



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

January 14, 1998

CERTIFIED MAIL-RETURN RECEIPT REQUESTED

John Gomes, M.D.
14 Oxford Boulevard
Garden City, New York 11530

RE: License No. 172007

Dear Dr. Gomes:

Enclosed please find Order #BPMC 98-11 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: Amy Kulb, Esq.
Jacobson and Goldberg
585 Stewart Avenue
Garden City, New York 11530

Marcia Kaplan, Esq.

any associated period of probation and all probation terms have been completed and satisfied. I hereby stipulate that any failure by me to comply with such condition shall constitute misconduct as defined by New York State Education Law §6530(29)(McKinney Supp 1997).

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 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. 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.


JOHN GOMES, M.D.
RESPONDENT

Sworn to before me this

30th day of December, 1997


NOTARY PUBLIC

AMY T. KULB
NOTARY PUBLIC, State of New York
No. 02KU6034728
Qualified in Nassau County
Commission Expires October 17, 1997

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

DATE: 1/7/98

Amy C. Kulb
AMY KULB, ESQ.
Attorney for Respondent

DATE: 1/7/98

Marcia E. Kaplan
MARCIA E. KAPLAN
Associate Counsel
Bureau of Professional
Medical Conduct

DATE: 1/7/98

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

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

**IN THE MATTER
OF
JOHN GOMES, M.D.**

**CONSENT
ORDER**

Upon the proposed agreement of JOHN GOMES, 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 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: 1/8/98



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

EXHIBIT "A"

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

**IN THE MATTER
OF
JOHN GOMES, M.D.**

**STATEMENT
OF
CHARGES**

JOHN GOMES, M.D., the Respondent, was authorized to practice medicine in New York State on or about August 12, 1987, by the issuance of license number 172007 by the New York State Education Department.

FACTUAL ALLEGATIONS

- A. In or about January and February 1995, Respondent prescribed Valium and Ambien to Patient A.
1. Respondent failed to maintain appropriate records documenting the fact that he wrote prescriptions for Valium and Ambien for Patient A and/or the medical indications for those prescriptions.
- B. From in or about September 1994 through in or about October 1995, Respondent provided care and treatment to Patient B.
1. Respondent delayed inappropriately in referring Patient B for "pain counselling".
- C. From in or about October 1988 through in or about December 1995, Respondent provided care and treatment to Patient C.
1. Respondent inappropriately prescribed medications including narcotics to Patient C.

2. Respondent failed to maintain appropriate records documenting the fact that he wrote prescriptions for controlled substances including Demoral and Stadol for Patient C and/or the medical indications for those prescriptions.
- D. On or about March 8, 1995 and/or on or about April 9, 1995, Respondent prescribed Vicodin to Patient D.
1. Respondent failed to maintain appropriate records documenting the fact that he wrote prescriptions for Vicodin, a controlled substance, for Patient D and/or the medical indications for those prescriptions.
- E. Respondent treated Patient F from in or about September 1993 through in or about January 1995.
1. Respondent failed to maintain appropriate records documenting the fact that he wrote prescriptions for Fioricet, Xanax, Ambien and Effexor, controlled substances, for Patient F and/or the medical indications for those prescriptions.
- F. On or about April 24, 1992, Respondent circumcised Patient E.
1. Respondent failed to properly identify the baby he was authorized to circumcise and proceeded to circumcise Patient E instead of his intended patient.

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)(McKinney Supp. 1997) by practicing the profession of medicine with negligence on more than one occasion as alleged in the facts of two or more of the following:

1. Paragraphs A and A.1, and/or B and B.1, and/or C and C.1 and/or C.2, and/or D and D.1, and/or E and E.1 and/or F and F.1.

SECOND SPECIFICATION

INCOMPETENCE ON MORE THAN ONE OCCASION

Respondent is charged with committing professional misconduct as defined in N.Y. Educ. Law §6530(5)(McKinney Supp. 1997) by practicing the profession of medicine with incompetence on more than one occasion as alleged in the facts of two or more of the following:

2. Paragraphs A and A.1, and/or B and B.1, and/or C and C.1 and/or C.2, and/or D and D.1, and/or E and E.1 and/or F and F.1.

THIRD SPECIFICATION

FAILURE TO MAINTAIN RECORDS

Respondent is charged with committing professional misconduct as defined in N.Y. Educ. Law §(32)(McKinney Supp. 1997) by failing to maintain a record for each patient which accurately reflects the care and treatment of the patient, as alleged in the facts of:

3. Paragraphs A and A.1, and/or C and C.2 and/or D and D.1 and/or E and E.1.

DATED: December , 1997
New York, New York

ROY NEMERSON
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.
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. 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 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 25%) of records maintained by Respondent, including patient records, prescribing information and office records. After one year of satisfactory practice monitor reports, the frequency of medical record reviews by the practice monitor may be reduced at the sole discretion of the Director of OPMC. 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 enroll in and complete "A Mini-Residency in the Proper Prescribing of Controlled Dangerous Substances," a program co-sponsored by Kennedy Memorial Hospital, New Jersey, and Forensic and Educational Consultants, or an equivalent program proposed by Respondent and subject to the prior written approval of the Director. Respondent shall complete the course or program within the first year of the effective date of this Order, unless the Director of OPMC approves an extension in writing.
10. Respondent shall continue in counseling or other therapy with a therapist as long as the therapist determines is necessary, or for the period of time dictated in the Order. The therapist shall submit quarterly reports to OPMC providing any and all information requested by the Director of OPMC.
11. Respondent shall comply with any request from OPMC to obtain an independent comprehensive psychiatric evaluation by a health care professional proposed by the Respondent and approved, in writing, by the Director of OPMC, and shall thereafter comply with the treatment recommendations of the evaluating health care professional, as directed by the Director of OPMC.

12. Respondent shall comply with all terms, conditions, restrictions, limitations and penalties to which he or 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.