



*New York State Board for Professional Medical Conduct*

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

Dennis P. Whalen  
*Executive Deputy Commissioner of Health*  
Anne F. Saile, Director  
*Office of Professional Medical Conduct*  
William J. Comiskey, Chief Counsel  
*Bureau 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 10, 1999

**CERTIFIED MAIL-RETURN RECEIPT REQUESTED**

Carlos A. Santos, M.D.  
960 Center Road  
West Seneca, NY 14224

RE: License No. 160163

Dear Dr. Santos:

Enclosed please find Order #BPMC 99-125 of the New York State Board for Professional Medical Conduct. This Order and any penalty provided therein goes into effect **June 10, 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 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: Joseph J. Shoellkoph, Jr., Esq.  
Damon & Morey, LLP  
298 Main Street  
Buffalo, NY 14202-4096

Kevin C. Roe, Esq.

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

IN THE MATTER  
OF  
CARLOS A. SANTOS, M.D.

CONSENT  
AGREEMENT  
AND  
ORDER  
BPMC #99-125

CARLOS A. SANTOS, M.D., (Respondent) says:

That on or about December 31, 1984, I was licensed to practice medicine in the State of New York, having been issued license number 160163 by the New York State Education Department.

My current address is 960 Center Road, West Seneca, New York.

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 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 agree to the following penalty:

My licence to practice medicine shall be suspended for three years with the suspension stayed on

condition that I comply with the terms of probation attached hereto, made part hereof, and marked as Exhibit B.

I shall be placed on probation for six years under the terms of probation contained in Exhibit B.

I shall complete fifty (50) hours of continuing medical education (CME) in the management of high-risk obstetrics in each of the first two years of probation.

Respondent shall maintain current registration of his license with the New York State Education Department Division of Professional Licensing Services, and pay all registration fees.

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 his 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.

I stipulate that any failure by me to comply with the terms of probation shall constitute misconduct as defined by New York State Education Law §6530(29) and may result in the automatic vacatur of the stay of suspension as described in paragraph twelve of Exhibit B. 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 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, whether administratively or judicially, and ask that the application be granted.

AFFIRMED:



CARLOS A. SANTOS, M.D.

DATED: 5-4-99.

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

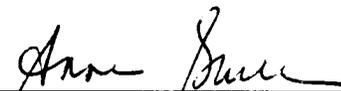
DATE: 5/4/99

  
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JOSEPH J. SCHOELLKOPF ESQ.  
Attorney for Respondent

DATE: 5/10/99

  
\_\_\_\_\_  
KEVIN C. ROE  
Associate Counsel  
Bureau of Professional  
Medical Conduct

DATE: May 10, 1999

  
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ANNE F. SAILE  
Director  
Office of Professional  
Medical Conduct

NEW YORK STATE

DEPARTMENT OF HEALTH

STATE BOARD FOR PROFESSIONAL MEDICAL CONDUCT

IN THE MATTER

CONSENT

OF

ORDER

CARLOS A. SANTOS, M.D.

Upon the proposed agreement of **CARLOS A. SANTOS, 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 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: 5/14/99



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  
CARLOS ALFREDO SANTOS, M.D. : CHARGES

-----X

CARLOS ALFREDO SANTOS, M.D., the Respondent, was authorized to practice medicine in New York State on December 31, 1984, by the issuance of license number 160163 by the New York State Education Department.

**FACTUAL ALLEGATIONS**

A. Respondent treated Patient A (patients are identified in the attached appendix) from on or about July 15, 1994, to on or about February 18, 1995, at his office, 960 Center Road, West Seneca, New York, and Mercy Hospital, 565 Abbott Road, Buffalo, New York, for pregnancy, labor, and delivery of a stillborn male infant on February 15, 1995. Respondent's care and treatment of Patient A failed to meet acceptable standards of medical care, in that:

1. Respondent failed to adequately evaluate and/or monitor gestational diabetes.
2. Respondent failed to adequately monitor blood sugar levels during pregnancy.
3. Respondent failed to perform non-stress tests beginning at 36 weeks of gestation.

