



***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.  
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NYS Department of Health*

Dennis P. Whalen  
*Executive Deputy Commissioner  
NYS Department of Health*

Dennis J. Graziano, Director  
*Office of Professional Medical Conduct*

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*Chair*

Denise M. Bolan, R.P.A.  
*Vice Chair*

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

September 10, 2001

***CERTIFIED MAIL-RETURN RECEIPT REQUESTED***

Ashok Dhabuwala, M.D.  
34 Cleveland Avenue  
Glen Head, New York 11545

RE: License No. 159041

Dear Dr. Dhabuwala:

Enclosed please find Order #BPMC 01-204 of the New York State Board for Professional Medical Conduct. This Order and any penalty provided therein goes into effect September 10, 2001.

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 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: Stanley D. Friedman, Esq.  
McAloon and Friedman, P.C.  
116 John Street  
New York, NY 10038-3498

Lee A. Davis, Esq.

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

IN THE MATTER

OF

ASHOK DHABUWALA, M.D.

CONSENT

ORDER

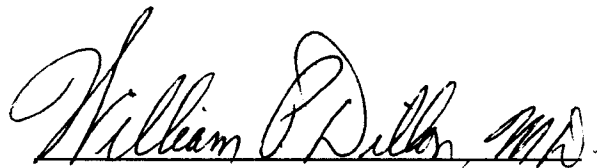
BPMC No. 01-204

Upon the proposed agreement of ASHOK DHABUWALA, M.D. (Respondent) for Consent Order, which application is made a part hereof, it is agreed to and ORDERED, that the application and the provisions thereof are hereby adopted and so ORDERED, and it is further

ORDERED, that this order shall be effective upon issuance by the Board, which may be accomplished by mailing, by first class mail, a copy of the Consent Order to Respondent at the address set forth in this agreement or to Respondent's attorney by certified mail, or upon transmission via facsimile to Respondent or Respondent's attorney, whichever is earliest.

SO ORDERED.

DATED: 9/4/01



WILLIAM P. DILLON, M.D.

Chair

State Board for Professional  
Medical Conduct

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

IN THE MATTER  
OF  
ASHOK DHABUWALA, M.D.

CONSENT  
AGREEMENT  
AND  
ORDER

ASHOK DHABUWALA, M.D., (Respondent) states the following:

That on or about July 9, 1984, I was licensed to practice as a physician in the State of New York, having been issued License No. 149041 by the New York State Education Department.

My current address is 34 Cleveland Avenue, Glen Head, New York 11545, and I will advise the Director of the Office of Professional Medical Conduct of any change of my address.

I understand that the New York State Board for Professional Medical Conduct has charged me with 15 specifications of professional misconduct.

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

I do not contest the eleventh specification, in full satisfaction of the charges against me. I hereby agree to the following penalty:

Pursuant to §230-a(1) of the Public Health Law, I will receive a  
censure and reprimand; and

Pursuant to §230-a(9) of the Public Health Law, I shall be placed on probation for a period of two years, subject to the terms set forth in Exhibit "B," attached hereto.

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

That, except during periods of actual suspension, Respondent shall maintain active registration of Respondent's license with the New York State Education Department Division of Professional Licensing Services, and pay all registration fees. This condition shall be in effect beginning thirty days after the effective date of the Consent Order and will continue while the licensee possesses his/her license; and

That Respondent shall fully cooperate in every respect with the Office of Professional Medical Conduct (OPMC) in its administration and enforcement of this Order and in its investigation of all matters regarding Respondent.

Respondent shall respond in a timely manner to each and every request by OPMC to provide written periodic verification

of Respondent's compliance with the terms of this Order. Respondent shall meet with a person designated by the Director of OPMC as directed. Respondent shall respond promptly and provide any and all documents and information within Respondent's control upon the direction of OPMC. This condition shall be in effect beginning upon the effective date of the Consent Order and will continue while the licensee possesses his/her license.

