



New York State Board for Professional Medical Conduct
433 River Street, Suite 303 • Troy, New York 12180-2299 • (518) 402-0863

Richard F. Daines, M.D.
Commissioner
NYS Department of Health

Keith W. Servis
Director
Office of Professional Medical Conduct

Kendrick A. Sears, M.D.
Chair

Michael A. Gonzalez, R.P.A.
Vice Chair

Ansel R. Marks, M.D., J.D.
Executive Secretary

Public

May 8, 2007

CERTIFIED MAIL-RETURN RECEIPT REQUESTED

Arthur Luban, M.D.
5127 Surf Avenue
Brooklyn, NY 11224

Re: License No. 094241

Dear Dr. Luban:

Enclosed is a copy of Order #BPMC 07-97 of the New York State Board for Professional Medical Conduct. This order and any penalty provided therein goes into effect May 15, 2007.

If the penalty imposed by this Order is a surrender, revocation or suspension, you are required to deliver your license and registration within five (5) days of receipt of this Order. If the document(s) are lost, misplaced or destroyed, you are required to submit to this office an affidavit to that effect. Enclosed for your convenience is an affidavit. Please complete and sign the affidavit before a notary public and return it to: Office of Professional Medical Conduct, New York State Department of Health, 433 River Street, Suite 303, Troy, NY 12180-2299

Sincerely,

Ansel R. Marks, M.D., J.D.
Executive Secretary
Board for Professional Medical Conduct

Enclosure

cc: Edward D. Greenberg, Esq.
Schwartz & Greenberg, Esq.
520 Eighth Avenue, 18th Floor
New York, NY 10018

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

IN THE MATTER
OF
ARTHUR LUBAN, M.D.

SURRENDER
ORDER

BPMC No. #07-97

Upon the application of Arthur Luban, M.D. (Respondent), to Surrender his license as a physician in the State of New York, which is made a part of this Surrender Order, it is

ORDERED, that the Surrender, and its terms, are adopted and it is further

ORDERED, that Respondent's name be stricken from the roster of physicians in the State of New York; it is further


ORDERED, that this Order shall be effective upon issuance by the Board, either

- by mailing of a copy of this Surrender Order, either by first class mail to Respondent at the address in the attached Surrender Application or by certified mail to Respondent's attorney, OR
- upon facsimile transmission to Respondent or Respondent's attorney,

whichever is first.

SO ORDERED.

DATE: 5-7-07


KENDRICK A. SEARS, M.D.
Chair
State Board for Professional Medical Conduct

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

**IN THE MATTER
OF
ARTHUR LUBAN, M.D.**

**SURRENDER
of
LICENSE**

ARTHUR LUBAN, M.D., representing that all of the following statements are true, deposes and says:

That on or about April 23, 1965, I was licensed to practice as a physician in the State of New York and issued License No. 094241 by the New York State Education Department.

My current address is 5127 Surf Avenue, Brooklyn, NY 11224, and I will advise the Director of the Office of Professional Medical Conduct of any change of address.

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

A copy of the Statement of Charges, marked as Exhibit "A", is attached to and part of this Surrender of License.

I am applying to the State Board for Professional Medical Conduct for permission to surrender my license as a physician in the State of New York on the grounds that I do not contest the First Specification of Misconduct in full satisfaction of the charges against me.

I shall execute consent agreements and orders, concurrently with the execution of this Consent Agreement and Order, that revoke the certificates of incorporation of the following seven professional medical corporations for which the New York State Department of State and the New York State Department of Education identify me as the sole shareholder, director and officer:

1. Astoria Medical Services, P.C.
2. Bay Medical Services, P.C.
3. Northern Medical Services, P.C.
4. NY Medical & Diagnostics, P.C.
5. Precise Medical Diagnostics, P.C.
6. Valiant Medical Services, P.C.
7. Vital Medical Care, P.C.

I shall execute consent agreements and orders, concurrently with the execution of this Consent Agreement and Order, that annul the certificates of incorporation of the following two professional medical corporations for which the New York State Department of State and the New York State Department of Education identify me as the sole shareholder, director and officer:

1. Harbor Medical & Diagnostic, P.C.
2. Providian Medical, P.C.

I ask the Board to accept the Surrender of my License, and I agree to be bound by all of the terms set forth in attached Exhibit "B".

