



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.
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NYS Department of Health

Dennis P. Whalen
Executive Deputy Commissioner
NYS Department of Health

Dennis J. Graziano, Director
Office of Professional Medical Conduct

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

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

Public

March 2, 2006

CERTIFIED MAIL-RETURN RECEIPT REQUESTED

Halin I. Perera, M.D.
4307 Aftonshire Drive
Wilmington, NC 28412

Re: License No. 121023

Dear Dr. Perera:

Enclosed is a copy of Order #BPMC 06-44 of the New York State Board for Professional Medical Conduct. This order and any penalty provided therein goes into effect March 9, 2006.

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, 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: Jules Smith, Esq.
Blitman & King
Attorneys & Counselors at Law, LLP
The Powers Building, Suite 207
16 West Main Street
Rochester, NY 14614-1601

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

IN THE MATTER
OF
HALIN I. PERERA, M.D.

CONSENT
ORDER

BPMC No. #06-44

Upon the application of (Respondent) , 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 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.

DATE: 3-1-06



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
HALIN I. PERERA, M.D.**

**CONSENT
AGREEMENT
AND
ORDER**

HALIN I. PERERA, M.D., representing that all of the following statements are true, deposes and says:

That on or about July 30, 1974, I was licensed to practice as a physician in the State of New York, and issued License No. 121023 by the New York State Education Department.

My current address is 4307 Aftonshire Drive, Wilmington, North Carolina 28412 , 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 agree not to contest the charges, 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 2/17/06



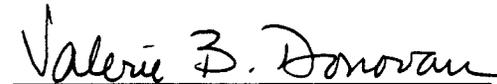
HALIM T. PERERA, M.D.
RESPONDENT

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

DATE: 2/21/06


JULES L. SMITH, ESQ.
Attorney for Respondent

DATE: 2/22/06


VALERIE B. DONOVAN
Assistant Counsel
Bureau of Professional Medical Conduct

DATE: 2/28/2006


DENNIS J. GRAZIANO
Director
Office of Professional Medical Conduct

Exhibit A

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

IN THE MATTER

OF

HALIN I. PERERA, M.D.

STATEMENT
OF
CHARGES

HALIN I. PERERA, M.D., the Respondent, was authorized to practice medicine in New York State on or about July 30, 1974, by the issuance of license number 121023 by the New York State Education Department.

FACTUAL ALLEGATIONS

- A. On or about December 31, 2004, Respondent signed a Re-Application for Medical Staff Appointment form with Geneva General Hospital, Geneva, New York. Respondent fraudulently Responded "No" to the question: "Since the previous appointment, have any of the following been or are currently in the process of being denied, revoked, suspended, reduced, limited, placed on probation, not renewed, or voluntarily or involuntarily relinquished - Membership/clinical privileges on any hospital medical staff?" Respondent knew that in August, 2004, he had voluntarily resigned from Clifton Springs Hospital (CHS), Clifton Springs, New York after the hospital management offered him the option of resigning immediately or face termination of his privileges following complaints of sexual misconduct related to female patient and staff contact.

- B. From in or around 1997 through in or around 2004, Respondent sexually harassed CHS Employees A, B, C, D and E (individuals are identified in Attachment A) on multiple occasions at CSH, including touching their bodies in a sexual manner.
- C. Respondent, on or about July 29, 2004, provided medical treatment at CSH to Patient F, a 42-year old female. Respondent's care and treatment of Patient F failed to meet acceptable standards of care in that Respondent inappropriately touched her breasts while placing an EKG pad on Patient F.
- D. On multiple occasions from in or around 2001 through in or around 2004, Respondent inappropriately lifted up and/or looked under the gowns of attractive female patients before placing EKG leads and/or touched attractive female patients' breasts intra operatively for no legitimate medical purpose .

SPECIFICATION OF CHARGES

FIRST SPECIFICATION

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 as alleged in the following:

1. The facts in Paragraph A.

SECOND THROUGH FIFTH SPECIFICATIONS

MORAL UNFITNESS

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

2. The facts in Paragraph A.
3. The facts in Paragraph B.
4. The facts in Paragraph C.
5. The facts in Paragraph D.

SIXTH SPECIFICATION

HARASSING OR ABUSING A PATIENT PHYSICALLY

AND/OR VERBALLY

Respondent is charged with professional misconduct by reason of his willfully harassing, abusing, or intimidating a patient either physically or verbally, in violation of New York Education Law §6530(31), in that Petitioner charges:

6. The facts in Paragraphs C and/or D.

DATE: February ²², 2006
Albany, New York


PETER D. VAN BUREN
Deputy Counsel
Bureau of Professional
Medical Conduct

EXHIBIT "B"

**GUIDELINES FOR CLOSING A MEDICAL PRACTICE FOLLOWING A
REVOCATION, SURRENDER OR SUSPENSION (of six months or more)
OF A MEDICAL LICENSE**

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 or three years after the patient reaches the age of 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 used 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.