

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

IN THE MATTER
OF
JUDITH VOLPE, M.D.

CONSENT
AGREEMENT
AND
ORDER

BPMC #99-95

STATE OF NEW YORK)
COUNTY OF) so.:

JUDITH VOLPE, M.D., (Respondent) being duly sworn, deposes and says:
That on or about March 30, 1988, I was licensed to practice as a physician
in the State of New York, having been issued License No. 174169 by the New
York State Education Department.

My current address is 106 Orlando Boulevard, Toms River, New Jersey
08757 , 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 fifteen(15) Specifications of professional
misconduct all of which I have denied.

A copy of the Statement of Charges is annexed hereto, made a part hereof,
and marked as Exhibit "A".

I cannot successfully defend against the Fourteenth Specification, in full
satisfaction of the charges against me. I hereby agree to the following penalty:

- a) A Censure and Reprimand.
- b) Probation in accordance with the "Terms of Probation"
attached hereto as Exhibit "B".

The probation shall only be in effect at such times as I engage in the active practice of medicine in New York State.

I further agree that the Consent Order for which I hereby apply shall impose the following conditions:

That, except during periods of actual suspension, Respondent shall maintain current registration of Respondent's 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 will continue while the licensee possesses his/her license; and

That Respondent shall fully cooperate in every respect with the Office of Professional Medical Conduct (OPMC) in its administration and enforcement of this Order and in its investigation of all matters regarding Respondent.

Respondent shall respond in a timely manner to each and every request by OPMC to provide written periodic verification of Respondent's compliance with the terms of this Order.

Respondent shall meet with a person designated by the Director of OPMC as directed. Respondent shall respond promptly and provide any and all documents and information within Respondent's control upon the direction of OPMC. This condition shall be in effect beginning upon the effective date of the Consent Order and will continue while the licensee

possesses his/her license.

I hereby stipulate that any failure by me to comply with such conditions shall constitute misconduct as defined by New York State Education Law §6530(29)(McKinney Supp 1999).

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.

DATED April 20, 1999.

Judith Volpe
JUDITH VOLPE, M.D.
RESPONDENT

Sworn to before me

on this 20th day of

April, 1999

Kwangsoo Kim
NOTARY

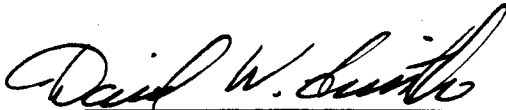
KWANGSOO KIM
NOTARY PUBLIC, STATE OF NEW YORK
No. 01KI5085779
Qualified in Queens County
Commission Expires September 29, 1999

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

DATE: April 20, 1999


STEPHEN LATZMAN, ESQ.
Attorney for Respondent

DATE: 4/26/99


DAVID W. SMITH
Associate Counsel
Bureau of Professional
Medical Conduct

DATE: 4/30/99


ANNE F. SAILE
Director
Office of Professional
Medical Conduct

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

IN THE MATTER
OF
JUDITH VOLPE, M.D.

STATEMENT
OF
CHARGES

JUDITH VOLPE, M.D., the Respondent, was authorized to practice medicine in New York State on or about March 30, 1988, by the issuance of license number 174169 by the New York State Education Department.

FACTUAL ALLEGATIONS

- A. Between in or about September and October, 1995, Respondent treated Patient A for chronic Vaginitis and other medical conditions at her office at 30 East 23rd Street, New York, City (hereinafter "Office").
1. A urinalysis done on Patient A indicated an infection but Respondent failed to adequately evaluate, follow-up or treat such condition or note such evaluation, follow-up or treatment, if any.
 2. Respondent noted and told Patient A that her blood chemistry showed a "toxic" liver function when, in fact, the liver function was not "toxic".
 3. Respondent inappropriately evaluated and reported the results of Patient A's blood tests.

4. Respondent improperly delegated part of the care and treatment of Patient A to an individual not licensed to practice medicine in New York State.
 5. Respondent's actions, as alleged in Paragraph A2 and A3 were committed knowingly falsely and with intent to deceive.
- B. On or about November 20, 1996, Respondent treated Patient B for Diabetes at her Office.
1. Despite Patient B's condition, Respondent inappropriately advised him to go on a 12-hour fast before coming to the Office. Following such fast, Patient A had a seizure in Respondent's office.
 2. Respondent noted and told Patient B that his blood chemistry showed a "toxic" liver function, when, in fact, the liver function was not "toxic".
 3. Respondent inappropriately evaluated and reported the results of Patient A's blood tests.
 4. Respondent failed to adequately follow-up on Patient B's inadequate management of his diabetes and his hypoglycemia and failed to note such follow-up, if any.

5. Respondent's actions as alleged in Paragraph B2 and B3 were committed knowingly falsely and with intent to deceive.
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- C. Respondent's utilization of and reliance upon "homeopathic optimal ranges" in her care of Patients A and B evidences incompetence in the homeopathic practice of medicine.
 - D. During in or about 1997, Respondent gave intravenous infusions to patients at her Office.
 1. During such time, Respondent failed to use or assure the use of scientifically accepted barrier precautions and infection control practices.
 2. Respondent knowingly delegated to an unlicensed person the responsibility to prepare, start and monitor these infusions.

