

IN THE HEALTH CLAIMS ARBITRATION OFFICE

RAPHAEL J. OSHEROFF, M.D., :
 :
 Claimant, :
 :
 v. : HCA No. 82-262
 :
 CHESTNUT LODGE, et al., :
 :
 Health Care Providers. :

STATEMENT OF FACTS^{1/}

Claimant Dr. Raphael J. Osheroff is a board certified nephrologist, or kidney specialist, who has practiced in the greater Washington area for over the past ten years. Prior to his admission to Chestnut Lodge, he had developed a highly successful practice of nephrology in the Northern Virginia area, and had become the proprietor of the Northern Virginia Dialysis Center. In the fall of 1977, Dr. Osheroff sold his dialysis center to National Medical Care, a large national corporation which operates numerous dialysis facilities, but he remained as medical director of the dialysis facility.

Dr. Osheroff voluntarily admitted himself to Chestnut Lodge on January 2, 1979 complaining of depression and agitation. Dr. Osheroff had been depressed for some time, at least since the fall of 1976, when his former wife removed his two children to Luxembourg. Dr. Osheroff's depression was further affected by his sale of his dialysis

^{1/} Claimant incorporates by reference the Amended Statement of Claim filed herein.

center to National Medical Care in the fall of 1977. Attempts at treatment of the depression by Dr. James Wellhouse through psychoanalytically-oriented psychotherapy during most of 1977 and 1978 did not cause the depression to remit. When Dr. Osheroff presented at Chestnut Lodge on January 2, 1979, he was suffering from a severe agitated depression, characterized, among other symptoms by ceaseless pacing, difficulty in concentrating and working effectively, anhedonia (an incapacity to find enjoyment), and constant rumination over the loss of his children and his dialysis center.

Chestnut Lodge's initial differential diagnosis was the following:

- (1) Manic depressive - depressive type; or
- (2) Depressive neurosis "severe" and personality disorder unspecified; or
- (3) Psychotic depressive reaction.

Dr. Osheroff was in fact suffering from a severe depression, characterized at that time by the diagnosis of psychotic depressive reaction, which Chestnut Lodge and other health care providers failed and/or refused to diagnose and treat. Rather, the health care providers determined that Dr. Osheroff was suffering from a character or personality disorder, which they set about to "treat" through the use of long-term hospitalization and intensive psychoanalytically-oriented psychotherapy. The Lodge and other health care providers refused to treat Dr. Osheroff's condition with somatic means, such as antidepressant medication and/or electroconvulsive therapy, even though the standard of care in psychiatry at that time required that

an agitated depression be treated with somatic means, and that the medical evidence shows that such somatic treatment is effective on 85% to 90% of those patients treated.

From January 2, 1979 to August 1, 1979, Dr. Osheroff's severe symptoms of depression were allowed to remain untreated, and indeed, his condition deteriorated drastically while at the Lodge. He suffered a weight loss of 35 pounds, and he was allowed to keep himself in an unkempt and unhealthy state of hygiene. His constant pacing, a manifestation of his severe agitation, was also allowed to remain untreated, and for the majority of the time that he was at the Lodge, Dr. Osheroff paced over 10 - 12 hours a day. He was even assigned an area in the hall in the ward in which he was kept so he could continue this incessant pacing without disturbing the other patients. This constant pacing resulted in severe trauma to his feet, causing his feet to turn black and requiring podiatric treatment. He also continued to obsess and reeminate continuously about his losses, and was demoralized to the point where he felt that he would never be released from the hospital. Despite the worsening of these severe symptoms over a seven month period, Chestnut Lodge and the other health care providers nonetheless persisted in their refusal to treat this condition with somatic means, and continued their ineffective and harmful course of insight oriented psychotherapy.

Chestnut Lodge and the other health care providers also committed serious breaches of confidentiality concerning Dr. Osheroff's treatment at Chestnut Lodge. These health care providers specifically kept Dr. Osheroff's partner, Dr. Robert Greenspan,

apprised of Dr. Osheroff's condition, even to the point of informing his partner that Dr. Osheroff had a character disorder and that he needed long-term hospitalization to restructure his personality. This serious breach of confidentiality allowed Dr. Greenspan to take advantage of this information, and to literally steal Dr. Osheroff's medical practice while in the hospital. The facts and circumstances surrounding Dr. Greenspan's conduct are set forth in claimant's Exhibits 147-149, in the matter of Osheroff, et al v. Greenspan, et al, Chancery No. 11345. Chestnut Lodge and the other health care providers also released confidential information to Dr. Osheroff's wife, Joy Drass, who was then able to use that information in her divorce proceedings against him. These health care providers continued to discuss Dr. Osheroff's condition and released confidential information to Joy Drass, even though she had announced her intention to divorce Dr. Osheroff early in his hospital stay.

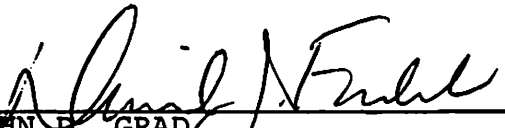
On August 1, 1979, due to the intervention of his parents and a Washington psychiatrist, Dr. Zigmond Lebensohn, Dr. Osheroff was transferred to Silver Hill Hospital in New Canaan, Connecticut. Upon admission to Silver Hill, Dr. Osheroff was immediately placed on antidepressant medication and thorazine, and was treated with supportive psychotherapy. In response to the medication, Dr. Osheroff's severe symptoms of depression began to remit within a few weeks, and he was soon able to leave the grounds of the hospital for day trips into New York. By October 1979, he was able to return to the Washington area on a weekend pass to make arrangements for his return to the area and to his medical practice. On November 1, 1979, Dr. Osheroff-

was released from Silver Hill Hospital and returned to Northern Virginia.

Respectfully submitted,

RAPHAEL J. OSHEROFF, M.D.,
By Counsel

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CERTIFICATE OF SERVICE

I hereby certify that a true copy of the foregoing Statement of Facts was hand delivered to William A. Ehrmantraut, Esq., 51 Monroe Street, Suite 700, GBS Building, Rockville, Maryland 20850; Alfred L. Scanlan, Jr., Esq., 2000 First Maryland Bldg., 25 South Charles Street, Baltimore, Maryland 21201; and George W. Shaffer, Esq., Panel Chairman, 17 W. Jefferson St., #101, Rockville, Maryland 20850, this 7th day of November, 1983.



DAVID J. FUDALA