



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.
Commissioner
NYS Department of Health

Dennis P. Whalen
Executive Deputy Commissioner
NYS Department of Health

Dennis J. Graziano, Director
Office of Professional Medical Conduct

PUBLIC

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

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

August 26, 2004

CERTIFIED MAIL-RETURN RECEIPT REQUESTED

Daniel Shapiro, M.D.
50 Hazelwood Avenue
Jericho, NY 11753

Re: License No. 125974

Dear Dr. Shapiro:

Enclosed please find Order #BPMC 04-197 of the New York State Board for Professional Medical Conduct. This order and any penalty provided therein goes into effect September 2, 2004.

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 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: Douglas Nadjari, Esq.
Kern, Augustine, Conroy & Schoppman
420 Lakeville Road
Lake Success, NY 11042

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

IN THE MATTER
OF
DANIEL SHAPIRO, M.D.

CONSENT
ORDER

BPMC No. 04-197

Upon the application of (Respondent) Daniel Shapiro, M.D. in the attached Consent Agreement and Order, which is made a part of this Consent Order, it is

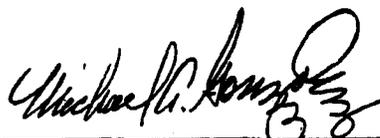
ORDERED, that the Consent Agreement, and its terms, are adopted and SO ORDERED, and it is further

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: 8/26/04



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
DANIEL SHAPIRO, M.D.**

**CONSENT
AGREEMENT
AND
ORDER**

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

That on or about November 28, 1975, I was licensed to practice as a physician in the State of New York, and issued License No. 125974 by the New York State Education Department.

My current address is 50 Hazelwood Avenue, Jericho, New York 11753, 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 eleven 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 admit guilt to the fourth specification, in full satisfaction of the charges against me, and agree to the following penalty:

Pursuant to §230-a(2) of the Public Health law, my license to practice medicine in the State of New York shall be suspended for a period of 60 months, with first month to be served as a period of actual suspension and with the last fifty nine months of said suspension to be stayed.

Pursuant to §230-a(9) of the Public Health Law, I shall be placed on probation for as long as I hold a license to practice medicine in the state of New York, subject to the terms set forth in attached Exhibit "B."

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

Pursuant to §230-a(3) of the Public Health Law, my license to practice medicine in the state of New York shall be limited so as to preclude:

- Performance of intravenous therapy except in the case of an emergency.
- Prescribing of all controlled substances encompassed in Schedules I, II, III, IV and V of New York Public Health Law §3306 and/or in 21 U.S.C. §812 with the exceptions of zaleplon and zolpidem tartrate in any brand formulation.

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 attest to compliance with the imposed practice limitations by signing and submitting to the Director of OPMC Compliance Declarations, as directed by the Director.**
- **That Respondent shall cause the administrator(s) of all hospitals and other health care facilities or practices with which Respondent is affiliated to submit a letter to the Director of OPMC attesting to Respondent's compliance with the specified limitations at each location.**

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 7/22/04



DANIEL SHAPIRO, M.D.
RESPONDENT

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

DATE: 7/22/04


DOUGLAS M. NADJARI, ESQ.
Attorney for Respondent

DATE: 8/25/04


NANCY STROHMEYER, ESQ.
Assistant Counsel
Bureau of Professional Medical Conduct

DATE: 8/20/04


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 record keeping. 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 the Order specifies otherwise.

PRACTICE MONITOR

10. 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
DANIEL SHAPIRO, M.D.

STATEMENT
OF
CHARGES

DANIEL SHAPIRO, M.D., the Respondent, was authorized to practice medicine in New York State on or about November 28, 1975, by the issuance of license number 125974 by the New York State Education Department.

