

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

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IN THE MATTER :
OF : ORDER
FRANCISCO SUAREZ, M.D. : BPMC 93-80

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Upon the application of FRANCISCO SUAREZ, M.D.
(Respondent) for Consent Order, which application is made a part
hereof, it is

ORDERED, that the application and the provisions thereof
are hereby adopted; and so Ordered, 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.

SO ORDERED,

DATED: 28 May 1993

Charles J. Vacanti
CHARLES J. VACANTI, M.D.
Chairperson
State Board for Professional
Medical Conduct

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

-----X
IN THE MATTER : APPLICATION
OF : FOR
FRANCISCO SUAREZ, M.D. : CONSENT
: ORDER
-----X

STATE OF NEW YORK)
COUNTY OF) ss.:

FRANCISCO SUAREZ, M.D., being duly sworn, deposes and says:

That on or about January 17, 1992, I was licensed to practice as a physician in the State of New York, having been issued License No. 087138 by the New York State Education Department.

I am ~~not~~ currently registered with the New York State Education Department to practice as a physician in the State of New York.

I understand that the New York State Board of Professional Medical Conduct has charged me with three Specifications of professional misconduct.

A copy of the Statement of Charges is annexed hereto, made a part hereof, and marked as Exhibit "A".

I admit guilt to the Third Specification in full satisfaction of the charges against me.

I hereby agree to the following penalty:

- a) My license to practice medicine shall in accordance with N.Y. Public Health Law Section 230(a)(3), be permanently restricted to: (i) prohibit me from practicing any type of surgery, and (ii) require me to practice only in a supervised setting.

- b) The Terms of Probation attached thereto as Exhibit "B". The period of Probation will begin upon service of the Consent Order and end two (2) years after successful completion of Phase II of the Physicians Prescribed Educational Program set forth in Exhibit "B".

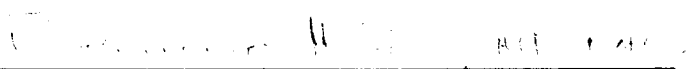
I hereby make this Application to the State Board for Professional Medical Conduct (the Board) and request that it be granted.

I understand that, in the event that this Application is not granted by the Board, 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.

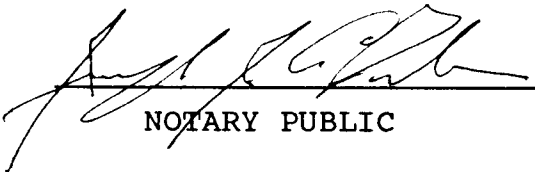
I agree that, in the event the Board grants my Application as set forth herein, an order of the Chairperson of the Board shall be issued in accordance with same.

I am making this Application of my own free will and accord and not under duress, compulsion or restraint of any kind or manner.



FRANCISCO SUAREZ, M.D.
RESPONDENT

Sworn to before me this
19 day of May, 1993.


NOTARY PUBLIC

JOSEPH J. LA BARBERA
Notary Public, State of New York
No. 24-4881864
Qualified in Kings County
Commission Expires February 6, 1994

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

-----X
: APPLICATION
IN THE MATTER :
OF : FOR
FRANCISCO SUAREZ, M.D. : CONSENT
: ORDER
-----X

The undersigned agree to the attached application of the Respondent and to the proposed penalty based on the terms and conditions thereof.

Date: 5/19/93 Francisco Suarez, M.D.
FRANCISCO SUAREZ, M.D.
RESPONDENT

Date: 5/19/93 Joseph Labarbera
JOSEPH LABARBERA
ATTORNEY FOR RESPONDENT

Date: 5/19/93 David W. Smith
DAVID W. SMITH
ASSISTANT COUNSEL
BUREAU OF PROFESSIONAL
MEDICAL CONDUCT

Date:

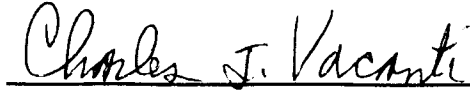
~~May~~
June 1, 1993



KATHLEEN M. TANNER
DIRECTOR
OFFICE OF PROFESSIONAL
MEDICAL CONDUCT

Date:

28 May 1993



CHARLES J. VACANTI, M.D.
CHAIRPERSON
STATE BOARD FOR
PROFESSIONAL MEDICAL CONDUCT

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

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IN THE MATTER : NOTICE

OF : OF

FRANCISCO SUAREZ, M.D. : HEARING

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TO: FRANCISCO SUAREZ, M.D.
215 West 91st street
New York, New York 10024

