

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

IN THE MATTER
OF
RAFEAK MUHAMMAD, M.D.

MODIFICATION
ORDER

BPMC NO. #03-315

Upon the proposed Application for a Modification Order of RAFEAK MUHAMMAD, M.D. (Respondent), which is made a part of this Modification Order, it is agreed to and

ORDERED, that the attached Application and its terms are adopted and it is further

ORDERED, that this Modification Order shall be effective upon issuance by the Board, either by mailing of a copy of this Modification Order by first class mail to Respondent at the address in the attached Application or by certified mail to Respondent's attorney, OR upon facsimile transmission to Respondent or Respondent's attorney, whichever is first.

SO ORDERED.

DATE: 5-14-08

Redacted Signature

KENDRICK A. 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
RAFEAK MUHAMMAD, M.D.

APPLICATION FOR
MODIFICATION
ORDER

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

RAFEAK MUHAMMAD, M.D., (Respondent) being duly sworn, deposes and says:

That on or about August 28, 1981, I was licensed to practice as a physician in the State of New York, and issued License Number 147499 by the New York State Education Department.

My current address is 112-14 Liberty Avenue, Richmond Hill, N.Y. 11419, and I will advise the Director of the Office of Professional Medical Conduct of any change of address.

I am currently subject to BPMC Order # 03/315 (Attachment I) (henceforth "Original Order"), which was issued upon an Application For Consent Order signed by me on November 7, 2003, (henceforth "Original Application"), adopted by the Original Order. I hereby apply to the State Board for Professional Medical Conduct for an Order (henceforth "Modification Order"), modifying the Original Order, as follows:

The sanction imposed in the Original Order was

I shall be subject to a Censure and Reprimand, pursuant to §230-a(1) of the Public Health Law;

I shall be subject to probation for a period of three years, the terms of which are set forth in Exhibit B, pursuant to §230-a(9) of the Public Health Law; and

I shall be subject to a limitation on my license pursuant to §230-a(3) of the Public Health Law, in that I shall not be authorized to treat patients seeking participation in the Workers' Compensation program.

- The final paragraph of the originally imposed sanction, described immediately above, shall be modified to read as follows:

I shall be subject to a limitation on my license pursuant to §230-a(3) of the Public Health Law, in that I shall not be authorized to treat patients seeking participation in the Workers' Compensation program, with the exception that, while practicing medicine in the Emergency Room of a hospital, I shall be permitted to treat patients with work-related eye injuries, regardless of whether those patients seek participation in the Workers' Compensation program.

- All remaining Terms and Conditions will continue as written in the Original Order.

I make this Application of my own free will and accord and not under duress, compulsion or restraint, and seek the anticipated benefit of the requested Modification. In consideration of the value to me of the acceptance by the Board of this Application, I knowingly waive my right to contest the Original Order or the Modification Order for which I apply, whether administratively or judicially, and ask that the Board grant this Application.

I understand and agree that the attorney for the Bureau of Professional Medical Conduct, the Director of the Office of Professional Medical Conduct and the Chair of the State Board for Professional Medical Conduct each retain complete

discretion either to enter into the proposed agreement and Order, based upon my application, or to decline to do so. I further understand and agree that no prior or separate written or oral communication can limit that discretion.

DATE: 4/18/08

/ Redacted Signature

RAFEAK MUHAMMAD, M.D.
RESPONDENT

The undersigned agree to Respondent's attached Application and to the proposed penalty based on its terms and conditions.

DATE: April 23, 2008

Redacted Signature

STEVEN F. SEIDMAN, ESQ.
Attorney for Respondent

DATE: April 25, 2008

Redacted Signature

MARCIA E. KAPLAN
Associate Counsel
Bureau of Professional Medical Conduct

DATE: 5/12/08

Redacted Signature

KEITH W. SERVIS
Director
Office of Professional Medical Conduct

ATTACHMENT I

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

IN THE MATTER
OF
RAFEAK MUHAMMAD , M.D.

CONSENT
ORDER

BPMC No. 315

Upon the application of (Respondent) RAFEAK MUHAMMAD, M.D. 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: 11/18/03

Redated Signature

~~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
RAFEAK MUHAMMAD, M.D.**

**CONSENT
AGREEMENT
AND
ORDER**

RAFEAK MUHAMMAD, M.D., representing that all of the following statements are true, deposes and says:

That on or about August 28, 1981, I was licensed to practice as a physician in the State of New York, and issued License No. 147499 by the New York State Education Department.

My current address is 112-14 Liberty Avenue, Richmond Hill, N.Y. 11419, 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 professional misconduct.

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

I agree not to contest the factual allegations contained in paragraphs A through C and their subparagraphs, in full satisfaction of the charges against me, and agree to the following penalty:

I shall be subject to a Censure and Reprimand, pursuant to §230-a(1) of the Public Health Law;

I shall be subject to probation for a period of three years, the terms of which are set forth in Exhibit B, pursuant to §230-a(9) of the Public Health Law; and

I shall be subject to a limitation on my license pursuant to §230-a(3) of the Public Health Law, in that I shall not be authorized to treat patients seeking participation in the Workers' Compensation program.

