



New York State Board for Professional Medical Conduct
433 River Street, Suite 303 • Troy, New York 12180-2299 • (518) 402-0863

Kendrick A. Sears, M.D.
Chair

Keith W. Servis, Director
Office of Professional Medical Conduct

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

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

Public

March 13, 2007

CERTIFIED MAIL-RETURN RECEIPT REQUESTED

Federico Colores, M.D.
107 Merriam Road
Broadalbin, NY 12025-2217

Re: License No. 153353

Dear Dr. Colores:

Enclosed is a copy of Order #BPMC 07-56 of the New York State Board for Professional Medical Conduct. This order and any penalty provided therein goes into effect March 20, 2007.

If the penalty imposed by this Order is a surrender, revocation or suspension, you are required to deliver your license and registration within five (5) days of receipt of this Order to the Board for Professional Medical Conduct, New York State Department of Health, 433 River Street, Suite 303, Troy, NY 12180.

Sincerely,

Ansel R. Marks, M.D., J.D.
Executive Secretary
Board for Professional Medical Conduct

Enclosure

cc: Ralph A. Erbaio, Esq.
Kern, Augustine, Conroy & Schoppman, P.C.
420 Lakeville Road
Lake Success, NY 11042

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

IN THE MATTER

OF

FEDERICO COLORES, M.D.

**CONSENT
ORDER**

BPMC No. #07-56

Upon the application of **FEDERICO COLORES, 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 it is further

ORDERED, that this Consent 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: 3-13-07


KENDRICK SEARS, 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
~~F~~REDERICO COLORES, M.D.

CONSENT
AGREEMENT
AND
ORDER

~~F~~ederico Colores, M.D., representing that all of the following statements are true, deposes and says:

That on or about March 11, 1983, I was licensed to practice as a physician in the State of New York, and issued License No. 153353 by the New York State Education Department.

My current address is 107 Merriam Road, Broadalbin, New York, 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 17 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 the First Specification [negligence on more than one occasion] only to the extent of the Factual Allegations related to Patients A and B, in full satisfaction of the charges against me, and agree to the following penalty:

My license to practice medicine shall be limited, pursuant to §230-a of the Public Health Law, to preclude patient contact and any practice of medicine, clinical or otherwise. I shall be

precluded from diagnosing, treating, operating, or prescribing for any human disease, pain, injury, deformity, or physical condition.

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

- That Respondent shall, within thirty days of the issuance of the Consent Order, notify the New York State Education Department, Division of Professional Licensing Services, that Respondent's license status is "inactive," and shall provide proof of such notification to the Director of OPMC within thirty days thereafter; and
- That Respondent shall return any and all official New York State prescriptions to the Bureau of Narcotic Enforcement, and shall surrender Respondent's Controlled Substance Registration Certificate to the United States Department of Justice, Drug Enforcement Administration, within 15 days of the effective date of this Order. Further, within thirty days of returning said prescriptions and surrendering said registration, Respondent shall provide documentary proof of such transaction(s) to the Director of OPMC; and

I further agree that the Consent Order shall impose the following conditions:

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; and

Respondent shall comply with all conditions set forth in attached Exhibit "B" ("Guidelines for Closing a Medical Practice") which is attached.

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.

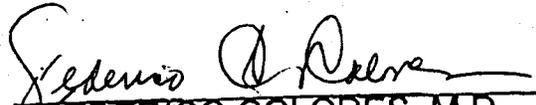
I agree that, if the Board adopts this Consent Agreement, the Chair of the Board shall issue a Consent Order in accordance with its terms. I agree that this Order shall take effect upon its issuance by the Board, either by mailing of a copy of the Consent Order by first class mail to me at the address in this Consent Agreement, or to my attorney by certified mail, OR upon facsimile

transmission to me or my attorney, whichever is first. The Order, this agreement, and all attached Exhibits shall be public documents, with only patient identities, if any, redacted. As public documents, they may be posted on the Department's website.

I stipulate that the proposed sanction and Order are authorized by Public Health Law § 230 and § 230-a and that the Board for Professional Medical Conduct and the Office of Professional Medical Conduct have the requisite powers to carry out all included terms. 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.

I am aware and agree that regardless of prior communication, the attorney for the Department, the Director of the Office of Professional Medical Conduct, and the Chairperson of the State Board for Professional Medical Conduct each reserve full discretion to enter into the agreement which I propose and this application which I submit, or to decline to do so.

