



New York State Board for Professional Medical Conduct

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

Barbara A. DeBuono, M.D., M.P.H.
Commissioner of Health

Patrick F. Carone, M.D., M.P.H.
Chair
Ansel R. Marks, M.D., J.D.
Executive Secretary

December 26, 1997

CERTIFIED MAIL-RETURN RECEIPT REQUESTED

Manuel C. Palao, M.D.
7858 Riverside Drive
Ogdensburg, New York 13669

RE: License No. 176764

Dear Dr. Palao:

Enclosed please find Order #BPMC 97-329 of the New York State Board for Professional Medical Conduct. This Order and any penalty provided therein goes into effect upon receipt of this letter or seven (7) days after the date of this letter, whichever is earlier.

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

Sincerely,

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

Enclosure

cc: Thomas K. O'Malley, Esq.

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

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IN THE MATTER : CONSENT
OF : AGREEMENT
MANUEL C. PALAO, M.D. : AND ORDER
: BPMC # 97-329

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MANUEL C. PALAO, M.D., says:

On or about November 7, 1988, I was licensed to practice as a physician in the State of New York, having been issued license number 176764 by the New York State Education Department.

My current office address is 3 Lyon Place, Suite 266, Ogdensburg, New York 13669, and my residence is 7858 Riverside Drive, Ogdensburg, New York 13669. I will advise the Director of the Office of Professional Medical Conduct of any changes of my address.

I understand that I have been charged with one specification of professional misconduct as set forth in the Statement of Charges, annexed hereto, made a part hereof, and marked as Exhibit A.

I admit guilt to the Statement of Charges Specification in full satisfaction of the charges against me.

I hereby agree to the following penalty:

A five year suspension with said suspension stayed. I further agree to five years probation and to be bound by the terms of probation annexed hereto and made a part hereof as Exhibit B.

I agree that in the event that I am charged with professional misconduct in the future, this agreement and order shall be admitted into evidence in that proceeding.

I agree that, as a condition of this Order, I will maintain current registration of my license with the New York State Education Department, Division of Professional Licensing Services, and pay all registration fees. This condition will remain in effect except during periods of actual suspension, if any, imposed by this Order. This condition shall be in effect beginning thirty days after the effective date of this Order and will continue 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. I understand that any failure by me to comply with this condition shall constitute misconduct as defined by New York State Education Law §6530(29).

I understand that, in the event that the Board does not grant this application, 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 State Board for Professional Medical Conduct grants my application, an order of the Chairperson of the Board shall be issued in accordance with same.

I make this application of my own free will and accord and not under duress, compulsion or restraint of any kind or manner.



MANUEL C. PALAO, M.D.
RESPONDENT

Subscribed before me this

15th day of December, 1997.



NOTARY PUBLIC

MARIJANE WILSON
Notary Public in the State of New York
Qualified in St. Lawrence County
4722664
Commission Expires 7-31-98

AGREED TO:

DATE: _____

_____, ESQ.
Attorney for Respondent

DATE: 12/17/97



THOMAS K. O'MALLEY
ASSOCIATE COUNSEL
Bureau of Professional
Medical Conduct

DATE: December 22, 1997



ANNE F. SAILE
DIRECTOR
Office of Professional
Medical Conduct

ORDER

Upon the proposed agreement of MANUEL C. PALAO, M.D. (Respondent) for Consent Order, which proposed agreement is made a part hereof, it is AGREED TO and

ORDERED, that the proposed agreement and the provisions thereof are hereby adopted; and it is further

ORDERED, that this order shall take effect as of the date of the personal service of this order upon Respondent, upon receipt by Respondent of this order via certified mail, or seven days after mailing of this order by certified mail, whichever is earliest.

DATED: 12/23/97

PATRICK F. CARONE, M.D., M.P.H.
Chair
State Board for Professional
Medical Conduct



BY: THEA GRAVES PELLMAN
Vice-Chair
State Board for
Professional Medical Conduct

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

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IN THE MATTER : STATEMENT
OF : OF
MANUEL C. PALAO, M.D. : CHARGES

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MANUEL C. PALAO, M.D., the Respondent, was authorized to practice medicine in New York State on November 7, 1988 by the issuance of license number 176764 by the New York State Education Department. The Respondent is currently registered with the New York State Education Department to practice medicine for the period January 1, 199 , through December 31, 1997, with an office address of 3 Lyon Place, Suite 266, Ogdensburg, New York 13669.

