

PROTHONOTARY

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

BUREAU OF PROFESSIONAL
AND
OCCUPATIONAL AFFAIRS

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

v. :
:

Docket No. 0001-Misc.-95
File No. 94-49-03270

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

AMENDMENT TO PETITION FOR IMMEDIATE TEMPORARY SUSPENSION

AND NOW comes the Commonwealth of Pennsylvania by and through its Prosecuting Attorneys to file the within Amendment to Petition for Immediate Temporary Suspension in accordance with 1 Pa. Code §35.48 and in support thereof avers upon knowledge, information and belief as follows:

1. A Petition for Immediate Temporary Suspension was issued and served on January 5, 1995. The Petition for Immediate Temporary Suspension is realleged and incorporated herein.

2. Count 9 of "Exhibit A" of the Petition for Immediate Temporary Suspension (First Amendment Verified Complaint of New Jersey) made reference to certifications of Investigator Linda Bevridge and Investigator Mary Peterson annexed to a certification of Jeri L. Warhaftig, D.A.G.

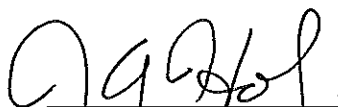
3. The Petition did not contain the certification of Investigator Mary Peterson.

4. The certification of Investigator Peterson is appended to this Amendment and will be submitted to the Probable Cause Screening Committee.

5. The certifications of Investigator Linda Bevridge and Jeri L. Warhaftig, D.A.G., were appended to the Commonwealth's Petition but were not marked as a specific exhibit to the First Amendment Verified Complaint of New Jersey.

WHEREFORE, the Prosecuting Attorneys respectfully submit this Amendment.

Respectfully submitted,



James A. Holzman
Roger H. Caffier
Prosecuting Attorneys
Commonwealth of Pennsylvania
Bureau of Professional and
Occupational Affairs

P. O. Box 2649
Harrisburg, PA 17105-2649
(717) 783-7200

DATED: 1/10/95

DEBORAH PORITZ
ATTORNEY GENERAL OF NEW JERSEY

By: Jeri L. Warhaftig
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STATE OF NEW JERSEY
DEPARTMENT OF LAW & PUBLIC SAFETY
DIVISION OF CONSUMER AFFAIRS
BOARD OF MEDICAL EXAMINERS

In the Matter of the Suspension)
or Revocation of the License of)
HARVEY W. BROOKMAN, M.D.)
To Practice Medicine and Surgery)
in the State of New Jersey)

CERTIFICATION OF
MARY PETERSON, R.N.

MARY PETERSON hereby certifies as follows:

1. I am an Investigator II in the Enforcement Bureau of the Division of Consumer Affairs. I am also a Registered Nurse.
2. On October 28, 1994 I accompanied Investigator Linda Beveridge to the office of Harvey W. Brookman, M.D. where, pursuant to a demand for inspection of premises, I assisted Investigator Beveridge in selecting patient records to be included in a subpoena compiled at the direction of DAG Jeri Warhaftig and DAG James LaFargue.
3. We were instructed by DAG Warhaftig to locate two classes of patient records to be included in the subpoena. The first class of records was to pertain to patients who were pregnant and who had undergone hysteroscopic examination at least once during pregnancy. The second class of records was to pertain to

patients who underwent hysteroscopic examination on the occasion of a routine gynecological examination.

4. We were advised that as a result of a review of prior records, we could expect to see hysteroscopies performed in conjunction with sonograms. We were also directed to look for recent occurrences, preferably in 1993 or 1994.

5. I identified the records of five patients who fell into one of the two classes of records we were asked to locate. Those records pertained to the following patients:

K E [REDACTED]
A [REDACTED] S [REDACTED]
G [REDACTED] H [REDACTED] B [REDACTED]
L [REDACTED] C [REDACTED]
J [REDACTED] Y [REDACTED]

6. In the process of examining the patient records for these five patients, I reviewed every page of each record while still in Dr. Brookman's office. I made notes with regard to the doctor's findings and/or diagnoses at each patient visit throughout the record.

7. I observed that Dr. Brookman typically writes the words "Hysteroscopy and Sonogram" in a large square in the middle of his notes of a patient's examination. In that same square he frequently writes "WNL" which in medical terminology is an indication that the exam was "within normal limits".

8. Because I was aware that the focus of our investigation was the doctor's use of the hysteroscope, I paid extra attention to any notations appearing in or near the boxes which identified the performance of a hysteroscopic examination.

9. At the time of our inspection of the records, Investigator Beveridge served Dr. Brookman with a subpoena seeking ten patient records (five of which are listed above).

10. On November 3, 1994 I reviewed the patient records provided by Dr. Brookman's attorney in response to the subpoena. As a result of that review, I have determined that there are discrepancies in some of the five records which I first reviewed in Dr. Brookman's office.

