



New York State Board for Professional Medical Conduct

433 River Street, Suite 303 Troy, New York 12180-2299 • (518) 402-0863

Dennis P. Whalen
Executive Deputy Commissioner of Health
Anne F. Saile, Director
Office of Professional Medical Conduct
William J. Comiskey, Chief Counsel
Bureau of Professional Medical Conduct

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Chair
Denise M. Bolan, R.P.A.
Vice Chair
Ansel R. Marks, M.D., J.D.
Executive Secretary

June 4, 1999

CERTIFIED MAIL-RETURN RECEIPT REQUESTED

Harry Bush, Jr., M.D.
21 Calumet Avenue
Hastings-on-Hudson, NY 10706

RE: License No. 103649

Dear Dr. Bush:

Enclosed please find Order #BPMC 99-121 of the New York State Board for Professional Medical Conduct. This Order and any penalty provided therein goes into effect **June 4, 1999.**

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 to Board for Professional Medical Conduct, New York State Department of Health, Hedley Park Place, Suite 303, 433 River Street, Troy, New York 12180.

Sincerely,

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

Enclosure

cc: James Fabian, Esq.
Nixon, Hargrave, Devans & Doyle, LLP
990 Stewart Avenue
Garden City, NY 11530-4838

Claudia Morales Bloch, Esq.

shall impose the following conditions:

That, except during periods of actual suspension, Respondent shall maintain current registration of Respondent's license with the New York State Education Department Division of Professional Licensing Services, and pay all registration fees. This condition shall be in effect beginning thirty days after the effective date of the Consent Order and will continue while the licensee possesses his/her license; and

That Respondent shall fully cooperate in every respect with the Office of Professional Medical Conduct (OPMC) in its administration and enforcement of this Order and in its investigation of all matters regarding Respondent.

Respondent shall respond in a timely manner to each and every request by OPMC to provide written periodic verification of Respondent's compliance with the terms of this Order.

Respondent shall meet with a person designated by the Director of OPMC as directed. Respondent shall respond promptly and provide any and all documents and information within Respondent's control upon the direction of OPMC. This condition shall be in effect beginning upon the effective date of the Consent Order and will continue while the licensee possesses his/her license.

I hereby stipulate that any failure by me to comply with such conditions shall constitute misconduct as defined by New York State Education Law

§6530(29)(McKinney Supp 1999).

I agree that in the event I am charged with professional misconduct in the future, this agreement and order shall be admitted into evidence in that proceeding.

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.

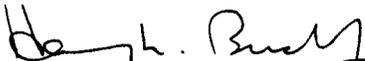
I agree that, in the event the Board grants my Application, as set forth herein, an order of the Chairperson of the Board shall be issued in accordance with same. I agree that such order shall be effective upon issuance by the Board, which may be accomplished by mailing, by first class mail, a copy of the Consent Order to me at the address set forth in this agreement, or to my attorney, or upon transmission via facsimile to me or my attorney, whichever is earliest.

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.

AFFIRMED:

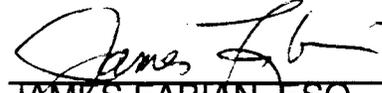
DATED 5/16/99



HARRY BUSH, Jr., M.D.
RESPONDENT

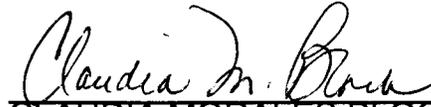
The undersigned agree to the attached application of the Respondent and to the proposed penalty based on the terms and conditions thereof.

DATE: 5/18/99



JAMES FABIAN, ESQ.
Attorney for Respondent

DATE: 5/20/99



CLAUDIA MORALES BLOCH
Associate Counsel
Bureau of Professional
Medical Conduct

DATE: 5/26/99



ANNE F. SAILE
Director
Office of Professional
Medical Conduct

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

IN THE MATTER
OF
HARRY BUSH, Jr., M.D.