FACTUAL ALLEGATIONS

- A. On or about and between November 6, 1997 and November 13, 1998, Respondent treated Patient A (all patients referred to herein are identified in the attached Appendix) who was a thirty three year-old female at the outset of treatment. Respondent diagnosed Patient A with "lumbo-sacral radiculopathy" and "sacral-iliac joint dysfunction." During this period, Respondent's treatment of Patient A deviated from accepted medical standards in that:
1. Respondent failed to take adequate histories of Patient A.
 2. Respondent failed to perform adequate physical examinations of Patient A.
 3. Respondent failed to adequately treat Patient A for chronic pain, including but not limited to:
 - a. Inappropriately ordering and/or administering injectable pain medication.
 - b. Failing to appropriately adjust the therapeutic regimen in response to the failure of previously ordered treatment.

4. Respondent failed to follow up on procedures performed or treatment rendered by other physicians.
5. Respondent failed to adequately monitor Patient A's use of pain medication.
6. Respondent inappropriately administered intravenous injections to of Sarapin and Lidocaine to Patient A.
7. Respondent failed to maintain a record which accurately reflected the evaluation and treatment of Patient A.

B. Between on or about September 17, 1997 and on or about December 14, 1998, Respondent treated Patient B, a thirty four year-old male at the onset of treatment. Respondent diagnosed Patient B with "lumbro-sacral radiculopathy," internal derangement of both knees, traumatic epicondylitis of the right elbow, and a sprained right ankle. During the treatment period, Respondent's treatment of Patient B deviated from accepted medical standards in that:

1. Respondent failed to take adequate histories of Patient B.
2. Respondent failed to perform adequate physical examinations of Patient B.
3. Respondent failed to adequately treat Patient B for chronic pain, including but not limited to:
 - a. Inappropriately administering and/or ordering injectable pain medication.
 - b. Failing to appropriately adjust the therapeutic regimen in response to the failure of previously ordered treatment.
 - c. Failing to gradually reduce the dosage of Valium before discontinuing treatment with the drug thus placing Patient B at risk of seizure.

- d. Failing to adequately monitor Patient B's use of pain medication.
 4. Respondent failed to maintain a record which accurately reflected the evaluation and treatment of Patient B.
- C. On or about and between August 7, 1995 and February 2, 2002, Respondent treated Patient C, who was a fifty two year-old female at the outset of treatment. Patient C reported that she had had back surgery in 1985, and a work-related accident in 1991 which caused her recurrent low back pain. Respondent's treatment of Patient C deviated from accepted medical standards in that:
1. Respondent failed to take adequate histories of Patient C.
 2. Respondent failed to perform an adequate physical examination of Patient C.
 3. Respondent failed to adequately treat Patient C for chronic pain, including but not limited to:
 - a. Inappropriately administering and/or ordering injectable pain medication.
 - b. Failing to appropriately adjust the therapeutic regimen in response to the failure of previously ordered treatment.
 4. Respondent failed to adequately address Patient C's complaints of depression noted repeatedly on or about and between April 19, 1998 and March 1, 2000.
 5. Respondent failed to maintain a record which accurately reflected the evaluation and treatment of Patient C.
- D. On or about and between September 28, 1993 and June 30, 2000, Respondent

D On or about 4/24/99 & 6/30/2000, Respondent treated Patient D who was a thirty five year-old male at the outset of treatment.

At the outset of treatment, Respondent diagnosed Patient D with cervical and lumbar radiculopathy, myofascial pain syndrome and carpal tunnel syndrome.

During the treatment period, Respondent's treatment of Patient D deviated from accepted medical standards in that:

1. Respondent failed to take adequate histories of Patient D.
2. Respondent failed to perform an adequate physical examination.
3. Respondent failed to adequately treat Patient D for chronic pain, including but not limited to:
 - a. Failing to adjust the therapeutic regimen in response to the failure of previously ordered treatment.
 - b. Failing to coordinate administration of pain medication and non-pharmacological therapies with Patient D's other treating physicians.
4. Respondent failed to adequately treat Patient D's diagnosis of carpal tunnel syndrome.
5. Respondent failed to appropriately evaluate, treat and refer Patient D to appropriate specialists to address emergent complaints including cramping in the arms and legs and swelling of the hands.
6. Failed to maintain a record which accurately reflected the evaluation and treatment of Patient D.