DATE 3-1-07

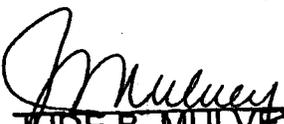

FREDERICO COLORES, M.D.
RESPONDENT

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

DATE: 3-1-07


RALPH ERBAIO, ESQ.
Attorney for Respondent

DATE: 1 March 07


JUDE B. MULVEY
Associate Counsel
Bureau of Professional Medical Conduct

DATE: 3/9/07


KEITH W. SERVIS
Director
Office of Professional Medical Conduct

EXHIBIT "B"

GUIDELINES FOR CLOSING A MEDICAL PRACTICE

1. Respondent shall immediately cease the practice of medicine in compliance with the terms of the Consent Order. Respondent shall not represent himself or herself as eligible to practice medicine and shall refrain from providing an opinion as to professional practice or its application.
2. Within 15 days of the Consent Order's effective date, Respondent shall notify all patients that he or she has ceased the practice of medicine, and shall refer all patients to another licensed practicing physician for their continued care, as appropriate.
3. Respondent shall arrange for the transfer and maintenance of all patient medical records. Within thirty days of the Consent 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 years after the last date of service, and, for minors, at least six years after the last date of service, and, for minors, at least six years after the 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 75 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.
4. Within 15 days of the Consent Order's effective date, if Respondent holds a Drug Enforcement Agency (DEA) certificate, Respondent shall advise the DEA in writing of the licensure action and shall surrender his or her DEA controlled substance certificate, privileges, and any unused DEA #222 U.S. Official Order Forms Schedules 1 and 2, to the DEA.
5. Within 15 days of the Consent Order's effective date, Respondent shall return any unused New York State official prescription forms to the Bureau of Narcotic Enforcement 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 Respondent's practice location, Respondent shall dispose of all medications.
6. Within 15 days of the Consent Order's effective date, Respondent shall remove from the public domain any representation that Respondent is eligible to practice medicine, 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 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 Consent Order's effective date.
8. If Respondent is a shareholder in any professional service corporation organized to engage in the practice of medicine and Respondent's license is revoked, surrendered or suspended for six months or more pursuant to this Consent Order, Respondent shall, within ninety 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 days of the Consent 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 years, under § 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 § 230-a of the Public Health Law.

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

IN THE MATTER
OF
FREDERICO COLORES, M.D.

STATEMENT
OF
CHARGES

Federico Colores, M.D., the Respondent, was authorized to practice medicine in New York State on or about March 11, 1983, by the issuance of license number 153353 by the New York State Education Department.

FACTUAL ALLEGATIONS

- A. Respondent provided medical treatment to Patient A, a 67 year old female, at the Emergency Department at St. Mary's Hospital, Amsterdam, New York (hereinafter "St. Mary's Hospital") on October 9, 2002 when she presented with rectal bleeding. Patient A again presented at St. Mary's Hospital on October 10, 2002 and Respondent provided medical treatment to Patient A. Respondent's care and treatment of Patient A failed to meet minimal standards of care in that:
1. Respondent failed to obtain or accurately record an adequate history or physical examination of Patient A on October 9, 2002.
 2. Respondent failed to perform or record a rectal examination of Patient A on October 9, 2002.
 3. Respondent failed to appropriately respond to Patient A's bleeding on October 9, 2002.
 4. Respondent failed to fluid resuscitate Patient A on October 9, 2002.
 5. Respondent failed to provide appropriate management of Patient A's care on October 9, 2002.

6. Respondent failed to recognize Patient A's signs of early hemorrhagic shock on October 9, 2002.
7. Respondent failed to appropriately manage Patient A's blood pressure on October 9, 2002.
8. Respondent failed to adequately and/or accurately document the communication between himself, Patient A and Patient A's physician on October 9, 2002.
9. Respondent failed to maintain a record for Patient A which accurately reflected her care on October 9, 2002.
10. Respondent inappropriately discharged Patient A on October 9, 2002.
11. Respondent failed to obtain or accurately record an adequate history or physical examination of Patient A on October 10, 2002.

B. Respondent provided medical treatment to Patient B, an 86 year old female, on or about January 1, 1999 at St. Mary's Hospital when she presented following a synopal episode and complaints of chest pain. Respondent's care and treatment of Patient B failed to meet minimal standards of care in that:

1. Respondent failed to perform and/or record an adequate physical examination of Patient B.
2. Respondent failed to order adequate testing of Patient B to rule out myocardial infarction and/or malignant arrhythmia.
3. Respondent failed to adequately or accurately document the communication between himself and Patient B's attending physician.
4. Respondent inappropriately diagnosed Patient B with stable angina.
5. Respondent inappropriately discharged Patient B or without adequate discharge instructions.

