



STATE OF WASHINGTON
DEPARTMENT OF HEALTH
Olympia, Washington 98504

RE: Howard J. Levine, MD
Master No.: M2007-58073
Docket No.: 07-03-A-1081MD
Document: Amended Statement of Charges

Regarding your request for information about the above-named practitioner, certain information may have been withheld pursuant to Washington state laws. While those laws require that most records be disclosed on request, they also state that certain information should not be disclosed.

The following information has been withheld: **NONE**

If you have any questions or need additional information regarding the information that was withheld, please contact:

Customer Service Center
P.O. Box 47865
Olympia, WA 98504-7865
Phone: (360) 236-4700
Fax: (360) 586-2171

You may appeal the decision to withhold any information by writing to the Deputy Secretary, Department of Health, P.O. Box 47890, Olympia, WA 98504-7890.

STATE OF WASHINGTON
DEPARTMENT OF HEALTH
MEDICAL QUALITY ASSURANCE COMMISSION

FILED
JUN 02 2008
Adjudicative Clerk Office

In the Matter of

HOWARD J. LEVINE, MD
Credential No. MD00019774

Respondent

No. M2007-58073
(07-03-A-1081MD)

AMENDED STATEMENT OF
CHARGES

The Health Services Consultant of the Medical Quality Assurance Commission (Commission), on designation by the Commission, makes the allegations below, which are supported by the evidence contained in Case Nos. 2006-46863 and 2007-51148 (Program file Nos. 2006-11-0014MD, 2007-06-0065MD).

1: ALLEGED FACTS

1.1 On March 11, 1982, the state of Washington issued Respondent a credential to practice as a physician. Respondent's credential is currently summarily suspended pending a hearing in Docket No. 07-03-A-1081MD.

1.2 The Commission issued a Statement of Charges against Respondent in Docket No. 98-10-A-1028MD on May 7, 1999. The charges alleged Respondent violated RCW 18.130.180(1), (4), (7), (24) and 18.130.190(10). On November 4, 1999, the Commission accepted the Stipulated Findings of Fact, Conclusions, of Law and Agreed Order. The Agreed Order suspended Respondent's license indefinitely, suspension stayed, provided he remain in compliance with all of the terms and conditions of the Agreed Order. The Agreed Order required, inter alia, that Respondent obey all laws and rules governing the practice of medicine. The November 4, 1999 Agreed Order remains in full force and effect.

1.3 The Commission issued a Statement of Charges against Respondent in Docket No. 99-12-A-1079MD on January 10, 2000. The charges alleged Respondent violated RCW 18.130.180(1), (3), (4), (7), and (13). Respondent was convicted of extortion and wire fraud in violation of federal law on March 24, 2000 and sentenced to a federal penitentiary. On July 13, 2000, the Commission accepted the Stipulated

Findings of Fact, Conclusion of Law, and Agreed Order. The July 13, 2000 Agreed Order reprimanded Respondent and lifted the stay of suspension while Respondent was confined in a federal penitentiary. Upon return to Washington, the Respondent was suspended from practice for six (6) months, followed by a three (3) year period of probation. Respondent was prohibited, inter alia, from practicing medicine in any form by means of the Internet. Respondent was further admonished to see that all care delivered to his patients falls within the acceptable standards of medical practice, and Respondent shall obey all state, federal, and local laws and rules governing the practice of medicine. Respondent's license to practice medicine was reinstated August 5, 2002, followed by three (3) years of probation.

1.4 The Commission issued a Statement of Charges against Respondent on January 26, 2006 in Docket No. 05-10-A-1037MD. The charges alleged Respondent violated RCW 18.130.180(9) for failure to comply with the terms of the Agreed Order dated July 13, 2000. On June 1, 2006, the Commission accepted the Stipulated Findings of Fact, Conclusions of Law, and Agreed Order. The Agreed Order censured Respondent and required that he pay his fine of seven thousand eight hundred dollars (\$7,800.00) and attend an ethics course. Respondent paid his fine and successfully completed ethics training.

1.5 Section 5 of the June 1, 2006 Agreed Order provides that if Respondent violates the terms and conditions of the Agreed Order in any way, the Commission may suspend the Respondent's license to practice medicine.

1.6 On or about October 27, 2004, Respondent offered treatment to a patient visiting his office. Respondent was not aware this patient was an undercover law enforcement agent. The patient told Respondent he was seeking steroids and human growth hormone to gain muscle mass. Respondent offered the patient no exam, took no history or physical, and took no blood test to detect if the patient required hormones or growth hormone for medical reasons. Respondent provided the patient a 10 mL bottle of Nandrolone Decanoate, three (3) 10 mL bottles of Stanozolol, and thirty-one (31) syringes.

