



New York State Board for Professional Medical Conduct

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

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

March 28, 2000

CERTIFIED MAIL-RETURN RECEIPT REQUESTED

Musheer Hussain, M.D.
12 Graves Street
Brockport, NY 14420

RE: License No. 121541

Dear Dr. Hussain:

Enclosed please find Order #BPMC 00-94 of the New York State Board for Professional Medical Conduct. This Order and any penalty provided therein goes into effect **March 28, 2000**.

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 T. Harren, Esq.
Chamberlain, D'Amanda, Oppenheimer & Greenfield
1600 Crossroads Building
Two State Street
Rochester, NY 14614-1397

Joseph H. Cahill, Esq.

IN THE MATTER
OF
MUSHEER HUSSAIN, M.D.

CONSENT
AGREEMENT
AND
ORDER
BPMC #00-94

MUSHEER HUSSAIN, M.D., (Respondent) says:

That on or about September 18, 1974, I was licensed to practice as a physician in the State of New York, having been issued License No. 121541 by the New York State Education Department.

My current address is ^{12 GRAVES ST BROCKPORT 14420} ~~23 Public Square, Holley, New York 14470~~, 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 ten (10) 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 acknowledge that under previous BPMC Order 97-23, I am restricted under the terms of Paragraph One (1) as follows:

1. I shall permanently refrain from the practice of surgery and my license to practice medicine shall be limited to those medical activities not involving surgery. I shall submit proof to the Office of Professional Medical Conduct (OPMC), acceptable to OPMC, from my medical malpractice insurance carrier within thirty days of the effective date of this Order and thereafter on a bi-annual basis that the terms of my insurance are limited to exclude surgery. Notwithstanding all of the

above, I shall be entitled to perform minor surgical procedures as part of my general and family based medical practice such as the suturing of lacerations, the biopsy and excision of superficial growth, incisions of boils and superficial abscesses, the closed reduction of fractures and the circumcision of other than new born patients. I shall not perform surgery in either a hospital or an ambulatory care facility/setting. I shall inform OPMC within thirty days of my obtaining privileges at any hospital.

I hereby agree to the following penalty in relation to this Consent Order:

2. My license to practice medicine in the State of New York shall be suspended for a period of twenty (20) months beginning on the effective date of the Order. The twenty month period of suspension shall be stayed and I shall be placed on probation during that twenty month period. The twenty month stay of suspension shall be subject to my compliance with the probation terms which are attached and annexed hereto as Exhibit "B." I shall fully comply with the probation terms.

I further agree that the Consent Order for which I hereby apply 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 2/28/00



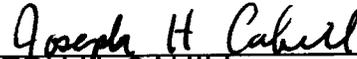
MUSHEER HUSSAIN, M.D.
Respondent

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

DATE: Jan 24 2000


MICHAEL C. HARREN, ESQ.
Attorney for Respondent

DATE: March 9, 2000


JOSEPH H. CAHILL
Associate Counsel
Bureau of Professional
Medical Conduct

DATE: 3/17/00


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
MUSHEER HUSSAIN, M.D.

CONSENT
ORDER

Upon the proposed agreement of MUSHEER HUSSAIN, 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: 3/22/00


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

-----X

IN THE MATTER : STATEMENT
OF : OF
MUSHEER HUSSAIN, M.D. : CHARGES

-----X

MUSHEER HUSSAIN, M.D., the Respondent, was authorized to practice medicine in New York State on August 16, 1974 by the issuance of license number 121541 by the New York State Education Department. The Respondent is currently registered with the New York State Education Department to practice medicine for the period April 1, 1997 through March 31, 1999, with a registration address of 12 Graves Street, Brockport, New York 14420.

FACTUAL ALLEGATIONS

A. Respondent, in approximately June 1997 at the Orleans Correctional Facility, provided medical care to Patient A (patients are identified in the Appendix). Respondent's care and treatment failed to conform to accepted standards of medical care, in that:

1. Respondent failed to timely treat Patient A who presented with a low platelet count (55,000), a hematocrit level of 22.7, and a hemoglobin of 7.5.

