



New York State Board for Professional Medical Conduct

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

Nirav R. Shah, M.D., M.P.H.
Commissioner
NYS Department of Health
Sue Kelly
Executive Deputy Commissioner
Keith W. Servis, Director
Office of Professional Medical Conduct

Public

Kendrick A. Sears, M.D.
Chair
Carmela Torrelli
Vice Chair
Katherine A. Hawkins, M.D., J.D.
Executive Secretary

March 24, 2011

CERTIFIED MAIL-RETURN RECEIPT REQUESTED

Houshang Homayoon, M.D.

REDACTED

Re: License No. 110252

Dear Dr. Homayoon:

Enclosed is a copy of BPMC #11-72 of the New York State Board for Professional Medical Conduct. This order and any penalty provided therein goes into effect March 31, 2011.

Sincerely,

REDACTED

Katherine A. Hawkins, M.D., J.D.
Executive Secretary
Board for Professional Medical Conduct

Enclosure

cc: Howard R. Snyder, Esq.
Fumuso, Kelly, DeVerna, Snyder, Swart & Farrell, LLP
110 Marcus Boulevard
Hauppauge, NY 11788-3704

**IN THE MATTER
OF
HOUSHANG HOMAYOON , M.D.**

CONSENT
ORDER

BPMC No. #11-72

Upon the application of (Respondent) HOUSHANG HOMAYOON , 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.

DATE: 3/23/11

REDACTED

KENDRICK A. SEARS, M.D.
Chair
State Board for Professional Medical Conduct

**IN THE MATTER
OF
HOUSHANG HOMAYOON , M.D.**

CONSENT
AGREEMENT
AND
ORDER

HOUSHANG HOMAYOON , M.D., represents that all of the following statements are true:

That on or about September 24, 1971, I was licensed to practice as a physician in the State of New York, and issued License No. 110252 by the New York State Education Department.

My current address is REDACTED, 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 one specification 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 First Specification, Negligence On More than One Occasion, in full satisfaction of the charges against me, and agree to the following penalty:

Immediately upon the issuance of this Order, and continuing until close of business on ~~Close of business~~ ^{MEK} on May 31, 2011, pursuant to N.Y. Pub. Health Law § 230-a(9), I shall be placed on probation, subject to the terms set forth in attached Exhibit "B."

Effective close of business on May 31, 2011, my license to practice medicine shall be limited, pursuant to N.Y. Pub. Health Law § 230-a, to preclude patient contact and any

practice of medicine, clinical or otherwise. I shall be precluded from diagnosing, treating, operating, or prescribing for any human disease, pain, injury, deformity, or physical condition. I shall be precluded from further reliance upon my license to practice medicine to exempt me from the licensure, certification or other requirements set forth in statute or regulation for the practice of any other profession licensed, regulated or certified by the Board of Regents, Department of Education, Department of Health or the Department of State.

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

- That Respondent shall, no later than June 14, 2011, notify the New York State Education Department, Division of Professional Licensing Services, that Respondent's license status is "inactive," and shall provide proof of such notification to the Director of OPMC immediately upon having done so; and
- That Respondent shall return any and all official New York State prescriptions to the Bureau of Narcotic Enforcement, and, in the event that Respondent holds a Drug Enforcement Administration (DEA) Certificate for New York State, Respondent shall surrender Respondent's Certificate to DEA by no later than June 14, 2011. All submissions to DEA shall be addressed to Diversion Program Manager, New York Field Division, U.S. Drug Enforcement Administration, 99 Tenth Avenue, New York, NY 10011. Further, immediately upon returning these prescriptions and surrendering the Certificate, Respondent shall provide documentary proof of these transaction(s) to the Director of OPMC; 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; and
- That Respondent shall comply with all conditions set forth in attached Exhibit "C" ("Requirements for Closing a Medical Practice").

I stipulate that my failure to comply with any conditions of this Order shall constitute misconduct as defined in N.Y. Educ. 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. As public documents, they may be posted on the Department's website.