1.7 On or about November 1, 2004, Respondent offered treatment to a patient visiting him in his office. Respondent was not aware this patient was an

undercover law enforcement agent. The patient told Respondent he had sold the drugs obtained on October 27, 2004, and wanted to buy more. Respondent offered the patient no exam, took no history or physical, and took no blood test to detect if the patient required hormones or growth hormone for medical reasons. Respondent offered to obtain any quantity of steroids that patient wanted to buy. Respondent provided the patient 20 mL Testosterone Enanthate, 30 mL Nandrolone Decanoate, and 100 syringes.

1.8 On or about January 7, 2005, Respondent offered treatment to a patient visiting him in his office. Respondent was not aware this patient was an undercover law enforcement agent. Respondent told the patient he could get as many bottles of steroids as he wanted. Respondent also said he could ship to Portland. Respondent offered the patient no exam, took no history or physical, and took no blood test to detect if the patient required hormones or growth hormone for medical reasons. Respondent provided the patient two (2) vials of 10 mL Nandrolone Decanoate and four (4) vials of 10 mL Stanozolol.

1.9 On or about February 28, 2005, Respondent offered treatment to a patient visiting him in his office. Respondent was not aware this patient was an undercover law enforcement agent. Another undercover agent posing as an agent accompanied the patient. They told Respondent that when one patient was out of town, the other patient would be the contact. Respondent also said he could ship to Portland. Respondent offered the patient no exam, took no history or physical, and took no blood test to detect if the patient required hormones or growth hormone for medical reasons. Respondent provided the patient six (6) 10 mL bottles of Trenbolone Acetate, one (1) 30 mL multi-dose vial of Cyanocobalamin, and two (2) 6 mg multi-dose vials of Serostim.

1.10 On May 31, 2005, the patient called ahead to get drugs from Respondent. Respondent reassured him that he could get whatever the patient asked for. The Patient said he would send someone to pick up the drugs. On or about June 2, 2005, Respondent offered treatment to a patient visiting him in his office. Respondent was not aware this patient was an undercover law enforcement agent. Respondent offered the patient no exam, took no history or physical, and took no blood test to detect if the patient required hormones or growth hormone for medical reasons. Respondent

provided the patient six (6) 10 mL bottles of Trenbolone Acetate, two (2) 10 mL vials of Nandrolone Decanoate, and two (2) 10 mL vials of Stanozolol.

1.11 On or about June 15, 2005, the patient called Respondent to place an order for drugs. On June 17, 2005, the patient visited Respondent to pick up the drugs ordered on June 15. The patient told Respondent that he was selling the drugs, and they discussed the prices charged to customers. Respondent informed the patient that prices would be going up thirty percent (30%) from the pharmacist supplying the drugs to Respondent. Respondent also offered to sell drugs to the customers directly, so that the patient would not have to put himself at risk of arrest. Respondent stated that if the customers filled out a medical history form he supplied, it would be a legal prescription. Respondent would make charts for the customers. Respondent provided the patient eight (8) 10 mL vials of Trenbolone, three (3) 10 mL vials of Stanozolol, and three (3) 10 mL vials of Nandrolone Decanoate.

1.12 On August 5, 2005, a patient called Respondent to place an order for three (3) 10 mL vials of Trenbolone. Respondent was not aware this patient was an undercover law enforcement agent. Respondent offered the patient no exam, took no history or physical, and took no blood test to detect if the patient required hormones or growth hormone for medical reasons. Later that day, the patient visited Respondent's office and picked up three (3) 10 mL vials of Trenbolone.

1.13 On October 20, 2005, a patient set up an email account and sent an email to the address on Respondent's business card seeking steroids. Respondent replied, "Whatever you nweed (sp) simply let me know. If I dont (sp) have it it generally only takes a day." Respondent was not aware this patient was an undercover law enforcement agent. Respondent offered the patient no exam, took no history or physical, and took no blood test to detect if the patient required hormones or growth hormone for medical reasons.

1.14 On November 22, 2005, a patient called Respondent to place an order for anabolic steroids. He said he had previously purchased Trenbolone through another of Respondent's patients, and now he wanted to obtain anabolic steroids directly from Respondent. Respondent was not aware this patient was an undercover law enforcement agent. When the patient visited Respondent later that day, Respondent

offered the patient no exam, took no history or physical, and took no blood test to detect if the patient required hormones or growth hormone for medical reasons. Respondent discussed how the patient wanted to look and what kinds of steroids and hormones he should use. Respondent confessed that he had patient referrals from physical therapists at area hospitals, and from fitness trainers. Respondent sold the patient one (1) 10 mL multi dose vial of Trenbolone, one (1) 10 mL multi-dose vial of Stanozolol, and nineteen (19) tablets of Anadrol.

