

Effective Date: 07/10/96

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

**IN THE MATTER  
OF  
MARK ROBERT KOT, M.D.**

**CONSENT  
ORDER**

BPMC #96-152

Upon the application of MARK ROBERT KOT, M.D. (Respondent) for Consent Order, which application is made a part hereof, it is

ORDERED, that the application and the provisions thereof are hereby adopted and so ORDERED, and it is further

ORDERED, that this order shall take effect as of the date of the personal service of this order upon Respondent, upon receipt by Respondent of this order via certified mail, or seven days after mailing of this order by certified mail, whichever is earliest.

SO ORDERED.

DATED: 26 June 96



CHARLES J. VACANTI, M.D.  
Chairperson  
State Board for Professional  
Medical Conduct

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

IN THE MATTER  
OF  
MARK ROBERT KOT, M.D.

APPLICATION  
FOR  
CONSENT ORDER

STATE OF NEW YORK )  
COUNTY OF *NASSAU* ) ss.:

MARK ROBERT KOT, M.D., being duly sworn, deposes and says:

That on or about January 5, 1990, I was licensed to practice as a physician in the State of New York, having been issued License No. 181198 by the New York State Education Department.

My current address is 1072 Deerfield Road, Watermill, New York 11976, and I will advise the Director of the Office of Professional Medical Conduct of any change of my address.

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

A copy of the Statement of Charges is annexed hereto, made a part hereof, and marked as Exhibit "A".

I admit guilt to the First Specification, in full satisfaction of the charges against me. I hereby agree to the penalty of an eighteen (18) month stayed suspension and probation. Said period of probation shall be tolled unless and until I am engaged in the practice of medicine in New York State.

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 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.

*Mark Robert Kot, M.D.*

MARK ROBERT KOT, M.D.  
RESPONDENT

Sworn to before me this

12 day of APRIL, 1996

*Martin Schaum*

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NOTARY PUBLIC

MARTIN SCHAUM  
Notary Public, State of New York  
No. 02SC8793991  
Qualified in Nassau County  
Commission Expires December 31, 1996

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

IN THE MATTER  
OF  
MARK ROBERT KOT, M.D.

APPLICATION  
FOR  
CONSENT ORDER

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

DATE: 4/12/96 Mark Robert Kot, M.D.  
MARK ROBERT KOT, M.D.  
Respondent

DATE: 4/12/96 Martin Shaum  
MARTIN SHAUM, ESQ.  
SHAUM & WEINER  
Attorney for Respondent

DATE: 6/13/96 David W. Smith  
DAVID W. SMITH  
Associate Counsel  
Bureau of Professional  
Medical Conduct

DATE: June 26 1996

Anne Saile

ANNE F. SAILE  
Acting Director  
Office of Professional Medical  
Conduct

DATE: 26 June 1996

Charles J. Vacanti

CHARLES J. VACANTI, M.D.  
Chairperson  
State Board for Professional  
Medical Conduct

