



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

William P. Dillon, M.D.
Chair

Denise M. Bolan, R.P.A.
Vice Chair

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

June 17, 2002

CERTIFIED MAIL-RETURN RECEIPT REQUESTED

Hugh Patrick Forbes, M.D.
36381 NYS Route 26
Carthage, NY 13619

RE: License No. 193205

Dear Dr. Forbes:

Enclosed please find Order #BPMC 02-200 of the New York State Board for Professional Medical Conduct. This Order and any penalty provided therein goes into effect June 17, 2002.

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: Marguerite A. Massett, Esq.
Hancock and Estabrook
1500 Mony Tower 1, P.O. Box 4976
Syracuse, NY 13221-4976

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

IN THE MATTER
OF
HUGH PATRICK FORBES, M.D.

CONSENT
ORDER

BPMC No. 02-200

Upon the application of Hugh Patrick Forbes, M.D. (Respondent) 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 SO ORDERED, 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.

DATED: 6/12/02



WILLIAM P. DILLON, 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
HUGH PATRICK FORBES, M.D.**

**CONSENT
AGREEMENT
AND
ORDER**

Hugh Patrick Forbes, M.D., representing that all of the following statements are true, deposes and says:

That on or about August 6, 1993, I was licensed to practice as a physician in the State of New York, and issued License No. 193205 by the New York State Education Department.

My current address is 36381 NYS Route 26, Carthage, New York 13619, 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 six 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 do not contest paragraph B.4 of the second specification, in full satisfaction of the charges against me, and agree to the following penalty:

1. Censure and reprimand.
2. Five years probation in accordance with the terms set forth in Exhibit B, hereto.

That Respondent shall maintain current registration of licensure 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 (30) 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.

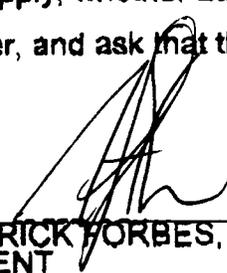
I understand that if the Board does not adopt this Consent Agreement, none of its terms shall bind me or constitute an admission of any of the acts of alleged

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.

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.

DATED 5/23/02

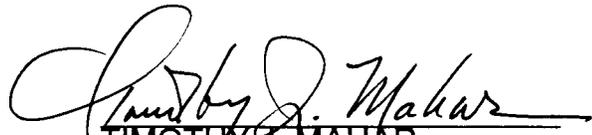

HUGH PATRICK FORBES, M.D.
RESPONDENT

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

DATE: 5/29/02


MARGUERITE A. MASSET, ESQ.
of counsel to Hancock & Estabrook
Attorneys for Respondent

DATE: 5/30/02


TIMOTHY J. MAHAR
Associate Counsel
Bureau of Professional Medical Conduct

DATE: 6/6/02


DENNIS J. GRAZIANO
Director
Office of Professional Medical Conduct

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

-----X

IN THE MATTER	:	AMENDED STATEMENT
OF	:	OF
Hugh Patrick Forbes, M.D.	:	CHARGES

-----X

Hugh Patrick Forbes, M.D., Respondent, was authorized to practice medicine in New York State on August 6, 1993, by the issuance of license number 193205 by the New York State Education Department.

FACTUAL ALLEGATIONS

- A. Respondent provided obstetrical care to Patient A from approximately April, 1997 through November, 1997 at his office and at the Carthage Area Hospital. Respondent's medical care of Patient A deviated from accepted standards of medical care in the following respects:
1. Respondent, during labor, failed to adequately re-evaluate Patient A as a candidate for a vaginal delivery following a cesarean section.
 2. Respondent failed to maintain an adequate medical record for Patient A.

B. Respondent provided obstetrical care to Patient B from approximately February, 1997 through November, 1997 at his office and at the Carthage Area Hospital. Respondent's medical care of Patient B deviated from accepted standards of medical care in the following respects:

1. Respondent failed to appropriately manage the use of Pitocin in Patient B's care.
2. Respondent failed to appropriately and/or competently evaluate and/or assess the risks to Patient B's fetus at various times during labor, and/or failed to make an adequate record of the same.
3. Respondent administered an amnioinfusion which was not medically indicated.
4. Respondent failed to timely perform a cesarian section of Patient B and/or arrange for the timely delivery of the fetus by another physician.

C. Respondent provided medical care to Patient C from approximately April, 1999 through November, 1999 at his office and at the Carthage Area Hospital. Respondent's medical care of Patient C deviated from accepted standards of care in the following respects:

1. Respondent failed to timely and/or adequately treat Patient C's post-partum bleeding.

SPECIFICATIONS

FIRST SPECIFICATION

GROSS NEGLIGENCE

Respondent is charged with professional misconduct under N.Y. Education Law § 6530(4) by reason of his practicing the profession of medicine with gross negligence on a particular occasion, in that Petitioner charges:

1. The facts in paragraphs B and B.2, and/or B and B.4.

SECOND SPECIFICATION

GROSS INCOMPETENCE

Respondent is charged with professional misconduct under N.Y. Education Law § 6530(6) by reason of his practicing the profession of medicine with gross incompetence on a particular occasion, in that Petitioner charges the following:

