. As public documents, they may be posted on the Department's website.

I ask the Board to accept this Surrender of License on my own behalf and on behalf of Respondent NEW YORK ANTI-AGING and WELLNESS MEDICAL SERVICES, PLLC, which I submit of my own free will and not under duress, compulsion or restraint. In consideration of the value to me of the Board's acceptance of this Surrender of License, 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 Surrender Order for which I apply, whether administratively or judicially, and I agree to be bound by the Surrender Order.

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.

REDACTED

RICHARD LUCENT, D.O., individually and on behalf of Respondent NEW YORK ANTI-AGING AND WELLNESS MEDICAL SERVICES, PLLC.

Respondents

DATE 4/20/10

The undersigned agree to Respondent Lucente's and Respondent New York Anti-Aging and Wellness Medical Services, PLLC's proposed penalty, terms and conditions as set forth in the attached Surrender Agreement. .

DATE: 4-23-10

REDACTED

ANDREW GARSON, ESQ.
Garson, DeCorato and Cohen
110 Wall Street
New York, New York 10005
Attorney for Respondents

DATE: 4/29/10

REDACTED

DANIEL GUENZBURGER
Associate Counsel
Bureau of Professional Medical Conduct

DATE: 5/5/10

REDACTED

KEITH W. SERVIS
Director
Office of Professional Medical Conduct

IN THE MATTER

OF

RICHARD LUCENTE, D. O. and NEW YORK
ANTI-AGING AND WELLNESS MEDICAL
SERVICES, PLLC.

AMENDED
STATEMENT
OF
CHARGES

RICHARD LUCENTE, D.O., Respondent, was authorized to practice medicine in New York State on or about August 24, 1999, by the issuance of license number 215528 by the New York State Education Department.

NEW YORK ANTI-AGING AND WELLNESS MEDICAL SERVICES, PLLC., Respondent, is a professional service limited liability company formed in or about February 2005, pursuant to § 1203 of the Limited Liability Company Law. At all times relevant to the Statement of Charges, Respondent Richard Lucente was a member and manager of the professional service limited liability company.

FACTUAL ALLEGATIONS

- A. On or about June 23, 2005, Patient A, a 42 year old male body builder, presented to Respondent Lucente. [Patient A and the other Patients in the Statement of Charges are identified in the annexed Appendix "A".] Patient A had previously had a heart transplant, in October 2004, and was on anti-rejection medications Cyclosporine and Cell Cept. Respondent Lucente had noted that Patient A's heart transplant was "secondary to the abuse of steroids and growth hormone."

On or about and between November 25, 2005, and December 9, 2006,

Respondent Lucente prescribed Patient A anabolic steroids, thyroid replacement medication and human growth hormone. On or about March 9, 2007, Patient A expired from shock presumed to be cardiogenic in nature. Patient A died after having been hospitalized for seven days at the Ohio State University Medical Center, Akron, Ohio. Patient A's heart biopsy was interpreted as "suggestive of chemical induced cardiomyopathy."

Respondent Lucente deviated from medically accepted standards in that he:

1. Inappropriately diagnosed:
 - a. Testosterone deficiency.
 - b. Growth hormone deficiency.
 - c. Hypothyroidism.
2. Inappropriately prescribed:
 - a. Growth hormone medication, including but not limited to Somatotropin.
 - b. Anabolic steroids, including but not limited to various concentrations of testosterone gel, injectable testosterone, Stanozol, Nandrolone, and Fluoxymesterone.
 - c. Thyroid replacement medication.
3. Failed to adequately monitor the Patient, including failing to order appropriate laboratory tests and failing to perform periodic prostate examinations.

- B. On or about and between September 27, 2005, and September 11, 2007, Respondent Lucente treated Patient B, a 29 year old male, with anabolic steroids, human growth hormone and thyroid replacement medication. Patient B reported he worked out regularly and had previously taken large

doses of testosterone and anabolic steroids. Respondent Lucente deviated from medically standards in that he:

1. Inappropriately diagnosed testosterone deficiency, hypothyroidism and/or growth hormone deficiency.
2. Inappropriately prescribed anabolic steroids, human growth hormone and thyroid replacement medication.
3. Failed to adequately monitor the patient, including failing to order appropriate laboratory tests and failing to perform periodic prostate examinations.

