

PUBLIC

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

IN THE MATTER
OF
JAMES PATRICK O'HAIR, M.D.

SURRENDER
ORDER
BPMC No. 03-250

Upon the application of James Patrick O'Hair, M.D. (Respondent) to Surrender his license as physician in the State of New York, which is made a part of this Surrender Order, it is

ORDERED, that the Surrender, and its terms, are adopted and SO ORDERED, and it is further ORDERED, that the name of Respondent be stricken from the roster of physicians in the State of New York; 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: 9-24-03



MICHAEL A GONZALEZ, R.P.A.
Vice Chair
State Board for Professional
Medical Conduct

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

**IN THE MATTER
OF
JAMES PATRICK O'HAIR, M.D.**

**SURRENDER
of
LICENSE**

James Patrick O'Hair, M.D., representing that all of the following statements are true, deposes and says:

That on or about August 11, 1995, I was licensed to practice as a physician in the State of New York, and issued License No. 200465 by the New York State Education Department.

My current address is 40 Sophia Drive, Cranston, Rhode Island 02921, 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 two specifications of professional misconduct.

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

I am applying to the State Board for Professional Medical Conduct for permission to surrender my license as a physician in the State of New York on the grounds that I admit guilt to the 2 specifications, in full satisfaction of the charges against me.

I ask the Board to accept the Surrender of my License.

I understand that if the Board does not accept this Surrender, none of its terms shall bind me or constitute an admission of any of the acts of alleged misconduct; this application 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 accepts the Surrender of my License, the Chair of the Board shall issue a Surrender 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 Surrender Order by first class mail to me at the address in this Surrender of License, or to my attorney by certified mail, OR upon facsimile transmission to me or my attorney, whichever is first.

I ask the Board to accept this Surrender of License of my own free will and not under duress, compulsion or restraint. In consideration of the value to me of the Board's acceptance of this Surrender of License, 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 Surrender Order for which I apply, whether administratively or judicially, and I agree to be bound by the Surrender Order.

DATED 8/18/03



JAMES PATRICK O'HAIR, M.D.
RESPONDENT

The undersigned agree to Respondent's attached Surrender of License and to its proposed penalty, terms and conditions.

DATE: 9/9/03


Seth Bowerman, ESQ.
Attorney for Respondent

DATE: 9-11-03


Joseph H. Cahill, Associate Counsel
Bureau of Professional Medical Conduct

DATE: 9/22/03


DENNIS J. GRAZIANO
Director
Office of Professional Medical Conduct

IN THE MATTER
OF
JAMES PATRICK O'HAIR, M.D.

STATEMENT
OF
CHARGES

James Patrick O'Hair, M.D., the Respondent, was authorized to practice medicine in New York State on or about August 11, 1995, by the issuance of license number 200465 by the New York State Education Department. Respondent's current address is 40 Sophia Drive, Cranston, Rhode Island, 02921.

FACTUAL ALLEGATIONS

- A. Respondent treated Patient A on or about June 3, 1999 at Schuyler Hospital Emergency Department, 220 Steuben Street, Montour Falls, NY 14865. Respondent's care and treatment of Patient A failed to meet accepted standards of medical care in that:
1. Respondent failed to adequately maintain records that reflected the care and treatment of Patient A.
- B. Respondent treated Patient B on or about May 10, 1999 at Schuyler Hospital Emergency Department. Respondent's care and treatment of Patient B failed to meet accepted standards of medical care in that:
1. Respondent failed to adequately maintain records that reflected the care and treatment of Patient B.

SPECIFICATION OF CHARGES

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

1. The facts in Paragraph A;
2. The facts in Paragraph B

DATED: ~~March~~ *Sept* 11, 2003
Albany, New York


Peter D. Van Buren
Deputy Counsel
Bureau of Professional
Medical Conduct

APPENDIX "A"

EXHIBIT "B"

GUIDELINES FOR CLOSING A MEDICAL PRACTICE FOLLOWING A REVOCATION, SURRENDER OR SUSPENSION (of 6 months or more) OF A MEDICAL LICENSE

1. Respondent shall immediately cease and desist the practice of medicine in New York compliance with the terms of the Surrender Order. Respondent shall not represent himself or herself as eligible to practice medicine in New York and shall refrain from providing an opinion as to professional practice or its application.
2. Within fifteen (15) days of the Surrender Order's effective date, Respondent shall notify all patients that he or she has ceased the practice of medicine in New York, and shall refer all patients to another licensed practicing physician for their continued care, as appropriate.
3. Within thirty (30) days of the Surrender Order's effective date, Respondent shall have his or her original license to practice medicine in New York State and current biennial registration delivered to the Office of Professional Medical Conduct (OPMC) at 433 River Street Suite 303, Troy, NY 12180-2299.
4. Respondent shall arrange for the transfer and maintenance of all New York patient medical records. Within thirty (30) days of the Surrender Order's effective date, Respondent shall notify OPMC of these arrangements, including the name, address, and telephone number of an appropriate contact person, acceptable to the Director of OPMC, who shall have access to these records. Original records shall be retained for patients for at least six (6) years after the last date of service, and, for minors, at least six (6) years after the last date of service or three (3) years after the patient reaches the age of majority, whichever time period is longer. Records shall be maintained in a safe and secure place that is reasonably accessible to former patients. The arrangements shall ensure that all patient information is kept confidential and is available only to authorized persons. When a patient or authorized representative requests a copy of the patient's medical record, or requests that the original medical record be sent to another health care provider, a copy of the record shall be promptly provided or sent at 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 inability to pay.
5. Within fifteen (15) days of the Order's effective date, Respondent shall 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 have all prescription pads bearing Respondent's name destroyed. If no other licensee is providing services at his practice location, Respondent shall dispose of all medications.
6. Within fifteen (15) days of the Order's effective date, Respondent shall remove from the public domain any representation that Respondent is eligible to practice medicine in New York, including all related signs, advertisements, professional listings whether in telephone directories or otherwise, professional stationery or billings. Respondent shall not share, occupy or use office space in which another licensee provides health care services.

7. Respondent shall not charge, receive or share any fee or distribution of dividends for professional services in New York rendered (by himself or others) while barred from practicing medicine. Respondent may receive compensation for the reasonable value of services lawfully rendered, and disbursements incurred on a patient's behalf, prior to the Order's effective date.

8. If Respondent is a shareholder in any professional service corporation organized to engage in the practice of medicine in New York and Respondent's license is revoked, surrendered or suspended for six (6) months or more pursuant to this Order, Respondent shall, within ninety (90) days of the Order's effective date, divest himself/herself of all financial interest in such professional services corporation in accordance with New York Business Corporation Law. If Respondent is the sole shareholder in a professional services corporation, the corporation must be dissolved or sold within ninety (90) days of the Order's effective date.

9. Failure to comply with the above directives may result in civil or criminal penalties. Practicing medicine when a medical license has been suspended, revoked or annulled is a Class E Felony, punishable by imprisonment for up to four (4) years, under Section 6512 of the Education Law. Professional misconduct may result in penalties including revocation of the suspended license and/or fines of up to \$10,000 for each specification of misconduct, under Section 230-a of the Public Health Law.