2. The facts in paragraphs B and B.2, and/or B and B.4.

THIRD SPECIFICATION

NEGLECT ON MORE THAN ONE OCCASION

Respondent is charged with professional misconduct under N.Y. Education Law § 6530(3) by reason of his practicing the profession of medicine with negligence on more than one occasion, in that Petitioner charges two or more of the following:

3. The facts in paragraphs A and A.1, A and A.2, B and B.1, B and B.2, B and B.3, B and B.4, and/or C and C.1.

FOURTH SPECIFICATION

INCOMPETENCE ON MORE THAN ONE OCCASION

Respondent is charged with professional misconduct under N.Y. Education Law § 6530(5) by reason of his having practiced the profession of medicine with incompetence on more than one occasion, in that Petitioner charges two or more of the following:

4. The facts in paragraphs A and A.1, A and A.2, B and B.1, B and B.2, B and B.3, B and B.4, and/or C and C.1.

FIFTH AND SIXTH SPECIFICATIONS

INADEQUATE RECORDS

Respondent is charged with professional misconduct under N.Y. Education Law § 6530(32) by reason of his having failed to maintain a record for each patient which accurately reflects the evaluation and treatment of the patient, in that Petitioner charges the following:

5. The facts in paragraphs A and A.2.
6. The facts in paragraphs B and B.2.

DATED: *May 31*, 2002
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'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 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 (30) days of each action.
3. 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.
4. The probation period shall toll when Respondent is not engaged in active medical practice in New York State for a period of thirty (30) 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 (30) day period. Respondent shall then notify the Director again at least fourteen (14) 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.
5. 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 Respondent's staff at practice locations or OPMC offices.
6. 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. In particular, Respondent shall make progress notes in the hospital records of patients regarding his evaluation, findings, diagnosis or impressions and treatment.
7. Respondent shall enroll in and complete annually during the probation period two continuing education courses, one in the area of the interpretation of fetal heart monitor tracings and the second in the management of high-risk obstetrical patients. The course relating to the interpretation of fetal heart monitor tracings shall test the Respondent's knowledge of the subject. This continuing education program is subject to the Director of OPMC's prior written approval and shall be completed within the probation period, unless the Order specifies otherwise.

8. 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. During the first six months of monitoring, the practice monitor shall every two weeks, examine the records of all of the Respondent's hospital admissions and in-patient care, and in addition, all office records for patients who may be designated high-risk as defined in paragraph 10 below for that two week period. The practice monitor shall examine the consultation log which is described in paragraph 10 below. For those admissions which involved a birth or a stillbirth, the practice monitor will review and report on, as indicated below, the findings presented on any fetal heart tracing made. During the first 6 months of monitoring, in addition to reviewing medical records and the consultation log every two weeks as described above, the practice monitor shall visit Respondent's medical practice at least once a month. After the first six months of monitoring, the practice monitor shall visit Respondent's medical practice monthly and examine a selection (no fewer than 20) of records maintained by Respondent, to include all patients who may be designated high-risk as defined in paragraph 10 below, including patient hospital records (including fetal heart tracings), consultation log, 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 monthly, in writing, to the Director of OPMC for the first six months of monitoring; and thereafter quarterly.
 - 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.
9. Respondent shall be re-certified annually by the American Board of Obstetrics and Gynecology, or with the prior written approval of the Director of OPMC, shall be evaluated annually as to his skills and competency in his specialty by another program.

10. Respondent shall obtain appropriate consultations for high-risk patients in accordance with the regional perinatal agreement and no later than one week of Respondent becoming aware of the high-risk condition by whatever means. Respondent shall document in a consultation log, maintained by Respondent in a form approved by OPMC, the substance of the consultation, including the name of the consultant, the time and date of the consultation, and the consultant's recommendation. At a minimum, the following maternal and fetal conditions shall be considered high risk:
 1. Prior perinatal loss - fetal, neonatal death, or pre-term delivery.
 2. Recurrent low birth weight infants with weight greater than and including two (2) pounds but less than and including five and one half (5 ½) pounds.
 3. Diabetes, pre-existing or gestational.
 4. Chronic hypertension or renal disease requiring medications, blood pressure greater than 160/95, or deteriorating renal functions.
 5. Severe Pre-eclampsia/Eclampsia less than and including thirty-six (36) weeks.
 6. Cardiac Disease - Class III or IV, or serious arrhythmia.
 7. Unstable Endocrine Disease - e.g., hyperthyroidism.
 8. Malignancy.
 9. Septic or hemorrhagic shock.
 10. Trauma/abdominal emergencies requiring intensive care/surgical correction or requiring a procedure that may result in the onset of pre-term labor less than and including thirty-six (36) weeks.
 11. Multi-fetal gestation.
 12. Rh sensitization - titer greater than 1/8 and/or elevated delta O.D.
 13. Documented non-bacterial perinatal infection - e.g. rubella, CMV, hepatitis, varicella pneumonia.
 14. Documented fetal growth retardation or fetal anomaly compatible with life.
 15. Premature rupture of the membranes less than and including thirty-six (36) weeks.
 16. Pre-term labor, less than and including thirty-six (36) weeks, refractory to tocolysis.

11. 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.