



New York State Board for Professional Medical Conduct

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

Barbara A. DeBuono, M.D., M.P.H.
Commissioner of Health

Charles J. Vacanti, M.D.
Chair

September 20, 1996

CERTIFIED MAIL-RETURN RECEIPT REQUESTED

Luba A. Chanin, M.D.
401 Ditmas Avenue
Brooklyn, New York 11218

RE: License No. 139241

Dear Dr. Chanin:

Effective Date: 09/27/96

Enclosed please find Order #BPMC 96-218 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 12237-0756

Sincerely,

Charles Vacanti, M.D.
Chair
Board for Professional Medical Conduct

Enclosure

cc: Michael G. Berger, Esq.
250 Park Avenue
Fourteenth Floor
New York, New York 10177-0077

Ann Gayle, Esq.

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

IN THE MATTER
OF
LUBA A. CHANIN, M.D.

CONSENT
ORDER
BPMC #96-218

Upon the application of Luba A. Chanin, 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 on October 1, 1996.

SO ORDERED.

DATED: _____

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

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

IN THE MATTER
OF
LUBA A. CHANIN, M.D.

APPLICATION
FOR
CONSENT ORDER

STATE OF NEW YORK)
COUNTY OF) ss.:

Luba A. Chanin, M.D., being duly sworn, deposes and says:

That on or about August 3, 1979, I was licensed to practice as a physician in the State of New York, having been issued License No. 139241, by the New York State Education Department.

My current address is 401 Ditmas Avenue, Brooklyn, New York 11218, 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 six specifications of professional misconduct.

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

I agree not to contest the charges against me, in full satisfaction of the Statement of Charges. I hereby agree that my license to practice medicine in the State of New York shall be suspended for a period of two years and that all but the first ninety days of that suspension shall be stayed. I further agree that I shall be ordered to perform one hundred (100) hours of community service; said community service shall be performed during the twenty-one month period wherein the suspension is stayed, in a manner and at a place as directed by the Board for Professional Medical Conduct. I further agree that I shall be placed on probation for a period of two years, the terms of which are enumerated in Exhibit

"B".

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 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.

L. Chanin M.D.

LUBA A. CHANIN, M.D.
RESPONDENT

Sworn to before me this ^{12th}
day of Sept., 1996.
[Signature]
NOTARY PUBLIC

MARLENE JACKSON
Notary Public State of New York
No. 01JA4964509
Qualified in Kings County
Commission Expires 4/19 ⁹⁸

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

IN THE MATTER
OF
LUBA A. CHANIN, 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: Sept. 12, 96 L. Chanin

LUBA A. CHANIN, M.D.
Respondent

DATE: September 12, 1996 Michael G. Berger

MICHAEL G. BERGER, ESQ.
Attorney for Respondent

DATE: September 13, 1996 Ann Gayle

ANN GAYLE, ESQ.
Associate Counsel
Bureau of Professional
Medical Conduct

DATE: Sept 18, 1996

Anne Saile

ANNE F. SAILE
Acting Director
Office of Professional Medical
Conduct

DATE: Sept 18, 1996

Charles J. Vacanti

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

IN THE MATTER
OF
LUBA A. CHANIN, M.D.

STATEMENT
OF
CHARGES

Luba A. Chanin, M.D., the Respondent, was authorized to practice medicine in New York State on or about August 3, 1979, by the issuance of license number 139241, by the New York State Education Department.

FACTUAL ALLEGATIONS

- A. Respondent treated Patient A, then 61 years of age, at some point during the period May 27, 1992 to August 12, 1992, at her office which is located at 401 Ditmas Avenue, Brooklyn, New York.
1. Respondent knowingly and falsely, with intent to mislead, billed Patient A's insurance company, and received reimbursement for approximately eleven visits during the period May 27, 1992 to August 12, 1992, when, in fact, she did not treat him on eleven occasions.
 2. Respondent knowingly and falsely, with intent to mislead, billed Patient A's insurance company for approximately eleven visits during the period September 2, 1992 to December 2, 1992, when, in fact, she did not treat him on eleven occasions.
 3. Respondent's record for this patient shows treatment on May 27, 1992, June 3, 1992, June 10, 1992, and June 17, 1992, when, in fact, she did not treat him on all of those dates.