I hereby stipulate that any failure by me to comply with such conditions shall constitute misconduct as defined by New York State Education Law §6530(29).

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

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

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 agree that such order shall be effective upon issuance by the Board, which may be accomplished by mailing, by first class mail, a copy of the Consent Order to me at the address set forth in this agreement, or to my attorney, or upon transmission via facsimile to me or my attorney, whichever is earliest.

I am making this Application of my own free will and accord and not under duress, compulsion or restraint of any kind or manner. In consideration of the value to me of the acceptance by the Board of this Application, allowing me to resolve this matter without the various risks and burdens of a hearing on the merits, I knowingly waive any right I may have to contest the Consent Order for which I hereby apply, whether administratively or judicially, and ask that the Application be granted.

DATED 8.22.01

  
\_\_\_\_\_  
ASHOK DHABUWALA, M.D.  
RESPONDENT

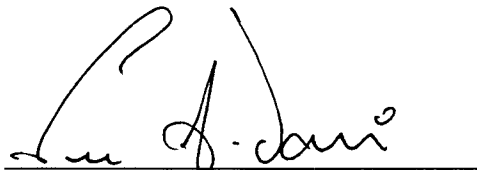
The undersigned agree to the attached application of the Respondent and to the proposed penalty based on the terms and conditions thereof.

DATE: 8/23/01



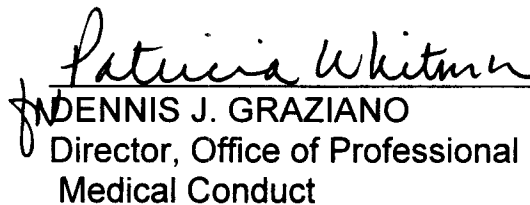
STANLEY D. FRIEDMAN, ESQ.  
Attorney for Respondent

DATE: 8-25-01



LEE A. DAVIS  
Assistant Counsel  
Bureau of Professional  
Medical Conduct

DATE: 8/30/01



DENNIS J. GRAZIANO  
Director, Office of Professional  
Medical Conduct

## EXHIBIT "A"

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

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IN THE MATTER  
OF  
ASHOK M. DHABUWALA, M.D.

STATEMENT  
OF  
CHARGES

-----X

ASHOK K M. DHABUWALA, M.D., the Respondent, was authorized to practice medicine in New York State on or about July 9, 1984, by the issuance of license number 159041 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 of July 1, 2000 through June 30, 2000, with a registration address of 34 Cleveland Avenue, Glenhead, New York 11545.

### FACTUAL ALLEGATIONS

A. On or about September 24, 1992, Respondent was served with a Notice of Hearing and Statement of Charges regarding Office of Professional Medical Conduct (OPMC) case #NY-89-04-1276-A, based upon allegations of misconduct by Respondent during the periods of July 3, 1987 through November 24, 1987 and June 28, 1988 through October 26, 1989. Following a hearing on the charges, a Hearing Committee of the Board for Professional Medical Conduct (HC), on or about May 18, 1993, issued Determination and Order (D&O) #93-70, sustaining the specifications of misconduct alleging negligence on more than one occasion, ordering unwarranted treatment and failing to maintain adequate medical records. The HC imposed a penalty of two years stayed suspension, and two years probation.



about October 6, 1993, the ARB issued ARB D&O #93-70R regarding its review of the HC D&O. The ARB determined it could not complete its review of the matter as there was insufficient language by the HC explaining the penalty it had imposed. The matter was remanded to the HC to respond to specific questions presented by the ARB. The ARB D&O did not disturb the HC's findings of misconduct by Respondent.

C. On or about August 9, 1993, Respondent completed and signed an application for reappointment of privileges at The Methodist Hospital in Brooklyn, New York. The application contained the following questions:

c) Are you involved in any pending professional misconduct proceedings or malpractice actions in this or any other State? (Emphasis in original)

d) Are there, within the past ten (10) years, any judgements or settlements or medical malpractice actions or findings of professional misconduct involving you in this or any other State?

