



New York State Board for Professional Medical Conduct

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

Antonia C. Novello, M.D., M.P.H., Dr. P.H.
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NYS Department of Health*

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*Executive Deputy Commissioner
NYS Department of Health*

Dennis J. Graziano, Director
Office of Professional Medical Conduct

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Vice Chair

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

PUBLIC

July 31, 2003

CERTIFIED MAIL-RETURN RECEIPT REQUESTED

Paul Dippert, D.O.
6 Creekside Drive
Orchard Park, NY 14127

Re: License No. 095656

Dear Dr. Dippert:

Enclosed please find Order #BPMC 03-203 of the New York State Board for Professional Medical Conduct. This order and any penalty provided therein goes into effect August 7, 2003.

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 the 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: Joseph V. Sedita, Esq.
Hodgson Russ Attorneys, LLP
One M & T Plaza
Suite 2000
Buffalo, NY 14203-2391

I further agree that the Consent Order for which I hereby apply shall impose the following conditions:

Except during periods of actual suspension, Respondent shall maintain current registration of his 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 this order and will continue while the licensee possesses his/her license; and

Respondent shall 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 order and will continue while the licensee possesses his/her license.

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

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 make this application to the State Board for Professional Medical Conduct (the Board) and request that it be granted.

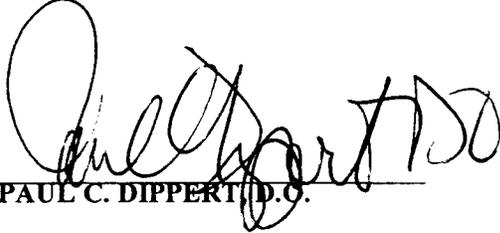
I understand that, in the event that this application is not granted by the Board, nothing contained herein shall be binding upon me or construed to be an admission of any act of misconduct alleged or charged against me, such application shall not be used against me in any way and shall be kept in strict confidence. Denial of this application 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 the order shall be effective upon issuance by the Board, which may be accomplished by mailing, by first class mail, a copy of the 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 order for which I hereby apply, whether administratively or judicially, and ask that the application be granted.

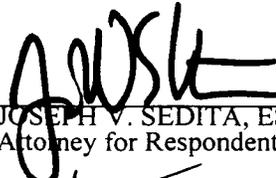
AFFIRMED:

DATED , 2003

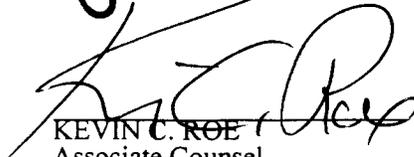

PAUL C. DIPPERT, D.O.

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

DATE: July 14, 2003


JOSEPH V. SEDITA, ESQ
Attorney for Respondent

DATE: 7/17, 2003


KEVIN C. ROE
Associate Counsel
Bureau of Professional
Medical Conduct

DATE: 7/29, 2003


DENNIS J. GRAZIANO
Director
Office of Professional
Medical Conduct

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

**IN THE MATTER
OF
PAUL C. DIPPERT, D.O.**

CONSENT
ORDER

Upon the proposed agreement of **PAUL C. DIPPERT, D.O.** 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 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 application 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: 7/31, 2003


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

EXHIBIT A

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

**IN THE MATTER
OF
PAUL C. DIPPERT, D.O.**

**STATEMENT
OF
CHARGES**

PAUL C. DIPPERT, D.O., the Respondent, was authorized to practice medicine in New York State on September 30, 1965 by the issuance of license number 095656 by the New York State Education Department.

FACTUAL ALLEGATIONS

A. Respondent treated Patient A (patients are identified in the appendix) from on or about January 2, 2001, to on or about January 11, 2001, at Mercy Hospital, 565 Abbott Road, Buffalo, NY. Respondent's care and treatment of Patient A failed to meet accepted standards of medical care, in that:

1. Respondent failed to attend Patient A on January 6, January 7, and or January 8, 2001.
2. Respondent failed to adequately monitor potassium levels.
3. Respondent failed to discontinue potassium IV in a timely manner.

B. Respondent treated Patient B from on or about July 17, 2000, to on or about August 1, 2000, at Mercy Hospital, 565 Abbott Road, Buffalo, NY. Respondent's care and treatment of Patient B failed to meet accepted standards of medical care, in that:

1. Respondent failed to adequately monitor potassium levels.

2. Respondent failed to adequately treat hypokalemia.
3. Respondent inappropriately cleared Patient B for surgery despite abnormal potassium levels.