I stipulate that the proposed sanction and Order are authorized by N.Y. Pub. Health Law §§ 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.

I am aware and agree that, regardless of prior communication, the attorney for the Department, the Director of the Office of Professional Medical Conduct, and the Chairperson of the State Board for Professional Medical Conduct each reserve full discretion to enter into the Consent Agreement that I propose in this application, or to decline to do so.

REDACTED

DATE 3/9/2011

HOUSHANG HOMAYOON, M.D.
RESPONDENT

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

DATE: 3/9/11

REDACTED

HOWARD SNYDER, ESQ.
Attorney for Respondent

DATE: March 4, 2011

REDACTED

MARCIA E. KAPLAN
Associate Counsel
Bureau of Professional Medical Conduct

DATE: 3/22/11

REDACTED

KEITH W. SERVIS
Director
Office of Professional Medical Conduct

EXHIBIT "A"

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

**IN THE MATTER
OF
HOUSHANG HOMAYOON, M.D.**

**STATEMENT
OF
CHARGES**

HOUSHANG HOMAYOON, M.D., the Respondent, was authorized to practice medicine in New York State on or about September 24, 1971, by the issuance of license number 110252 by the New York State Education Department.

FACTUAL ALLEGATIONS

- A. In or about January 2009, Respondent failed to render appropriate care and treatment to Patient A, who was not diabetic, with regard to the inappropriate renewal of orders for, and administration of, Amaryl.
- B. During periods in and before 2007, Respondent failed to appropriately evaluate Patients B-I prior to prescribing opiates for pain management, and failed to maintain appropriate medical records for Patients B-I.

SPECIFICATION OF CHARGES

FIRST 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 the following:

- 1. Paragraphs A and B.

DATE: March 22, 2011
New York, New York

REDACTED

~~ROY NEMERSON~~
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 N.Y. Educ. Law §§ 6530 or 6531 shall constitute a violation of probation and may subject Respondent to an action pursuant to N.Y. Pub. 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 this 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, arrests, charges, convictions or disciplinary actions by any local, state or federal agency, institution or facility. Respondent shall notify OPMC, in writing, within 30 days of any additions to or changes in the required information.
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 § 171(27); State Finance Law § 18; CPLR § 5001; Executive Law § 32].
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, hospital charts, and/or electronic records; and interviews with or periodic visits with Respondent and staff at practice locations or OPMC offices.
7. Respondent shall adhere to federal and state guidelines and professional standards of care with respect to infection control practices. Respondent shall ensure education, training and oversight of all office personnel involved in medical care, with respect to these practices.

8. Respondent shall maintain a log of all drugs prescribed, administered or dispensed (hereafter "prescribed"), in a form acceptable to OPMC. This log shall include each patient's name, the drug prescribed to the patient, the date the drug was prescribed, and the name, strength, dosage and quantity for each drug prescribed. The log shall be maintained separately from the medical records referred to in paragraph 9 below, and shall be forwarded to OPMC monthly for review. Respondent shall produce the prescribing log for review by OPMC, upon demand of the Director.
9. Respondent shall maintain complete and legible medical records that accurately reflect the evaluation and treatment of patients (including but not limited to any individual for whom Respondent prescribes any drug), and contain all information required by State rules and regulations concerning controlled substances. Respondent shall produce any medical record for review by OPMC, upon demand of the Director.
10. Respondent shall comply with this Consent Agreement and Surrender Order and all its terms, and shall bear all associated compliance costs. Upon receiving evidence of noncompliance with, or a 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.