EXHIBIT "B"  
TERMS OF PROBATION

1. MARK ROBERT KOT, M.D., during the period of probation, shall conduct himself/herself in all ways in a manner befitting his/her professional status, and shall conform fully to the moral and professional standards of conduct imposed by law and by his/her profession;
2. Respondent shall submit written notification to the New York State Department of Health (NYSDOH), addressed to the Director, Office of Professional Medical Conduct, New York State Department of Health, Corning Tower Building, 4th Floor, Empire State Plaza, Albany, New York 12237 of any employment and practice, of Respondent's residence and telephone number, and of any change in Respondent's employment, practice, residence, or telephone number within or without the State of New York;
3. Respondent shall submit written proof from the Division of Professional Licensing Services (DPLS), New York State Education Department (NYSED), that Respondent has paid all registration fees due and owing to the NYSED and Respondent shall cooperate with and submit whatever papers are requested by DPLS in regard to said registration fees, said proof from DPLS to be submitted by Respondent to the New York State Department of Health, addressed to the Director, Office of Professional Medical Conduct, as aforesaid, within the first three months of the period of probation;
4. Respondent shall submit written proof to the NYSDOH, addressed to the Director, Office of Professional Medical Conduct, as aforesaid, that 1) Respondent is currently registered with the NYSED, unless Respondent submits written proof that Respondent has advised DPLS, NYSED, that Respondent is not engaging in the practice of Respondent's profession in the State of New York and does not desire to register, and that 2) Respondent has paid any fines which may have previously been imposed upon Respondent by the Board or by the Board of Regents; said proof of the above to be submitted no later than the first two months of the period of probation;
5. Respondent shall comply with all terms, conditions, restrictions, and penalties to which he is subject pursuant to the order of the Board and shall assume and bear all costs related to compliance with the Terms of Probation;
6. Any civil penalty not paid by the date prescribed herein shall be subject to all provisions of law relating to debt collection by the State of New York. 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 §171(27); State Finance Law §18; CPLR §5001; Executive Law §32);
7. Respondent's practice shall be monitored by a board-certified emergency medicine physician chosen by Respondent and approved by the Director of the Office of Professional Medical Conduct. Respondent shall meet with this monitor at least monthly and Respondent shall provide to the monitor

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

IN THE MATTER  
OF  
MARK ROBERT KOT, M.D.

NOTICE  
OF  
HEARING

TO: MARK ROBERT KOT, M.D.  
1072 Deerfield Road  
Watermill, New York 11976

PLEASE TAKE NOTICE:

A hearing will be held pursuant to the provisions of N.Y. Pub. Health Law §230 (McKinney 1990 and Supp. 1996) and N.Y. State Admin. Proc. Act §§301-307 and 401 (McKinney 1984 and Supp. 1996). The hearing will be conducted before a committee on professional conduct of the State Board for Professional Medical Conduct on April 10, 1996, at 10:00 a.m., at the Offices of the New York State Department of Health, 5 Penn Plaza, Sixth Floor, New York, New York, and at such other adjourned dates, times and places as the committee may direct.

At the hearing, evidence will be received concerning the allegations set forth in the Statement of Charges, which is attached. A stenographic record of the hearing will be made and the witnesses at the hearing will be sworn and examined. You shall appear in person at the hearing and may be represented by counsel. You have the right to produce witnesses and evidence on your behalf, to issue or have subpoenas issued on your behalf in order to require the production of witnesses and documents, and you may cross-examine witnesses and examine evidence produced against you. A summary of the Department of Health Hearing Rules is enclosed.

The hearing will proceed whether or not you appear at the hearing. Please note that requests for adjournments must be made in writing and by telephone to the Administrative Law Judge's Office, Empire State Plaza, Tower Building, 25th Floor, Albany, New York 12237, (518-473-1385), upon notice to the attorney for the Department of Health whose name appears below. and at least five days prior to the

scheduled hearing date. Adjournment requests are not routinely granted as scheduled dates are considered dates certain. Claims of court engagement will require detailed Affidavits of Actual Engagement. Claims of illness will require medical documentation.

Pursuant to the provisions of N.Y. Pub. Health Law §230 (McKinney 1990 and Supp. 1996), you may file an answer to the Statement of Charges not less than ten days prior to the date of the hearing. If you wish to raise an affirmative defense, however, N.Y. Admin. Code tit. 10, §51.5(c) requires that an answer be filed, but allows the filing of such an answer until three days prior to the date of the hearing. Any answer shall be forwarded to the attorney for the Department of Health whose name appears below. Pursuant to §301(5) of the State Administrative Procedure Act, the Department, upon reasonable notice, will provide at no charge a qualified interpreter of the deaf to interpret the proceedings to, and the testimony of, any deaf person.

At the conclusion of the hearing, the committee shall make findings of fact, conclusions concerning the charges sustained or dismissed, and in the event any of the charges are sustained, a determination of the penalty to be imposed or appropriate action to be taken. Such determination may be reviewed by the Administrative Review Board for Professional Medical Conduct.