FACTUAL ALLEGATIONS

A. On or about and between January 1991 and July 30, 1995, Respondent who is Board Certified in surgery, with a speciality in Thoracic and Cardio-Vascular surgery, treated ten Patients with different types of thoracic and vascular surgery at A. Barton Heburn Hospital, Ogdensburg, New York. Respondent failed to meet acceptable standards of medical care in the care and treatment of Patient's A through J in that Respondent operated on Patients unnecessarily; performed a thoracotomy on an inoperative lesion; and performed extensive multiple surgeries when the treatment of choice should have been amputation.

EXHIBIT A

SPECIFICATION OF MISCONDUCT

FIRST SPECIFICATION

INCOMPETENCE ON MORE THAN ONE OCCASION

Respondent is charged with incompetence on more than one occasion in violation of N.Y. Educ. Law §6530(5) (McKinney Supp. 1997) in that Petitioner charges:

1. The facts in paragraph A.

DATED: *December 17*, 1997
Albany, New York

Peter D. Van Buren
PETER D. VAN BUREN
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 (NYSDOH), addressed to the Director, Office of Professional Medical Conduct (OPMC), New York State Department of Health, Hedley Park Place, 4th Floor, 433 River Street, Troy, New York 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. Respondent shall fully cooperate with and respond in a timely manner to requests from OPMC to provide written periodic verification of Respondent's compliance with the terms of this Order. Respondent shall personally meet with a person designated by the Director of OPMC as requested by the Director.
4. 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].
5. 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.
6. 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.

7. 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.
8. Respondent shall practice medicine only when monitored by a licensed physician, board certified in an appropriate speciality, ("practice monitor") proposed by Respondent and subject to written approval of the Director of the Office of Professional Medical Conduct.
 - a. The practice monitor shall report in writing to the Director of the Office of Professional Medical Conduct on a schedule to be determined by the office. The practice monitor shall visit Respondent's medical practice at each and every location, on a random unannounced basis at least quarterly and shall examine a random (no less than 50%) selection of records maintained by Respondent, including patient histories, prescribing information and office records. Respondent will make available to the monitor any and all records or access to the practice requested by the monitor, including on-site observation. The review will determine whether the Respondent's medical practice is conducted in accordance with the generally accepted standards of professional medical care. Respondent must review and discuss with the Practice Monitor the following specific areas of concern: Patient History; Preoperative Care; Postoperative Care; and Perioperative Care. Any perceived deviation of accepted standards of medical care or refusal to cooperate with the monitor shall immediately be reported to the Office of Professional Medical Conduct by the monitor.
 - b. Any change in practice monitor must be approved in writing, in advance, by the Office of Professional Medical Conduct.
 - c. All expenses associated with monitoring, including fees to the monitoring physician, shall be the sole responsibility of the Respondent.
 - d. It is the responsibility of the Respondent to ensure that the reports of the practice monitor are submitted in a timely manner. A failure of the practice monitor to submit required reports on a timely basis will be considered a possible violation of the terms of probation.

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- e. Respondent must 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 designee prior to the placement of a practice monitor.

 9. Respondent shall enroll in and complete a program of education in the area of Thoracic and Vascular Surgery to be equivalent to at least 60 credit hours of Continuing Medical Education per year for the period of probation. Said program of Continuing Education shall be subject to the prior approval of the Director of the Office of Professional Medical Conduct and be completed within the period of probation or otherwise specified in the Order. If the program of Education is not completed within the time period specified and a waiver or a time extension is not granted by the Director of The Office of Professional Medical Conduct, Respondent will be in violation of this term of probation and subject to a violation of probation proceeding.

 10. Respondent shall have a limitation put on his practice of medicine as follows:
 - a. Respondent must, prior to any and all vascular surgeries, obtain written and/or telephonic permission for the performance of said vascular surgeries from the practice monitor;
 - b. Respondent must document in the patient's chart that he consulted with the Practice Monitor prior to performing any vascular surgery and there was a concurrence in the decision to perform said vascular surgery; and
 - c. Respondent shall cause the Practice Monitor to oversee Respondent's compliance with these terms and report to the Office of Professional Medical Conduct any failure to comply.

 11. Respondent shall comply with all terms, conditions, restrictions and penalties to which he/she is subject pursuant to the order and shall assume and bear all costs related to compliance. Upon receipt of evidence of non-compliance 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 other such proceeding against Respondent as may be authorized pursuant to the law.