1.15 On December 9, 2005, the same patient as referenced in para.1.14 called Respondent on his mobile telephone. The patient was seeking Anadrol. Respondent was not aware this patient was an undercover law enforcement agent. The patient asked for the names of other physicians offering drugs to body builders, but Respondent said there really were not any in the area.

1.16 On February 2, 2006, that same patient as referenced in para.1.14 called Respondent at his office. The patient asked about Trenbolone. Respondent was not aware this patient was an undercover law enforcement agent. When the patient visited Respondent later that day, Respondent offered the patient no exam, took no history or physical, and took no blood test to detect if the patient required hormones or growth hormone for medical reasons. Respondent answered the patient's questions about the use of anabolic steroids for body-building, the contraindications, the types of steroids available, and possible medical complications from using the drugs. During the visit, Respondent received a call and the patient overheard that he was sending some 'deca gel' to a woman in Texas. Respondent told the patient that women 50-52 years old love deca gel. The patient purchased one (1) 60 gm syringe of Nandrolone Decanoate Gel and one multi-dose vial of Trenbolone Acetate.

1.17 On March 23, 2006, the same patient referenced in para.1.14 called Respondent at his office to inquire about his request for four syringes of deca gel. The patient visited Respondent at his office a few hours later to pick up the drugs he had requested. The patient asked about purchasing human growth hormone. Respondent offered to sell him growth hormone. They discussed what kind of drugs to use for specific effects. Respondent bragged that he had people he thought were professional baseball players coming into the office to buy steroids and growth hormone.

Respondent did not identify these people and claimed that they were protected by 'physician-patient confidentiality.' Respondent told the patient that he should send 'clients' directly to Respondent because it was not illegal for Respondent to provide steroids and growth hormone. Respondent said he would charge the 'clients' an agreed-to price and rebate the difference to the referring patient.

1.18 On July 5, 2006, a patient called Respondent to place an order for anabolic steroids. He said he had previously purchased Trenbolone through Respondent, and now he wanted to obtain a refill. Respondent discussed buying Trenbolone through a veterinarian. Respondent was not aware this patient was an undercover law enforcement agent. When the patient visited Respondent later that day, Respondent offered the patient no exam, took no history or physical, and took no blood test to detect if the patient required hormones or growth hormone for medical reasons. The patient visited Respondent at his office and purchased two (2) syringes of Nandrolone Decanoate and two (2) syringes of testosterone gel. During the conversation, Respondent offered to purchase trenbolone from the patient and re-distribute it through his office. Respondent said he would only accept pharmaceutical grade drugs. At this visit, Respondent asked the patient to fill out a health questionnaire form. Respondent told the patient he could fill it out with anything he wished and it did not have to be legitimate information. The patient filled out the form using a false name.

1.19 From approximately October 2004 through June 2007, the Drug Enforcement Administration (DEA) conducted an undercover operation purchasing Schedule III controlled substances from Respondent. Many of the drugs were purchased over the Internet, using email and web sites to make contact with patients and complete sales. None of these patients were examined and Respondent did not keep a medical chart for these patients. The Agreed Order dated July 13, 2000 prohibited Respondent from using the Internet for the practice of medicine. Respondent's actions violate the Commission's Internet Prescribing Guidelines.

1.20 On June 17, 2007, the Seattle Police Department executed a search warrant at Respondent's home. Police found evidence that Respondent was stocking a large inventory of controlled substances at his home. There was evidence at the scene

indicating Respondent was selling these drugs, including email messages to and from patients, a credit card processing machine, and mailing and packing materials.

Respondent does not have the required license as a pharmacist to sell schedule III controlled substances, RCW 69.50.302. Respondent had no DEA registration after he gave up his DEA registration voluntarily on March 21, 2007. With surrendering his DEA registration, Respondent gave up the right under federal law to prescribe, possess, distribute, or handle all controlled substances.

1.21 On June 17, 2007, the Seattle Police found crystal methamphetamines at Respondent's home. The drugs tested positive for crystal meth. A blood sample taken from Respondent the same day tested positive for crystal methamphetamine, benzodiazepines, and amphetamines.

