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COMMONWEALTH OF PENNSYLVANIA

DEPARTMENT OF STATE

BUREAU OF PROFESSIONAL AND OCCUPATIONAL AFFAIRS
BEFORE THE STATE BOARD OF MEDICINE

Commonwealth of Pennsylvania, :
Bureau of Professional and :
Occupational Affairs :

vs. :

Docket No. 0039-49-94 :
File No. 91-49-00138 :

Harvey W. Brookman, M.D., :
Respondent :

CONSENT AGREEMENT

The participants stipulate to the following in settlement of the above-captioned matter:

1. The State Board of Medicine is a departmental administrative body of the Department of State, organized under the provisions of the Medical Practice Act of 1985, the Act of December 20, 1985, P.L. 457, as amended, ("Act"), 63 P.S. §422.1-422.45.

2. Respondent is currently the holder of a license to practice medicine and surgery without restriction in the Commonwealth of Pennsylvania, holding License No. MD-026946-E.

3. Respondent's license is current through December 31, 1994 and may be continually renewed thereafter upon the filing of appropriate documentation and payment of the necessary fees.

4. At all times pertinent to the factual allegations herein, Respondent currently held a license to practice medicine and surgery in the Commonwealth of Pennsylvania.

5. The Respondent's last known address on file with the Board is 301 Oxford Valley Road, Suite 104A, Yardley, PA 19067.

6. On or about February 16, 1993, the New York State Board for Professional Medical Conduct issued an Order containing, inter alia, the sanction of censure and reprimand and a fine of \$2,500.00 upon Respondent. A true and correct copy of the New York disciplinary action is appended as "Exhibit 1."

7. On or about April 19, 1990, the New Jersey Board of Medical Examiners issued a Consent Order containing, inter alia, a reprimand and civil penalty of \$2,500.00 against Respondent. A true and correct copy of the New Jersey Order is appended as "Exhibit 2."

8. The Respondent herein knowingly and voluntarily acknowledges receipt of an Order to Show Cause, which sets forth the charges and allegations against the Respondent, as well as a notice of his rights to a hearing whereat the Respondent could appear to show cause why his license to practice medicine and surgery without restriction in the Commonwealth of Pennsylvania should not be revoked or suspended, or a civil penalty of up to \$1,000.00 per violation should not be imposed.

9. The Respondent has been fully advised of, and hereby knowingly and voluntarily waives, his right to a formal administrative hearing, to be represented by counsel thereat, to present witnesses and testimony in his defense and in mitigation of any sanction that may be imposed for a violation, to cross-examine witnesses and to challenge evidence presented by the Commonwealth against him, to present legal arguments by means of a Brief, and to

take an appeal from any final decision adverse to his interest in his license to practice medicine and surgery without restriction in the Commonwealth of Pennsylvania.

10. The Respondent agrees to resolve the allegations that were raised by the Commonwealth in its Order to Show Cause through this Consent Agreement.

11. The participants consent to the issuance of the following Order in settlement of this case:

a. That the appended Consent Agreement is adopted and incorporated herein.

b. That the Board finds that it may impose disciplinary and corrective measures in accordance with the Act at 63 P.S. §422.41(4) based upon the New York and New Jersey reciprocal disciplinary actions. The foregoing also constitutes grounds for the levying of civil penalties in accordance with the Act at 63 P.S. §§422.39(b) and 422.42(a)(7).

c. That a **PUBLIC REPRIMAND** is administered upon Respondent's Board records.

d. That a **CIVIL PENALTY** of two thousand five hundred dollars (\$2,500.00) is levied upon Respondent.

e. That Respondent shall notify the Prosecuting Attorney, in writing, within twenty (20) days of the initiation of any disciplinary or corrective action taken by the medical licensing authority of any state or jurisdiction. If disciplinary or corrective action is in progress or has been finalized, Respondent shall notify the Prosecuting Attorney, in writing, within twenty (20)

days of the issuance of this Order.

f. That this case shall be deemed settled and discontinued immediately upon issuance of this Order.

g. That this Order shall take effect immediately upon adoption of the Consent Agreement.

12. Respondent shall tender the two thousand five hundred dollar (\$2,500.00) civil penalty with the executed Consent Agreement and it shall be paid by certified check, cashier's check, attorney's check or money order made payable to "Commonwealth of Pennsylvania."

