

STATE OF RHODE ISLAND AND  
PROVIDENCE PLANTATIONS,  
DEPARTMENT OF HEALTH,  
BOARD OF MEDICAL LICENSURE  
AND DISCIPLINE

C91-145A

In the matter of:  
Joseph F. Lowney, D.O.

CONSENT ORDER

Pursuant to Section 5-37-5.1 of the General Laws of the State of Rhode Island, 1956, as amended, a complaint was filed with the Board of Medical Licensure and Discipline (hereinafter referred to as "Board") charging Joseph F. Lowney, D.O. Respondent, with violations of Section 5-37-5.1 of the General Laws of the State of Rhode Island, 1956, as amended.

The following constitutes the Investigating Committee's Findings of Fact with respect to the professional performance of the Respondent.

Findings of Fact

1. The Respondent is a gastroenterologist having a principal place for the practice of medicine at 1050 Warwick Avenue, Warwick, Rhode Island 02889.
2. On the 20th day of March, 1995, Respondent and the Inspector General of the United States Department of Health and Human Services entered an agreement whereby Respondent, while not admitting guilt, was excluded from the Medicare Program and related state programs for a period of two and one half years.
3. In addition, Healthcare Review, Inc. prior to said exclusion of Respondent from Medicare, investigated and accused the Respondent, in a number of cases, that he had failed to order pre-procedure tests in a timely fashion.

5. The Board of Medical Licensure and Discipline conducted an investigation of cases during the same time period as those that were reviewed by Health Care Review and has found Dr. Lowney to be in violation of Rhode Island General Laws §5-37-5.1 for the same issues that were cited by Health Care Review. Those issues are, inter alia, a failure to order pre-operative tests in a timely manner, performing endoscopic examinations without acceptable pre-operative indications, exercising poor operative-decision making and providing inaccurate and incomplete documentation in both his office and hospital records.

6. The Board of Medical Licensure and Discipline and Dr. Lowney agree that the above findings constitute unprofessional conduct in violation of the Rhode Island General Laws 5-37-5.1.

Agreements of the Parties:

1. The Respondent is a physician licensed and doing business under and by virtue of the Laws of the State of Rhode Island, osteopathic license number 322.

2. Respondent admits to the jurisdiction of the Board and hereby agrees to remain under the jurisdiction of the Board.

3. Respondent has read this Consent Order and understands that it is subject to the final approval of the Board. This Consent Order is not binding on Respondent until final ratification by the Board.

4. Respondent hereby acknowledges and waives:

a. The right to appear personally or by counsel or by both before the Board;

b. The right to produce witnesses and evidence on his behalf at hearing.

e. The right to further procedural steps except for those specifically contained herein;

f. Any and all rights of appeal to this Consent Order;

g. Any objection to the fact that this Consent Order will be presented to the Board for consideration and review;

h. Any objection to the fact that it will be necessary for the Board to become acquainted with all evidence pertaining to this matter in order to review adequately this Consent Order;

i. Any objection to the fact that potential bias against the Respondent may occur as a result of the presentation of this Consent Order.

5. The Board specifically waives its right to bring new charges against the Respondent as a result of any new information it obtains from a further review of the patient charts it has already reviewed with regard to this completed investigation.

6. If the Consent Order is not accepted by the Respondent, the Hearing Committee will convene for purposes of conducting an Administrative Hearing.

7. If the Hearing Committee votes in favor of finding the Respondent guilty of unprofessional conduct as specified in the charges, the Board will prepare written findings of fact of law in support of said conclusion. If the accused is found not guilty, the Board shall forthwith issue an order dismissing the charges.

8. This Consent Order shall become part of the public record of this proceeding once it is accepted by all parties and the Board. It shall be published as the Board, in its exercise of discretion, shall be determined.

9. Failure to comply with this Consent Order, when settled and accepted, shall subject the Respondent to further disciplinary action.

Immediately upon the expiration of said two months, the Respondent will serve, without compensation, in a clinic approved by the Board. The Respondent will provide medical care to recipients of the clinic's services for an additional period of eight (8) weeks.


Thereafter, the Respondent must report to the Board, on a quarterly basis, for two years, all endoscopic procedures performed. In addition, the Respondent will take sixty hours of continuing medical education, in addition to his basic requirements, to be completed within two years. Ten of these hours shall be in medical ethics and ten in gastroenterology and must be approved, in advance, by the Board. All credits must be A.M.A. approved category 1 hours. The Respondent shall pay an administrative fee of Six Thousand Five Hundred (6,500.00) Dollars within 60 days of the ratification of the Order.

Signed this 7 day of June, 1995.

  
Joseph F. Lowney, D.O.

Ratified by the Board of Medical Licensure and Discipline at a meeting held on

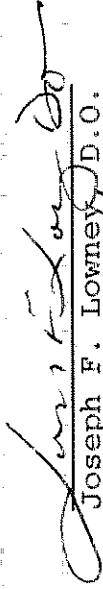
June 14, 1995.

  
Patricia A. Nolan, MD, MPH  
Chairperson  
Board of Medical Licensure and  
Discipline

AMENDMENT TO THE CONSENT ORDER DATED JUNE 14, 1995

Paragraph 10 of the Consent Order entered into between the Board of Medical Licensure and Discipline and the Respondent, Joseph Lowney, D.O., is hereby amended as follows: The Respondent is precluded from practicing medicine for two months commencing July 1, 1995 and ending August 31, 1995. The Respondent is then required to perform a minimum 320 hours of community service, without compensation, at a clinic approved, in writing, by the Board. The commitment may be fulfilled by November 1, 1995 if the Respondent is able to perform 320 hours of community service by that date. A clinic supervisor, other than the Respondent, shall be required to report to the Board the actual hours of community service performed by the Respondent. The Board may request, at its discretion, an accounting and verification of the hours submitted to the Board on behalf of the Respondent.

Signed this 3rd day of October, 1995.

  
Joseph F. Lowney, D.O.

Ratified by Investigating Committee I of the Board of Medical Licensure and Discipline.

DATE: 3 OCTOBER, 1995.

  
Patricia A. Nolan, MD, MPH  
Chairperson