



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

July 15, 1998

CERTIFIED MAIL-RETURN RECEIPT REQUESTED

Tarik Elibol, M.D.
2949 Elmwood Avenue
Kenmore, New York 14217

RE: License No. 102346

Dear Dr. Elibol:

Enclosed please find Order #BPMC 98-135 of the New York State Board for Professional Medical Conduct. This Order and any penalty provided therein goes into effect **July 22, 1998**.

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: Wayne Olinzock, Esq.

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

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IN THE MATTER : CONSENT
OF : AGREEMENT
TARIK ELIBOL, M.D. : AND ORDER
: BPMC # 98-135

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TARIK ELIBOL, M.D., says:

On or about September 10, 1968, I was licensed to practice as a physician in the State of New York, having been issued license number 102346 by the New York State Education Department.

My current address is 2949 Elmwood Avenue, Kenmore, New York 14217 and I will advise the Director of the Office of Professional Medical Conduct of any change 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 do not contest the Factual Allegations and Specification set forth in Exhibit A in full satisfaction of the charges against me.

I hereby agree to the following penalties:

- 1) A Censure and Reprimand .
- 2) A probationary period of two years, during which I must fully comply with the Terms of Probation attached hereto as Exhibit B.
- 3) A permanent limitation on my license restricting my

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performance of any and all endoscopic procedures to hospitals having a valid operating certificate issued pursuant to Article 28 of the N.Y. Public Health Law; the term "hospital" being defined by N.Y. Public Health Law §2801.

- 4) A requirement that all my office notes, endoscopic consultations and procedure notes be dictated and typed.

I agree that in the event that I am charged with professional misconduct and/or a violation of the terms of my probation in the future, this agreement and order, including Exhibits A and B, shall be admitted into evidence in any such misconduct or violation of probation 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.



TARIK ELIBOL, M.D.
RESPONDENT

Subscribed before me this

1ST day of JULY, 1998.


NOTARY PUBLIC

SANDRA M. MEHL
NOTARY PUBLIC, STATE OF NEW YORK
QUALIFIED IN ERIE COUNTY
My Commission Expires July 5, 2000

AGREED TO:

DATE: July 2, 1998

Wayne E. Olinzock
WAYNE E. OLINZOCK
ASSISTANT COUNSEL
Bureau of Professional
Medical Conduct

DATE: 7/8/98

Anne F. Saile
ANNE F. SAILE
DIRECTOR
Office of Professional
Medical Conduct

ORDER

Upon the proposed agreement of TARIK ELIBOL, 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: July 11, 1998

Patrick F. Carone, M.D.

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

EXHIBIT B

TERMS OF PROBATION

1. Respondent shall conduct himself in all ways in a manner befitting his professional status, and shall conform fully to the moral and professional standards of conduct and obligations imposed by law and by his 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 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 less than 10 percent) 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.
9. 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 noncompliance 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 such other proceeding against Respondent as may be authorized pursuant to the law.

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

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IN THE MATTER : STATEMENT
OF : OF
TARIK ELIBOL, M.D. : CHARGES

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TARIK ELIBOL, M.D., the Respondent, was authorized to practice medicine in New York State on September 10, 1968 by the issuance of license number 102346 by the New York State Education Department.

FACTUAL ALLEGATIONS

A. Respondent provided medical care to Patient A (patients are identified in the Appendix) at various times from approximately February 3, 1994 through approximately February 17, 1994 as a gastroenterology consultant at Kenmore Mercy Hospital, Kenmore, New York. Respondent's care of Patient A did not meet accepted standards of care, in that:

1. Respondent failed to conduct an adequate initial evaluation of Patient A and/or document such evaluation.
2. Respondent diagnosed a "very likely" actively bleeding duodenal ulcer without adequate medical justification.

B. Respondent provided medical care and treatment to Patient B from approximately February 25, 1995 through approximately March 2, 1995 as a gastroenterology consultant at



DeGraff Memorial Hospital, Tonawanda, New York. Respondent's care and treatment of Patient B deviated from accepted standards in that:

1. Respondent failed to conduct an adequate initial evaluation of Patient B and /or document such evaluation.
2. Respondent diagnosed possible stricture, Zenker's diverticulum, or cricopharyngeal hypertrophy without adequate basis and/or despite prior esophogram findings.
3. Respondent recommended a surgical gastrostomy or jejunostomy without adequate medical justification.

C. Respondent provided medical care to Patient C, from approximately May 23, 1995 through approximately June 7, 1995 as a gastroenterology consultant at De Graff Memorial Hospital, Tonawanda, New York. Respondent's care of Patient C deviated from accepted standards in that:

1. Respondent failed to adequately document his initial evaluation of Patient C and/or prepare an adequate consultation note.
2. Respondent terminated the colonoscopy of Patient C without adequate medical justification.
3. Respondent failed to adequately document an endoscopic procedure note including, without limitation, his failure to reach the ascending colon.
4. Respondent failed to adequately rule out other causes for Patient C's abnormal ileocecal area before making a diagnosis of "very likely" Crohn's Disease.

D. Respondent provided medical care to Patient D from approximately February 10, 1994 through approximately January 1996 at his office located at 2949 Elmwood Avenue, Kenmore, New York (office). Respondent's care and treatment of Patient D

deviated from accepted standards in that:

1. Respondent failed to adequately document the March 3, 1994 colonoscopy he performed on Patient D including, without limitation, the size and type of the villous tumor found and the extent of colon examined.
2. Respondent failed to remove the villous tumor at the time of the March 3, 1994 colonoscopy without adequate medical justification.
3. Respondent ordered an air contrast barium enema for Patient D which was performed on or about January 30, 1995 without adequate medical justification

FIRST SPECIFICATION

PRACTICING WITH NEGLIGENCE ON MORE THAN ONE OCCASION

Respondent is charged with professional misconduct under N.Y. Educ. Law §6530(3) by reason of his practicing the profession of medicine with negligence on more than one occasion, in that Petitioner charges that Respondent committed two or more of the following:

1. The facts in Paragraphs A and A1, A and A2, B and B1, B and B2, B and B3, C and C1, C and C2, C and C3, C and C4, D and D1, D and D2, D and/or D3.

DATED: July 2, 1998
Albany, New York

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