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FILED

August 18, 2003

**NEW JERSEY STATE BOARD
OF MEDICAL EXAMINERS**

By: Tobey Palan
Deputy Attorney General
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STATE OF NEW JERSEY
DEPARTMENT OF LAW & PUBLIC SAFETY
DIVISION OF CONSUMER AFFAIRS
STATE BOARD OF MEDICAL EXAMINERS

IN THE MATTER OF THE LICENSE OF : Administrative Action
: :
Elliot Gellman, M. 3.
License No. MA 62218 : CONSENT ORDER
: :
TO PRACTICE MEDICINE & SURGERY :
IN THE STATE OF NEW JERSEY :
:

This matter was opened to **the** New Jersey State Board of **Medical Examiners (Board)** upon receipt of information that on or about September-10, 2002, Respondent, Elliot Gellman, M.D., executed a Consent Order with the New York State Board for Professional Medical Conduct. The Consent Order states that Respondent agreed not to contest the one (1) Specification of Professional Medical Conduct contained in the Statement of Charges dated August 2, 2002. The Consent **Order** further states that Respondent agreed to the following penalties:
three (3) year suspension of his New York State license to practice medicine, said suspension stayed, with three (3) years probation and a \$10,000.00 fine.

CERTIFIED TRUE COPY

The Specification of Charges recount that on or about June 21, 2002, in the Supreme Court of the State of New York, County of New York, Respondent was found guilty, based on a plea of guilty, of Repeated Failure to File, Personal income & Earnings Taxes, in violation of New York State Law 51802, and that on or about August, 2, 2001, Respondent was sentenced to a three (3) year Conditional Discharge.

After having reviewed the entire record, it appears to the Board that the New York disciplinary proceedings establish a basis for disciplinary action pursuant to N.J.S.A. 45:1-21(f) in that Respondent has pled guilty to a crime involving moral turpitude or one relating adversely to the practice of medicine. It appearing that Respondent desires to resolve this matter without formal proceedings and for good cause shown:

IT IS ON THIS 13[#] day of August, 2003, ORDERED AND AGREED that Respondent is **suspended** from practicing medicine in New Jersey for three (3) years, **said** suspension stayed to **become** a **three (3)** year period of probation by the New Jersey **state** Board **of** Medical Examiners.

NEW JERSEY STATE BOARD OF
MEDICAL EXAMINERS

By: David M. Wallace M.D.
David M. Wallace, M.D.
Board President

I have read and understand the within Consent Order and agree to be bound by its terms. Consent is hereby given to the Board to enter this order.

Elliot Gellman
Elliot Gellman, M.D.

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

IN THE MATTER

QF

**ELLIOT GELLMAN, M.D.
CO-02-05-2311-A**

CONSENT

AGREEMENT

AND ORDER

BPMC NO. 02-315

ELLIOT GELLMAN, M.D., (Respondent) **deposes** and says:

That on or about August 19, 1974, I was licensed to practice as a physician in the State of New York, having been issued license No. 121153 by the New York State Education Department.

My current address is 607 Maitland Avenue, Teaneck, NJ 07666-2263, and I will advise the Director of the Office of Professional Medical Conduct of any change of my address within thirty (30) days thereof.

I understand that the New York State Board of Professional Medical Conduct has charged me with one (1) specification of professional misconduct.

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

I do not contest the one (1) specification, in full satisfaction of the charges against me. I, hereby, agree to the following penalties:

Three (3) year suspension of my New York State license to practice medicine, said suspension to be stayed, with three (3) years probation as described in the attached "Exhibit 8" and a \$10,000.00 fine.

The fine should be **paid** within thirty (30) days of the effective **date** of this Order to the NYS Department of Health, Bureau of Accounts Management, Revenue Unit, Empire State Plaza, Corning Tower, Room 1258, Albany, NY 12237-0016.

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 active 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 possess 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 QPMC.

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).

I agree that in the event that I am charged with professional misconduct in **the** future, the 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.

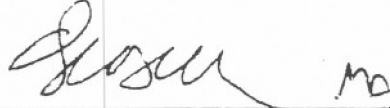
I agree that, in the event **the** Board grants my Application, as **set forth herein**, an order of the Chairperson of the Board shall **be** issued in accordance with same. I **agree** that such order shall **be effective** upon issuance **by** **the** Board, which may **be** accomplished **by** mailing, 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: 9/10/02



ELLIOT GELLMAN, 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: 9/11/02



KEVIN M. FLYNN
Attorney for Respondent

DATE: 16 September 2002



ROBERT BOGAN
Associate Counsel
Bureau of Professional **Medical** Conduct

DATE: 30 September 2002



DENNIS J. GRAZIANO
Director
Office of Professional **Medical** Conduct

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

IN THE MATTER
OF
ELLIOT GELLMAN, M.D.
CO-02-05-2311-A

STATEMENT
OF
CHARGES

ELLIOT GELLMAN, M.D., the Respondent, was authorized to practice **medicine** in New York state on August 19, 1974, by the issuance of license number 121153 by the New York State Education Department.

FACTUAL ALLEGATIONS

A. On or about June 21, 2002, in the Supreme Court of the State of New York, County of New York: Part 72, Respondent was found guilty, **based** on a plea of guilty, of **Repeated** Failure to File; Personal Income & Earnings Taxes, in violation of New York State Tax Law §1802, and on or about August 2, 2001, was **sentenced** to a **three (3)** year Conditional Discharge.

SPECIFICATION

Respondent violated New York Education Law §6530(9)(a)(i) by being convicted of committing an act constituting a crime **under New York** State law, in that Petitioner charges:

1. The facts in Paragraph A.

DATED: *August 2*, 2002
Albany, New York

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

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

IN THE MATTER
OF
ELLIOT GELLMAN, M.D.

CONSENT
ORDER

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

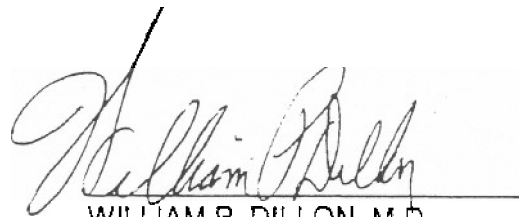
ORDERED, that *the* application and the provisions thereof are **hereby adopted** and so ORDERED, and it is further

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: _____

10/3/02



WILLIAM P. DILLON, M.D.
Chair
State Board for 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, Office of Professional Medical Conduct (OPMC), Hedley Park Place, 433 River Street Suite 303, 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** 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/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 enroll in and complete a continuing education program in the area of professional ethics subject to the prior written approval of the Director of OPMC and to be completed within the first six (6) months of probation or as otherwise specified in the Order

9. 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.