



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

William P. Dillon, M.D.
Chair

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

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

May 12, 2003

CERTIFIED MAIL-RETURN RECEIPT REQUESTED

Pramod Luthra, M.D.
142 Roxbury
East Amherst, NY 14051

RE: License No. 146263

Dear Dr. Luthra:

Enclosed please find Order #BPMC 03-121 of the New York State Board for Professional Medical Conduct. This Order and any penalty provided therein goes into effect May 19, 2003.

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. Schoellkopf, Jr., Esq.
Damon and Morey
1000 Cathedral Place
298 Main Street
Buffalo, NY 14202-4096

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

IN THE MATTER
OF
PRAMOD LUTHRA, M.D.

CONSENT
ORDER

BPMC No. 03-121

Upon the application of Pramod Luthra, M.D. in the attached Consent Agreement and Order, which is made a part of this Consent Order, it is

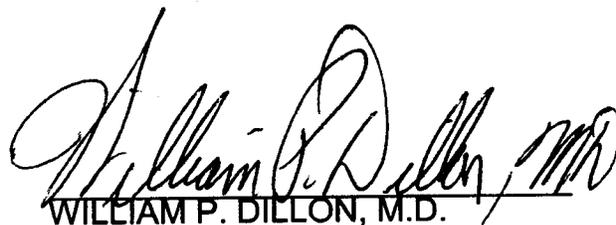
ORDERED, that the Consent Agreement, and its terms, are adopted and SO ORDERED, and it is further

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: 5/7/03



WILLIAM P. DILLON, 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
PRAMOD LUTHRA, M.D.**

**CONSENT
AGREEMENT
AND
ORDER**

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

That on or about December 1, 1981, I was licensed to practice as a physician in the State of New York, and issued License No. 146263 by the New York State Education Department.

My current address is 142 Roxbury, E. Amherst, NY 14051, 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 seven 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 plead no contest to the second specification, in full satisfaction of the charges against me, and agree to the following penalty:

1. Censure and reprimand;
2. Three years probation in accordance with terms set forth in Exhibit B, hereto.

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 4/24/03.

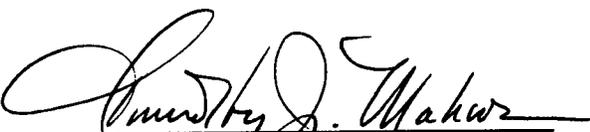

PRAMOD LUTHRA, M.D.
RESPONDENT

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

DATE: 4/24/03


JOSEPH SCHOELLKOPF, ESQ.
of Counsel Damon & Morey
Attorneys for Respondent

DATE: 4/28/03


TIMOTHY J. MAHAR
Associate Counsel
Bureau of Professional Medical Conduct

DATE: MAY 5, 2003

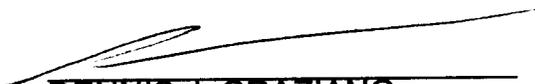

DENNIS J. GRAZIANO
Director
Office of Professional Medical Conduct

Exhibit A

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

IN THE MATTER
OF
PRAMOD LUTHRA, M.D.

STATEMENT
OF
CHARGES

Pramod Luthra, M.D., the Respondent, was authorized to practice medicine in New York State on or about December 1, 1981, by the issuance of license number 146263 by the New York State Education Department.

FACTUAL ALLEGATIONS

- A. Respondent provided medical care to Patient A (patients identified by name in appendix A hereto) during the period from October 1, 1984 until Patient A's death on August 30, 2000. On August 28, 2000, Respondent evaluated Patient A for abdominal pain and nausea. Respondent's medical care of Patient A deviated from accepted standards of medical care as follows:
1. Respondent failed to take adequate medical history from Patient A on August 28, 2000.
 2. Respondent failed to perform an adequate physical examination of Patient A on August 28, 2000, including, but not limited to, failing to perform an abdominal examination on Patient A.
 3. Respondent failed to order appropriate laboratory tests for Patient A on August 28, 2000.
 4. Respondent failed to maintain an adequate and/or accurate medical record for Patient A.

B. Respondent provided medical care to Patient B during the period including March 27, 2000 to August 9, 2000 for COPD and peripheral vascular disease, among other conditions. Respondent's medical care of Patient B deviated from accepted standards of medical care as follows:

1. Respondent failed to adequately assess and/or evaluate Patient B for lung disease.
2. Respondent failed to maintain an adequate medical record for Patient B.

C. Respondent provided medical care to Patient C during the period including March 3, 1997 to June 26, 2002 for hypertension, among other conditions. Respondent's medical care of Patient C deviated from accepted standards of medical care as follows:

1. Respondent failed to take an adequate medical history from Patient C.
2. Respondent failed, on various occasions, to perform an adequate physical examination of Patient C.
3. Respondent failed to adequately and/or timely follow up on abnormal laboratory findings.
4. Respondent failed to order a bone density study for Patient C.
5. Respondent failed to maintain an adequate medical record for Patient C.