SPECIFICATION OF CHARGES

FIRST SPECIFICATION

NEGLIGENCE ON MORE THAN ONE OCCASION

Respondent is charged with committing professional misconduct as defined in N.Y. Educ. Law §6530(3)(McKinney Supp. 1998) 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:

1. Paragraphs A and A1-4; B and B1-4; and/or D and D1, 2.

SECOND SPECIFICATION

INCOMPETENCE ON MORE THAN ONE OCCASION

Respondent is charged with committing professional misconduct as defined in N.Y. Educ. Law §6530(5)(McKinney Supp. 1998) 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:

2. Paragraphs A and A1-4; B and B1-4; C; and/or D and D1, 2.

THIRD AND FOURTH SPECIFICATIONS

AIDING AND ABETTING AN UNLICENSED PERSON

Respondent is charged with committing professional misconduct as defined in N.Y. Educ. Law §6530(11)(McKinney Supp. 1998) by permitting, aiding and abetting

an unlicensed person to perform activities requiring a license, as alleged in the facts of:

3. Paragraphs A and A4.
4. Paragraphs D and D2.

FIFTH AND SIXTH SPECIFICATIONS

IMPROPER DELEGATION

Respondent is charged with committing professional misconduct as defined in N.Y. Educ. Law §6530(25)(McKinney Supp. 1998) by delegating professional responsibilities to a person whom she knew or had reason to know was not qualified to perform them as alleged in the facts of:

5. Paragraphs A and A4.
6. Paragraphs D and D2.

SEVENTH AND EIGHTH SPECIFICATIONS

PRACTICING THE PROFESSION FRAUDULENTLY

Respondent is charged with committing professional misconduct as defined by N.Y. Educ. Law §6530(2)(McKinney Supp. 1998) by practicing the profession of medicine fraudulently as alleged in the facts of the following:

7. Paragraphs A and A2, 3, 5.
8. Paragraphs B and B2, 3, 5.

NINTH AND TENTH SPECIFICATIONS

EXERCISING UNDUE INFLUENCE

Respondent is charged with committing professional misconduct as defined in N.Y. Educ. Law §6530(17)(McKinney Supp. 1998) by exercising undue influence on patients so as to exploit them for financial gain as alleged in the facts of the following:

9. Paragraphs A and A2, 3, 5,
10. Paragraphs B and B2, 3, 5.

ELEVENTH AND TWELFTH SPECIFICATIONS

MORAL UNFITNESS

Respondent is charged with committing professional misconduct as defined in N.Y. Educ. Law §6530(20)(McKinney Supp. 1998) 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:

11. Paragraphs A and A2, 3, 5.
12. Paragraphs B and B2, 3, 5.

THIRTEENTH SPECIFICATION

LACK OF INFECTION CONTROL

Respondent is charged with committing professional misconduct as defined in N.Y. Educ. Law §6530(47)(McKinney Supp. 1998) by failing to use or assure the use

of scientifically accepted barrier precautions and infection control practices as alleged in the facts of:

13. Paragraphs D and D1.

FOURTEENTH AND FIFTEENTH SPECIFICATION
FAILURE TO MAINTAIN RECORDS

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 which accurately reflects the evaluation and treatment of the patient, as alleged in the facts of:

14. Paragraphs A and A1-3.
15. Paragraphs B and B2-4.

DATED: October 16, 1998
New York, New York



ROY NEMERSON
Deputy Counsel
Bureau of Professional
Medical Conduct

EXHIBIT "B"

Terms of Probation

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 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. 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.
4. 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, laboratory records, patient records and/or hospital charts, interviews with or periodic visits with Respondent and his/her staff at practice locations or OPMC offices.
5. 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 all aspects of medical practice.
6. 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 of records maintained by Respondent, including patient records, laboratory 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.
7. Respondent shall comply with all terms, conditions, restrictions, limitations and penalties to which he or 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 probation proceeding and/or any such other proceeding against Respondent as may be authorized pursuant to the law.
8. The term of this probation shall be three (3) years from the effective date of the Order herein, subject to the tolling provisions set forth above.

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

IN THE MATTER
OF
JUDITH VOLPE, M.D.

CONSENT
ORDER

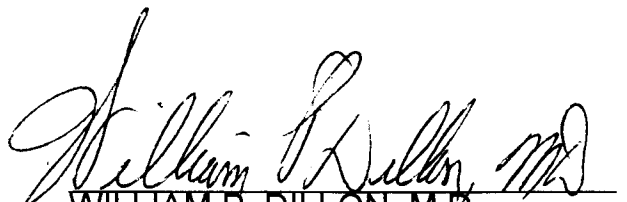
Upon the proposed agreement of JUDITH VOLPE, M.D. (Respondent) for Consent Order, which application is made a part hereof, it is agreed to and

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 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: 5/5/99



WILLIAM P. DILLON, M.D.
Chair
State Board for Professional
Medical Conduct