2. Respondent failed to document in Patient A's record the treatment plan addressing the patient's abnormal blood counts.

B. Respondent, in approximately August 1997 at the Orleans Correctional Facility, provided medical care and treatment to Patient B. Respondent's care and treatment failed to conform to accepted standards of medical care, in that:

1. Respondent failed to order a repeat uric acid laboratory test and/or assess the accuracy of the abnormal uric acid laboratory test result before initiating treatment.
2. Respondent failed to see and/or adequately examine Patient B and/or correlate the patient's medical condition with the abnormal uric acid laboratory test result before initiating treatment.

C. Respondent, in approximately September 1997 at the Orleans Correctional Facility, provided medical care to Patient C. Respondent's care and treatment failed to conform to accepted standards of medical care, in that:

1. Respondent failed to timely diagnose and/or treat Patient C's pulmonary embolism.
2. Respondent failed to maintain records which accurately reflected his treatment of this patient.

SPECIFICATIONS

FIRST SPECIFICATION

NEGLIGENCE ON MORE THAN OCCASION

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

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

SECOND SPECIFICATION

INCOMPETENCE ON MORE THAN ONE OCCASION

Respondent is charged with incompetence on more than one occasion in violation of N.Y. Education Law §6530(5), in that Petitioner charges two or more of the following:

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

THIRD THROUGH FIFTH SPECIFICATIONS

GROSS NEGLIGENCE

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

3. The facts in Paragraph A and A.1.
4. The facts in Paragraph B and B.2.

5. The facts in Paragraph C and C.1.

SIXTH THROUGH EIGHTH SPECIFICATIONS

GROSS INCOMPETENCE

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

6. The facts in Paragraph A and A.1.
7. The facts in Paragraph B and B.2.
8. The facts in Paragraph C and C.1.

NINTH THROUGH TENTH SPECIFICATIONS

RECORD KEEPING

Respondent is charged with failing to maintain a record for each patient which accurately reflects the evaluation and treatment of the patient in violation of N.Y. Education Law §6530(32), in that Petitioner charges:

9. The facts in Paragraph A and A.2.
10. The facts in Paragraph C and C.2.

DATED:

March 6, 2000
EST.
~~1998~~
Albany, New York

Peter D. Van Buren
PETER D. VAN BUREN
Deputy Counsel
Bureau of 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 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. Respondent shall submit written proof to the Director, OPMC, as aforesaid, that Respondent is currently registered with the New York State Education Department; said proof of the above to be submitted no later than sixty (60) days following the effective date of this Order.
4. 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 member of the OPMC staff as the discretion of the Director of OPMC.
5. 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].
6. 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.
7. 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.
8. 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.
9. Respondent shall make available for review by OPMC and/or at OPMC's

discretion, by a physician proposed by Respondent and approved in writing by the Director of OPMC, complete copies of any and all medical and office records selected by OPMC. Respondent shall fully cooperate in the review process.

10.
 - a.) Respondent shall practice medicine only when supervised in his medical practice. The practice supervisor shall be on-site at all locations, unless determined otherwise by the Director of OPMC. The practice supervisor shall be proposed by Respondent and subject to the written approval of the Director. The practice supervisor shall not be a family member or personal friend, or be in a professional relationship which could pose a conflict with supervision responsibilities.
 - b.) Respondent shall ensure that the practice supervisor is familiar with the Order and terms of probation, and willing to report to OPMC. Respondent shall ensure that the practice supervisor is in a position to regularly observe and assess Respondent's medical practice. Respondent shall cause the practice supervisor to report within 24 hours any suspected impairment, inappropriate behavior, questionable medical practice or possible misconduct to OPMC.
 - c.) Respondent shall authorize the practice supervisor to have access to his patient records and to submit quarterly written reports, to the Director of OPMC, regarding Respondent's practice. These narrative reports shall address all aspects Respondent's clinical practice including, but not limited to, the evaluation and treatment of patients, general demeanor, time and attendance, the supervisor's assessment of patient records selected for review and other such on-duty conduct as the supervisor deems appropriate to report.
11. 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.

