



***New York State Board for Professional Medical Conduct***

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

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NYS Department of Health*

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*Executive Deputy Commissioner  
NYS Department of Health*

Dennis J. Graziano, Director  
*Office of Professional Medical Conduct*

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*Vice Chair*

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

*Public*

February 14, 2006

***CERTIFIED MAIL-RETURN RECEIPT REQUESTED***

Mohamad Khalaf, M.D.  
6507 Wheeler Road  
Lockport, NY 14094

Re: License No. 202334

Dear Dr. Khalaf:

Enclosed is a copy of Order #BPMC 06-28 of the New York State Board for Professional Medical Conduct. This order and any penalty provided therein goes into effect February 21, 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: James Lantier, Esq.  
Smith, Sovik, Kendrick & Sugnet, P.C.  
250 South Clinton Street, Suite 600  
Syracuse, NY 13202-1252

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

IN THE MATTER  
OF  
MOHAMED KHALAF, M.D.

CONSENT  
ORDER  
BPMC No. 06-28

Upon the application of (Respondent) MOHAMED KHALAF, 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.

DATED: 2-13-06



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  
MOHAMED KHALAF, M.D.**

**CONSENT  
AGREEMENT  
AND  
ORDER**

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

That on or about March 6, 1996, I was licensed to practice as a physician in the State of New York, and issued License No. 202334 by the New York State Education Department.

My current address is 6507 Wheeler Road, Lockport, New York 14094, 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 15 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 do not contest the Thirteenth Specification [Negligence on more than one occasion], and I admit the Fifteenth Specification [Failure to maintain adequate records], all in full satisfaction of the charges against me, and agree to the following penalty:

My license to practice medicine in New York State shall be suspended for a period of five years from the effective date of the Order herein, such suspension to be stayed provided I comply with the Terms of Probation set forth in Exhibit B, attached hereto, which Terms include the requirement that my practice of medicine be monitored for a period of five years after the effective date of the

Order.

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

That Respondent shall maintain active registration of Respondent's license 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.

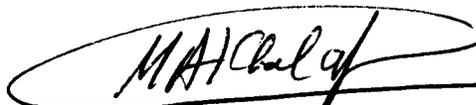
I understand that if the Board does not adopt this Consent Agreement, none of its terms shall bind me or constitute an admission of any of the acts of alleged misconduct; this Consent Agreement shall not be used against me in any way and shall be kept in strict confidence; and the Board's denial shall 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. The Order, this agreement, and all attached Exhibits shall be public documents, with only patient identities, if any, redacted.

I stipulate that the proposed sanction and Order are authorized by Public Health Law Sections 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

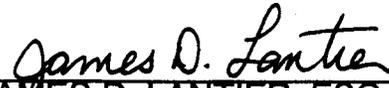
restraint. In consideration of the value to me of the Board's adoption of this Consent Agreement, allowing me to resolve this matter without the various risks and burdens of a hearing on the merits, I knowingly waive my right to contest the Consent Order for which I apply, whether administratively or judicially, I agree to be bound by the Consent Order, and ask that the Board adopt this Consent Agreement.

DATED 2/2/06

  
\_\_\_\_\_  
MOHAMED KHAYAF, M.D.  
RESPONDENT

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

DATE: 2/2/06

  
JAMES D. LANTIER, ESQ.  
Attorney for Respondent

DATE: 2/6/06

  
MICHAEL A. HISER  
Associate Counsel  
Bureau of Professional Medical Conduct

DATE: 2/9/06

  
DENNIS J. GRAZIANO  
Director  
Office of Professional Medical Conduct

IN THE MATTER  
OF  
MOHAMED KHALAF, M.D.

STATEMENT  
OF  
CHARGES

MOHAMED KHALAF, M.D., the Respondent, was authorized to practice medicine in New York State on or about March 6, 1996, by the issuance of license number 202334 by the New York State Education Department.