1.22 On or about November 27, 2007, Respondent entered a plea of guilty in response to federal criminal charges in Case No. CR-07-0233-JLR. Respondent was charged with distribution of controlled substances in violation of 21 USC sec. 841(a)(1) and 841(b)(1)(D). Respondent admitted that he is guilty of the charged offense. On February 19, 2008 Respondent was sentenced to twenty-two months in federal prison. The charged offense is a felony offense.

2: ALLEGED VIOLATIONS

2.1 Based on the Alleged Facts, Respondent has committed unprofessional conduct in violation of RCW 18.130.180(1), (4), (6), (7), (9), (13), (17), (23) and WAC 246-919-610, which provide in part:

RCW 18.130.180 Unprofessional conduct. The following conduct, acts, or conditions constitute unprofessional conduct for any license holder or applicant under the jurisdiction of this chapter:

(1) The commission of any act involving moral turpitude, dishonesty, or corruption relating to the practice of the person's profession, whether the act constitutes a crime or not. If the act constitutes a crime, conviction in a criminal proceeding is not a condition precedent to disciplinary action. Upon such a conviction, however, the judgment and sentence is conclusive evidence at the ensuing disciplinary hearing of the guilt of the license holder or applicant of the crime described in the indictment or information, and of the person's violation of the statute on which it is based. For the purposes of this section, conviction includes all instances

in which a plea of guilty or nolo contendere is the basis for the conviction and all proceedings in which the sentence has been deferred or suspended. Nothing in this section abrogates rights guaranteed under chapter 9.96A RCW;

...

(4) Incompetence, negligence, or malpractice which results in injury to a patient or which creates an unreasonable risk that a patient may be harmed. The use of a nontraditional treatment by itself shall not constitute unprofessional conduct, provided that it does not result in injury to a patient or create an unreasonable risk that a patient may be harmed;

...

(6) The possession, use, prescription for use, or distribution of controlled substances or legend drugs in any way other than for legitimate or therapeutic purposes, diversion of controlled substances or legend drugs, the violation of any drug law, or prescribing controlled substances for oneself;

(7) Violation of any state or federal statute or administrative rule regulating the profession in question, including any statute or rule defining or establishing standards of patient care or professional conduct or practice;

...

(9) Failure to comply with an order issued by the disciplining authority or a stipulation for informal disposition entered into with the disciplining authority;

...

(13) Misrepresentation or fraud in any aspect of the conduct of the business or profession;

...

(17) Conviction of any gross misdemeanor or felony relating to the practice of the person's profession. For the purposes of this subsection, conviction includes all instances in which a plea of guilty or nolo contendere is the basis for conviction and all proceedings in which the sentence has been deferred or suspended. Nothing in this section abrogates rights guaranteed under chapter 9.96A RCW;

(23) Current misuse of:

- (a) Alcohol;
- (b) Controlled substances; or
- (c) Legend drugs;

...

WAC 246-919-610 Use of drugs or autotransfusion to enhance athletic ability.

(1) A physician shall not prescribe, administer or dispense anabolic steroids, growth hormones, testosterone or its analogs, human chorionic gonadotropin (HCG), other hormones, or any form of autotransfusion for the purpose of enhancing athletic ability.

(2) A physician shall complete and maintain patient medical records which accurately reflect the prescribing, administering or dispensing of any substance or drug described in this rule or any form of autotransfusion. Patient medical records shall indicate the diagnosis and purpose for which the substance, drug or autotransfusion is prescribed, administered or dispensed and any additional information upon which the diagnosis is based.

(3) A violation of any provision of this rule shall constitute grounds for disciplinary action under RCW 18.130.180(7). A violation of subsection (1) of this section shall also constitute grounds for disciplinary action under RCW 18.130.180(6).

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2.2 The above violations provide grounds for imposing sanctions under RCW 18.130.160.

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3: NOTICE TO RESPONDENT

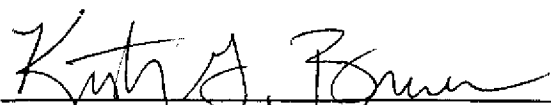
The charges in this document affect the public health, safety, and welfare. The Health Care Consultant of the Commission directs that a notice be issued and served on Respondent as provided by law, giving Respondent the opportunity to defend against these charges. If Respondent fails to defend against these charges, Respondent shall be subject to discipline pursuant to RCW 18.130.180 and the imposition of sanctions under RCW 18.130.160.

DATED May 30, 2008.

STATE OF WASHINGTON
DEPARTMENT OF HEALTH
MEDICAL QUALITY ASSURANCE
COMMISSION



ERIN OBENLAND
HEALTH SERVICES CONSULTANT



KRISTIN G. BREWER, WSBA #38494
ASSISTANT ATTORNEY GENERAL