C. On or about and between November 1, 2005, and May 13, 2008, Respondent Lucente treated Patient C, a 36 year old male, with anabolic steroids and human growth hormone. Patient C reported that he works out regularly and had previously taken anabolic steroids which had an adverse effect on his lipid levels. Respondent Lucente deviated from medically accepted standards in that he:

1. Inappropriately diagnosed Patient C with testosterone and human growth hormone deficiency.
2. Inappropriately prescribed anabolic steroids and human growth hormone.
3. Failed to adequately monitor the patient, including failing to order appropriate laboratory tests and failing to perform periodic prostate examinations.

D. On or about and between February 21, 2006, and August 10, 2007, Respondent Lucente treated Patient D, a 37 year old male, with anabolic steroids and human growth hormone. Patient D worked out regularly, and

had taken, testosterone and Nandrolone and over the counter testosterone boosters. Respondent Lucente deviated from medically accepted standards in that he:

1. Inappropriately diagnosed Patient D with testosterone and human growth hormone deficiency.
2. Inappropriately prescribed anabolic steroids and human growth hormone.
3. Failed to adequately monitor the patient, including failing to order appropriate laboratory tests and failing to perform periodic prostate examinations.

E. On or about and between September 27, 2005, and January 17, 2009, Respondent Lucente treated Patient E, a 42 year old male at the onset of treatment. Patient E reported that he was a former body builder, worked out regularly and had used multiple steroids and human growth hormone. Respondent Lucente deviated from medically accepted standards in that he:

1. Inappropriately diagnosed Patient E with testosterone and human growth hormone deficiency.
2. Inappropriately prescribed anabolic steroids and human growth hormone.
3. Failed to adequately monitor the patient, including failing to order appropriate laboratory tests and failing to perform periodic prostate examinations

F. On or about and between September 7, 2005, and September 20, 2007, Respondent Lucente treated Patient F, a 30 year old male at the onset of treatment. Patient F reported that he had "previously been on a lot of

steroids" and he expressed a desire to be a professional body builder. Respondent Lucente noted testosterone deficiency secondary to prior use of anabolic steroids. Respondent Lucente deviated from medically accepted standards in that he:

1. Inappropriately diagnosed Patient F with testosterone and human growth hormone deficiency.
2. Inappropriately prescribed anabolic steroids and human growth hormone.
3. Failed to adequately monitor the patient, including failing to order appropriate laboratory tests and failing to perform periodic prostate examinations

G. With respect to Patients A through F, Respondent Lucente knowingly and/or gross negligently violated New York State and federal law in that he:

1. Caused human growth hormone to be distributed for an unauthorized purpose in violation of § 303(e) (1) of the Federal Drug and Cosmetic Act and Title 18, United States Code, § 2.
2. Knowingly prescribed substances listed in Schedule 2 of Public Health Law § 3306, including anabolic steroids and human growth hormone, without a "good faith" basis for doing so. Such conduct violates Public Health Law § 3331(2).

H. On or about and between August 1, 2005, and August 1, 2006, Respondent Lucente prescribed three hundred and eighty-eight (388) patients anabolic steroids and/or human growth hormone. On or about and between August

1, 2005, and August 1, 2006, two hundred and ninety-five (295) of those patients filled prescriptions for anabolic steroids and/or human growth hormone at Lowen's Drug Store, Inc., d/b/a Lowen's Compounding Pharmacy and Lowen's Compounding Pharmacy, LLC, ("Lowen's") located at 6902-6906 Third Avenue, Brooklyn, New York. The patients who filled prescriptions of anabolic steroids and human growth at Lowen's are identified in Appendix B. On or about and between November 3, 2005, and July 14, 2006, Lowen's issued 9 checks, totaling \$27,079.79, to Respondent Lucente's professional corporation, New York Anti-Aging and Wellness Medical Services, PLLC ("NY Anti-Aging PLLC"). Respondent Lucente had the checks deposited in an HSBC checking account of Respondent NY Anti-Aging, PLLC.