Respondent checked the "no" answer to both questions.

D. On or about January 10, 1994, the HC issued Supplemental D&O #93-70S. The HC set forth its reasons for the penalty imposed and answered the specific questions posed by the ARB. The supplemental D&O did not disturb the findings of misconduct against Respondent contained in the original D&O.

E. On or about June 24, 1994, the ARB issued its D&O based upon the information contained in the HC's supplemental determination. The ARB sustained the specifications of misconduct, and modified the penalty imposed against Respondent. Respondent was ordered to undergo an evaluation of his knowledge as a physician (PPEP). If the PPEP review was favorable, Respondent was to be placed upon probation for two years. If the PPEP evaluation was unfavorable, the matter was to be returned to the ARB for further deliberation on penalty.

F. On or about May 5, 1995, the ARB issued an order advising the parties they had 30 days to submit comments regarding the PPEP evaluation.

G. On or about August 1, 1995, Respondent completed and signed an application for reappointment of privileges at The Methodist Hospital in Brooklyn, New York. The application contained the following questions:

c) Are you involved in any pending professional misconduct proceedings or malpractice actions in this or any other State? (Emphasis in original)

d) Are there, within the past ten (10) years, any judgements or settlements or medical malpractice actions or findings of professional misconduct involving you in this or any other State?

Respondent checked the "yes" to question "c", but circled the word "malpractice" in the question, indicating he was involved in malpractice actions only, and not professional misconduct proceedings. Respondent checked the "no" answer to question "d".

H. On or about August 21, 1995, the ARB issued Order 93-70, modifying the penalty in response to the PPEP evaluation. The ARB extended Respondent's probation for an additional five years, limited Respondent's practice with respect to hysterectomies and ordered that he practice in a supervised setting. The ARB did not modify or disturb the previous findings of professional misconduct in any way.

I. On or about December 15, 1995, Respondent appealed the preceding determination in a proceeding pursuant to Article 78 of the New York State Civil Procedure Law and Rules, before the New York State Supreme Court, Appellate Division, Third Department. Respondent did not apply for a stay of the penalty imposed by the ARB, pursuant to Public Health Law §230-c (4) (a).

J. On or about December 26, 1996, the Appellate Division, Third Department annulled the determination of the ARB and remanded the matter to the ARB for further

proceedings. In so doing, the Appellate Division Third Department provided direction to the ARB regarding matters to consider in assessing a penalty, and did not reverse or otherwise disturb the findings of misconduct determined by the HC and affirmed by the ARB.

K. On or about July 1, 1997, Respondent completed and signed an application for reappointment of privileges at The Methodist Hospital in Brooklyn, New York. The application contained the following questions:

c) Are you involved in any pending professional misconduct proceedings or malpractice actions in this or any other State? (Emphasis in original)

d) Are there, within the past ten (10) years, any judgements or settlements or medical malpractice actions or findings of professional misconduct involving you in this or any other State?

Respondent checked the "no" answer to both questions.

L. On or about August 11, 1997, the New York State Department of Social Services (DSS) excluded Respondent from participating in Medicaid for a period of two years. The matter was subsequently resolved on March 4, 1998 by the execution of a Stipulation of Settlement between Respondent and the New York State Department of Health, which succeeded DSS's role as Medicaid auditor.

M. On or about November 7, 1997, Respondent completed and signed an application for credentialing with the Health Insurance Plan of Greater New York (HIP).

The application contained the following questions:

1. Has your license to practice in any jurisdiction every [sic] been denied, restricted, limited, suspended (even if the suspension was stayed) or revoked, either voluntarily or involuntarily?

2. Have you ever been reprimanded, disciplined, counseled or been subject to similar action by any state licensing agency with respect to your license to practice?

\* \* \*

9. Have you ever been reprimanded, censured, excluded, suspended (even if the suspension was stayed), debarred or disqualified from participating in Medicare, Medicaid or any other governmental or quasi-governmental health-related program?

