



Public

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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NYS Department of Health
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Office of Professional Medical Conduct

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

PUBLIC

December 29, 1999

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Brij K. Mittal, M.D.

Redacted Address

RE: License No. 135464

Dear Dr. Mittal:

Enclosed please find Order #BPMC 99-325 of the New York State Board for Professional Medical Conduct. This Order and any penalty provided therein goes into effect **December 29, 1999.**

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.

Board for Professional Medical Conduct
New York State Department of Health
Hedley Park Place, Suite 303
433 River Street
Troy, New York 12180

If the penalty imposed by the Order is a fine, please write the check payable to the New York State Department of Health. Noting the BPMC Order number on your remittance will assist in proper crediting. Payments should be directed to the following address:

Bureau of Accounts Management
New York State Department of Health
Corning Tower, Room 1315
Empire State Plaza
Albany, New York 12237

Sincerely,

Redacted Signature

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

Enclosure

cc: Stanley Friedman, Esq.
McAloon & Friedman, P.C.
116 John Street
New York, NY 10038-3498

Daniel Guenzburger, Esq.

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

IN THE MATTER
OF
BRIJ * MITTAL, M.D.

CONSENT
AGREEMENT
AND
ORDER
BPMC #99-325

STATE OF NEW YORK)
COUNTY OF NEW YORK) so.:

BRIJ * MITTAL, M.D., (Respondent) being duly sworn, deposes and says:
That on or about August 3, 1978, I was licensed to practice as a physician
in the State of New York, having been issued License No. ~~081-56-8984~~ by the
New York State Education Department. *135464*

Handwritten mark

My current address is *Redacted Address* 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 nine 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 eighth specification of the statement of charges, in full
satisfaction of the charges against me. I hereby agree to the following penalty:

Six months active license suspension, a ten thousand dollar (\$10,000.00)
fine, and 5 years probation pursuant to the terms of probation set forth in
in the annexed Exhibit B. The period of active license suspension shall
commence on February 15, 2000.

Handwritten signature

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

That the fine shall be paid by check made payable to the NYS Department of Health and mailed to the Bureau of Accounts Management, NYS Department of Health, Corning Tower Building, Empire State Plaza, Albany, NY 12237-0030 within 60 days of the effective date of the order.

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.

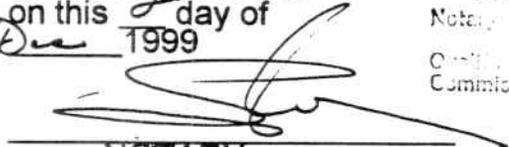
Redacted Signature

DATED 12/2/99

BRIJ K MITTAL, M.D.
RESPONDENT

Sworn to before me
on this 2 day of
Dec 1999

STANLEY D. FRIEDMAN
Notary Public, State of New York
No. 004770172
County of Westchester County
Commission Expires Jan. 1, 2001



NOTARY

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

DATE: 12/8/99

Redacted Signature

STANLEY FRIEDMAN, ESQ.
McAloon and Friedman, P.C.
Attorney for Respondent

DATE: 12/13/99

Redacted Signature

DANIEL GUENZBURGER
Associate Counsel
Bureau of Professional
Medical Conduct

DATE: 12/16/99

Redacted Signature

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
BRIJ ✱ MITTAL, M.D.

CONSENT
ORDER

Upon the proposed agreement of BRIJ ✱ MITTAL, 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: 12/22/99

Redacted Signature

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

"EXHIBIT A"

IN THE MATTER
OF
BRIJ K MITTAL, M.D.

STATEMENT
OF
CHARGES

BRIJ K MITTAL, M.D., the Respondent, was authorized to practice medicine in New York State on or about August 4, 1978, by the issuance of license number 081-56-8984 by the New York State Education Department.

FACTUAL ALLEGATIONS

- A. On or about December 2, 1994, Respondent applied to the New York City Department of Health ("NYCDOH") for a license to use radioactive materials at his office located at 2051 West Sixth Street, Brooklyn, New York. As an attachment to the application the Respondent submitted a letter signed by Nirupa Harin, M.D., in which Dr. Harin represented that Respondent had performed a preceptorship in nuclear medicine and nuclear cardiology at Victory Memorial Hospital between July 1, 1991, and September 30, 1994. Dr. Harin states in the letter that Respondent acquired experience in health physics, radiopharmaceutical preparation and the technical and administrative procedures of the facility and that he participated in the performance of hundreds of procedures using radioactive material, for a total of 1500 hours of supervised clinical and work experience. Respondent certified that the information on the attachment was true and correct. On or about April 18, 1995, the NYCDOH issued Respondent a Radioactive Materials License.
- Respondent:

1. Knowingly and falsely represented that the representation in Dr. Harin's letter that he had performed a preceptorship was true and accurate, when, in fact, he knew that he had not performed such a preceptorship. Respondent intended to mislead.
 2. Willfully filed a false report.
- B. On or about and between April 18, 1995, and December 11, 1995, Respondent received, possessed and/or used radioactive material in the performance of diagnostic imaging procedures without a lawfully obtained radioactive materials license. Said conduct constitutes a willful and/or grossly negligent failure to comply with the New York City Health Code.
- C. In response to a letter from the Radioactive Materials Licensing Division of the NYCDOH dated October 10, 1995, informing Respondent that his radioactive materials license may have been issued in error, Respondent submitted an additional statement signed by Nirupa Harin, M.D. By submitting the statement bearing Dr. Harin's signature to the NYCDOH, Respondent:
1. Knowingly and falsely represented that the document was prepared and then signed by Dr. Harin, when, in fact, Respondent knew that he had altered the document without Dr. Harin's knowledge or consent sometime after she had signed it. Respondent intended to mislead.
 2. Knowingly and falsely represented that Dr. Harin had

determined that he had participated in 1000 hours of radioisotope training under a preceptorship, including personally participating in the preparation of 45 reagent kits, when, in fact, he knew that Dr. Harin had not made such a determination. Respondent intended to mislead.