SPECIFICATION OF CHARGES

FIRST SPECIFICATION

GROSS NEGLIGENCE

Respondent is charged with committing professional misconduct as defined in NY Education Law Section 6530(4) by practicing professional medicine with gross negligence on a particular occasion as alleged in the facts of the following:

1. The facts set forth in paragraphs A and A.1, A and A.2, and/or A and A.3.

SECOND SPECIFICATION

NEGLIGENCE ON MORE THAN ONE OCCASION

Respondent is charged with committing professional misconduct as defined in NY Education Law Section 6530(3) by practicing professional medicine with negligence on more than one occasion as alleged in the facts of two or more of the following:

2. The facts set forth in two or more of the following paragraphs: A and A.1, A and A.2, A and A.3, B and B.1, C and C.1, C and C.2, C and C.3, and/or C and C.4.

THIRD SPECIFICATION

GROSS INCOMPETENCE

Respondent is charged with committing professional misconduct as defined in NY Education Law Section 6530(6) by practicing professional medicine with gross incompetence as alleged in the following:

3. The facts set forth in paragraphs A and A.1, A and A.2, and/or A and A.3.

FOURTH SPECIFICATION
INCOMPETENCE ON MORE THAN ONE OCCASION

Respondent is charged with committing professional misconduct as defined in NY Education Law Section 6530(5) by practicing professional medicine with incompetence on more than one occasion as alleged in the following:

4. The facts set forth in two or more of the following paragraphs: A and A.1, A and A.2, A and A.3, B and B.1, C and C.1, C and C.2, C and C.3, and/or C and C.4.

FIFTH THROUGH SEVENTH SPECIFICATION
FAILURE TO MAINTAIN ADEQUATE RECORDS

Respondent is charged with committing professional misconduct as defined in NY Education Law Section 6530(32) by failing to maintain records for each patient which accurately reflects the care and treatment of the patient, as alleged in the following paragraphs:

5. The facts set forth in A and A.4.
6. The facts set forth in B and B.2.
7. The facts set forth in C and C.5.

DATED: ~~March~~ *April 29*, 2003
Abany, New York

Peter D. Van Buren

Peter D. Van Buren
Deputy Counsel
Bureau 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 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.
3. 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.
4. 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].
5. 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.
6. 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 Respondent's staff at practice locations or OPMC offices.
7. 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.
8. Respondent shall obtain a clinical competency assessment performed by a program for such assessment as directed by the Director of OPMC. Respondent shall cause a written report of such assessment to be provided directly to the Director of OPMC within sixty (60) days of the effective date of this Order.

- a. Respondent shall be responsible for all expenses related to the clinical competency assessment and shall provide to the Director of OPMC proof of full payment of all costs that may be charged. This term of probation shall not be satisfied in the absence of actual receipt, by the Director, of such documentation, and any failure to satisfy shall provide a basis for a Violation of Probation proceeding.
9. At the direction of the Board and within 90 days of the effective date of the Order, Respondent shall be enrolled in a course of personalized continuing medical education, which includes an assigned preceptor, preferably a physician board certified in the same specialty, to be approved, in writing, by the Director of OPMC. Respondent shall remain enrolled and shall fully participate in the program for a period of not less than three months nor more than twelve months.
 10. Respondent shall cause the preceptor to
 - a. Submit reports on a quarterly basis to OPMC certifying whether Respondent is fully participating in the personalized continuing medical education program.
 - b. Report immediately to the Director of OPMC if Respondent withdraws from the program and report promptly to OPMC any significant pattern of non-compliance by Respondent.
 - c. At the conclusion of the program, submit to the Director of OPMC a detailed assessment of the progress made by Respondent toward remediation of all identified deficiencies.
 11. Respondent shall practice medicine in either private practice, hospitals or other institutional settings outside of the personalized continuing medical education program referred to in # 9, 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 practice monitor any and all records or access to the practice requested by the practice 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 less than 10) 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. Such monitoring plan shall include, but not be limited to, provisions for selected medical record reviews, occasional observation of the Respondent in practice settings, required participation in hospital departmental meetings and enrollment in ongoing education courses, if any.
 - b. Respondent shall cause the practice monitor to report quarterly, in writing, to the Director of OPMC. Respondent shall cause the practice monitor to report to OPMC on a quarterly basis regarding

Respondent's compliance with the approved monitoring plan. These narrative reports shall address all aspects of Respondent's clinical practice including, but not limited to, the evaluation and treatment of patients, the monitor's assessment of patient records selected for review, detailed case description of any case found to not meet the established standards of care and Respondent's remediation of previously identified deficiency areas.

- c. 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 enroll in and complete an Internal Medicine Board Review course in addition to completing a course in medical documentation. These courses shall be completed within the first year of the Respondent's probation period and are subject to the prior approval of the Director of OPMC.
 - a. For the remaining two years of probation, the Respondent shall complete a minimum of 25 Category 1 continuing medical education hours per year in the area of internal medicine subject to the prior written approval of the Director of OPMC
13. Respondent shall be solely responsible for all expenses associated with these terms, including fees, if any, for the clinical competency assessment, the personalized continuing medical education program, or to the monitoring physician.
14. 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.