



STATE OF NEW YORK
DEPARTMENT OF HEALTH

433 River Street, Suite 303

Troy, New York 12180-2299

February 20, 2007

CERTIFIED MAIL-RETURN RECEIPT REQUESTED

Richard I. Horowitz, M.D.
4232 Albany Post Road
Hyde Park, NY 12538

Re: License # 170746

Dear Dr. Horowitz:

Enclosed is a copy of your **Non-disciplinary Order of Conditions** pursuant to Public Health Law Section 230. The order is effective February 27, 2007.

Sincerely,

A handwritten signature in black ink, appearing to read 'Ansel R. Marks'.

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

cc: Joseph J. LaBarbera, Esq.
55 Washington Street, Suite 602
Brooklyn, NY 11201

Enclosure

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

IN THE MATTER
OF
RICHARD I. HOROWITZ, M.D.

NONDISCIPLINARY
ORDER
OF CONDITIONS
PURSUANT TO
§230 OF THE
PUBLIC HEALTH LAW


Upon the proposed application of RICHARD I. HOROWITZ, M.D. (Licensee) in the attached Stipulation and Application for a Nondisciplinary Order of Conditions Pursuant to §230 of the Public Health Law (Application), which is made a part of this Nondisciplinary Order of Conditions Pursuant to §230 of the Public Health Law (Order), it is agreed to and ORDERED, that the Application, and its terms, are adopted and SO ORDERED, and it is further ORDERED, that this Order shall be effective upon issuance by the Board, either

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

Whichever is first.

SO ORDERED.

DATE: 2-15-07


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
RICHARD I. HOROWITZ, M.D.

STIPULATION AND
APPLICATION
FOR A NONDISCIPLINARY
ORDER
OF CONDITIONS
PURSUANT TO
§230 OF THE
PUBLIC HEALTH LAW

RICHARD I. HOROWITZ, M.D., representing that all of the following statements are true, deposes and says:

That on or about July 1, 1987, I was licensed to practice as a physician in the State of New York, and issued License No. 170746 by the New York State Education Department.

My current residence address is set forth in attached Exhibit "A." My current practice address is: 4232 Albany Post Road, Hyde Park, New York 12538. I am currently affiliated with the following hospitals or other facilities (if none, so state):

NONE

I will notify the Director of the Office of Professional Medical Conduct ("the Director") of any change in my residence, employment, or medical practice addresses or hospital affiliations.

I understand that the New York State Board for Professional Medical Conduct ("the Board") has investigated allegations of professional misconduct with respect to my care and recordkeeping of the patients identified in attached Exhibit "B".

I ask that the Board and the Director, in reliance upon the results of the investigation to date, conclude the investigation of these allegations, provided I successfully, and without incident, comply with the Conditions set forth below. In consideration of the Board and the Director granting this Application, and upon the State Board's election not to bring disciplinary charges against me, I agree that the State Board for Professional Medical Conduct and the Director of the Office of

Professional Medical Conduct, shall issue a *Nondisciplinary* Order of Conditions Pursuant to New York Public Health Law §230. This Order shall set the following *Conditions* upon my practice for a five year period, subject to the tolling provision set forth below and unless otherwise specified:

- Licensee shall conduct himself in all ways in a manner befitting his professional status, and shall conform fully to the moral and professional standards of conduct and obligations imposed by law and by his profession. Licensee acknowledges that if he commits professional misconduct as enumerated in New York State Education Law §6530 or §6531, those acts shall be deemed to be a violation of this Order and an action may be taken against Licensee's license pursuant to New York State Public Health Law §230(10). Licensee shall be entitled to a full hearing on any charges of misconduct arising out of conduct, whether occurring before or after the effective date of the Order, and whether related or unrelated to the terms of the Conditions set forth in this Order.
- Licensee shall provide written notice of the following information to the New York State Department of Health, addressed to the Director of the Office of Professional Medical Conduct, New York State Department of Health, 433 River Street, Suite 303, Troy, NY 12180-2299: a full description of any change in Licensee's employment and practice, professional and residential addresses and telephone numbers within or outside New York State, and of any and all investigations, charges, convictions or disciplinary actions by any local, state or federal agency, institution or facility, within thirty days of each such change or notice to Licensee of any such action.
- Licensee shall cooperate fully with the Office of Professional Medical Conduct (OPMC) in its administration and enforcement of this Order and in any investigation of Licensee. Licensee shall respond in a timely manner to all OPMC requests for written periodic verification of Licensee's compliance with the terms of this Order. Licensee shall meet with an employee of DOH designated by the Director of OPMC, as directed. Licensee shall respond promptly and provide all documents and information within Licensee's control, upon the direction of OPMC. Licensee shall provide access for

DOH personnel to Licensee's practice location(s) , on reasonable notice, to verify Licensee's compliance with this Order. This access shall include, but not be limited to, on-site inspections, observation and interviews.

- Licensee shall maintain legible and complete medical records that accurately reflect the evaluation and treatment of every patient.
- Licensee's professional performance may be reviewed by the Director of OPMC. This review may include, but shall not be limited to, a review of office records, and interviews with or periodic visits with Licensee and his staff at practice locations or at OPMC offices.

With regard to each patient:

1. Licensee shall communicate fully to the patient the extent to which Licensee is serving as a specialist or consultant rather than as the physician with primary care responsibility for that patient's medical condition(s). Licensee shall document this communication fully in the patient's record.
2. Licensee shall refer the patient to appropriate primary care physicians, specialists, or consultants for further evaluation and/or treatment where medically warranted and beyond the scope of Licensee's role with regard to the patient. Licensee shall note all referrals in the patient's medical record. Upon such referral, Licensee shall provide the physician receiving the referral with all medically relevant information known to Licensee that is related to the purpose of the consultation and thereafter upon request; this information shall include, but not be limited to, all non-standard formulary treatment modalities in use. If the patient refuses the referral after being fully advised of the reason for it, Licensee shall document the Licensee's advice and the patient's refusal.
3. Licensee shall obtain and document informed consent specifically addressing all treatment modalities to be used by Licensee as well as the potential financial ramifications for any patient relying on third party payor(s).