EXHIBIT A

DRAFT

a. Respondent intentionally created this false record with intent to mislead.

4. On or about October 14, 1992, Respondent, knowingly and falsely, with intent to mislead, represented, in a letter to an attorney, that Patient A was still her patient.

B. Respondent treated Patient B, then 26 years of age, at some point during the period May 27, 1992 to August 12, 1992, at her office which is located at 401 Ditmas Avenue, Brooklyn, New York.

1. Respondent knowingly and falsely, with intent to mislead, billed Patient B's insurance company, and received reimbursement for approximately twelve visits during the period May 27, 1992 to August 12, 1992, when, in fact, she did not treat him on twelve occasions.

2. Respondent knowingly and falsely, with intent to mislead, billed Patient B's insurance company for approximately thirteen visits during the period September 2, 1992 to December 2, 1992, when, in fact she did not treat him on thirteen occasions.

3. Respondent's record for this patient shows treatment on May 27, 1992, June 3, 1992, June 10, 1992, and June 17, 1992, when in fact she did not treat him on all of those dates.

a. Respondent intentionally created this false record with intent to mislead.

4. On or about October 14, 1992, Respondent, knowingly and falsely, with intent to mislead, represented, in a letter to an attorney, that Patient B was still her patient.

DRAFT

SPECIFICATION OF CHARGES

FIRST AND SECOND SPECIFICATIONS

FRAUDULENT PRACTICE

Respondent is charged with committing professional misconduct as defined by N.Y. Educ. Law §6530(2)(McKinney Supp. 1996) by practicing the profession of medicine fraudulently as alleged in the facts of the following:

1. Paragraphs A and A1, 2, 3, A3a, and/or 4.
2. Paragraphs B and B1, 2, 3, B3a, and/or 4.

THIRD AND FOURTH SPECIFICATION

WILLFULLY MAKING OR FILING A FALSE REPORT

Respondent is charged with committing professional misconduct as defined in N.Y. Educ. Law §6530(21)(McKinney Supp. 1996) by willfully making or filing a false report, as alleged in the facts of:

3. Paragraphs A and A1, 2, 3, A3a, and/or 4.
4. Paragraphs B and B1, 2, 3, B3a, and/or 4.

FIFTH AND SIXTH SPECIFICATION

FAILING TO MAINTAIN ACCURATE RECORDS

Respondent is charged with committing professional misconduct as defined in N.Y. Educ. Law §6530(32)(McKinney Supp. 1996) by failing to maintain a record for each patient which accurately reflects his evaluation and treatment of the patient, as alleged in the facts of:

5. Paragraphs A and A3.
6. Paragraphs B and B3.

DRAFT

DATED: June 1996
New York, New York

ROY NEMERSON
Deputy Counsel
Bureau of Professional
Medical Conduct

EXHIBIT "B"