13. The parties understand that this Consent Agreement is between the Prosecuting Attorney and the Respondent only, and is to have no legal effect unless and until the contents have been approved by the Office of General Counsel as to form and legality and the Board issues an Order implementing this Consent Agreement.

14. Should this Consent Agreement not be accepted by the Board, it is agreed that presentation to and consideration of this Consent Agreement and other documents and matters by the Board shall not unfairly or illegally prejudice the Board or any of its members from further participation, consideration or resolution of these proceedings.

15. The Respondent verifies that the facts and statements set forth in the foregoing are true and correct to the best of the Respondent's knowledge, information and belief. The Respondent understands that false statements herein are made subject to the

penalties of 18 Pa. C.S. §4904 relating to unsworn falsification to authorities.

James A. Holzman 3/25/94
James A. Holzman (Date)
Prosecuting Attorney
Bureau of Professional and
Occupational Affairs

Harvey W. Brookman
Harvey W. Brookman, M.D., (Date) *mc*
Respondent 3/22/94

Of Counsel
Mel Narol 3/22/94
Mel Narol, Esquire (Date)
PELLETTIERI, RABSTEIN AND
ALTMAN
Attorney for Respondent

Daniel Sweetser 3/22/94
Dan Sweetser, Esquire (Date)
PELLETTIERI, RABSTEIN AND
ALTMAN
Attorney for Respondent

PA Bar No. 63776

Board for Professional Medical Conduct

Corning Tower • Empire State Plaza • Albany, NY 12237 • (518) 474-8357

Chassin, M.D., M.P.P., M.P.H.
Commissioner

C. Maynard Guest, M.D.
Executive Secretary

February 19, 1993

CERTIFIED MAIL-RETURN RECEIPT REQUESTED

Harvey W. Brookman, M.D.
12 Moon Circle
Yardley, PA 19067

RE: License No. 148639
Effective Date: 2/22/93

Dear Dr. Brookman:

Enclosed please find Order #BPMC 93-24 of the New York State Board for Professional Medical Conduct. This Order and any penalty provided therein goes into effect upon receipt of this letter or seven (7) days after the date of this letter, whichever is earlier.

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.

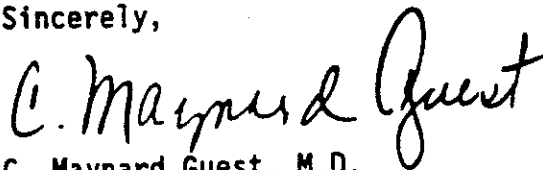
Board for Professional Medical Conduct
New York State Department of Health
Empire State Plaza
Tower Building-Room 438
Albany, New York 12237-0614

If the penalty imposed by the Order is a fine, please write the check payable to the New York State Department of Health. Noting the BPMC Order number on your remittance will assist in proper crediting. Payments should be directed to the following address:



Bureau of Accounts Management
New York State Department of Health
Empire State Plaza
Tower Building-Room 1245
Albany, New York 12237

Sincerely,



C. Maynard Guest, M.D.
Executive Secretary
Board for Professional Medical Conduct

Enclosure

cc: Michael D. Brookman, Esq.
Brookman & Brookman
425 Park Avenue
29th Floor
New York, New York 10022-3506
Jeffrey Armon, Esq.

bcc: Chris Hyman
Peter Van Buren
Kenneth Spooner
Cheryl Ratner
Cheryl Douglas (Rm. 1245)
Faith Schottenfeld
Anne Bohenek

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

-----X

IN THE MATTER :
OF : ORDER
HARVEY W. BROOKMAN, M.D. : BPMC 93-24

-----X

Upon the application of HARVEY W. BROOKMAN, M.D.
(Respondent) for Consent Order, which application is made a part
hereof, it is

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

ORDERED, that this order shall take effect as of the
date of the personal service of this order upon Respondent, upon
receipt by Respondent of this order via certified mail, or seven
days after mailing of this order by certified mail, whichever is
earliest.

SO ORDERED,

DATED: 16 February 1993

Charles J. Vacanti
Charles J. Vacanti, M.D.
Chairperson
State Board for Professional
Medical Conduct

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

IN THE MATTER : APPLICATION
OF : FOR
HARVEY W. BROOKMAN, M.D. : CONSENT

: ORDER

STATE OF PENNSYLVANIA)
COUNTY OF *Bucks*, ss.:

HARVEY W. BROOKMAN, M.D., being duly sworn, deposes and says:

That on or about November 6, 1981 I was licensed to practice as a physician in the State of New York, having been issued License No. 148639 by the New York State Education Department.