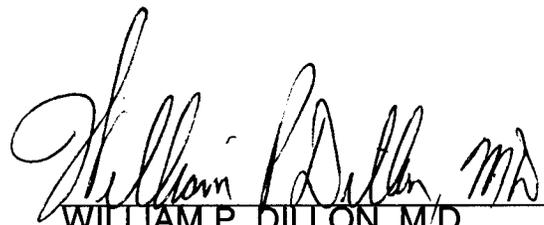
CONSENT
ORDER

Upon the proposed agreement of HARRY BUSH, Jr., M.D. (Respondent) for Consent Order, which application is made a part hereof, it is agreed to and ORDERED, that the application and the provisions thereof are hereby adopted and so ORDERED, and it is further

ORDERED, that this order shall be effective upon issuance by the Board, which may be accomplished by mailing, by first class mail, a copy of the Consent Order to Respondent at the address set forth in this agreement or to Respondent's attorney by certified mail, or upon transmission via facsimile to Respondent or Respondent's attorney, whichever is earliest.

SO ORDERED.

DATED: 5/31/99



WILLIAM P. DILLON, M.D.
Chair
State Board for Professional
Medical Conduct

IN THE MATTER
OF
HARRY BUSH, JR., M.D.

STATEMENT
OF
CHARGES

HARRY BUSH, JR., M.D., the Respondent, was authorized to practice medicine in New York State on or about July 1, 1969, by the issuance of license number 103649-1 by the New York State Education Department.

FACTUAL ALLEGATIONS

- A. Respondent undertook the care and treatment of Patient A during the patient's admission to The New York Hospital, between on or about March 30, 1995 and on or about April 12, 1995. On or about April 6, 1995, Respondent performed an aortic/renal thrombectomy and aorto-bifemoral bypass on Patient A. A flexible sigmoidoscopy done on April 9, 1995 showed necrotic mucosa. A laparotomy was performed on April 11, 1995, revealing necrosis and perforation of the small and large bowel, plus patchy necrosis of the liver. (The identities of Patients A through are listed in the Appendix annexed hereto). In his care and treatment of Patient A, Respondent failed to:
1. timely and properly assess the patient post operatively, including ordering a coagulation work-up,
 2. post operatively, timely perform, or order the performance of, endoscopic evaluation of the colon,

EXHIBIT "A"

3. after the findings on sigmoidoscopy, timely perform, or arrange for, surgical intervention.
4. document and maintain an appropriate medical record of the care and treatment rendered to Patient A during the patient's hospital admission.

B. Respondent undertook the care and treatment of Patient B during the patient's admission to The New York Hospital on or about September 17, 1995. On this same date, Respondent performed a femoral thrombectomy on Patient B. In the recovery room, the patient was continued on a heparin IV drip. The patient became tachypneic; prothrombin time was recorded at 21.9 seconds, and partial thromboplastin time at greater than 212 seconds; hematocrits were between 14 and 22; and the nurses noted active bleeding from the femoral wound. The patient arrested and died approximately five hours post operatively. In his care and treatment of Patient B, Respondent failed to:

1. properly attend and/or note his attendance to the patient post-operatively,
2. timely assess and take appropriate action to adequately control post operative bleeding,
3. document and maintain an appropriate medical record of the care and treatment rendered to Patient B during the patient's hospital admission.

C. Respondent undertook the care and treatment of Patient C during the patient's admission to The New York Hospital between on or about December 7, 1995 and on or about January 6, 1996. On or about December 12, 1995, Respondent performed a repair of a suprarenal, thoraco-abdominal aneurysm on the patient. Post-operatively, the patient remained on a respirator, suffered progressive hepatic failure and multiple organ failure, and expired on or about January 6, 1996. In his care and treatment of Patient C, Respondent failed to:

1. intra-operatively, re-implant the celiac artery,
2. counsel and/or note his counseling of the patient regarding alternative therapies and the risks presented by the repair of a thoraco-abdominal aneurysm,
3. document and maintain an appropriate medical record of the care and treatment rendered to Patient C during the patient's hospital admission.

D. Respondent undertook the care and treatment of Patient D during the patient's admission to The New York Hospital between on or about September 7, 1995 and on or about November 8, 1995. On or about November 8, 1995, Respondent performed renal revascularization surgery on the patient. During this same admission, and prior to the revascularization surgery, the patient had undergone, inter alia, coronary bypass surgery, iliac artery thrombectomy and resultant transmetatarsal amputation. At the time of the revascularization surgery, the patient's renal function had been stabilized and his hypertension

was controlled. In the recovery room, following the November 8, 1995 revascularization, the patient hemorrhaged and was returned to the operating room, where the patient died from exsanguination. With regard to the revascularization surgery on November 8, 1995, Respondent failed to:

1. properly assess and/or counsel the patient on the appropriate time for the surgery, and/or alternatives to surgery,
2. timely return the patient to the operating room,
3. document and maintain an appropriate medical record of the care and treatment rendered to Patient D during the patient's hospital admission.