I understand that if the Board does not accept this Surrender, none of its terms shall bind me or constitute an admission of any of the acts of alleged misconduct; this application shall not be used against me in any way and shall be kept in strict confidence; and the Board's denial shall be without prejudice to the pending disciplinary proceeding and the Board's final determination pursuant to the Public Health Law.

I agree that, if the Board accepts the Surrender of my License, the Chair of the Board shall issue a Surrender Order in accordance with its terms. I agree that this Order shall take effect upon its issuance by the Board, either by mailing of a copy of the Surrender Order by first class mail to me at the address in this Surrender of License, or to my attorney by certified mail, OR upon facsimile transmission to me or my attorney, whichever is first. The Order, this agreement, and all attached Exhibits shall be public documents, with only patient identities, if any, redacted. As public documents, they may be posted on the Department's website.

I ask the Board to accept this Surrender of License, which I submit of my own free will and not under duress, compulsion or restraint. In consideration of the value to me of the Board's acceptance of this Surrender of License, allowing me to resolve this matter without the various risks and burdens of a hearing on the merits, I knowingly waive my right to contest the Surrender Order for which I apply, whether administratively or judicially, and I agree to be bound by the Surrender Order.

I understand and agree that the attorney for the Department, the Director of the Office of Professional Medical Conduct and the Chair of the State Board for Professional Medical Conduct each retain complete discretion either to enter into the proposed agreement and Order, based upon my application, or to decline to do so. I further understand and agree that no prior or separate written or oral communication can limit that discretion.


DATE

3/13/07

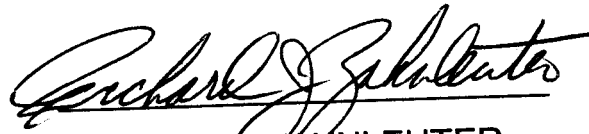

ARTHUR LUBAN, M.D.
RESPONDENT

The undersigned agree to Respondent's attached Consent Agreement and to its proposed penalty, terms and conditions.

DATE: March 23, 2007


EDWARD GREENBERG ESQ.
Attorney for Respondent
Schwartz & Greenberg
150 Broadway, Suite 1007
New York, NY 10038

DATE: April 5, 2007


RICHARD L. ZAHNLEUTER
Associate Counsel
Bureau of Professional Medical Conduct

DATE: 5/3/07


KEITH W. SERVIS
Director
Office of Professional Medical Conduct

EXHIBIT "A"

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

IN THE MATTER
OF
ARTHUR LUBAN, M.D.

STATEMENT
OF
CHARGES

Arthur Luban, M.D., the Respondent, was authorized to practice medicine in New York State on or about April 23, 1965, by the issuance of license number 094241 by the New York State Education Department.

FACTUAL ALLEGATIONS

- A. A professional service corporation may be organized for the purpose of rendering a professional service only by one or more individuals who are duly authorized by law to render the same professional service, pursuant to the legal requirements of Article 15 of the New York Business Corporation Law, including but not limited to, Section 1503(a).
- B. Based on the Respondent's status as an individual who was duly authorized by law to practice medicine, each of the following seven professional medical corporations (the "PCs") was incorporated (or acquired as in the case of NY Medical & Diagnostics, P.C.) with the Respondent being identified as the sole shareholder, director and officer:
1. Astoria Medical Services, P.C.

2. Bay Medical Services, P.C.
 3. Northern Medical Services, P.C.
 4. NY Medical & Diagnostics, P.C.
 5. Precise Medical Diagnostics, P.C.
 6. Valiant Medical Services, P.C.
 7. Vital Medical Care, P.C.
- C. The Respondent continuously remained as the sole shareholder, director and officer of each of the PCs since their inception (or acquisition as in the case of NY Medical & Diagnostics, P.C.) through the present, but the Respondent did not control each of the PCs.
- D. Persons who were not licensed to practice medicine assumed control of each of the PCs, including, but not limited to, hiring and supervising professional and support staff, maintaining patient records, collecting receivables, accessing bank accounts, disbursing funds, and otherwise handling banking and financial affairs.
- E. The Respondent was relegated to the role of owner of record of each of the PCs in contravention of Article 15 of the New York Business Corporation Law, including but not limited to, Section 1503(a).
- F. The Respondent allowed the status quo to continue through the present.