PLEASE TAKE NOTICE:

A hearing will be held pursuant to the provisions of N.Y. Pub. Health Law Section 230 (McKinney 1990 and Supp. 1993) and N.Y. State Admin. Proc. Act Sections 301-307 and 401 (McKinney 1984 and Supp. 1993.). The hearing will be conducted before a committee on professional conduct of the State Board for Professional Medical Conduct on the 18th day of May, 1993 at 10:00 in the forenoon of that day at 5 Penn Plaza, Sixth Floor, New York, New York 10016 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 Administrative Law Judge's Office, Empire State Plaza, Tower Building, 25th Floor, Albany, New York 12237, (518-473-1385), 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 Section 230 (McKinney 1990 and Supp. 1993), you may file an answer to the Statement of Charges not less than ten days prior to the date of the hearing. If you wish to raise an affirmative defense, however, N.Y. Admin. Code tit. 10, Section 51.5(c) requires that an answer be filed, but allows the filing of such an answer until three days prior to the date of the hearing. Any answer shall be forwarded to the attorney for the Department of Health whose name appears below. Pursuant to Section 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.

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 THE OTHER SANCTIONS SET OUT IN
NEW YORK PUBLIC HEALTH LAW SECTION 230-a
(McKinney Supp. 1993). YOU ARE URGED TO
OBTAIN AN ATTORNEY TO REPRESENT YOU IN THIS
MATTER.

DATED: New York, New York

March 2 , 1993



CHRIS STERN HYMAN,
Counsel

Inquiries should be directed to: David W. Smith
Assistant Counsel
Bureau of Professional
Medical Conduct
5 Penn Plaza, 6th Floor
New York, New York 10001

Telephone No.: 212-613-2617

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

-----X
IN THE MATTER : STATEMENT
OF : OF
FRANCISCO SUAREZ, M.D. : CHARGES
-----X

FRANCISCO SUAREZ, M.D., the Respondent, was authorized to practice medicine in New York State on January 17, 1962 by the issuance of license number 087138 by the New York State Education Department. The Respondent is not currently registered.

FACTUAL ALLEGATIONS

- A. Between December, 1987 and February, 1988, Patient A was treated by Respondent for diabetes and other medical conditions at St. Barnabas Hospital, Bronx, New York. (Patients A and B are identified in the attached Appendix).
1. On or about December 3, 1987, Patient A was admitted to St. Barnabas Hospital with an infected diabetic right foot. Respondent inappropriately delayed operating on Patient A thereby allowing the infection to spread and

resulting in the amputation of the infected diabetic right foot above the knee.

B. Between June, 1986 and August, 1986, Patient B was treated by Respondent for various medical conditions at St. Barnabas Hospital, Bronx, New York.

1. On or about June 8, 1986, Respondent inappropriately removed the gall bladder of Patient B.

SPECIFICATION OF CHARGES

PRACTICING WITH GROSS NEGLIGENCE ON A PARTICULAR OCCASION

Respondent is charged with practicing the profession with gross negligence on a particular occasion under N.Y. Educ. Law Section 6530(4) (McKinney Supp. 1993) in that Petitioner charges:

1. The facts in Paragraphs A and A1.
2. The facts in Paragraphs B and B1.

THIRD SPECIFICATION

PRACTICING WITH NEGLIGENCE ON MORE THAN ONE OCCASION

Respondent is charged with practicing the profession with negligence on more than one occasion under N.Y. Educ. Law Section 6530(3) (McKinney Supp. 1993) in that Petitioner charges the following:

3. The facts in Paragraphs A and A1, and B and B1.

DATED: New York, New York

March 2, 1993



CHRIS STERN HYMAN
Counsel
Bureau of Professional Medical
Conduct

EXHIBIT "B"

