



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.
*Commissioner
NYS Department of Health*

Dennis P. Whalen
*Executive Deputy Commissioner
NYS Department of Health*

Dennis J. Graziano, Director
Office of Professional Medical Conduct

Kendrick A. Sears, M.D.
Chairman

Michael A. Gonzalez, R.P.A.
Vice Chair

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

April 5, 2006

CERTIFIED MAIL-RETURN RECEIPT REQUESTED

Expedito Herrera Castillo, M.D.

REDACTED

Re: License No. 205229

Dear Dr. Castillo:

Enclosed is a copy of Order #BPMC 06-69 of the New York State Board for Professional Medical Conduct. This order and any penalty provided therein goes into effect April 12, 2006

If the penalty imposed by this Order is a surrender, revocation or suspension, you are required to deliver your license and registration within five (5) days of receipt of this 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,

REDACTED

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

Executive Secretary

Board for Professional Medical Conduct

Enclosure

cc: James Cullen, Esq.
80-02 Kew Gardens Road, Suite 1040
Kew Gardens, NY 11415

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

**IN THE MATTER
OF
EXPEDITO HERRERA CASTILLO, M.D.**

**CONSENT
ORDER**

BPMC No. 06-69

Upon the application of (Respondent) EXPEDITO HERRERA CASTILLO, M.D. in the attached Consent Agreement and Order, which is made a part of this Consent Order, it is

ORDERED, that the Consent Agreement, and its terms, are adopted and it is further

ORDERED, that this Order shall be effective upon issuance by the Board, either

- by mailing of a copy of this Consent Order, either by first class mail to Respondent at the address in the attached Consent Agreement or by certified mail to Respondent's attorney, OR
- upon facsimile transmission to Respondent or Respondent's attorney, whichever is first.

SO ORDERED.

DATE: 4-3-2000

REDACTED

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
EXPEDITO HERRERA CASTILLO, M.D.**

**CONSENT
AGREEMENT
AND
ORDER**

EXPEDITO HERRERA CASTILLO, M.D., representing that all of the following statements are true, deposes and says:

That on or about December 11, 1996, I was licensed to practice as a physician in the State of New York, and issued License No. 205229 by the New York State Education Department.

My current address is REDACTED, and I will advise the Director of the Office of Professional Medical Conduct of any change of address.

I understand that the New York State Board for Professional Medical Conduct has charged me with fourteen specifications of professional misconduct.

A copy of the Statement of Charges, marked as Exhibit "A", is attached to and part of this Consent Agreement.

I assert that I cannot successfully defend against at least one of the acts of misconduct alleged, in full satisfaction of the charges against me, and agree to the following penalty:

Pursuant to New York Pub. Health Law § 230-a(2), my license to practice medicine in New York State shall be suspended for twenty-four months, with the first four months to be served as a period of actual suspension and with the last twenty months stayed.

Pursuant to New York Pub. Health Law § 230-a(9), I shall be placed on probation for thirty-six months, subject to the terms set forth in attached Exhibit "B."

Pursuant to N.Y. Pub. Health Law § 230-a(3), my license to practice medicine in New York State shall be limited to preclude prescribing of controlled substances.

I further agree that the Consent Order shall impose the following conditions:

That Respondent shall advise any patient for whom prescription of a controlled substance would be appropriate treatment that Respondent is not authorized to issue such prescription and shall advise such patient that another physician should be consulted. If Respondent practices in an office with one or more other licensed physicians, those other physicians may be consulted by the patient, at the patient's election; and

That Respondent shall maintain active registration of Respondent's license with the New York State Education, Department Division of Professional Licensing Services (except during periods of actual suspension), and shall pay all registration fees. This condition shall take effect thirty days after the Consent Order's effective date and will continue so long as Respondent remains licensed in New York State; and

That Respondent shall cooperate fully with the Office of Professional Medical Conduct (OPMC) in its administration and enforcement of this Order and in its investigations of matters concerning

Respondent. Respondent shall respond in a timely manner to all OPMC requests for written periodic verification of Respondent's compliance with this Order. Respondent shall meet with a person designated by the Director of OPMC, as directed. Respondent shall respond promptly and provide all documents and information within Respondent's control, as directed. This condition shall take effect upon the Board's issuance of the Consent Order and will continue so long as Respondent remains licensed in New York State.

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

I agree that if I am charged with professional misconduct in future, this Consent Agreement and Order shall be admitted into evidence in that proceeding.

I ask the Board to adopt this Consent Agreement.

