



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

December 19, 1997

CERTIFIED MAIL-RETURN RECEIPT REQUESTED

Dhirajlal Shah, M.D.
PO Box 248
No. 2 Washburn Avenue
Wurtsboro, New York 12790-0248

RE: License No. 145307

Dear Dr. Shah:

Enclosed please find Order #BPMC 97-317 of the New York State Board for Professional Medical Conduct. This Order and any penalty provided therein goes into effect upon receipt of this letter or seven (7) days after the date of this letter, whichever is earlier.

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: Jacqueline Ricciani, Esq.
Greenwald Law Offices
Bank of New York Building
252 Main Street
PO Box 299
Goshen, New York 10924

Thomas K. O'Malley, Esq.

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

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IN THE MATTER	:	CONSENT
OF	:	AGREEMENT
DHIRAJLAL SHAH, M.D.	:	AND ORDER
	:	BPMC # 97-317

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DHIRAJLAL SHAH, M.D., says:

On or about March 13, 1981 , I was licensed to practice as a physician in the State of New York, having been issued license number 145307 by the New York State Education Department.

My current address is P.O. Box 248, #2 Washburn Avenue, Wurtsboro, New York 12790-0248 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 forty (40) specification(s) of professional misconduct as set forth in the Statement of Charges, annexed hereto, made a part hereof, and marked as Exhibit A.

I admit guilt to the Statement of Charges specification(s) in full satisfaction of the charges against me.

I hereby agree to the following penalty: a three year suspension with said suspension stayed. I further agree to three years probation and to be bound by the terms of probation annexed hereto and made a part hereof as Exhibit B.

I agree that in the event that I am charged with professional misconduct in the future, this agreement and order shall be admitted into evidence in that proceeding.

I hereby agree that, in the event the Board determines that I have not complied with the Terms of this Consent Agreement, Order and the attendant Terms of Probation, I will be suspended for the duration of time it takes to cure the violation of said Agreement, Order and/or Terms of Probation.

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

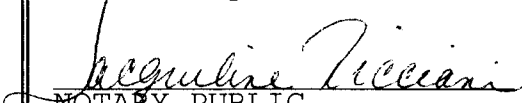
the final determination by the Board pursuant to the provisions of the Public Health Law.

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.


DHIRAJLAL SHAH, M.D.
RESPONDENT

Subscribed before me this
29th day of November, 1997, 1997.


NOTARY PUBLIC

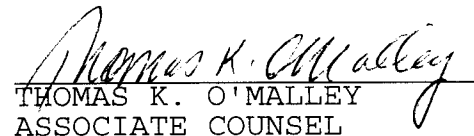
JACQUELINE RICCIANI
Notary Public, State of New York
No. 02RI5043539
Qualified in Orange County
Commission Expires May 8, 1999

AGREED TO:


DATE: Dec. 4, 1997


JACQUELINE RICCIANI, ESQ.
Attorney for Respondent

DATE: Dec 10, 1997


THOMAS K. O'MALLEY
ASSOCIATE COUNSEL
Bureau of Professional
Medical Conduct

DATE: December 16, 1997


ANNE F. SAILE
DIRECTOR
Office of Professional
Medical Conduct

ORDER

Upon the proposed agreement of DHIRAJLAL SHAH, 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: 12/16/97

Patrick F. Carone, M.D.

PATRICK F. CARONE, M.D., M.P.H.
Chair
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 : STATEMENT
OF : OF
DHIRAJLAL SHAH, M.D. : CHARGES

-----X

DHIRAJLAL SHAH, M.D., the Respondent, was authorized to practice medicine in New York State on March 13, 1981, by the issuance of license number 145307 by the New York State Education Department. The Respondent is currently registered with the New York State Education Department to practice medicine for the period January 1, 1997, through December 31, 1997, with a registration address of P.O. Box 248 #2 Washburn Avenue, Wurtsboro, New York 12790-0248.

FACTUAL ALLEGATIONS

A. Respondent treated Patient A (Patients are identified in the appendix) from on or about May 1984 to on or about October 1991 at his office at 2 Washburn Avenue, Wurtsboro, New York 12790, hereinafter "his office". Respondent's care and treatment of Patient A failed to meet acceptable standards of medical care, in that:

1. Respondent failed to maintain a record which accurately reflects the evaluation and treatment of Patient A.
2. Respondent prescribed Tylenol #3 without adequate medical justification.