TERMS OF PROBATION

1. FRANCISCO SUAREZ, M.D., during the period of probation, 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 imposed by law and by his profession;
2. That Respondent shall submit written notification to the New York State Department of Health (NYSDOH), addressed to the Director, Office of Professional Medical Conduct, New York State Health Department, Corning Tower Building, 4th Floor, Empire State Plaza Albany, New York 12237 of any employment and practice, of Respondent's residence and telephone number, of any change in Respondent's employment, practice, residence, or telephone number within or without the State of New York;
3. Respondent shall submit written proof from the Division of Professional Licensing Services (DPLS), New York State Education Department (NYSED), that Respondent has paid all registration fees due and owing to the NYSED and Respondent shall cooperate with and submit whatever papers are requested by DPLS in regard to said registration fees, said proof from DPLS to be submitted by Respondent to the New York State Department of Health, addressed to the Director, Office of Professional Medical Conduct, as aforesaid, no later than the first three months of the period of probation;
4. Respondent shall submit written proof to the NYSDOH, addressed to the Director, Office of Professional Medical Conduct, as aforesaid, that 1) Respondent is currently registered with the NYSED, unless Respondent submits written proof that Respondent has advised DPLS, NYSED, that Respondent is not engaging in the practice of Respondent's profession in the State of New York and does not desire to register, and that 2) Respondent has paid any fines which may have previously been imposed upon Respondent by the Board or by the Board of Regents; said proof of the above to be submitted no later than the first two months of the period of probation;
5. Respondent shall comply with all terms, conditions, restrictions, and penalties to which he is subject pursuant to the order of the Board;
6. Any civil penalty not paid by the date prescribed herein shall be subject to all provisions of law relating to debt collection by the State of New York. 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).

7. So long as there is full compliance with every term herein set forth, Respondent may continue to practice his or her aforementioned profession in accordance with the terms of probation; provided, however, that upon receipt of evidence of noncompliance with, or any violation of these terms, the Director of the Office of Professional Medical Conduct and/or the Board may initiate a violation of probation proceeding and/or such other proceeding against Respondent as may be authorized pursuant to the Public Health Law.
8. Respondent shall not begin any new employment until after he has obtained the approval of the Director of OPMC as to the terms of the supervision at his new employment.
9. Upon his return to practice, Respondent's office and /or hospital practice shall be supervised and monitored by a licensed physician in a position to regularly observe and assess Respondent's medical practice ("practice supervisor"). The practice supervisor shall review Respondent's professional performance and practice, shall evaluate whether Respondent's care and treatment comport with generally accepted standards of medical practice, and shall meet bi-weekly with the Respondent to discuss his practice. Supervision by the practice supervisor may include: unannounced review of Respondent's patient records; unannounced actual observation of his treatment of patients; unannounced review of his ordering, administering and inventorying of all controlled substances, interviews of Respondent, and any other reasonable means of monitoring Respondent's practice. The practice supervisor, or any successor supervisor, shall be selected by the Respondent, subject to the approval of the Director of OPMC, and shall not be a relative of the Respondent. The practice supervisor shall be familiar with the Terms of Probation contained herein, and shall acknowledge his/her willingness to comply with the supervision and monitoring by executing an acknowledgement provided by OPMC. The practice supervisor shall submit to OPMC quarterly reports regarding the quality of Respondent's medical practice, any unexplained absences from work, and certifying his compliance or detailing his failure to comply with the Terms of Probation. The practice supervisor shall report immediately to OPMC any failure of the Respondent, at any time, to comply with the Terms of probation.
10. Respondent may resume the practice of medicine at any time. However, within the first three months after resumption of such practice, he shall complete the evaluation phase (Phase I) of the Physician Prescribed Educational Program (PPEP),

Department of Family Medicine, 475 Irving Avenue No 200, Syracuse, New York 13210. Dr. William D. Grant, Director of the PPEP, shall inform Kathleen M. Tanner, Director of OPMC, of Respondent's satisfactory completion of Phase I of the program and of the results of Respondent's evaluation.

11. Upon completion of Phase I of the PPEP Program and immediately thereafter Respondent shall apply for and enroll in the education phase (Phase II) of the PPEP. Respondent shall be placed at one of the participating hospitals in the New York City area for completion of Phase II, a course of retraining consistent with the findings made in Phase I. Respondent shall remain enrolled and shall fully participate in Phase II of the program for a period of not less than one year.
12. Respondent shall successfully complete Phase II of the PPEP within two years of the start of his participation in Phase I of the program.
13. Failure of the Respondent to be accepted into or to successfully complete Phase II of the PPEP will be deemed a violation of probation.
14. During Phase II, the preceptor assigned to Respondent shall submit monthly reports to OPMC certifying that Respondent is fully participating in Phase II and shall inform Kathleen M. Tanner, Director, OPMC, of the results of the Respondent's reevaluation or reassessment at the completion of his retraining. The preceptor shall report immediately to the Director of OPMC if Respondent withdraws from the program and shall report promptly to OPMC any significant pattern of absences by Respondent. The preceptor shall acknowledge in advance his/her willingness to comply with the reporting by executing the acknowledgement provided by OPMC.
15. Respondent shall assume and bear all costs related to compliance with the Terms of Probation.