I understand that if the Board does not adopt this Consent Agreement, none of its terms shall bind me or constitute an admission of any of the acts of alleged misconduct; this Consent Agreement shall not be used against me in any way and shall be kept in strict confidence; and the Board's denial shall be without prejudice to the pending disciplinary proceeding and the Board's final determination pursuant to the Public Health Law.

I agree that, if the Board adopts this Consent Agreement, the Chair of the Board shall issue a Consent Order in accordance with its terms. I agree that this Order shall take effect upon its issuance by the Board, either by mailing of a copy

of the Consent Order by first class mail to me at the address in this Consent Agreement, or to my attorney by certified mail, OR upon facsimile transmission to me or my attorney, whichever is first. The Order, this agreement, and all attached Exhibits shall be public documents, with only patient identities, if any, redacted. As public documents, they may be posted on the Department's website.

I stipulate that the proposed sanction and Order are authorized by Public Health Law §§ 230 and 230-a and that the Board for Professional Medical Conduct and the Office of Professional Medical Conduct have the requisite powers to carry out all included terms. I ask the Board to adopt this Consent Agreement of my own free will and not under duress, compulsion or restraint. In consideration of the value to me of the Board's adoption of this Consent Agreement, allowing me to resolve this matter without the various risks and burdens of a hearing on the merits, I knowingly waive my right to contest the Consent Order for which I apply, whether administratively or judicially, I agree to be bound by the Consent Order, and ask that the Board adopt this Consent Agreement.

I understand and agree that the attorney for the Department, the Director of the Office of Professional Medical Conduct and the Chair of the State Board for Professional Medical Conduct each retain complete discretion either to enter into the proposed agreement and Order, based upon my application, or to decline to do so. I further understand and agree that no prior or separate written or oral communication can limit that discretion.

DATE 3/23/06

~~REDACTED~~
EXPEDITO HERRERA CASTILLO, M.D.
RESPONDENT

The undersigned agree to Respondent's attached Consent Agreement and to its proposed penalty, terms and conditions.

DATE: 23 Mar 2006

REDACTED

JAMES R. CULLEN, ESQ.
Attorney for Respondent

DATE: 5/23/06

REDACTED

FRANCIS D. RUDDY
Assistant Counsel
Bureau of Professional Medical Conduct

DATE: 3/28/06

REDACTED

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
EXPEDITO HERRERA CASTILLO, M.D.

STATEMENT
OF
CHARGES

EXPEDITO HERRERA CASTILLO, M.D., the Respondent, was authorized to practice medicine in New York State on or about December 11, 1996, by the issuance of license number 205229 by the New York State Education Department.

FACTUAL ALLEGATIONS

- A. Respondent treated Patient A for hypertension and other medical conditions at his office, 90 Bushwick Avenue, Brooklyn, New York ("Office") from in or about 1999 through in or about 2004.
 - 1. In or about December, 1999, Patient A presented with an ear ache. Respondent failed to evaluate, treat or follow-up such condition or note such evaluation, treatment or follow-up, if any.
 - 2. In or about April, 2000, Patient A complained of shortness of breath. Respondent failed to properly evaluate, treat or follow-up such condition or note such evaluation, treatment or follow-up, if any.

3. Beginning in or about November, 1999, Patient A presented with hypertension. Respondent failed to properly evaluate, treat or follow-up such condition or note such evaluation, treatment or follow-up, if any.
 4. Beginning in or about January, 2001 through January, 2002, Respondent inappropriately prescribed antibiotics including Augmentin, Biaxin and Cipro for Patient A.
 5. In or about December, 1999, Respondent inappropriately prescribed iron for Patient A and failed to do necessary laboratory work-ups or note such work-ups, if any.
 6. In or about October, 2000, Respondent inappropriately prescribed Valium .
 7. In or about January, 2002 Respondent inappropriately prescribed Provigil.
 8. In or about January, 2004, after Patient A sustained a myocardial infarction, Respondent inappropriately prescribed Viagra and Nitroglycerin at the same time.
- B. Respondent treated Patient B at his Office for back pain and other medical conditions from in or about December, 1999 through in or about June, 2002.

1. In spite of Patient B's complaints of back pain, Respondent failed to properly evaluate, treat or follow-up such condition or note such evaluation, treatment or follow-up, if any.
 - a. Respondent inappropriately prescribed Valium, Percocet, Duragesic, and Methadone.