3. Respondent prescribed medications with known addictive potential including Tylenol #3, Xanax, Benzodiazepine, Halcyon, Fiorinal, Tranxene and Esgic despite a known history of drug overdose and substance abuse.
4. Respondent prescribed the medication Esgic on numerous occasions after he admittedly suspected that the patient might be addicted to this drug.
5. Respondent never obtained proper medical documentation and/or records concerning this Patients overdose and addiction history.
6. Respondent failed to consult Dr. Marie Gross, Patient A's other treating physician, in order to coordinate the prescription of addictive medications.
7. Respondent failed to address Patient A's psychological disorder and/or poly substance abuse problems.
8. Respondent prescribed these different diuretics namely, Lasix and Dyazide at the same time for the same condition namely hypertension.
9. Respondent failed to perform proper follow-up examination or testing of Patient A's Hypothyroidism.
10. Respondent prescribed medications such as Xanax, Benzodiazepine, Fiorinal, and Tranxene without proper physical examinations.
11. Respondent, after admittedly suspecting Patient A to be addicted to medications prescribed by Respondent, negligently discontinued medications without preparing Patient A for withdrawal syndrome and its medical consequences.

B. Respondent treated Patient B from on or about March 12, 1986 through September 23, 1991 at his office. Respondent's care and treatment of Patient B failed to meet accepted standards of medical care, in that:

1. Respondent failed to maintain a record which

accurately reflects the evaluation and treatment of Patient B.

2. Respondent inappropriately prescribed medications namely Valium and Dalmane via mail without ever examining the patient.

C. Respondent treated Patient C from on or about August 30, 1990 to on or about April 17, 1993 at his office. Respondent's care and treatment of Patient C failed to meet acceptable standards of medical care, in that:

1. Respondent failed to maintain a record which accurately reflects the evaluation and treatment of Patient C.
2. Respondent withdrew Patient C from the use of Prednisone without properly performing abdominal examination.

D. Respondent treated Patient D from March 1, 1982 through March 24, 1993 at his office. Respondent's care and treatment of Patient D failed to meet acceptable standards of medical care, in that:

1. Respondent failed to maintain a record which accurately reflects the evaluation and treatment of Patient D.
2. Respondent prescribed Percocet and Percodan without adequate medical justification.
3. Respondent prescribed Percodan and Motrin in combination without adequate medical justification.
4. The Respondent prescribed and performed multiple injections of cortisone and novacaine in the same physical area of Patient E's lower back without adequate medical justification.
5. Respondent prescribed Valium in combination with Percocet and Motrin without adequate medical justification.

6. Respondent failed to attempt a course of physical therapy, orthopedic therapy or pain clinic therapy for Patient D's persistent complaints of back pain.
7. Respondent failed to order the proper medical studies in order to evaluate Patient D's persistent and long standing back pain.

E. Respondent treated Patient E from on or about October 2, 1984 to on or about March 31, 1993 at his office. Respondent's care and treatment of Patient E failed to meet acceptable standards of medical care, in that:

1. Respondent failed to maintain a record which accurately reflects the evaluation and care of Patient E.
2. Respondent failed to record accurately Patient E's initial history.
3. Respondent failed to administer proper physical examinations prior to administering medication.
4. Respondent failed to attempt a course of non-steroidal anti-inflammatory drugs for Patient E's pain.
5. Respondent prescribed medications with known addictive potential including Tylenol with Codeine and Hydrocodone.
6. Respondent prescribed Codeine and Tylenol #4 without adequate medical justification.
7. Respondent prescribed medications with known severe addictive potential including Levodromoran and Benzodiazepine without adequate medical justification.
8. Respondent prescribed Tetracycline without adequate medical justification.
9. Respondent failed to order an X-ray of Patient F's left leg until June of 1988 although he had been treating him for left leg pain for several years prior to that.
10. Respondent prescribed addictive medications

without attempting adequate alternative treatments including non-steroidal anti-inflammatory drugs, Tens unit, physical therapy or night time antidepressants.