E. On or about and between August 2, 1999 and March 10, 2000, Respondent treated Patient E, who was a forty one year-old female at the outset of treatment. Patient E reported that she had been involved in an automobile accident which left her with severe neck and jaw pain. Respondent's treatment of Patient E deviated from accepted medical standards in that:

1. Respondent inappropriately treated Patient E for carpal tunnel syndrome.
2. Respondent failed to timely order and/or perform diagnostic procedures.
3. Respondent failed to perform an adequate physical examination.
4. Respondent failed to adequately treat Patient E for chronic pain, including, but not limited to:
 - a. Inappropriately administering injectable short-acting pain medication.
 - b. Failing to appropriately adjust the therapeutic regimen in response to the failure of previously ordered treatment.
5. Respondent ordered inappropriate physical therapy for Patient E's condition.
6. Respondent failed to maintain a record which accurately reflected the evaluation and treatment of Patient E.

F. On or about and between June 4, 1999 and January 25, 2002, Respondent treated Patient F, a sixteen year-old female at the outset of treatment. Respondent diagnosed Patient F with nerve, wrist, back and shoulder injuries. During this period, Respondent's treatment of Patient F deviated from accepted medical standards in that:

1. Respondent failed to take adequate histories of Patient F.
2. Respondent failed to perform an adequate physical examination of Patient F.
3. Respondent failed to adequately treat Patient F for chronic pain, including, but not limited to:

- a. Inappropriately ordering and/or administering injectable pain medication.
 - b. Failing to appropriately adjust the therapeutic regimen in response to the failure of previously ordered treatment.
 - c. Ordering excessive treatment with narcotics drugs.
4. Respondent failed to maintain a record which accurately reflected the evaluation and treatment of Patient F.

SPECIFICATION OF CHARGES

FIRST THROUGH THIRD 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. Paragraph A and its subparagraphs.
2. Paragraph B and its subparagraphs.
3. Paragraph E and its subparagraphs.

FOURTH SPECIFICATION

NEGLECT 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:

4. Paragraphs A1 through A7; B1 through B4; C1 through C5; D1 through D6; E1 through E6; and F1 through F4 and their subparagraphs.

FIFTH 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:

5. Paragraphs A1 through A7; B1 through B4; C1 through C5; D1 through D6; E1 through E6; and F1 through F4 and their subparagraphs.

SIXTH THROUGH ELEVENTH SPECIFICATIONS

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:

6. Paragraph A7.
7. Paragraph B4.
8. Paragraph C5.
9. Paragraph D6.
10. Paragraph E6.
11. Paragraph F4.

DATED: January 6, 2004
New York, New York



Roy P. Nemerson
Deputy Counsel
Bureau of Professional
Medical Conduct

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

**IN THE MATTER
OF
DANIEL SHAPIRO, M.D.**

**NOTICE
OF
HEARING**

**TO: DANIEL SHAPIRO, M.D.
50 Hazelwood Avenue
Jericho, New York 11753**

PLEASE TAKE NOTICE:

A hearing will be held pursuant to the provisions of N.Y. Pub. Health Law §230 and N.Y. State Admin. Proc. Act §§301-307 and 401. The hearing will be conducted before a committee on professional conduct of the State Board for Professional Medical Conduct on February 5, 2004, at 10:00 a.m., at the Offices of the New York State Department of Health, 5 Penn Plaza, New York, New York, 10001, and at such other adjourned dates, times and places as the committee may direct.

At the hearing, evidence will be received concerning the allegations set forth in the Statement of Charges, which is attached. A stenographic record of the hearing will be made and the witnesses at the hearing will be sworn and examined. You shall appear in person at the hearing and may be represented by counsel. You have the right to produce witnesses and evidence on your behalf, to issue or have subpoenas issued on your behalf in order to require the production of witnesses and documents, and you may cross-examine witnesses and examine evidence produced against you. A summary of the Department of Health Hearing Rules is enclosed.