- C. Respondent treated Patient C for back pain and other medical conditions at his Office from in or about July, 2001 through May, 2002.
 1. Patient C complained of back pain but Respondent failed to properly evaluate, treat or follow-up such condition or note such evaluation, treatment or follow-up, if any.
 2. Respondent inappropriately prescribed Methadone for Patient C.
 3. Respondent inappropriately prescribed Fosamax for Patient C.

- D. Respondent treated Patient D for pain and other medical conditions at his Office from in or about March, 2000 through in or about March, 2002.
 1. Patient D complained of chronic knee pain on her first visit in or about March, 2000. Nevertheless, Respondent failed to properly evaluate, treat or follow-up such condition or note such evaluation, treatment or follow-up, if any.

- a. Respondent inappropriately prescribed Vicodin for the pain.
2. In or about March and July, 2001, Patient D presented with abdominal pain. Respondent failed to properly evaluate, treat or follow-up such condition or note such evaluation, treatment or follow-up, if any.
 - a. Respondent inappropriately prescribed Percocet, Xanax and Methadone for such pain.
- E. Respondent treated Patient E for various medical conditions at his Office between in or about September, 1998 and February, 2004.
1. At the visit in or about January, 2004, Patient E complained of suprapubic pain. Respondent inappropriately diagnosed vaginitis and inappropriately prescribed metrogel.
 2. Patient E presented with cough and Respondent made a diagnosis of COPD and chronic bronchitis. Nevertheless, Respondent failed to properly evaluate, treat or follow-up such conditions or note such evaluation, treatment or follow-up, if any.
 3. Patient E suffered from chronic hypertension. Throughout the period, Respondent failed to properly evaluate, treat or follow-up such condition or note such evaluation, treatment or follow-up, if any.

F. Respondent treated Patient F at his Office for dizziness and other medical conditions from in or about September, 1998 through in or about February, 2002.

1. On her first visit Patient F complained of dizziness. Despite a diagnosis of near syncope and irregular heart rate, Respondent failed to perform an adequate physical examination or note such examination, if any.
2. At the visit in or about May, 1999, Patient F complained of chest pain but Respondent failed to perform an proper physical examination or note such examination, if any.
3. During this visit, Respondent diagnosed Patient F with hematochezia but failed to properly evaluate, treat or follow-up such condition or note such evaluation, treatment or follow-up, if any.
4. At the visit in or about December, 1999, Patient F presented with pain on urination and hypogastric pain. Respondent diagnosed a urinary tract infection and considered the possibility of Pelvic Inflammatory Disease but nevertheless failed to properly evaluate, treat or follow-up either condition or note such evaluation, treatment or follow-up, if any.
5. During visits in or about December, 1999 and January 2000, Patient F presented with abnormally high blood pressure. Respondent failed to properly evaluate, treat or follow-up such condition or note such evaluation, treatment or follow-up, if any.

SPECIFICATION OF CHARGES

FIRST SPECIFICATION

PRACTICING WITH NEGLIGENCE ON MORE THAN ONE OCCASION

Respondent is charged with committing professional misconduct as defined in N.Y. Educ. Law §6530(3) 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. Paragraphs A and A1-8; B and B1 and 1(a), 2; C and C1-3; D and D1, 1(a), 2 and 2(a); E and E1-3; and/or F and F1-5.

SECOND SPECIFICATION

INCOMPETENCE ON MORE THAN ONE OCCASION

Respondent is charged with committing professional misconduct as defined in N.Y. Educ. Law §6530(5) by practicing the profession of medicine with incompetence on more than one occasion as alleged in the facts of two or more of the following:

2. Paragraphs A and A1-8; B and B1 and 1(a), 2; C and C1-3; D and D1, 1(a); and 2 and 2(a); E and E1-3; and/or F and F1-5.

THIRD THROUGH SEVENTH SPECIFICATIONS
PRACTICING WITH GROSS NEGLIGENCE

Respondent is charged with committing professional misconduct as defined in N.Y. Educ. Law §6530(4) by practicing the profession of medicine with gross negligence on a particular occasion as alleged in the facts of the following:

3. Paragraphs A and A2, 3, 5,-8.
4. Paragraphs B and B1 and 1(a).
5. Paragraphs C and C2.
6. Paragraphs E and E3.
7. Paragraphs F and F1, 4, 5.