EXHIBIT "C"

Requirements for Closing a Medical Practice Following a Revocation, Surrender, Limitation or Suspension of a Medical License

1. Effective close of business on May 31, 2011, Licensee shall cease and desist from engaging in the practice of medicine in New York State, or under Licensee's New York license, in accordance with the terms of the Order. In addition, Licensee shall refrain from providing an opinion as to professional practice or its application and from representing that Licensee is eligible to practice medicine.
2. Effective June 14, 2011, Licensee shall deliver Licensee's current biennial registration to the Office of Professional Medical Conduct (OPMC) at Hedley Park Place, 433 River Street 4th Floor, Troy, NY 12180-2299.
3. Effective close of business on May 31, 2011, Respondent shall notify all patients of the cessation or limitation of Respondent's medical practice, and shall refer all patients to another licensed practicing physician for continued care, as appropriate. Respondent shall notify, in writing, each health care plan with which the Respondent contracts or is employed, and each hospital where Respondent has privileges, that Respondent has ceased medical practice. No later than June 14, 2011, Respondent shall provide OPMC with written documentation that all patients and hospitals have been notified of the cessation of Respondent's medical practice.
4. Respondent shall make arrangements for the transfer and maintenance of all patient medical records. No later than June 14, 2011, Respondent shall notify OPMC of these arrangements, including the name, address, and telephone number of an appropriate and acceptable contact persons who shall have access to these records. Original records shall be retained for at least 6 years after the last date of service rendered to a patient or, in the case of a minor, for at least 6 years after the last date of service or 3 years after the patient reaches the age of majority, whichever time period is longer. Records shall be maintained in a safe and secure place that is reasonably accessible to former patients. The arrangements shall include provisions to ensure that the information in the record is kept confidential and is available only to authorized persons. When a patient or a patient's representative requests a copy of the patient's medical record, or requests that the original medical record be sent to another health care provider, a copy of the record shall be promptly provided or forwarded at a reasonable cost to the patient (not to exceed 75 cents per page.) Radiographic, sonographic and similar materials shall be provided at cost. A qualified person shall not be denied access to patient information solely because of an inability to pay.

5. In the event that Respondent holds a Drug Enforcement Administration (DEA) certificate for New York State, Respondent shall, no later than June 14, 2011, advise the DEA, in writing, of the licensure action and shall surrender his/her DEA controlled substance privileges for New York State to the DEA. Respondent shall promptly surrender any unused DEA #222 U.S. Official Order Forms Schedules 1 and 2 for New York State to the DEA. All submissions to the DEA shall be addressed to Diversion Program Manager, New York Field Division, U.S. Drug Enforcement Administration, 99 Tenth Avenue, New York, NY 10011.
6. No later than June 14, 2011, Respondent shall return any unused New York State official prescription forms to the Bureau of Narcotic Enforcement of the New York State Department of Health. Respondent shall destroy all prescription pads bearing Respondent's name. If no other Respondent is providing services at Respondent's practice location, Respondent shall properly dispose of all medications.
7. No later than June 14, 2011, Respondent shall remove from the public domain any representation that Respondent is eligible to practice medicine, including all related signs, advertisements, professional listings (whether in telephone directories, internet or otherwise), professional stationery or billings. Respondent shall not share, occupy, or use office space in which another Respondent provides health care services.
8. Respondent shall not charge, receive or share any fee or distribution of dividends for professional services rendered by Respondent or others while Respondent is barred from engaging in the practice of medicine. Respondent may be compensated for the reasonable value of services lawfully rendered, and disbursements incurred on a patient's behalf, prior to the Order's effective date.
9. If Respondent is a shareholder in any professional service corporation organized to engage in the practice of medicine, Respondent shall divest all financial interest in the professional services corporation, in accordance with New York Business Corporation Law. Such divestiture shall occur no later than September 1, 2011. If Respondent is the sole shareholder in a professional services corporation, the corporation must be dissolved or sold by September 1, 2011.
10. Failure to comply with the above directives may result in a civil penalty or criminal penalties as may be authorized by governing law. Under N.Y. Educ. Law § 6512, it is a Class E Felony, punishable by imprisonment of up to 4 years, to practice the profession of medicine when a professional license has been suspended, revoked or annulled. Such punishment is in addition to the penalties for professional misconduct set forth in N.Y. Pub. Health Law § 230-a, which include fines of up to \$10,000 for each specification of charges of which the Respondent is found guilty, and may include revocation of a suspended license.