\* \* \*

11. Have any complaints ever been filed against you with a medical society or licensing authority?

Respondent checked the "no" box for each of these questions.

N. On or about January 3, 1998, BMC Consent Order #98-4 was issued, based upon Respondent's executed application therefor, dated December 22, 1997. The Consent Agreement executed by Respondent summarized the entire proceeding before the Bureau of Professional Medical Conduct, including the HC's findings of professional misconduct. Respondent stipulated to be bound by the original penalty imposed by the HC, agreeing that the commencement date of the penalty to be August 21, 1995, the date of the most recent ARB report.

O. On or about July 21, 1999, Respondent completed and signed an application for reappointment of privileges at The Methodist Hospital in Brooklyn, New York. The application contained the following questions:

d) Has your license to practice medicine or dentistry in any jurisdiction ever been suspended, revoked, or voluntarily or involuntarily relinquished?

e) Are there currently or have there been any past challenges to your license to practice medicine or dentistry?

Respondent checked the "no" box to both questions.

**SPECIFICATIONS OF MISCONDUCT**  
**FIRST THROUGH FIFTH SPECIFICATIONS**  
**FRAUD**

Respondent is charged with professional misconduct pursuant to New York Education Law 6530(2) by reason of his practicing the profession of medicine fraudulently, in that Petitioner charges:

1. The facts in paragraphs A, B and C;
2. The facts in paragraphs A, B, D, E, F and G;
3. The facts in paragraphs A, B, D, E, F, H, I, J and K;
4. The facts in paragraphs A, B, D, E, F, H, I, J, L and M; and
5. The facts in paragraphs A, B, D, E, F, H, I, J, N and O.

**SIXTH THROUGH TENTH SPECIFICATIONS**  
**MORAL UNFITNESS**

Respondent is charged with professional misconduct pursuant to New York Education Law 6530(20) by reason of his conduct in the practice of medicine which evidences moral unfitness to practice medicine, in that Petitioner charges:

6. The facts in paragraphs A, B and C;
7. The facts in paragraphs A, B, D, E, F and G;
8. The facts in paragraphs A, B, D, E, F, H, I, J and K;
9. The facts in paragraphs A, B, D, E, F, H, I, J, L and M; and
10. The facts in paragraphs A, B, D, E, F, H, I, J, N and O.

**ELEVENTH THROUGH FIFTEENTH SPECIFICATIONS  
FALSE REPORT**

Respondent is charged with professional misconduct pursuant to New York Education Law 6530 (21) by reason of willfully making and/or filing a false report, or failing to file a report required by law or by the Department of Health or the Education Department, in that Petitioner charges:

11. The facts in paragraphs A, B and C;
12. The facts in paragraphs A, B, D, E, F and G;
13. The facts in paragraphs A, B, D, E, F, H, I, J and K;
14. The facts in paragraphs A, B, D, E, F, H, I, J, L and M; and
15. The facts in paragraphs A, B, D, E, F, H, I, J, N and O.

DATED: August , 2001  
Albany, New York

\_\_\_\_\_  
PETER D. VAN BUREN  
Deputy Counsel  
Bureau of 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. Respondent acknowledges that if he commits professional misconduct as enumerated in New York State Education Law §6530 or §6531, those acts shall be deemed to be a violation of probation and that an action may be taken against Respondent's license pursuant to New York State Public Health Law §230(19).
2. Respondent shall submit written notification to the New York State Department of Health addressed to the Director of the Office of Professional Medical Conduct, New York State Department of Health, 433 River Street, Suite 303, Troy, NY 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. 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].
4. 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.
5. 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 staff at practice locations or OPMC offices.

6. 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.
7. Respondent shall agree not lie, mislead, or otherwise provide any false or misleading answers on any application he may complete associated with the practice of medicine during the probationary period.
8. Respondent shall comply with all terms, conditions, restrictions, limitations and penalties to which he 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.