4. Licensee shall document in the patient record all histories obtained and physical examinations performed on the patient by Licensee and Licensee's staff.
5. Licensee shall attempt to obtain the patient's written authorization and consent to obtain copies of the patient's medical records relevant to the role of Licensee in treating the current conditions or diagnoses of the patient from prior or concurrently treating physicians or facilities, and to enable Licensee to communicate with those physicians or facilities, as necessary. Licensee shall make reasonable efforts to obtain such medical records and shall, having obtained them, maintain any such medical records, and/or documentation related to requests for such records, in the patient's medical record. Licensee shall document appropriately his review of any records received from other treating physicians or facilities. Alternatively, if the patient refuses to grant written consent after being fully advised of the reason for it, or any prior or concurrently treating physicians or facilities shall refuse or delay any authorized request therefor, Licensee shall document Licensee's advice or request and the patient's and/or treating physician's or facility's refusal or delay.
6. Licensee shall note indication for all diagnostic tests ordered by Licensee, and shall perform and note appropriate follow-up to obtain and address the results of those tests.

Licensee shall be solely responsible for all costs of his compliance with this Order, provided Licensee shall not be responsible for any charges of prior or concurrently treating physicians or facilities with respect to providing such records.

The five year period of Conditions shall toll when Licensee is not engaged in the active practice of medicine in New York State for 30 consecutive days or more. Licensee shall notify the Director of OPMC, in writing, if Licensee is not currently engaged in the active practice of medicine in New York State or intends to leave active medical practice in New York for 30 consecutive days or more. Licensee shall then notify the Director again before resuming active practice. Upon Licensee's return to active practice in New York State, the period of Conditions shall resume and any terms that were not fulfilled shall be fulfilled.

I stipulate that my failure to comply with these conditions shall constitute misconduct as defined by New York State Education Law §6530(29).

I hereby make this Application to the Board and request that it be granted.

I understand that if the Board does not adopt this Application, the Application shall be of no effect, shall not bind me in any way, shall not be construed as an admission of any act of alleged misconduct, shall not be used against me, shall be kept in strict confidence, and shall not be used as evidence during the pendency of any professional misconduct disciplinary proceeding; likewise, the Board's denial shall be without prejudice to the Department's initiation or continuance of any related disciplinary proceeding and/or the Board's final determination of such matter, pursuant to the Public Health Law.

I hereby deny any acts of misconduct and reserve my right to assert any and all defenses on my behalf in any proceeding and neither my execution of this stipulation or its adoption by the Board shall be construed as an admission of any act of alleged misconduct. Adoption by the Board shall constitute the Board's acknowledgment and agreement to the foregoing denial and restriction on its construction.

I understand and agree that my failure to comply with and satisfy any of the material conditions of this Order shall vest the Director of OPMC, in the exercise of reasonable discretion, with authority to vacate this agreement and will permit the Director to pursue further investigation and/or prosecution of misconduct charges against me as to the issues set forth in Exhibit "B" to the full extent authorized by the Public Health Law and Education Law, provided the provisions hereof as to denial of misconduct and construction as set forth in the preceding paragraph shall not be affected. Licensee shall be entitled to a full hearing on any charges of misconduct.

I understand that an Order issued upon this Application does not bar prosecution for professional misconduct based upon allegations of violations of

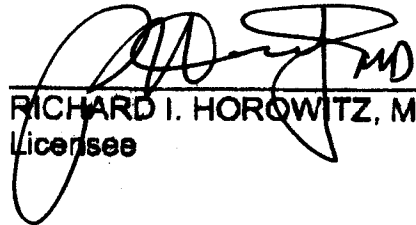
Educ. Law Sec. 6530 unrelated to the issues set forth in Exhibit "B," whether those alleged violations occurred before or after the date of this Application.

I agree that if the Board grants this Application, an Order of the Chairperson of the Board shall issue in accordance with its terms. I understand that this Nondisciplinary Order shall be disclosed to the Federation of State Medical Boards and on the New York State Department of Health website and it is understood that this Application need not, and will not, be disclosed to the National Practitioner Data Bank nor shall I be required to report same as part of the New York State Physician Profile.

I make this Application of my own free will and accord and not under duress, compulsion or restraint of any kind. In consideration of the value to me of the Board's acceptance of this Application, I hereby waive my right to contest the Order for which I apply, whether administratively or judicially, I agree to be bound by the Order, and I ask that the Board grant this Application.

DATE:

2/1/07


RICHARD I. HOROWITZ, M.D.
Licensee

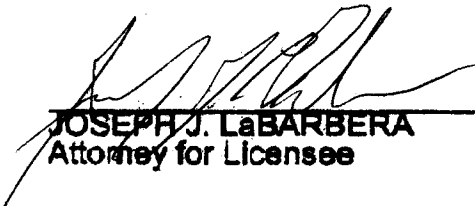
NEW YORK STATE DEPARTMENT OF HEALTH
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The undersigned agree to the attached Application of the Licensee and to the issuance of the proposed Order of Conditions Pursuant to §230 of the Public Health Law.

DATE: 2/1/07


JOSEPH J. LaBARBERA
Attorney for Licensee

DATE: 2/5/07


KEVIN P. DONOVAN
Associate Counsel
Bureau of Professional Medical Conduct

DATE: 2/14/07


KEITH W. SERVIS
Director
Office of Professional Medical Conduct