THESE PROCEEDINGS MAY RESULT IN A DETERMINATION THAT YOUR LICENSE TO PRACTICE MEDICINE IN NEW YORK STATE BE REVOKED OR SUSPENDED, AND/OR THAT YOU BE FINED OR SUBJECT TO OTHER SANCTIONS SET OUT IN NEW YORK PUBLIC HEALTH LAW §§230-a (McKinney Supp. 1996). YOU ARE URGED TO OBTAIN AN ATTORNEY TO REPRESENT YOU IN THIS MATTER.

DATED: New York, New York  
*Jan 31*, 1996



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ROY NEMERSON  
Deputy Counsel  
Bureau of Professional  
Medical Conduct

Inquiries should be directed to: DAVID W. SMITH  
Associate Counsel  
Bureau of Professional  
Medical Conduct  
5 Penn Plaza, Suite 601  
New York, New York 10001  
(212) 613-2617

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

IN THE MATTER  
OF  
MARK R. KOT, M.D.

STATEMENT  
OF  
CHARGES

MARK R. KOT, M.D., the Respondent, was authorized to practice medicine in New York State on or about January 5, 1990, by the issuance of license number 181198 by the New York State Education Department.

FACTUAL ALLEGATIONS

- A. On or about February 26, 1993, Respondent treated Patient A for chest pains and other medical conditions in the emergency room at Southside Hospital, Bayshore, New York.
1. Respondent inappropriately failed to do chest x-rays, an EKG and urinalysis.
  2. Respondent inappropriately diagnosed Patient A with low back spasm.
- B. On or about July 25, 1993, Respondent treated Patient B, an 82 year old man, for scalp laceration as a result of a fall and other medical conditions in the emergency room at Southside Hospital, Bayshore, New York.

1. Respondent failed to perform an adequate physical examination.
  2. Respondent failed to order a hip x-ray.
- C. On or about November 25, and December 17, 1991, Respondent treated Patient C for lower back strain and other medical conditions in the emergency room at Central Suffolk Hospital, Suffolk County, Long Island.
1. Respondent failed to perform an adequate physical examination.
  2. Respondent failed to obtain an adequate medical history.
  3. Respondent inappropriately failed to perform laboratory tests including a CBC and urinalysis.
- D. On or about May 3, 1992, Respondent treated Patient D for a back injury caused by falling off a dirt bike and other medical conditions in the emergency room at Central Suffolk Hospital, Suffolk County, Long Island.
1. Respondent inappropriately failed to take x-rays of Patient D and adequately explore the possibility of head injury.
  2. Respondent noted markedly abnormal blood pressure in Patient D but failed to evaluate, follow-up or treat such condition.

E. On or about August 5, 1992, Respondent treated Patient E for a heart problem and other medical conditions in the emergency room at Central Suffolk Hospital, Suffolk County, Long Island.

1. Patient E complained of pain in the throat, difficulty swallowing and hoarseness, but Respondent failed adequately to examine the throat or evaluate, follow-up or treat these conditions.
2. Patient E was running an elevated temperature but Respondent failed to evaluate, follow-up or treat such condition.

F. On or about October 18, 1993, Respondent treated Patient F for shortness of breath and other medical conditions in the emergency room at Southampton Hospital, Southampton, Long Island.

1. Respondent failed to obtain adequate medical history.
2. Patient F presented with chest heaviness and heaviness in her left arm, yet Respondent inappropriately failed to check cardiac enzymes and investigate her pulmonary status with chest x-ray and blood gas.
3. Patient F had a history of end stage renal disease but nevertheless Respondent inappropriately failed to evaluate the patient's electrolytes and renal status.

**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. 1996) 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, 2; B and B1, 2; C and C1-3; D and D1, 2; E and E1, 2; and/or F and F1-3.

**SECOND SPECIFICATION**

**INCOMPETENCE ON MORE THAN ONE OCCASION**

Respondent is charged with committing professional misconduct as defined in N.Y. Educ. Law §6530(5)(McKinney Supp. 1996) 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; B and B1-2; C and C1-3; D and D1, 2; E and E1, 2; and/or F and F1-3.

DATED: January 31, 1996  
New York, New York



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ROY NEMERSON  
Deputy Counsel  
Bureau of Professional  
Medical Conduct