**FACTUAL ALLEGATIONS**

- A. Respondent provided gynecologic and obstetric medical care to Patient A [patients are identified only in the attached Appendix], a female patient 26 years old, at his office at 6507 Wheeler Road, Lockport, New York [hereafter, the "Office"] and at the Intercommunity Hospital in Newfane, New York [hereafter "Intercommunity Hospital"] at various times between April and July 2000. The patient was admitted to the Intercommunity Hospital on 7/22/00 at approximately 1430 with an admitting diagnosis of "severe preeclampsia". Respondent's care of Patient A failed to meet accepted standards of medical practice in that:
1. Respondent, when informed by nursing staff of the patient's condition at approximately 1630 on 7/22/00, failed to come to the hospital in timely fashion to personally evaluate the patient.
  2. Respondent failed to appropriately manage the patient once she showed signs and symptoms of severe preeclampsia from on or about 3:00 p.m. on 7/22/00 through on or about 11:30 a.m. on 7/23/00, in that:
    - A. Respondent failed to order Intravenous [IV] magnesium sulfate for the patient in timely fashion, despite medical indications.

- B. Respondent failed to perform the delivery of the patient's fetus in timely fashion, despite medical indications.
- C. Respondent failed to transfer the patient to a tertiary care center for needed treatment in a timely manner and/or to timely order or arrange for a consultation regarding the patient's condition with an appropriate specialist, such as a perinatologist, despite medical indications.

B. Respondent provided gynecologic and obstetric medical care to Patient B, a female patient 21 years old at the beginning of the relevant time, at his Office and at the Intercommunity Hospital, at various times starting in 1997, and during her pregnancies of 1999-2000, and 2000-2001. Respondent's care of Patient B failed to meet accepted standards of medical practice in that:

- 1. Respondent failed to order a course of treatment of betamethasone for the patient in a timely fashion during her admission of 4/25/00 through 5/1/00, despite medical indications.
- 2. Respondent failed to appropriately manage the patient once she was diagnosed with severe preeclampsia on or about 5/4/00, in that:
  - A. Respondent failed to order a course of treatment of betamethasone for the patient in a timely fashion following her admission of 5/4/00, despite medical indications.
  - B. Respondent failed to order that the patient receive Intravenous [IV] magnesium sulfate in a timely fashion, despite medical indications.
  - C. Respondent failed to transfer the patient to a tertiary care center for needed treatment in a timely manner and/or to timely order or arrange for a consultation regarding the patient's condition with an appropriate specialist, such as a perinatologist, despite medical indications.

C. Respondent provided gynecologic and obstetric medical care to Patient C, a female patient 38 years old, at his office and at the Intercommunity Hospital

at various times between September 2001 and April 2002. Respondent's care of Patient C failed to meet accepted standards of medical practice in that:

1. Respondent, on or about 11:00 a.m. on 4/17/02, failed to decrease or discontinue the patient's Pitocin drip, despite medical indications.
2. Respondent, on or about 12:20 p.m. on 4/17/02, failed to decrease or discontinue the patient's Pitocin drip, despite medical indications.
3. Respondent, on or about 1:15 p.m. on 4/17/02, used forceps to try and effect delivery of the fetus, which was contraindicated given the size, the position, and the station of the fetus.
4. Respondent, on 4/17/02, waited until on or about 1:35 p.m. to perform a caesarean section on the patient, which was not in a timely fashion.

D. Respondent provided gynecologic and obstetric medical care to Patient D, a female patient 27 years old, at his office and at the Intercommunity Hospital at various times between September 1996 and December 1999.

Respondent's care of Patient D failed to meet accepted standards of medical practice in that:

[1996-1997 pregnancy]

1. Respondent failed to order a diabetic screening for this patient by the 24<sup>th</sup> week of pregnancy, which was medically indicated in light of her history of gestational diabetes.
2. Respondent failed to appropriately manage the patient once she showed signs and symptoms of preeclampsia on or about 4/1/97, in that, Respondent failed to order that the patient receive Intravenous [IV] magnesium sulfate, despite medical indications.

[1999 pregnancy]

3. Respondent failed to order a diabetic screening for this patient by the 24<sup>th</sup> week of pregnancy, which was medically indicated in light of her history of gestational diabetes.
4. Respondent, on or about 12/20/99, performed a bilateral ovarian

cystectomy on the patient without adequate medical indication, and/or failed to document such adequate medical indication.