TERMS OF PROBATION

1. Luba A. Chanin, M.D., during the period of probation, 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 imposed by law and by his/her profession;
2. Respondent shall submit written notification to the New York State Department of Health (NYSDOH), addressed to the Director, Office of Professional Medical Conduct, New York State Department of Health, Corning Tower Building, 4th Floor, Empire State Plaza, Albany, New York 12237 of any employment and practice, of Respondent's residence and telephone number, and of any change in Respondent's employment, practice, residence, or telephone number within or without the State of New York;
3. Respondent shall submit written proof from the Division of Professional Licensing Services (DPLS), New York State Education Department (NYSED), that Respondent has paid all registration fees due and owing to the NYSED and Respondent shall cooperate with and submit whatever papers are requested by DPLS in regard to said registration fees, said proof from DPLS to be submitted by Respondent to the New York State Department of Health, addressed to the Director, Office of Professional Medical Conduct, as aforesaid, within the first three months of the period of probation;
4. Respondent shall submit written proof to the NYSDOH, addressed to the Director, Office of Professional Medical Conduct, as aforesaid, that 1) Respondent is currently registered with the NYSED, unless Respondent submits written proof that Respondent has advised DPLS, NYSED, that Respondent is not engaging in the practice of Respondent's profession in the State of New York and does not desire to register, and that 2) Respondent has paid any fines which may have previously been imposed upon Respondent by the Board or by the Board of Regents; said proof of the above to be submitted no later than the first two months of the period of probation;
5. Respondent shall comply with all terms, conditions, restrictions, and penalties to which he is subject pursuant to the order of the Board and shall assume and bear all costs related to compliance with the Terms of Probation;
6. Respondent shall cooperate with and respond in a timely manner to requests from the Office of Professional Medical Conduct to provide written periodic verification of Respondent's compliance with the terms of this order. If requested, Respondent shall personally meet with the Office of Professional Medical Conduct at the discretion of the Director of the office;
7. Respondent shall, during the period of probation, be bound by the following:
 - a. Respondent shall cooperate with the regular monitoring of her practice by a physician who is licensed to practice in the State

of New York and approved by the Director of OPMC. Such practice monitoring may include unannounced review of Respondent's billing and treatment practices, unannounced actual observation of Respondent's billing and treatment practices, interviews of Respondent, and any other reasonable means of monitoring Respondent's billing and treatment practices. Any successor practice monitor must also be approved by the Director of OPMC.

- b. Respondent shall not perform any billing and treatment practices until an approved practice monitor and monitoring program are in place. Any performance of billing and treatment practices prior to the approval of a practice monitor will be determined to be a violation of probation.
 - c. Respondent shall assure that the practice monitor submits written quarterly reports regarding Respondent's billing and treatment practices to the Director of OPMC and notify the Director within 24 hours of any billing or treatment practice, by Respondent, which fails to meet current standards of practice.
 - d. Respondent shall, upon the written request of the Director of the Office of Professional Medical Conduct, produce for review, by a designee of the Director, any and all records pertaining to Respondent's medical practice.
 - e. 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 the Office of Professional Medical Conduct prior to the placement of the practice monitor.
 - f. During the two year period of probation, Respondent shall receive therapy from an individual who is a licensed health care provider in New York State. Respondent shall cause said therapist to provide the Director of OPMC with quarterly reports that Respondent is complying with therapy and immediate reports if she is not. During the two year period of probation, Respondent shall notify OPMC prior to or immediately after she changes therapists, and that individual must also be a New York State licensed health care provider. During the two year period of probation, Respondent's treating therapist must notify OPMC if/when he/she determines that therapy is no longer necessary/advisable for Respondent;
8. Any civil penalty not paid by the date prescribed herein shall be subject to all provisions of law relating to debt collection by the State of New York. 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 §171(27); State Finance Law §18; CPLR §5001; Executive Law §32);
9. So long as there is full compliance with every term herein set forth, Respondent may continue to practice his or her aforementioned profession in accordance with the terms of probation; provided,

however, that upon receipt of evidence of noncompliance with, or any violation of these terms, the Director of the Office of Professional Medical Conduct and/or the Board may initiate a violation of probation proceeding and/or such other proceeding against Respondent as may be authorized pursuant to the Public Health Law.

10. The period of probation shall be tolled until and unless Respondent engages in the active practice of medicine in the State of New York. Respondent shall, within 30 days of the effective date of this Consent Order, notify the Director of the Office of Professional Medical Conduct, in writing, as to whether or not he/she is so engaged. Furthermore, until completion of the term of probation, he/she shall notify the Director, in writing, prior to any change in that status.