I am not currently registered with the New York State Education Department to practice as a physician in the State of New York. My current address is 12 Moon Circle, Yardley, Pennsylvania 19067.

I understand that the New York State Board for Professional Medical Conduct (the "Board") has charged me with One Specification of professional misconduct.

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

I admit guilt to the One Specification of professional misconduct.

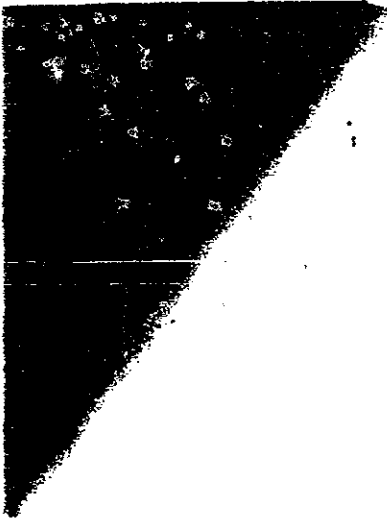
I hereby agree to the penalty of a Censure and Reprimand and a fine of Two Thousand, Five Hundred Dollars (\$2500) as sanction for such misconduct.

I hereby make this Application to 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 may be issued in accordance with same.

No promises of any kind were made to me. I am making this Application of my own free will and accord and not under duress, compulsion or restraint of any kind or manner.


Harvey W. Brookman
HARVEY W. BROOKMAN, M.D. *MP.*
Respondent

Sworn to before me this
14 day of *JANUARY*, 1993.

Jennifer E. Tiso Stewart
NOTARY PUBLIC

NOTARIAL SEAL
JENNIFER E. TISO, Notary Public
Fairb Twp., Bucks County
My Commission Expires Jan. 31, 1994

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

IN THE MATTER

OF

HARVEY W. BROOKMAN, M.D.

: APPLICATION

: FOR

: CONSENT

: ORDER

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

Date:

1/14/93

Harvey W. Brookman
HARVEY W. BROOKMAN, M.D.
Respondent

Date:

1/14/93

Michael D. Brookman, Esq.
MICHAEL D. BROOKMAN, ESQ.
Attorney for Respondent

Date:

Feb. 18 1993

Kathleen M. Tanner
KATHLEEN M. TANNER, Director
Office of Professional
Medical Conduct

Date:

16 February 1993

Charles J. Vacanti
CHARLES J. VACANTI, M.D.,
Chairperson, State Board
for Professional Medical Conduct

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

-----X
IN THE MATTER : STATEMENT
OF : OF
HARVEY W. BROOKMAN, M.D. : CHARGES
-----X

HARVEY W. BROOKMAN, M.D., the Respondent, was authorized to practice medicine in New York State on November 6, 1981 by the issuance of license number 148639 by the New York State Education Department. The Respondent is not currently registered with the New York State Education Department to practice medicine. His current address is 12 Moon Circle, Yardley, Pennsylvania 19067.

FACTUAL ALLEGATIONS

A. Respondent entered into a Consent Order on April 19, 1990, with the Board of Medical Examiners of the State of New Jersey, a duly authorized professional disciplinary agency which took disciplinary action against the Respondent.

1. Respondent testified before the Preliminary Evaluation Committee of the New Jersey Board of Medical Examiners that he destroyed the Hospital Health and Physical form of patient C.M. with the intention of writing a new form when, during the course

of performing a termination of pregnancy, he discovered he had incorrectly determined the gestational age of her fetus.

2. The parties agreed to resolve the matter without further formal proceedings and Respondent admitted an error in judgement in his estimation of the gestational age of patient C.M.'s pregnancy. The New Jersey Board of Medical Examiners noted that Respondent had been disciplined by the hospital for the destruction of the patient record and the creation of a replacement form, and determined to reprimand Respondent for unprofessional conduct by his destruction of a portion of the patient's medical record and by his failure to exercise his best professional judgment in his care of the patient. Respondent was assessed a civil penalty of two thousand five hundred dollars (\$2,500.00) plus investigative costs.

3. Respondent's conduct would have constituted professional misconduct in New York State pursuant to N.Y. Educ. Law §6530(2) and/or §6530(32) (McKinney Supp. 1992), i.e. practicing the profession fraudulently and/or failing to maintain a record for each patient which accurately reflects the evaluation and treatment of the patient.