SPECIFICATION OF CHARGES

FIRST SPECIFICATION

NEGLIGENCE ON MORE THAN ONE OCCASION

Respondent is charged with committing professional misconduct as defined in N.Y. Educ. Law §6530(3)(McKinney Supp. 1999) by practicing the profession of medicine with negligence on more than one occasion as alleged in the facts of two or more of the following:

1. The facts in paragraphs A, A(1) through A(4), B, B(1) through B(3), C, C(1) through C(3), D, D(1), D(2), and D(3).

SECOND THROUGH FIFTH SPECIFICATIONS

FAILURE TO MAINTAIN RECORDS

Respondent is charged with committing professional misconduct as defined in N.Y. Educ. Law §(32)(McKinney Supp. 1999) by failing to maintain a record for each patient which accurately reflects the care and treatment of the patient, as alleged in the facts of:

2. The facts in paragraphs A and A(5).
3. The facts in paragraphs B, B(1) and B(3).
4. The facts in paragraphs C, C(2), and C(3).
5. The facts in paragraphs D and D(3).

DATED: February , 1999
New York, New York

ROY NEMERSON
Deputy Counsel
Bureau of Professional
Medical Conduct

EXHIBIT "B"

Terms of Probation

1. Respondent 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.
2. Respondent shall submit written notification 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; said notice is to include a full description of any employment and practice, professional and residential addresses and telephone numbers within or without New York State, and any and all investigations, charges, convictions or disciplinary actions by any local, state or federal agency, institution or facility, within thirty days of each action.
3. Any civil penalty not paid by the date prescribed herein shall be subject to all provisions of law relating to debt collection by New York State. 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 section 171(27)]; State Finance Law section 18; CPLR section 5001; Executive Law section 32].
4. The period of probation shall be tolled during periods in which Respondent is not engaged in the active practice of medicine in New York State. Respondent shall notify the Director of OPMC, in writing, if Respondent is not currently engaged in or intends to leave the active practice of medicine in New York State for a period of thirty (30) consecutive days or more. Respondent shall then notify the Director again prior to any change in that status. The period of probation shall resume and any terms of probation which were not fulfilled shall be fulfilled upon Respondent's return to practice in New York State.
5. Respondent'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, patient records and/or hospital charts, interviews with or periodic visits with Respondent and his staff at practice locations or OPMC offices.
6. Respondent shall maintain legible and complete office and hospital medical records which accurately reflect the evaluation and treatment of patients. The medical records shall contain all information required by State rules and regulations regarding controlled substances.

PRACTICE MONITOR

7. Respondent shall practice medicine only when monitored by a licensed physician, board certified in an appropriate specialty, ("practice monitor") proposed by Respondent and subject to the written approval of the Director of OPMC.

- a. Respondent shall make available to the monitor any and all records, and access to his practice, requested by the monitor, including on-site observation. The practice monitor shall visit Respondent's medical practice at each and every location, on a random unannounced basis at least monthly and shall regularly examine and review a random selection no less than 10% of Respondent's surgical cases, including the complete hospital chart and Respondent's office record, per quarter (every three months). The review will determine whether the Respondent's medical practice is conducted in accordance with the generally accepted standards of professional medical care. Any perceived deviation of accepted standards of medical care or refusal to cooperate with the monitor shall be reported within 24 hours to OPMC.
 - b. Respondent shall be solely responsible for all expenses associated with monitoring, including fees, if any, to the monitoring physician.
 - c. Respondent shall cause the practice monitor to report quarterly, in writing, to the Director of OPMC. Each quarterly report shall address the quality of the Respondent's medical/surgical practice, including appropriate documentation, any intra and/or post-operative complications, departures from accepted standards of medical/surgical practice. The monitor shall also, in said quarterly report, certify the Respondent's compliance with the terms and conditions of monitoring.
 - d. 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 OPMC prior to Respondent's practice after the effective date of this Order.
8. Respondent shall comply with all terms, conditions, restrictions, limitations and penalties to which he or she is subject pursuant to the Order and shall assume and bear all costs related to compliance. Upon receipt of evidence of noncompliance with, or any violation of these terms, the Director of OPMC and/or the Board may initiate a violation of probation proceeding and/or any such other proceeding against Respondent as may be authorized pursuant to the law.