11. With regard to K [REDACTED] E [REDACTED] it is my opinion that the record for 2/15/94 has been completely rewritten since my initial review. The version of the record produced pursuant to subpoena does not reflect the hysteroscopy that had been included in that entry. The entry now recites "bl. drawn for pre-natals.- vits given - RTO 1 mo" none of which appeared in the record at the time of my review. Although the record as produced is a photocopy, it appears to me that this entire page of the record was created after my initial review.

Additionally, at the time of my initial review this record included a separate sheet of paper which appeared to be record of an examination of the patient on 7/13/94. That entry recited a sonogram and hysteroscopy to rule out placenta previa. A stickie yellow note attached to that sheet directed that it be sent to the insurance company. Neither the entry nor the stickie note are in the record produced pursuant to subpoena. There is an entry pertaining to that date, but it reflects only a sonogram.

12. With regard to A [REDACTED] S [REDACTED] at the time of my review, the hysteroscopy performed on 3/9/94 was described as "WNL"

meaning "within normal limits". The record produced pursuant to subpoena also states "for PID" meaning for pelvic inflammatory disease. The notation "for PID" was not in the record at the time I reviewed it in Dr. Brookman's office.

13. With regard to G [REDACTED] H [REDACTED] B [REDACTED] the record produced pursuant to subpoena contains the notation "WNL and the words "pelvic pain" next to the entry for a hysteroscopy on 8/5/93. At the time I initially reviewed this record, the entry stated "WNL" but did not say "pelvic pain".

14. With regard to J [REDACTED] Y [REDACTED] the record produced pursuant to subpoena contains the notation "scar tissue + WNL" and "for PID" next to the entry for a hysteroscopy performed on 7/13/93. At the time I initially reviewed the record in Dr. Brookman's office, the record stated only "WNL".

Additionally, the record produced pursuant to subpoena contains the notation "for DUB" meaning dysfunctional uterine bleeding, next to the entry for a hysteroscopy performed on 8/26/94. At the time I initially reviewed the record in Dr. Brookman's office, the record stated only "WNL".

The foregoing statements made by me are true to the best of my knowledge. I understand that if any of the foregoing is willfully false, I am subject to punishment.

Dated: 1-3-94

Mary Peterson
Mary Peterson

COMMONWEALTH OF PENNSYLVANIA
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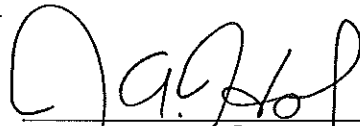
CERTIFICATE OF SERVICE

I, James A. Holzman, certify that I have this 10th day
of January, 1995 served a true and correct copy of
the foregoing Amendment to Petition for Immediate Temporary
Suspension upon all parties of record in this proceeding in
accordance with the requirements of §33.31 of the General Rules of
Administrative Practice and Procedure, 1 Pa. Code §33.31 (relating
to service by the agency).

FIRST CLASS MAIL, POSTAGE PREPAID:

Harvey Walter Brookman, M.D.
301 Oxford Valley Road, Suite 104A
Yardley, PA 19067

Mel Narol, Esquire
PELLETTIERI, RABSTEIN & ALTMAN
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James A. Holzman
Prosecuting Attorney
Commonwealth of Pennsylvania
Bureau of Professional and
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(717) 783-7200

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COMMONWEALTH OF PENNSYLVANIA
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Docket No. 00001-Misc-95

v.

Harvey Walter Brookman, M.D.,
Respondent

ORDER

AND NOW, this 6th day of February 1995, upon consideration of the Commonwealth's Petition for Immediate Temporary Suspension filed on January 5, 1995; the State Board of Medicine's Order of Immediate Suspension filed on January 10, 1995; after a Preliminary Hearing held February 6, 1995 and a review of all documents admitted into evidence, it is determined that the Commonwealth established a prima facie case to support the suspension of Respondent's license.

THEREFORE, it is hereby ORDERED and DIRECTED that Respondent's license, number MD-026946-E, is temporarily SUSPENDED until vacated by the Board but in no event longer than 180 days.

BY ORDER:

Cheré Winnek-Shawer
Dr. Cheré Winnek-Shawer, Esq.

For Commonwealth: James Holzman, Esq.
Roger Caffier, Esq.
116 Pine Street
Harrisburg, Pennsylvania 17102

For Respondent: PELLETTIERI, RABSTEIN, and ALTMAN
Mel Narol, Esq.
100 Nassau Park Boulevard
Suite 111-CN 5301
Princeton, New Jersey 08540-5301

Faxed to Mel Narol, Esq. (609)452-8796 on February 6, 1995

Mailed on: February 7, 1995