C. Respondent treated Patient C from on or about June 19, 1998, to on or about July 2, 1998, at Mercy Hospital, 565 Abbott Road, Buffalo, NY. Respondent's care and treatment of Patient C failed to meet accepted standards of medical care, in that:

1. Respondent failed to adequately monitor/manage hyponatremia.
2. Respondent failed to obtain an nephrology consultation.
3. Respondent inappropriately cleared Patient C for surgery despite abnormal sodium levels.

SPECIFICATIONS

FIRST THROUGH THIRD SPECIFICATIONS

GROSS NEGLIGENCE

Respondent is charged with gross negligence in violation of New York Education Law §6530(4), in that Petitioner charges:

1. The facts in Paragraphs A and A.1, A.2, and/or A.3.
2. The facts in Paragraphs B and B.1, B.2, and/or B.3.
3. The facts in Paragraphs C and C.1, C.2, and/or C.3.

FOURTH THROUGH SIXTH SPECIFICATIONS
GROSS INCOMPETENCE

Respondent is charged with gross incompetence in violation of New York Education Law §6530(6), in that Petitioner charges:

4. The facts in Paragraphs A and A.1, A.2, and/or A.3.
5. The facts in Paragraphs B and B.1, B.2, and/or B.3.
6. The facts in Paragraphs C and C.1, C.2, and/or C.3.

SEVENTH SPECIFICATION
NEGLIGENCE ON MORE THAN ONE OCCASION

Respondent is charged with negligence on more than one occasion in violation of New York Education Law §6530(3), in that Petitioner charges two or more of the following:

7. The facts in Paragraphs A and A.1, A.2, A.3; B and B.1, B.2, B.3; and/or C and C.1, C.2, C.3.

EIGHTH SPECIFICATION
INCOMPETENCE ON MORE THAN ONE OCCASION

Respondent is charged with incompetence on more than one occasion in violation of

New York Education Law §6530(5), in that Petitioner charges two or more of the following:

8. The facts in Paragraphs A and A.1, A.2, A.3; B and B.1, B.2, B.3; and/or C and C.1, C.2, C.3.

DATED: *July 17*, 2003
Albany, New York


PETER D. VAN BUREN
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/her 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. 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.
4. 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.
5. Respondent shall maintain legible and complete 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.

6. Beginning thirty days after the effective date of this order, 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 or access to the 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 examine a selection of no less than 25 records maintained by Respondent, including patient records, prescribing information and office records. During the first year of probation, the review shall include 100% of Respondent's hospital admissions within 24 hours of admission. 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 monthly during the first six months of probation and then quarterly to the Director of OPMC.
 - 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.

7. During the first year of probation, Respondent shall enroll in and successfully complete an Continuing Medical Education course in fluid/electrolyte management selected by Respondent and approved by the Director of OPMC.
8. Respondent shall continue enrollment in the Committee for Physicians Health (CPH) and shall engage in a contract with CPH which fully describes the terms, conditions and duration of a recovery program. Respondent shall fully comply with the contract. Respondent shall provide a written authorization for CPH to provide to the Director of OPMC with any/all information or documentation requested by OPMC to determine whether Respondent is in compliance with the contract. Respondent shall cause CPH to report to OPMC if Respondent refuses to comply with the contract, refuses to submit to treatment or whose impairment is not substantially alleviated by treatment. CPH shall report immediately to OPMC if Respondent is regarded at any time to be an imminent danger to the public.
9. Respondent shall continue in counseling or other therapy with a therapist as long as the therapist determines it is necessary, or for the period of time dictated in the Order. Respondent shall cause the therapist to submit quarterly reports to OPMC certifying whether Respondent is in compliance with the treatment plan. Respondent shall cause the therapist to report to OPMC within 24 hours if Respondent leaves treatment against medical advice, or displays any symptoms of a suspected or actual relapse. Respondent shall comply with any request from OPMC to obtain an independent psychiatric/chemical dependency evaluation by a health care professional proposed by the Respondent and approved, in writing, by the Director of OPMC.
10. Respondent shall comply with all terms, conditions, restrictions, limitations and penalties to which he 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 law. Upon written notification to Respondent by the Director of OPMC that he/she has determined that he/she has violated the terms of probation and/or is not in compliance with the terms of probation, the stay of the suspension is vacated and Respondent's licence shall be actively suspended until final resolution of the alleged violations of the terms of probation pursuant to the procedure set forth in NY Public Health Law §230(19).