F. Respondent treated Patient F from on or about May 1, 1991 through January 15, 1992 at his office. Respondent's care and treatment of Patient F failed to meet acceptable standards of medical care, in that:

1. Respondent failed to maintain a record which accurately reflects the evaluation and treatment of Patient F.
2. Respondent failed to obtain proper physical examination and Patient history concerning Patient F's increase liver function tests in June of 1991.
3. Respondent prescribed Morphine 60 milligrams Bid without adequate medical justification.
4. Respondent prescribed supplemental Fiorinal #3 with barbiturates and codeine without adequate medical justification.
5. Respondent prescribed medications with known addictive potential including Percodan, Fiorinal, Morphine, Fiorinal #3 with no attempts to adequately monitor Patient's abuse and/or addictive potential.

G. Respondent treated Patient G from on or about September 26, 1987 to on of about April 2, 1993 at his office. Respondent's care and treatment of Patient G failed to meet acceptable standards of medical care, in that:

1. Respondent failed to maintain a record which accurately reflects the evaluation and treatment of Patient G.
2. Respondent failed to perform proper and adequate physical examinations of Patient G prior to prescribing medications.

3. Respondent prescribed medications with known addictive potential including Tylenol #4, 2q4h prn and Tylox without regard to Patient G's potential abuse problems.
4. Respondent prescribed Tylox without adequate medical justification.
5. Respondent prescribed Tylenol #4 2q4h without adequate medical justification.
6. Respondent prescribed medications for Patient G without obtaining proper prior medical history.
7. Respondent prescribed medications for Patient G without performing a prior physical examination.

H. Respondent prescribed medication for Patient H on one occasion on May 25, 1990. Respondent's care and treatment of Patient I failed to meet acceptable standards of care, in that:

1. Respondent failed to maintain any record which accurately reflects the evaluation and treatment of Patient H.
2. Respondent prescribed Tylox for pain without adequate medical justification.
3. Respondent prescribed Tylox without any physical examination of Patient H.
4. Respondent prescribed Tylox to Patient H without obtaining any prior patient history.

SPECIFICATIONS OF MISCONDUCT

FIRST THROUGH EIGHTH SPECIFICATIONS

GROSS NEGLIGENCE

Respondent is charged with gross negligence in violation of N.Y. Educ. Law §6530(4) (McKinney Supp. 1997) in that Petitioner

charges:

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

NINTH THROUGH SIXTEENTH SPECIFICATIONS

GROSS INCOMPETENCE

Respondent is charged with gross incompetence in violation of N.Y. Educ. Law §6530(6) (McKinney Supp. 1997) in that

Petitioner charges:

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

15. The facts in paragraphs G and G.1, G.2, G.3, G.4, G.5, G.6 and/or G.7.
16. The facts in paragraphs H and H.1, H.2, H.3 and/or H.4.

SEVENTEENTH THROUGH TWENTY-FOURTH SPECIFICATIONS

NEGLIGENCE ON MORE THAN ONE OCCASION

Respondent is charged with negligence on more than one occasion in violation with N.Y. Educ. Law §6530(3) (McKinney Supp. 1997) in that Petitioner charges two or more of the following:

17. The facts in paragraphs A and A.1, A.2, A.3, A.4, A.5, A.6, A.7, A.8, A.9, A.10 and/or A.11.
18. The facts in paragraphs B and B.1, and/or B.2.
19. The facts in paragraphs C and C.1, and/or C.2.
20. The facts in paragraphs D and D.1, D.2, D.3, D.4, D.5, D.6 and/or D.7.
21. The facts in paragraphs E and E.1, E.2, E.3, E.4, E.5, E.6, E.7, E.8, E.9 and/or E.10.
22. The facts in paragraphs F and F.1, F.2, F.3, F.4 and/or F.5.
23. The facts in paragraphs G and G.1, G.2, G.3, G.4, G.5, G.6 and/or G.7.
24. The facts in paragraphs H and H.1, H.2, H.3 and/or H.4.

TWENTY-FIFTH THROUGH THIRTY-SECOND SPECIFICATIONS

INCOMPETENCE ON MORE THAN ONE OCCASION

Respondent is charged with incompetence on more than one

occasion, in violation of N.Y. Educ. Law §6530(5) (McKinney Supp. 1996) in that Petitioner charges two or more of the following:

25. The facts in paragraphs A and A.1, A.2, A.3, A.4, A.5, A.6, A.7, A.8, A.9, A.10 and/or A.11.
26. The facts in paragraphs B and B.1, and/or B.2.
27. The facts in paragraphs C and C.1, and/or C.2.
28. The facts in paragraphs D and D.1, D.2, D.3, D.4, D.5, D.6 and/or D.7.
29. The facts in paragraphs E and E.1, E.2, E.3, E.4, E.5, E.6, E.7, E.8, E.9 and/or E.10.
30. The facts in paragraphs F and F.1, F.2, F.3, F.4 and/or F.5.
31. The facts in paragraphs G and G.1, G.2, G.3, G.4, G.5, G.6 and/or G.7.
32. The facts in paragraphs H and H.1, H.2, H.3 and/or H.4.