4. Respondent failed to measure fundal height at the last three prenatal office visits.
5. Respondent failed to measure fundal height when Patient A was first examined at Mercy Hospital on February 14, 1995.
6. Respondent discontinued fetal monitoring and left the hospital at approximately 8:15 p.m. on February 14, 1995.
7. Respondent failed to adequately evaluate Patient A between approximately 8:15 p.m. on February 14, 1995, and 1:00 a.m. on February 15, 1995.
8. Respondent failed to order a cesarean section prior to approximately 10:15 p.m. on February 14, 1995.
9. Respondent ordered Dalmane 30 mgs. without adequate medical justification.
10. Respondent failed to order a cesarean section prior to approximately 1:00 a.m. on February 15, 1995.
11. Respondent initiated Pitocin augmentation of labor without adequate medical justification.
12. Respondent failed to discontinue Pitocin in a timely manner.
13. Respondent failed to place a fetal scalp electrode in a timely manner.
14. Respondent failed to obtain a fetal scalp PH.
15. Respondent failed to administer oxygen between 4:15 a.m. and 5:50 a.m. „
16. Respondent failed to adequately monitor fetal status from 5:45 a.m. to delivery.
17. Respondent failed to order an emergency cesarean section in a timely manner.
18. Respondent failed to effect delivery in a timely manner once a cesarean section was ordered.
19. Respondent failed to order prophylactic antibiotics.
20. Respondent failed to order and/or perform adequate efforts to attempt resuscitation of the infant.

**SPECIFICATIONS**

**FIRST SPECIFICATION**

**GROSS NEGLIGENCE**

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

1. The facts in Paragraphs A and A.1, A.2, A.3, A.4, A.5, A.6, A.7, A.8, A.9, A.10, A.11, A.12, A.13, A.14, A.15, A.16, A.17, A.18, A.19, and/or A.20.

**SECOND SPECIFICATION**

**GROSS INCOMPETENCE**

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

2. The facts in Paragraphs A and A.1, A.2, A.3, A.4, A.5, A.6, A.7, A.8, A.9, A.10, A.11, A.12, A.13, A.14, A.15, A.16, A.17, A.18, A.19, and/or A.20.

DATED: \_\_\_\_\_, 1999

Albany, New York

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PETER D. VANBUREN  
Deputy Counsel  
Bureau of Professional  
Medical Conduct

EXHIBIT B

TERMS OF PROBATION

1. Respondent shall conduct himself in all ways in a manner befitting his professional status, and shall conform fully to the moral and professional standards of conduct and obligations imposed by law and by his 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 six year period of 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 the Office of Professional Medical Conduct (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 condition 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 law, rules, and

regulations regarding controlled substances.

7. Except during periods of actual suspension, Respondent shall maintain current registration of his 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 continuing until the full term of the Order has run, and until any associated period of probation and all probation terms have been completed and satisfied.
8. Respondent shall cooperate fully 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.
9. Respondent shall enroll in and complete a continuing medical education program in the area of management of high risk obstetrical patients to be equivalent to at least 50 credit hours of Continuing Medical Education per year, over and above the recommended minimum standards set by the American College of Obstetricians and Gynecologists in each of the first two years of the period of probation. The continuing education program shall be subject to the prior written approval of the Director of OPMC. Written verification of the successful completion of this program shall be reported to OPMC on an annual basis.
10. Respondent shall manage the labor and delivery of obstetrical patients only when **supervised** in his medical practice. There shall be a practice supervisor on-site at all affiliated hospital locations. 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 of personal friend, or be in a professional relationship which could pose a conflict with supervision responsibilities. This term shall be effective thirty days after issuance of the order.
  - 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.

- Respondent shall cause the practice supervisor to directly observe Respondent's medical practice. 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 including verification of Respondent's compliance with the approved supervision plan. These narrative reports shall address all aspects of Respondent's clinical practice including, but not limited to, the evaluation and treatment of patients, detailed case description of any case found to not meet the established standard of care, the supervisor's assessment of patient records selected for review and Respondent's general demeanor, time and attendance, and other such on-duty conduct as the supervisor deems appropriate to report.
11. Should Respondent provide satisfactory written evidence to the Director of OPMC that he has taken and scored above the thirtieth (30) percentile or no lower than one standard deviation below the mean of the CREOG examination or that he has taken and passed the written examination for ACOG board certification during the period of probation, then he shall practice medicine only when **monitored** by a licensed physician, board certified in Obstetrics/Gynecology, 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. The practice monitor shall visit Respondent's medical practice at each and every location, on a unannounced basis at least monthly and shall examine a random selection of records maintained by Respondent, including patient records, 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 quarterly, in writing, to the Director of OPMC.
  - 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.

12. Respondent shall comply with all terms, conditions, restrictions, limitations and penalties to which he or she is subject pursuant to this 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 proceeding as described in NY Public Health Law §230(19) and/or any such other proceeding as may be authorized pursuant to the law. Upon written notification to Respondent by the Director of OPMC that she/he has determined that he has violated the terms of probation and/or is not in compliance with the terms of probation, the stay of the suspension is vacated and Respondent's licence shall be actively suspended until final resolution of the alleged violations of the terms of probation pursuant to the procedure set forth in NY Public Health Law §230(19).