- C. Respondent provided medical treatment to Patient C, a 68 year old male, at St. Mary's Hospital on March 31, 1998 when he presented with chest pains and shortness of breath. Respondent's care and treatment of Patient C failed to meet minimal standards of care in that:
1. Respondent failed to adequately review or act on findings of laboratory or diagnostic studies ordered for Patient C.
 2. Respondent failed to compare ordered laboratory or diagnostic studies of Patient C with previous studies.
 3. Respondent inappropriately discharged Patient C and/or failed to provide adequate discharge instructions.
- D. Respondent provided medical treatment to Patient D, a 52 year old male, at the Emergency Department at St. Mary's Hospital on or about May 6, 2000, who reported a grease gun injury to his thumb. Respondent's care and treatment of Patient D failed to meet minimal standards of care in that:
1. Respondent failed to read or understand Patient D's history and/or failed to seek clarification of that history.
 2. Respondent failed to obtain a consultation from a hand surgeon regarding the injury to Patient D's hand.
 3. Respondent inappropriately discharged Patient D and/or failed to provide adequate discharge instructions.
- E. Respondent provided medical care to Patient E, a 39 year old male, at the Emergency Department at St. Mary's Hospital on or about November 12, 2003 after Patient E fell off a ladder. Respondent's care and treatment of Patient E failed to meet minimum standards of care in that:

1. Respondent failed to obtain and/or document an adequate history of Patient E.
2. Respondent failed to perform or document an adequate physical examination and/or neurological examination of Patient E.
3. Respondent inappropriately ordered the insertion of a Foley catheter without performing a rectal examination of Patient E.
4. Respondent failed to obtain appropriate imaging studies of Patient E.
5. Respondent failed to appropriately splint Patient E's elbow.
6. Respondent failed to adequately assess Patient E for trauma;
7. Respondent failed to take adequate precautions for possible spinal injury to Patient E.

F. Respondent provided medical treatment to Patient F, a 74 year old male with a reported history of diabetes, at the Emergency Department at St. Mary's Hospital on or about February 23, 2001 when he presented with complaints of numbness and weakness in his hand. Respondent's care and treatment of Patient F failed to meet minimal standards of care in that:

1. Respondent failed to obtain or record an adequate medical history and/or physical examination of Patient F.
2. Respondent failed to perform or record an adequate neurologic examination of Patient F.
3. Respondent failed to adequately make an adequate differential diagnosis of Patient F.
4. Respondent inappropriately discharged Patient F and/or failed to provide adequate discharge instructions.

G. Respondent provided medical care to Patient G, an 86 year old male, at the Emergency Department of St. Mary's on or about June 12, 2004 after he presented with complaints of visual hallucinations. Respondent's care and treatment of Patient G failed to meet minimal standards of care in that:

1. Respondent failed to perform or document an adequate physical and/or neurological examination of Patient G.
2. Respondent failed to obtain or document an adequate history of Patient G.
3. Respondent failed to obtain adequate diagnostic testing of Patient G.
4. Respondent failed to consider adequate differential diagnoses for Patient G's mental status changes.
5. Respondent inappropriately admitted Patient G to a psychiatric unit without adequate assessment.

H. Respondent provided medical care to Patient H, a 72 year old male, at St. Mary's Hospital from on or about November 21, 2005, through on or about November 25, 2005, after Patient H was transferred there from a residential health facility. Respondent's care and treatment of Patient H failed to meet minimal standards of care in that:

1. Respondent failed to accurately document Patient H's care; and/or
2. Respondent failed to obtain adequate diagnostic testing of Patient H; and/or
3. Respondent failed to adequately manage the care of Patient H; and/or
4. Respondent inappropriately discharged Patient H and/or failed to provide adequate discharge instructions to Patient H.