SPECIFICATIONS OF MISCONDUCT

FIRST SPECIFICATION

The Respondent is charged with professional misconduct by reason of FAILING TO MAINTAIN A RECORD FOR EACH PATIENT WHICH ACCURATELY REFLECTS THE EVALUATION AND TREATMENT OF THE PATIENT, in violation of New York Education Law §6530(32), in that Petitioner charges:

1. The factual allegations in paragraphs A, B, C, D, E, and/or F.

DATE:

April 9, 2007
Albany, New York

A handwritten signature in cursive script, reading "Peter D. Van Buren". The signature is written in dark ink and is positioned above a horizontal line.

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

EXHIBIT "B"

GUIDELINES FOR CLOSING A MEDICAL PRACTICE

1. Respondent shall immediately cease the practice of medicine in the State of New York in compliance with the terms of the Consent Order. Respondent shall not represent himself or herself as eligible to practice medicine in the State of New York and shall refrain from providing an opinion as to professional practice or its application.
2. Within 15 days of the Consent Order's effective date, Respondent shall notify all patients that he or she has ceased the practice of medicine, and shall refer all patients to another licensed practicing physician for their continued care, as appropriate.
3. Respondent shall arrange for the transfer and maintenance of all patient medical records. Within thirty days of the Consent Order's effective date, Respondent shall notify OPMC of these arrangements, including the name, address, and telephone number of an appropriate contact person, acceptable to the Director of OPMC, who shall have access to these records. Original records shall be retained for patients for at least six years after the last date of service, and, for minors, at least six years after the last date of service or three years after the patient reaches the age of majority, whichever time period is longer. Records shall be maintained in a safe and secure place that is reasonably accessible to former patients. The arrangements shall ensure that all patient information is kept confidential and is available only to authorized persons. When a patient or authorized representative requests a copy of the patient's medical record, or requests that the original medical record be sent to another health care provider, a copy of the record shall be promptly provided or sent at reasonable cost to the patient (not to exceed 75 cents per page.) Radiographic, sonographic and like materials shall be provided at cost. A qualified person shall not be denied access to patient information solely because of inability to pay.
4. Within 15 days of the Consent Order's effective date, if Respondent holds a Drug Enforcement Agency (DEA) certificate, Respondent shall advise the DEA in writing of the licensure action and shall surrender his or her DEA controlled substance certificate, privileges, and any used DEA #222 U.S. Official Order Forms Schedules 1 and 2, to the DEA.
5. Within 15 days of the Consent Order's effective date, Respondent shall return any unused New York State official prescription forms to the Bureau of Narcotic Enforcement of the New York State Department of Health. Respondent shall have all prescription pads bearing Respondent's name destroyed. If no other licensee is providing services at Respondent's practice location, Respondent shall dispose of all medications.
6. Within 15 days of the Consent Order's effective date, Respondent shall remove from the public domain any representation that Respondent is eligible to practice medicine, including all related signs, advertisements, professional listings whether in telephone directories or otherwise, professional stationery or billings. Respondent shall not share, occupy or use office space in which another licensee provides health care services.
7. Respondent shall not charge, receive or share any fee or distribution of dividends for professional services rendered (by himself or others) while barred from practicing medicine. Respondent may receive compensation for the reasonable value of services lawfully rendered, and disbursements

incurred on a patient's behalf, prior to the Consent Order's effective date.

8. If Respondent is a shareholder in any professional service corporation organized to engage in the practice of medicine and Respondent's license is revoked, surrendered or suspended for six months or more pursuant to this Consent Order, Respondent shall, within ninety days of the Order's effective date, divest himself/herself of all financial interest in such professional services corporation in accordance with New York Business Corporation Law. If Respondent is the sole shareholder in a professional services corporation, the corporation must be dissolved or sold within ninety days of the Consent Order's effective date.
9. Failure to comply with the above directives may result in civil or criminal penalties. Practicing medicine when a medical license has been suspended, revoked or annulled is a Class E Felony, punishable by imprisonment for up to four years, under § 6512 of the Education Law. Professional misconduct may result in penalties including revocation of the suspended license and/or fines of up to \$10,000 for each specification of misconduct, under § 230-a of the Public Health Law.