1. Respondent Lucente and Respondent New York Anti-Aging, PLLC, improperly received a fee or other consideration from a third party for the referral of patients and/or in connection with the performance of professional services.
 2. Respondent Lucente and Respondent New York Anti-Aging, PLLC, knowingly and/or gross negligently violated New York State law in that they knew or should have known that they had entered into an arrangement or scheme that had a principal purpose of assuring patient referrals for pharmacy services. Such conduct violates Public Health Law § 238-a(1) and 238-a(9).
- I. On or about March 19, 2010, in the Supreme Court of the State of New York, County of Kings, Criminal Term, Respondent pled guilty to Conspiracy in the fourth degree in violation of New York Penal Law § 105.10, a class E felony.

SPECIFICATION OF CHARGES

FIRST THROUGH SIXTH SPECIFICATIONS

GROSS NEGLIGENCE

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

1. A, A1, A1(a), A1(b), A1(c), A2(a), A2(b) , A2(c), and/or A3.
2. B, B1,B2, and/or B3.
3. C, C1, C2, and/or C3.
4. D, D1, D2, and/or D3.
5. E, E1, E2, and/or E3.
6. F, F1, F2, and/or F3.

SEVENTH SPECIFICATION

NEGLIGENCE ON MORE THAN ONE OCCASION

Respondent Lucente 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 :

7. A, A1, A1(a), A1(b), A1(c), A2(a), A2(b), A2(c), A3, B, B1,B2, B3, C, C1, C2, C3, D, D1, D2,D3, E, E1, E2,E3, F, F1, F2, and/or F3.

EIGHTH THROUGH TENTH SPECIFICATIONS

FAILING TO COMPLY WITH STATE AND FEDERAL LAW

Respondent Lucente and Respondent Anti-aging, PLLC is charged with professional misconduct as defined in N.Y. Educ. Law § 6530(16) by willfully and/or grossly negligently failing to comply with substantial provisions of State and federal law governing the practice of medicine, as alleged in the facts of the following:

8. G and G1.
9. G and G2.
10. H and H2.

ELEVENTH SPECIFICATION

RECEIVING AN IMPROPER FEE FROM A THIRD PARTY

Respondent Lucente and Respondent Anti-Aging, PLLC is charged with committing professional misconduct as defined in N.Y. Educ. Law § 6530(18) by directly or indirectly receiving any fee or other consideration from a third party for the referral of a

patient or in connection with the performance of professional services, as alleged in the facts of:

11. H, H1, and/or H2.

TWELFTH SPECIFICATION

EXERCISING UNDUE INFLUENCE

Respondent Lucente and Respondent Anti-Aging PLLC is charged with committing professional misconduct as defined in N.Y. Educ. Law § 6530 (17) by exercising undue influence on Patients A through F and others, including the promotion of the sale of services, goods, appliances or drugs in such manner as to exploit the patient for the financial gain of the licensee or of a third party, as alleged in the facts of:

12. A, A2, A2(a), A2(b), B, B2, C, C2, D, D2, E, E2, F, F2 H, H1, and/or H2.

THIRTEENTH SPECIFICATION

MORAL UNFITNESS

Respondent Lucente 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, A1, A1(a), A1(b), A1(c), A2(a), A2(b) , A2(c), A3, B, B1, B2, B3,

C, C1, C2, C3, D, D1, D2, D3, E, E1, E2, E3, F, F1, F2, F3, G, G1, G2, H, H1, and/or H2.

FOURTEENTH SPECIFICATION

CRIMINAL CONVICTION (N.Y.S.)