SPECIFICATION OF CHARGES

HAVING DISCIPLINARY ACTION
TAKEN BY ANOTHER STATE

Respondent is charged with professional misconduct in violation of N.Y. Educ. Law §6530(9)(d) (McKinney Supp. 1992) [formerly N.Y. Educ. Law §6509(5)(d)] in that Respondent's license to practice medicine was subject to other disciplinary action by the duly authorized professional disciplinary agency of another state, where the conduct resulting in such other disciplinary action in that other state would, if committed in New York State, constitute professional misconduct, in that Petitioner charges:

1. The facts in Paragraphs A and A.1, A.2, and A.3.

DATED: Albany, New York

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

FILED

ROBERT J. DEL TUFO
ATTORNEY GENERAL OF NEW JERSEY

April 23, 1990

**NEW JERSEY STATE BOARD
OF MEDICAL EXAMINERS**

By: Jeri L. Warhaftig
Deputy Attorney General
Division of Law, Room 316
1100 Raymond Boulevard
Newark, New Jersey 07102
Tel. (201) 648-4739

STATE OF NEW JERSEY
DEPARTMENT OF LAW & PUBLIC SAFETY
DIVISION OF CONSUMER AFFAIRS
BOARD OF MEDICAL EXAMINERS
DOCKET NO.

IN THE MATTER OF THE SUSPENSION
OR REVOCATION OF THE LICENSE OF

HARVEY BROOKMAN, M.D.
LICENSE NO. 39813

TO PRACTICE MEDICINE & SURGERY
IN THE STATE OF NEW JERSEY

Administrative Action

CONSENT ORDER

This matter was opened to the New Jersey Board of Medical Examiners upon receipt by the Board of a report of disciplinary action from Helene Fuld Medical Center. The report recited that respondent's ob/gyn hospital privileges had been suspended and subsequently reinstated subject to a one year term of supervision and probation.

Respondent, represented by Ruth Rabstein, Attorney at Law, voluntarily appeared and testified before the Preliminary Evaluation Committee of the Board. It was respondent's testimony that patient C.M. presented herself to him at his office seeking an abortion. He performed a physical examination and determined that

"CERTIFIED TRUE COPY"

EXHIBIT
2

C.M. was approaching the end of her first trimester of pregnancy. C.M. was admitted to Helene Fuld Medical Center, a facility that permits abortions to be performed only within the first trimester. According to respondent, in the course of performing the procedure he realized that C.M.'s pregnancy had progressed into the second trimester. The procedure was halted and the abortion was subsequently concluded by another physician at the same facility.

Respondent further testified that after the cessation of the procedure he abruptly destroyed C.M.'s Hospital Health and Physical form with the intention of re-writing a new form that showed C.M. had entered into the second trimester of pregnancy. During the time that it took to locate a blank Health and Physical form, respondent reconsidered his actions and decided that the true gestational age was information that properly should appear in the Operative Notes, having first come to light in the performance of the abortion.

It was respondent's testimony that he is fully cognizant of the fact that his destruction of C.M.'s original health and physical constituted unprofessional conduct and was violative of Board regulations. He advised the Committee that he re-wrote a replacement Health and Physical form that was an exact duplicate of the record he destroyed. None of the information contained therein was altered from the original or omitted in any way and his original, in accurate, estimation of gestational age was re-written onto the replacement form.

The contents of the report of Helene Fuld Medical Center as well as Board investigation corroborated the facts testified to

by respondent and disclosed that respondent was disciplined by the hospital for the destruction of C.M.'s Health and Physical form and the creation of a replacement form. It was also determined by the Hospital that C.M. had entered the second trimester of pregnancy and therefore had exceeded the gestational age at which terminations are permitted to be performed at Helene Fuld Medical Center.

Respondent has admitted to an error in judgment in his estimation of the gestational age of C.M.'s pregnancy.

The parties, having agreed to the resolution of this matter without further formal proceedings, respondent having given his voluntary consent to the within Order and having successfully completed his one year period of supervision and probation at Helene Fuld Medical Center, and the Board finding that this disposition of the matter is adequately protective of the public, and other good cause appearing,

IT IS, THEREFORE, on this 19 day of April, 1990,

ORDERED:

1. Respondent is hereby reprimanded for unprofessional conduct in the destruction of a portion of C.M.'s hospital record and the failure to exercise his best professional judgment in his care of C.M.