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) by practicing the profession of medicine with negligence on more than one occasion in that Petitioner alleges the facts of two or more of the following:

1. The facts in paragraphs A and A.1, A and A.2, A and A.3, A and A.4, A and A.5, A and A.6, A and A.7, A and A.8, A and A.9, A and A.10, A and A.11, B and B.1, B and B.2, B and B.3, B and B.4, B and B.5, C and C.1, C and C.2, C and C.3, D and D.1, D and D.2, D and D.3, E and E.1, E and E.2, E and E.3, E and E.4, E and E.5, E and E.6, E and E.7, F and F.1, F and F.2, F and F.3, F and F.4, G and G.1, G and G.2, G and G.3, G and G.4, G and G.5, H and H.1, H and H.2, H and H.3, and/or H and H.4.

SECOND THROUGH SEVENTH SPECIFICATIONS

GROSS NEGLIGENCE

Respondent is charged with committing professional misconduct as defined in New York Education Law 6530(4) by practicing the profession of medicine with gross negligence on a particular occasion in that Petitioner alleges:

2. The facts in paragraphs A and A.2 and/or A and A.3 and/or A and A.4 and/or A and A.5 and/or A and A.6 and/or A and A.7 and/or A and A.10; and/or
3. The facts in paragraphs B and B.2, and/or B and B.4, and/or B and B.5; and/or

4. The facts in paragraphs C and C.1 and/or C and C.2 and/or C and C.3; and/or
5. The facts in paragraphs D and D.1, and/or D and D.2 and/or D and D.3; and/or
6. The facts in paragraphs E and E.2, E and/or E and E. 3 and/or E and E.4 and/or E and E.5 and/or E and E.6 and/or E and E.7; and/or
7. The facts in paragraphs G and G.1 and/or G and G.2 and/or G and G.3 and/or G and G.4 and/or G and G. 5.

EIGHTH SPECIFICATION

INCOMPETENCE ON MORE THAN ONE OCCASION

Respondent is charged with committing professional misconduct as defined in New York Education Law § 6530(5) by practicing the profession of medicine with incompetence on more than one occasion in that Petitioner alleges the facts of two or more of the following:

8. The facts in paragraphs A and A.1, A and A.2, A and A.3, A and A.4, A and A.5, A and A.6, A and A.7, A and A.8, A and A.9, A and A.10, A and A.11, B and B.1, B and B.2, B and B.3, B and B.4, B and B.5, C and C.1, C and C.2, C and C.3, D and D.1, D and D.2, D and D.3, E and E.1, E and E.2, E and E.3, E and E.4, E and E.5, E and E.6, E and E.7, F and F.1, F and F.2, F and F.3, F and F.4, G and G.1, G and G.2, G and G.3, G and G.4, G and G.5, H and H.1, H and H.2, H and H.3, and/or H and H.4

NINTH THROUGH FOURTEENTH
GROSS INCOMPETENCE

Respondent is charged with committing professional misconduct as defined in New York Education Law 6530(6) by practicing the profession of medicine with gross incompetence in that Petitioner alleges:

9. The facts in paragraphs A and A.2 and/or A and A.3 and/or A and A.4 and/or A and A.5 and/or A and A.6 and/or A and A.7 and/or A and A.10; and/or
10. The facts in paragraphs B and B.2, and/or B and B.4, and/or B and B.5; and/or
11. The facts in paragraphs C and C.1 and/r C and C.2 and/or C and C.3; and/or
12. The facts in paragraphs D and D.1, and/or D and D.2 and/or D and D.3; and/or
13. The facts in paragraphs E and E.2 and/or E and E. 3 and/or E and E.4 and/or E and E.5 and/or E and E.6 and/or E and E.7; and/or
14. The facts in paragraphs G and G.1 and/or G and G.2 and/or G and G.3 and/or G and G.4 and/or G and G. 5.

FIFTEENTH AND SIXTEENTH SPECIFICATIONS
FRAUDULENT PRACTICE

Respondent is charged with committing professional misconduct as defined by N.Y. Educ. Law § 6530(2) by practicing the profession of medicine fraudulently in that Petitioner charges:

15. The facts in paragraph A and A.7; and/or
16. The facts in paragraph B and B.3.

SEVENTEENTH SPECIFICATION
FAILURE TO MAINTAIN RECORDS

Respondent is charged with committing professional misconduct as defined in N.Y. Educ. Law § 6530(32) by failing to maintain a record for each patient which accurately reflects the evaluation and treatment of the patient, in that Petitioner charges:

17. The facts in paragraphs A and A.1, A and A.2, A and A.8, A and A.9, A and A.11, B and B.1, B and B.3, E and E.1, E and E.2, F and F.1, F and F.2, G and G.1, G and G.2; and/or H and H.1.

DATE: February 28, 2007
Albany, New York


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