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

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 11/7/03

Redacted Signature

RAFEAK MUHAMMAD, M.D.
RESPONDENT

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

DATE: 11-11-03

Redacted Signature

~~CHARLES BACH, ESQ.~~
Attorney for Respondent

DATE: 11/21/03

Redated Signature

~~DIANNE ABELOFF~~
Associate Counsel
Bureau of Professional Medical Conduct

DATE: 11/14/03

Redated Signature

~~DENNIS J. GRAZIANO~~
Director
Office 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 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.
3. 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.
4. 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.
5. Respondent's failure to pay any monetary penalty by the prescribed date shall subject Respondent to all provisions of law relating to debt collection by New York State, including but 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].
6. 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.
7. 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 staff at practice locations or OPMC offices.
8. 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.

9. Respondent shall enroll in and complete a continuing education program in the area of basic fundamentals and principles of ophthalmology for a minimum of 24 credit hours. 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.
10.

PRACTICE MONITOR

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. The practice monitor shall visit Respondent's medical practice at each and every location, on a random unannounced basis at least monthly and shall examine a selection (no fewer than 20) 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.
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.

IN THE MATTER
OF
RAFEAK MUHAMMAD, M.D.

STATEMENT
OF
CHARGES

RAFEAK MUHAMMAD, M.D., the Respondent, was authorized to practice medicine in New York State on or about August 28, 1981, by the issuance of license number 147499 by the New York State Education Department.

FACTUAL ALLEGATIONS

- A. On or about November 11, 1999, a chemical (polytrixin) splashed into Patient A's eye. On or about November 22, 1999 through on or about January 21, 2002, Respondent treated Patient A in his office, 112-14 Liberty Avenue, Richmond Hill, N.Y. Respondent diagnosed Patient A with keratoconjunctivitis-chemical. Respondent's treatment of Patient A deviated from accepted medical standards, in that:
1. Respondent continued to prescribe Blephamide and/or Acular to Patient A when the medications were no longer medically indicated.
 2. Respondent continued to treat Patient A in his office every other week for approximately 27 months without medical indication.
 3. Respondent, on Workers' Compensation forms from November 11, 1999 through January 21, 2002, inappropriately stated that Patient

EXHIBIT A"

A was "disabled from regular duties or work" as a result of the November 11, 1999, chemical splash, when she was not.

- B. On or about January 4, 2000, foreign bodies got into Patient B's right eye. On or about January 5, 2000, through on or about September 6, 2001, Respondent treated Patient B in his office. Respondent diagnosed Patient B with corneal foreign bodies and traumatic iritis. Respondent's care and treatment of Patient B deviated from accepted medical standards, in that:
1. Respondent continued to prescribe the Gentamicin and/or Tobradex solution to Patient B when the medications were no longer medically indicated.
 2. Respondent continued to treat Patient B in his office approximately every two weeks for 20 months without medical indication.
 3. Respondent, on Workers' Compensation forms, from January 5, 2000, through September 6, 2001, inappropriately stated that Patient B was "disabled from regular duties or work" as a result of the January 4, 2000 accident when he was not.
- C. On or about July 20, 2000, a chemical splashed into Patient C's left eye. On or about November 14, 2000, through on or about July 30, 2001, Respondent, in his office, treated Patient C for keratoconjunctivitis left eye and corneal abrasion. Respondent's treatment of Patient C deviated from accepted medical standards, in that:

1. On or about November 14, 2000, Respondent inappropriately diagnosed Patient C as having keratoconjunctivitis in her left eye and a current corneal abrasion as a result of a chemical which splashed into her left eye on or about July 20, 2000.
2. Respondent continued to prescribe Blephamide solution to Patient C when the medication was no longer medically indicated.
3. Respondent continued to treat Patient C in his office every other week for approximately 12 months without medical indication.
4. Respondent, on Workers' Compensation forms from November 14, 2000 through October 18, 2001, inappropriately stated that Patient C was "disabled from regular duties or work" as a result of the July 20, 2000, chemical splash, when she was not.

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 as alleged in the facts of two or more of the following:

1. The facts in Paragraph A and its subparagraphs; the facts in Paragraph B and its subparagraphs and/or the facts in Paragraph C and its subparagraphs.

SECOND THROUGH FOURTH SPECIFICATIONS

UNWARRANTED TESTS/TREATMENT

Respondent is charged with committing professional misconduct as defined in N.Y. Educ. Law §6530(35) by ordering of excessive tests, treatment, or use of treatment facilities not warranted by the condition of the patient, as alleged in the facts of:

2. Paragraph A, A1, and/or A 2
3. Paragraph B, B 1, and /or B2
4. Paragraph C, C 2, and/or C3.

DATED:

Nov
October 12, 2003
New York, New York

Redacted Signature


ROY NEMERSON
Deputy Counsel
Bureau of Professional
Medical Conduct