E. Respondent provided gynecologic and obstetric medical care to Patient E, a female patient 31 years old, at his office and at the Intercommunity Hospital at various times between November 1996 and June 1997. Respondent's care of Patient E failed to meet accepted standards of medical practice in that:

1. Respondent failed to order a diabetic screening for this patient by the 24<sup>th</sup> week of pregnancy, which was medically indicated in light of her history of gestational diabetes.
2. Respondent failed to order a course of treatment of betamethasone for the patient in timely fashion following her admission of 5/20/97, despite medical indications.
3. Respondent failed to appropriately manage the patient once she showed signs and symptoms of severe preeclampsia on or about 5/20/97, by among others things, not ordering that the patient receive Intravenous [IV] magnesium sulfate.
4. Respondent failed to perform the delivery of the patient's fetus in timely fashion, despite medical indications.
5. Respondent failed to transfer the patient to a tertiary care center for needed treatment in a timely manner and/or to timely order or arrange for a consultation regarding the patient's condition with an appropriate specialist, such as a perinatologist, despite medical indications.
6. Respondent performed a repeat amniocentesis on the patient on or about June 2, 1997, which was not medically indicated.

F. Respondent provided gynecologic and obstetric medical care to Patient F, a female patient 27 years old, at various times beginning in July 2003 at the Respondent's office and at the Intercommunity Hospital. Respondent's care of Patient F failed to meet accepted standards of medical practice in that:

1. Respondent inappropriately used intravenous Pitocin to stimulate the patient's uterine ~~to~~ contract beginning on or about 9/15/03 and continuing through 9/17/03.
2. Respondent failed to adequately evaluate the patient during and after the patient's delivery of a deceased fetus on or about 9/18/03, and/or he failed to adequately evaluate the products of conception as delivered by the patient on that date, and thus he failed to confirm whether the patient had a complete abortion.

### **SPECIFICATION OF CHARGES**

#### **FIRST THROUGH SIXTH SPECIFICATIONS**

#### **GROSS NEGLIGENCE**

Respondent is charged with committing professional misconduct as defined in N.Y. Educ. Law §6530(4) by practicing the profession of medicine with gross negligence on a particular occasion as alleged in the facts of the following:

1. The facts in Paragraphs A and A.1, A and A.2.A, A and A.2.B, and/or A and A.2.C.
2. The facts in Paragraphs B and B.1, B and B.2.A, B and B.2.B, and/or B and B.2.C.
3. The facts in Paragraphs C and C.1, C and C.2, C and C.3, and/or C and C.4.
4. The facts in Paragraphs D and D.1, D and D.2, D and D.3, and/or D and D.4.
5. The facts in Paragraphs E and E.1, E and E.2, E and E.3, E and E.4, E and E.5., and/or E and E.6.
6. The facts in Paragraphs F and F.1, and/or F and F.2.

#### **SEVENTH THROUGH TWELFTH SPECIFICATIONS**

#### **GROSS INCOMPETENCE**

Respondent is charged with committing professional misconduct as defined

in N.Y. Educ. Law §6530(6) by practicing the profession of medicine with gross incompetence as alleged in the facts of the following:

7. The facts in Paragraphs A and A.1, A and A.2.A, A and A.2.B, and/or A and A.2.C.
8. The facts in Paragraphs B and B.1, B and B.2.A, B and B.2.B, and/or B and B.2.C.
9. The facts in Paragraphs C and C.1, C and C.2, C and C.3, and/or C and C.4.
10. The facts in Paragraphs D and D.1, D and D.2, D and D.3. and/or D and D.4.
11. The facts in Paragraphs E and E.1, E and E.2, E and E.3, E and E.4, E and E.5, and/or E and E.6.
12. The facts in Paragraphs F and F.1, and/or F and F.2.

### **THIRTEENTH 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:

13. The facts in Paragraphs A and A.1, A and A.2.A, A and A.2.B, A and A.2.C, B and B.1, B and B.2.A, B and B.2.B, B and B.2.C, C and C.1, C and C.2, C and C.3, C and C.4, D and D.1, D and D.2, D and D.3, D and D.4, E and E.1, E and E.2, E and E.3, E and E.4, E and E.5, E and E.6, F and F.1 and/or F and F.2.