EIGHTH SPECIFICATION
PRACTICING WITH GROSS INCOMPETENCE

Respondent is charged with committing professional misconduct as defined in N.Y. Educ. Law §6530(6) by practicing the profession of medicine with gross incompetence as alleged in the facts of the following:

8. Paragraphs A and A2, 3, 5, 8; B, B1 and 1(a); C and C2; E and E3; F and F1, 4, 5,

NINTH THROUGH FOURTEENTH SPECIFICATIONS
FAILURE TO MAINTAIN RECORDS

Respondent is charged with committing professional misconduct as defined in N.Y. Educ. Law §6530(32) 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:

9. Paragraphs A and A1, 2, 3, 5.
10. Paragraphs B and B1.
11. Paragraphs C and C1.
12. Paragraphs D and D1, 3.
13. Paragraphs E and E2, 3.
14. Paragraphs F and F1 - 5.

DATE:

January 18, 2006
New York, New York

REDACTED

ROY NEMERSON
Deputy Counsel
Bureau of Professional
Medical Conduct

EXHIBIT "B"

Terms of Probation

1. Respondent's conduct shall conform to moral and professional standards of conduct and governing law. Any act of professional misconduct by Respondent as defined by New York State Education Law § 6530 or § 6531 shall constitute a violation of probation and may subject Respondent to an action pursuant to New York State Public Health Law § 230(19).
2. Respondent shall maintain active registration of Respondent's license (except during periods of actual suspension) with the New York State Education Department Division of Professional Licensing Services, and shall pay all registration fees.
3. Respondent shall provide the Director, Office of Professional Medical Conduct (OPMC), Hedley Park Place, 433 River Street Suite 303, Troy, New York 12180-2299 with the following information, in writing, and ensure that such information is kept current: a full description of Respondent's employment and practice; all professional and residential addresses and telephone numbers within and outside New York State; and all investigations, charges, convictions or disciplinary actions by any local, state or federal agency, institution or facility, within thirty days of each action.
4. Respondent shall cooperate fully with, and respond in a timely manner to, OPMC requests to provide written periodic verification of Respondent's compliance with the terms of this Consent Order. Upon the Director of OPMC's request, Respondent shall meet in person with the Director's designee.
5. Respondent's failure to pay any monetary penalty by the prescribed date shall subject Respondent to all provisions of law relating to debt collection by New York State, including but 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 § 171(27)]; State Finance Law § 18; CPLR § 5001; Executive Law § 32].
6. The probation period shall toll when Respondent is not engaged in active medical practice in New York State for a period of thirty consecutive days or more. Respondent shall notify the Director of OPMC, in writing, if Respondent is not currently engaged in, or intends to leave, active medical practice in New York State for a consecutive thirty day period. Respondent shall then notify the Director again at least fourteen days before returning to active practice. Upon Respondent's return to active practice in New York State, the probation period will resume and Respondent shall fulfill any unfulfilled probation terms and such additional requirements as the Director may impose as reasonably relate to the matters set forth in Exhibit "A" or are necessary to protect the public health.
7. The Director of OPMC may review Respondent's professional performance. This review may include but shall not be limited to: a review of office records, patient records and/or hospital charts; and interviews with

or periodic visits with Respondent and staff at practice locations or OPMC offices.

8. Respondent shall maintain complete and legible medical records that accurately reflect the evaluation and treatment of patients and contain all information required by State rules and regulations concerning controlled substances.
9. Respondent shall immediately surrender Respondent's DEA controlled substance certificate, privileges, and any used DEA #222 U.S. Official Order Forms Schedules 1 and 2, to the DEA. Respondent shall provide documentary proof of such surrender, to the Director of OPMC within 30 days of the effective date of the Order.
10. Respondent shall return any unused New York State official prescription forms to the Bureau of Narcotic Enforcement of the New York State Department of Health. If no other licensee is providing services at Respondent's practice location, Respondent shall dispose of all medications.
11. Upon request, Respondent shall provide OPMC access to or copies of all patient records, office records, hospital records, records of administration, dispensing and/or prescribing of controlled substances, records of controlled substances purchases, official New York State prescription books, and any other records required under the law.
12. Within thirty days of the effective date of the 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 (no fewer than 20) of records maintained by Respondent, including patient records, prescribing information and office records. 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.
 - 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.

13. Respondent shall enroll in and complete a continuing education program as directed by the Director of the Office of Professional Medical Conduct. This continuing education program shall include, but not be limited to, subjects related to the prescribing of controlled and other prescription drugs, and is subject to the Director of OPMC's prior written approval and shall be completed prior to completion of the first year of the probation period.
14. Respondent shall comply with this Order and all its terms, and shall bear all associated compliance costs. Upon receiving evidence of noncompliance with, or violation of, these terms, the Director of OPMC and/or the Board may initiate a violation of probation proceeding, and/or any other such proceeding authorized by law, against Respondent.