THIRTY-THIRD THROUGH FORTIETH SPECIFICATIONS

RECORDKEEPING

Respondent is charged with failing to maintain a record which accurately reflects the care and treatment of Patients in violation of N.Y. Educ. Law §6530(32) (McKinney Supp. 1997) in that Petitioner charges:

33. The facts in paragraphs A and A.1, A.2, A.3, A.4, A.5, A.6, A.7, A.8, A.9, A.10 and/or A.11.
34. The facts in paragraphs B and B.1, and/or B.2.
35. The facts in paragraphs C and C.1, and/or C.2.
36. The facts in paragraphs D and D.1, D.2, D.3, D.4, D.5, D.6 and/or D.7.

37. The facts in paragraphs E and E.1, E.2, E.3, E.4, E.5, E.6, E.7, E.8, E.9 and/or E.10.
38. The facts in paragraphs F and F.1, F.2, F.3, F.4 and/or F.5.
39. The facts in paragraphs G and G.1, G.2, G.3, G.4, G.5, G.6 and/or G.7.
40. The facts in paragraphs H and H.1, H.2, H.3 and/or H.4.

DATED: *December 9*, 1997
Albany, New York

Peter D. Van Buren

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

EXHIBIT "B"

TERMS OF PROBATION

1. Respondent shall conduct himself/herself in all ways in a manner befitting his/her professional status, and shall conform fully to the moral and professional standards of conduct and obligations imposed by law and by his/her 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 speciality, ("practice monitor") proposed by Respondent and subject to written approval of the Director of the Office of Professional Medical conduct.
 - a. The practice monitor shall report in writing to the Director of the Office of Professional Medical Conduct or designee, on a schedule to be determined by the office. The practice monitor shall visit Respondent's medical practice at each and every location, on a random basis at least quarterly and shall examine a random (no less than 25%) selection of records maintained by Respondent, including patient histories, prescribing information and billing records. Respondent will make available to the monitor any and all records or access to the practice requested by the monitor, including on-site observation. 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 immediately be reported to the Office of Professional Medical Conduct by the monitor.
 - b. Any change in practice monitor must be approved in writing, in advance, by the Office of Professional Medical Conduct.
 - c. All expenses associated with monitoring, including fees to the monitoring physician, shall be the sole responsibility of the Respondent.
 - d. It is the responsibility of the Respondent to ensure that the reports of the practice monitor are submitted in a timely manner. A failure of the practice monitor to submit required reports on a timely basis will be considered a possible violation of the terms of probation.
 - e. Respondent must 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 designee prior to the placement of a practice monitor.

9. Respondent shall enroll in and complete a program of education in the area of General Family Practice and/or Internal Medicine to be equivalent to at least 40 credit hours of Continuing Medical Education per year for the period of probation. Said program of Continuing Education shall be subject to the prior approval of the Director of the Office of Professional Medical Conduct and be completed within the period of probation or otherwise specified in the Order. If the program of Education is not completed within the time period specified and a waiver or a time extension is not granted by the Director of The Office of Professional Medical Conduct, Respondent will be in violation of this term of probation and subject to a violation of probation proceeding.
10. Respondent shall have a limitation put on his prescribing practices as follows:
 - a. Respondent shall obtain approval of his practice monitor prior to prescribing any level two or level three narcotics to any patients;
 - b. Respondent shall comply with all requirements of Article 33 of the Public Health Law and of New York State Department of Health Regulations, and shall meet as requested with OPMC to provide proof of compliance; and
 - c. Upon request, Respondent shall provide OPMC access to or copies to all patient records, office records, hospital records, records of administration, dispensing and/or prescribing of controlled substances, records of controlled substances purchases, official New York State triplicate prescription books, and any other records required under the law.
11. 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 non-compliance 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 other such proceeding against Respondent as may be authorized pursuant to the law.