### **FOURTEENTH SPECIFICATION**

**INCOMPETENCE ON MORE THAN ONE OCCASION**

Respondent is charged with committing professional misconduct as defined in N.Y. Educ. Law §6530(5) by practicing the profession of medicine with incompetence on more than one occasion as alleged in the facts of two or more of the following:

14. The facts in Paragraphs A and A.1, A and A.2.A, A and A.2.B, A and A.2.C, B and B.1, B and B.2.A, B and B.2.B, B and B.2.C, C and C.1, C and C.2, C and C.3, C and C.4, D and D.1, D and D.2, D and D.3, D and D.4, E and E.1, E and E.2, E and E.3, E and E.4, E and E.5, E and E.6, F and F.1 and/or F and F.2.

**FIFTEENTH SPECIFICATION**

**FAILURE TO MAINTAIN RECORDS**

Respondent is charged with committing professional misconduct as defined in N.Y. Educ. Law §6530(32) by failing to maintain a record for each patient which accurately reflects the care and treatment of the patient, as alleged in the facts of:

15. The facts in Paragraphs D and D.4.

DATED: January 10, 2006  
Albany, New York

  
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 maintain active registration of Respondent's license (except during periods of actual suspension) with the New York State Education Department Division of Professional Licensing Services, 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 and such additional requirements as the Director may impose as reasonably relate to the matters set forth in Exhibit "A" or are necessary to protect the public health.
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. Within thirty days of the effective date of the order, and continuing for five years thereafter, 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, and to include but not be limited to all high risk obstetrical patients. 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.
10. Respondent shall enroll in and complete a continuing education program in the area of obstetrics and gynecology, in particular the identification and evaluation of high risk obstetrics, for a minimum of 200 credit hours. Additionally, at least 25 hours of this CME shall be in the PROLOG series, or some other type of CME, that requires the Respondent to take and pass a written test. Any substitution of another type of CME for PROLOG will be in the sole discretion of the Director. This continuing education program is subject to the Director of OPMC's prior written approval and shall be completed within the first year of the probation period, unless an extension is granted. Whether to grant such extension shall be at the sole discretion of the Director. In no event shall the Respondent complete the 200 hours of CME later than 18 months after the effective date of the Order herein.

11. Unless and until I successfully complete the said 200 hours of continuing medical education, as set forth in paragraph 10, I shall not treat high risk obstetrics patients without referring such patients for evaluation and treatment and/or treatment recommendations to a board certified obstetrician. Thereafter, and for the balance of the period of probation, I shall continue to refer such patients for evaluation and treatment and/or treatment recommendations to a board certified obstetrician, in accordance with the generally accepted standards of professional medical care, as determined by the practice monitor set forth in Paragraph "9", above. The definition of "high risk obstetrics patients" is set forth in Appendix "C".
  
12. 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.

## APPENDIX "C"

For the purposes of this Order, "high risk obstetrics patients" are defined as those patients who are identified by the following conditions or have the noted conditions. These terms shall be interpreted as defined by the American College of Obstetrics and Gynecologists:

1. High blood pressure, including chronic hypertension, pregnancy induced hypertension, and preeclampsia;
2. Diabetes, including pre-existing and gestational diabetes;
3. Multiple gestation;
4. Post-term pregnancy;
5. Pre-term labor episodes in present pregnancy;
6. Unexplained abnormal MSAFP screening test – refer for evaluation; may continue to treat if no high risk factors found
7. Maternal age of 40 or older;
8. Maternal age of 16 or younger;
9. Previous classical cesarean section
10. Any other chronic medical condition, including severe asthma, pulmonary disease, and morbid obesity [BMI >30].

**In addition, the following will be included:**

### **Maternal conditions**

1. Antiphospholipid syndrome
2. Hyperthyroidism (poorly controlled)
3. Hemoglobinopathies (hemoglobin SS, SC, or S-thalassemia)
4. Heart disease
5. Systemic lupus erythematosus
6. Chronic renal disease

### **Pregnancy-related conditions**

1. Oligohydramnios
2. Polyhydramnios
3. Intrauterine growth restriction
4. Isoimmunization (moderate to severe)
5. Previous fetal demise (unexplained or recurrent risk)