The hearing will proceed whether or not you appear at the hearing. Please note that requests for adjournments must be made in writing and by telephone to the New York State Department of Health, Division of Legal Affairs, Bureau of Adjudication, Hedley Park Place, 433 River Street, Fifth Floor South, Troy, NY 12180, ATTENTION: HON. SEAN D. O'BRIEN, DIRECTOR, BUREAU OF ADJUDICATION, (henceforth "Bureau of Adjudication"), (Telephone: (518-402-0748), upon notice to the attorney for

the Department of Health whose name appears below, and at least five days prior to the scheduled hearing date. Adjournment requests are not routinely granted as scheduled dates are considered dates certain. Claims of court engagement will require detailed Affidavits of Actual Engagement. Claims of illness will require medical documentation.

Pursuant to the provisions of N.Y. Pub. Health Law §230(10)(c), you shall file a written answer to each of the charges and allegations in the Statement of Charges not less than ten days prior to the date of the hearing. Any charge or allegation not so answered shall be deemed admitted. You may wish to seek the advice of counsel prior to filing such answer. The answer shall be filed with the Bureau of Adjudication, at the address indicated above, and a copy shall be forwarded to the attorney for the Department of Health whose name appears below. Pursuant to §301(5) of the State Administrative Procedure Act, the Department, upon reasonable notice, will provide at no charge a qualified interpreter of the deaf to interpret the proceedings to, and the testimony of, any deaf person. Pursuant to the terms of N.Y. State Admin. Proc. Act §401 and 10 N.Y.C.R.R. §51.8(b), the Petitioner hereby demands disclosure of the evidence that the Respondent intends to introduce at the hearing, including the names of witnesses, a list of and copies of documentary evidence and a description of physical or other evidence which cannot be photocopied.

At the conclusion of the hearing, the committee shall make findings of fact, conclusions concerning the charges sustained or dismissed, and in the event any of the charges are sustained, a determination of the penalty to be imposed or appropriate action to be taken. Such determination may be reviewed by the Administrative Review Board for Professional Medical Conduct.

THESE PROCEEDINGS MAY RESULT IN A DETERMINATION
THAT YOUR LICENSE TO PRACTICE MEDICINE IN NEW
YORK STATE BE REVOKED OR SUSPENDED, AND/OR THAT
YOU BE FINED OR SUBJECT TO OTHER SANCTIONS SET

OUT IN NEW YORK PUBLIC HEALTH LAW §§230-a. YOU
ARE URGED TO OBTAIN AN ATTORNEY TO REPRESENT YOU
IN THIS MATTER.

DATED: New York, New York
January 6, 2004



Roy Nemerson
Deputy Counsel
Bureau of Professional
Medical Conduct

Inquiries should be directed to: Nancy Strohmeier
Assistant Counsel
Bureau of Professional Medical Conduct
5 Penn Plaza, Suite 601
New York, New York 10001
(212) 268-6819

SECURITY NOTICE TO THE LICENSEE

The proceeding will be held in a secure building with restricted access. Only individuals whose names are on a list of authorized visitors for the day will be admitted to the building

No individual's name will be placed on the list of authorized visitors unless written notice of that individual's name is provided by the licensee or the licensee's attorney to one of the Department offices listed below.

The written notice may be sent via facsimile transmission, or any form of mail, but must be received by the Department **no less than two days prior to the date of the proceeding**. The notice must be on the letterhead of the licensee or the licensee's attorney, must be signed by the licensee or the licensee's attorney, and must include the following information:

Licensee's Name _____ Date of Proceeding _____

Name of person to be admitted _____

Status of person to be admitted _____
(Licensee, Attorney, Member of Law Firm, Witness, etc.)

Signature (of licensee or licensee's attorney) _____

This written notice must be sent to:

New York State Health Department
Bureau of Adjudication
Hedley Park Place
433 River Street, Fifth Floor South
Troy, NY 12180
Fax: 518-402-0751