

New York State Board for Professional Medical Conduct

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

5/15/03 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

William P. Dillon, M.D.
Chair

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

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

PUBLIC

May 16, 2003

CERTIFIED MAIL-RETURN RECEIPT REQUESTED

Mouhanad Mark Alwan, M.D.
2508 North Mountain Avenue
Upland, CA 91711

RE: License No. 174897

Dear Dr. Alwan:

Enclosed please find Order #BPMC 03-123 of the New York State Board for Professional Medical Conduct. This Order and any penalty provided therein goes into effect May 23, 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 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: Michael J. Khouri, Esq.
Buckner, Akani, Khouri, Chavos and Mirkovich
3146 Redhill Avenue, Suite 200
Costa Mesa, CA 92626

NEW YORK STATE DEPARTMENT OF HEALTH
STATE BOARD FOR PROFESSIONALMEDICAL CONDUCT

IN THE MATTER
OF
MOUHANAD MARK ALWAN, M.D., aka M. MARK ALWAN, M.D.
CO-03-02-0676-A

CONSENT AGREEMENT
AND ORDER

BPMC No. 03-123

MOUHANAD MARK ALWAN, M.D., aka M. MARK ALWAN, M.D., states:

That on or about July 1, 1998, I was licensed to practice as a physician in the State of New York, having been issued License No. 174897 by the New York State Education Department.

My current address is 2508 North Mountain Avenue, Upland, CA 91711, 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 three (3) specifications of professional misconduct.

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

I do not contest the three (3) specifications, in full satisfaction of the charges against me. I hereby, agree to the following penalty:

Indefinite suspension of my New York state license to practice medicine for at least one (1) year and until my license to practice medicine in the State of California is fully restored without conditions.

One year after the effective date of this order and after compliance with all conditions I may, in writing, petition the Director, OPMC, for a Modification Order,

staying the suspension and permitting me to practice as a physician under whatever limitation(s), term(s) of probation, or further conditions the Director, in his reasonable discretion, may impose.

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

That, except during periods of actual suspension, I shall maintain current registration of my 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 Respondent possesses his license; and

That I 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. I 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. I shall meet with a person designated by the Director of OPMC as directed. I shall respond promptly and provide any and all documents and information within my 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 I possess my 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).

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



MOUHANAD MARK ALWAN,
aka M. MARK ALWAN, M.D.
Respondent

DATED 4/26/03

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

DATE: May 2, 2003


ROBERT BOGAN
Associate Counsel
Bureau of Professional Medical Conduct

DATE: May 9, 2003


DENNIS J. GRAZIANO
Director
Office of Professional Medical Conduct

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

IN THE MATTER	STATEMENT
OF	OF
MOUHANAD MARK ALWAN, M.D., aka M. MARK ALWAN, M.D. CO-03-02-0676-A	CHARGES

MOUHANAD MARK ALWAN, M.D., aka M. MARK ALWAN, M.D., the Respondent, was authorized to practice medicine in New York State on July 1, 1988, by the issuance of license number 174897 by the New York State Education Department.

FACTUAL ALLEGATIONS

A. On or about November 2, 1998, in the Superior Court, County of Orange, North Justice Center, State of California, Respondent was found guilty, based on a plea of guilty, of Vandalism, in violation of California Penal Code §594(b)(3), a misdemeanor, and was placed on three (3) years informal probation and required to perform eighty (80) hours community service.

B. On or about December 13, 2002, the Division of Medical Quality, Medical Board of California, Department of Consumer Affairs (hereinafter "California Board"), by a Decision After Reconsideration (hereinafter "California Decision"), suspended Respondent's Physician's and Surgeon's Certificate for six (6) months, stayed the suspension, and placed him on three (3) years probation with terms and conditions, based on his conviction of vandalism as described in Paragraph A above and on or about March 17, 2000, in the Superior Court of California for the County of San Bernadino, being found guilty, based on a plea of nolo contendere, in violation of California Penal Code section 490.1, Petty Theft, an infraction, and fined \$270.00.

C. The conduct resulting in the California Board disciplinary action against Respondent would constitute misconduct under the laws of New York state, pursuant to the following sections of New York state law:

1. New York State Education Law Section 6530(9)(a)(i) (being convicted of a crime under state law).

SPECIFICATIONS
SPECIFICATIONS ONE

Respondent violated New York Education Law Section 6530 (9)(a)(iii) by having been convicted of committing an act constituting a crime under the law of another jurisdiction and which, if committed within this state, would have constituted a crime under New York state law, in that Petitioner charges:

1. The facts in Paragraph A.

SPECIFICATION TWO

Respondent violated New York Education Law Section 6530 (9)(b) by having been found guilty of improper professional practice or professional misconduct by a duly authorized professional disciplinary agency of another state where the conduct upon which the finding was based would, if committed in New York state, constitute professional misconduct under the laws of New York state, in that Petitioner charges:

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

SPECIFICATION THREE

Respondent violated New York State Education Law Section 6530 (9)(d) by having disciplinary action taken by a duly authorized professional disciplinary agency of another state, where the conduct resulting in the disciplinary action would, if committed

in New York state, constitute professional misconduct under the laws of New York state,
in that the Petitioner charges:

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

DATED: ~~Mar.~~ 31, 2003



PETER D. VAN BUREN
Deputy Counsel
Bureau of Professional Medical Conduct

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

IN THE MATTER
OF **CONSENT ORDER**
MOUHANAD MARK ALWAN, M.D., aka M. MARK ALWAN, M.D.

Upon the proposed agreement of **MOUHANAD MARK ALWAN, M.D., aka M. MARK ALWAN, 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 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: 5/15/03

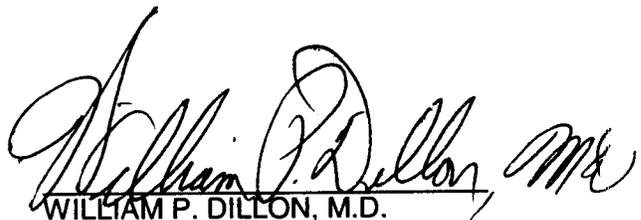

WILLIAM P. DILLON, M.D.
Chair
State Board for Professional
Medical Conduct

EXHIBIT B

Terms of Probation

1. Respondent 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 and obligations imposed by law and by his/her profession.
2. Respondent shall submit written notification to the New York State Department of Health addressed to the Director, Office of Professional Medical Conduct (OPMC), Hedley Park Place, 433 River Street Suite 303, Troy, New York 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. Respondent shall fully cooperate with and respond in a timely manner to requests from OPMC to provide written periodic verification of Respondent's compliance with the terms of this Order. Respondent shall personally meet with a person designated by the Director of OPMC as requested by the Director.
4. 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].
5. 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.
6. 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/her staff at practice locations or OPMC offices.
7. 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.
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.