Respondent is charged with committing professional misconduct as defined in N.Y. Educ. Law § 6530(9)(a)(i) by having been convicted of committing an act constituting a crime under New York state law as alleged in the facts of the following:

14. I.

DATE: April 26, 2010
New York, New York

REDACTED

Roy Nemerson
Deputy Counsel
Bureau of Professional Medical Conduct

EXHIBIT "B"

Requirements for Closing a Medical Practice Following a Revocation, Surrender, Limitation or Suspension of a Medical License

1. Licensee shall immediately cease and desist from engaging in the practice of medicine in New York State, or under Licensee's New York license, in accordance with the terms of the Order. In addition, Licensee shall refrain from providing an opinion as to professional practice or its application and from representing that Licensee is eligible to practice medicine.
2. Within 5 days of the Order's effective date, Licensee shall deliver Licensee's original license to practice medicine in New York State and current biennial registration to the Office of Professional Medical Conduct (OPMC) at Hedley Park Place, 433 River Street 4th Floor, Troy, NY 12180-2299.
3. Within 15 days of the Order's effective date, Licensee shall notify all patients of the cessation or limitation of Licensee's medical practice, and shall refer all patients to another licensed practicing physician for continued care, as appropriate. Licensee shall notify, in writing, each health care plan with which the Licensee contracts or is employed, and each hospital where Licensee has privileges, that Licensee has ceased medical practice. Within 45 days of the Order's effective date, Licensee shall provide OPMC with written documentation that all patients and hospitals have been notified of the cessation of Licensee's medical practice.
4. Licensee shall make arrangements for the transfer and maintenance of all patient medical records. Within 30 days of the Order's effective date, Licensee shall notify OPMC of these arrangements, including the name, address, and telephone number of an appropriate and acceptable contact persons who shall have access to these records. Original records shall be retained for at least 6 years after the last date of service rendered to a patient or, in the case of a minor, for at least 6 years after the last date of service or 3 years after the patient reaches the age of majority, whichever time period is longer. Records shall be maintained in a safe and secure place that is reasonably accessible to former patients. The arrangements shall include provisions to ensure that the information in the record is kept confidential and is available only to authorized persons. When a patient or a patient's representative requests a copy of the patient's medical record, or requests that the original medical record be sent to another health care provider, a copy of the record shall be promptly provided or forwarded at a reasonable cost to the patient (not to exceed 75 cents per page.) Radiographic, sonographic and similar materials shall be provided at cost. A qualified person shall not be denied access to patient information solely because of an inability to pay.
5. If Licensee holds a Drug Enforcement Administration (DEA) certificate, within 15 days of the Order's effective date, Licensee shall advise the DEA in writing of the licensure action and shall surrender to the DEA any DEA controlled substance privileges issued pursuant to Licensee's New York license. Licensee shall promptly surrender to the DEA any unused DEA #222 U.S. Official Order Forms Schedules 1 and 2.

6. Within 15 days of the Order's effective date, Licensee shall return any unused New York State official prescription forms to the Bureau of Narcotic Enforcement of the New York State Department of Health. Licensee shall destroy all prescription pads bearing Licensee's name. If no other licensee is providing services at Licensee's practice location, Licensee shall properly dispose of all medications.
7. Within 15 days of the Order's effective date, Licensee shall remove from the public domain any representation that Licensee is eligible to practice medicine, including all related signs, advertisements, professional listings (whether in telephone directories, internet or otherwise), professional stationery or billings. Licensee shall not share, occupy, or use office space in which another licensee provides health care services.
8. Licensee shall not charge, receive or share any fee or distribution of dividends for professional services rendered by Licensee or others while Licensee is barred from engaging in the practice of medicine. Licensee may be compensated for the reasonable value of services lawfully rendered, and disbursements incurred on a patient's behalf, prior to the Order's effective date.
9. If Licensee is a shareholder in any professional service corporation organized to engage in the practice of medicine, Licensee shall divest all financial interest in the professional services corporation, in accordance with New York Business Corporation Law. Such divestiture shall occur within 90 days. If Licensee is the sole shareholder in a professional services corporation, the corporation must be dissolved or sold within 90 days of the Order's effective date.
10. Failure to comply with the above directives may result in a civil penalty or criminal penalties as may be authorized by governing law. Under N.Y. Educ. Law § 6512, it is a Class E Felony, punishable by imprisonment of up to 4 years, to practice the profession of medicine when a professional license has been suspended, revoked or annulled. Such punishment is in addition to the penalties for professional misconduct set forth in N.Y. Pub. Health Law § 230-a, which include fines of up to \$10,000 for each specification of charges of which the Licensee is found guilty, and may include revocation of a suspended license.