2. Respondent shall pay a civil penalty in the amount of two thousand five hundred dollars (\$2,500) in accordance with the installment payment schedule contained in paragraph four below.

3. Respondent shall pay investigative costs in the amount of \$1,316.11 in accordance with the installment payment schedule contained in paragraph four below.

4. Respondent shall pay the entire balance of \$3,816.11 within sixty (60) days of the effective date of this Order or in accordance with the following installment schedule which is calculated at an annual rate of 8% interest.

(a) April 1, 1990	<u>\$1002.20</u>
July 1, 1990	<u>\$1002.20</u>
Oct 1, 1990	<u>\$1002.20</u>
Jan 1, 1991	<u>\$1002.20</u>

5. In the event that any payment pursuant to paragraph four is received by the Board of Medical Examiners after the 14th day of the month in which it is due and owing, the Board will not accept Respondent's payment unless it is accompanied by a late fee in the amount of 8% of the past due payment.

NEW JERSEY BOARD OF
MEDICAL EXAMINERS

By Michael B. Grossman, D.O.
Michael Grossman, D.O.
President

I have read the terms of the within Order. I understand the terms and agree to be bound by them.

Harvey Brookman, M.D.
Harvey Brookman, M.D.

This Order is consented to as to the form and entry.

Ruth Rabstein, Esq.
Ruth Rabstein, Esq.
Attorney at Law

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF STATE
BEFORE THE STATE BOARD OF MEDICINE

Commonwealth of Pennsylvania, :
Bureau of Professional and :
Occupational Affairs :
 :
 :
vs. : Docket No. 0039-49-94
 : File No. 91-49-00138
Harvey W. Brookman, M.D., :
Respondent :

ORDER

AND NOW, this 26th day of April, 1994, upon
consideration of the appended Consent Agreement, the State Board of
Medicine **ORDERS** as follows:

a. That the appended Consent Agreement is adopted
and incorporated herein.

b. That the Board finds that it may impose
disciplinary and corrective measures in accordance with
the Act at 63 P.S. §422.41(4) based upon the New York and
New Jersey reciprocal disciplinary actions. The
foregoing also constitutes grounds for the levying of
civil penalties in accordance with the Act at 63 P.S.
§§422.39(b) and 422.42(a)(7).

c. That a **PUBLIC REPRIMAND** is administered upon
Respondent's Board records.

d. That a **CIVIL PENALTY** of two thousand five hundred
dollars (\$2,500.00) is levied upon Respondent.

e. That Respondent shall notify the Prosecuting
Attorney, in writing, within twenty (20) days of the

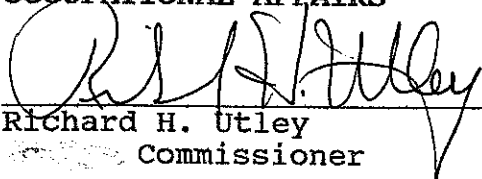
initiation of any disciplinary or corrective action taken by the medical licensing authority of any state or jurisdiction. If disciplinary or corrective action is in progress or has been finalized, Respondent shall notify the Prosecuting Attorney, in writing, within twenty (20) days of the issuance of this Order.

f. That this case shall be deemed settled and discontinued immediately upon issuance of this Order.

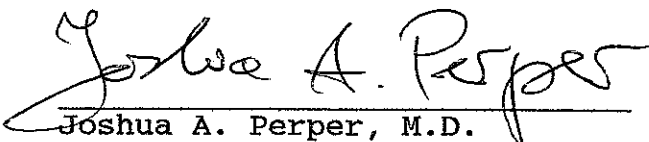
g. That this Order shall take effect immediately upon adoption of the Consent Agreement.

BY ORDER:

BUREAU OF PROFESSIONAL AND
OCCUPATIONAL AFFAIRS


Richard H. Utley
Commissioner

STATE BOARD OF MEDICINE


Joshua A. Perper, M.D.
Chairman

For the Commonwealth:

James A. Holzman, Esquire
617 Transportation and
Safety Building
Harrisburg, PA 17120

For the Respondent:

Mel Narol, Esquire
PELLETTIERI, RABSTEIN AND
ALTMAN
100 Nassau Park Boulevard
Suite 111-CN5301
Princeton, NJ 08540-5301

Date of Mailing:

4-28-94