3. Willfully filed a false report.

D. Following a determination by the NYCDOH that Respondent had not performed a preceptorship with Dr. Harin, the NYCDOH rescinded Respondent's radioactive materials license on or about December 11, 1995. Three days later, on or about December 14, 1995, Respondent submitted a letter dated December 13, 1995 signed by Donald McCord, M.D., in which Dr. McCord represented that between in or about January, 1995, and through July, 1995, Respondent performed a preceptorship at Staten Island University Hospital/Seaview Radiology. Dr. McCord stated in the letter that Respondent acquired experience in health physics, radiopharmaceutical preparation and administrative procedures of the facility and actively participated in a large number of procedures using radioactive material. By submitting Dr. McCord's letter to the NYCDOH, Respondent:

1. Knowingly and falsely represented that he had performed a preceptorship as represented in the letter, when, in fact, he knew that he had not performed such a preceptorship. Respondent intended to mislead.
2. Willfully filed a false report.

- E. Between on or about December 11, 1995 and until August 27, 1996, when NYCDOH inspectors physically removed all the radioactive material from Respondent's office and informed Respondent's suppliers not to send him additional radioactive material, Respondent received, possessed and/or used radioactive material without an appropriate license. Said conduct constitutes a willful and/or grossly negligent failure to comply with the New York City Health Code.

SPECIFICATION OF CHARGES

FIRST THROUGH THIRD SPECIFICATIONS

FRAUDULENT PRACTICE

Respondent is charged with committing professional misconduct as defined by N.Y. Educ. Law §6530(2)(McKinney Supp. 1999) by practicing the profession of medicine fraudulently as alleged in the facts of the following:

1. Paragraphs A and A1.
2. Paragraphs C, C1 and/or C2.
3. Paragraphs D and D1.

FOURTH THROUGH SIXTH SPECIFICATIONS

FALSE REPORT

Respondent is charged with committing professional misconduct as defined in N.Y. Educ. Law §6530(21)(McKinney Supp. 1999) by wilfully making or filing a false

report, or failing to file a report required by law or by the department of health or the education department, as alleged in the facts of:

4. Paragraphs A and A2.
5. Paragraphs C and C3.
6. Paragraphs D and D2.

SEVENTH SPECIFICATION

MORAL UNFITNESS

Respondent is charged with committing professional misconduct as defined in N.Y. Educ. Law §6530(20)(McKinney Supp. 1999) by engaging in conduct in the practice of the profession of medicine that evidences moral unfitness to practice as alleged in the facts of the following:

7. Paragraphs A, A1, A2, B, C, C1, C2, C3, D, D1, D2, and/or E.

EIGHTH SPECIFICATION

VIOLATING A LAW

Respondent is charged with committing professional misconduct as defined in N.Y. Educ. Law §6530(16)(McKinney Supp. 1999) by a willful or grossly negligent failure to comply with substantial provisions of a local law, rule or regulation governing the practice of medicine, as alleged in the facts of:

8. Paragraphs B and/or E.

NINETH SPECIFICATION

PRACTICING BEYOND THE SCOPE PERMITTED BY LAW

Respondent is charged with committing professional misconduct as defined in N
Educ. Law §6530(24)(McKinney Supp. 1999) by practicing beyond the scope
permitted by law, as alleged in the facts of:

9. Paragraphs B and/or E.

DATED: November 3, 1999
New York, New York

Redacted Signature

ROY NEMERSON
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. 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].
4. 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.
5. 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.
6. 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.

COMMUNITY/PUBLIC SERVICE

7. Respondent shall perform 100 hours of community service. The service must be medical in nature, and delivered in a facility or with an organization equipped to provide medical services and serving a needy or medically

underserved population. A written proposal for community service must be submitted to, and is subject to the written approval of the Director of OPMC. Community service performed prior to written approval shall not be credited toward compliance with this Order. The 100 hours of community service shall be completed by August 1, 2001.

8. Respondent shall submit for review by the Office of Professional Medical Conduct, at the address set forth in paragraph 3, all applications related to the practice of medicine that he submits to any governmental agency, hospital or other entity, including but not limited to hospital credential applications, applications to governmental agencies for radioactive materials licenses or other licenses such as x-ray equipment licenses, applications for medical licensure, applications to health maintenance organizations, applications for Medicaid and Medicare privileges, applications to third party reimbursement providers. Copies of the aforementioned applications should be provided to OPMC within 30 days of the date that Respondent has submitted the application.
9. 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.