**PROPOSED APPENDIX TO ALL BPMC ORDERS FOR NULLIFICATION,
REVOCATION, SURRENDER OR SUSPENSION (of 6 months or more)
OF A MEDICAL LICENSE**

1. Respondent shall immediately cease and desist from engaging in the practice of medicine in accordance with the terms of the Order. In addition, Respondent shall refrain from providing an opinion as to professional practice or its application and from representing himself as being eligible to practice medicine.
2. Respondent shall have delivered to OPMC at Hedley Park Place, 433 River Street 4th Floor, Troy, NY 12180-2299 his original license to practice medicine in New York State and current biennial registration within thirty (30) days of the effective date of the Order.
3. Respondent shall within fifteen (15) days of the Order notify his patients of the cessation of his medical practice and will refer all patients to another licensed practicing physician for their continued care, as appropriate.
4. Respondent shall make arrangements for the transfer and maintenance of the medical records of his patients. Within thirty days of the effective date of the Order, Respondent shall notify OPMC of these arrangements including the appropriate and acceptable contact person's name, address, and telephone number who shall have access to these records. Original records shall be retained for at least six years after the last date of service rendered to a patient or, in the case of a minor, for at least six years after the last date of service or three years after the patient reaches the age of majority whichever time period is longer. Records shall be maintained in a safe and secure place which is reasonably accessible to former patients. The arrangements shall include provisions to ensure that the information on the record is kept confidential and made available only to authorized persons. When a patient or and/or his or her representative requests a copy of the patient's medical record or requests that the original medical record be forwarded to another health care provider, a copy of the record shall be promptly provided or forwarded at a reasonable cost to the patient (not to exceed seventy-five cents per page.) Radiographic, sonographic and like materials shall be provided at cost. A qualified person shall not be denied access to patient information solely because of their inability to pay.
5. In the event that Respondent holds a Drug Enforcement Agency (DEA) certificate, Respondent shall within fifteen (15) days advise the DEA in writing of the licensure action and shall surrender his DEA controlled substance privileges to the DEA. Respondent shall promptly surrender any unused DEA #222 U.S. Official Order Forms Schedules 1 and 2 to the DEA.
6. Respondent shall within fifteen (15) days return any unused New York State official prescription forms to the Bureau of Controlled Substances of the New York State Department of Health. Respondent shall cause all prescription pads bearing his name to be destroyed. If no other licensee is providing services at his practice location, all medications shall be properly disposed.
7. Respondent shall not share, occupy or use office space in which another licensee provides health care services. Respondent shall cause all signs to be removed within fifteen (15) days and stop all advertisements, professional listings whether in telephone directories or otherwise, professional stationery or billings by which his eligibility to practice is represented.
8. Respondent shall not charge, receive or share any fee or distribution of dividends for professional services rendered by himself or others while barred from engaging in the practice of medicine. Respondent may be compensated for the reasonable value of services lawfully rendered and disbursements incurred on a patient's behalf prior to the

effective date of this Order.

9. If Respondent is a shareholder in any professional service corporation organized to engage in the practice of medicine and if his license is revoked, surrendered or suspended for a term of six months or more under the terms of this Order, Respondent shall divest himself of all financial interest in the professional services corporation in accordance with New York Business Corporation Law. Such divestiture shall occur within 90 days. If Respondent is the sole shareholder in a professional services corporation, the corporation must be dissolved or sold within ninety (90) days of the effective date of this Order.

10. Failure to comply with the above directives may result in a civil penalty or further criminal penalties as may be authorized pursuant to the law. Under Section 6512 of the Education Law it is a Class E Felony, punishable by imprisonment of up to 4 years, to practice the profession of medicine when such professional license has been suspended, revoked or annulled. Such punishment is in addition to the penalties for professional misconduct set forth in section 230 a1. of the Public Health Law, which includes fines of up to \$10,000 for each specification of charges of which the Respondent is found guilty and may include revocation of a suspended license.