



New York State Board for Professional Medical Conduct

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

Richard F. Daines, M.D.
*Commissioner
NYS Department of Health*

Keith W. Servis
*Director
Office of Professional Medical Conduct*

Public

Kendrick A. Sears, M.D.
Chair

Michael A. Gonzalez, R.P.A.
Vice Chair

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

April 20, 2007

CERTIFIED MAIL-RETURN RECEIPT REQUESTED

Sunday Asaju, M.D.
2212 Genesee Street
Utica, NY 13502

Re: License No. 173105

Dear Dr. Asaju:

Enclosed is a copy of Order #BPMC 07-77 of the New York State Board for Professional Medical Conduct. This order and any penalty provided therein goes into effect April 27, 2007.

If the penalty imposed by this Order is a surrender, revocation or suspension, you are required to deliver your license and registration within five (5) days of receipt of this Order to the Board for Professional Medical Conduct, New York State Department of Health, 433 River Street, Suite 303, Troy, NY 12180.

Sincerely,

Ansel R. Marks, M.D., J.D.
Executive Secretary
Board for Professional Medical Conduct

Enclosure

cc: James D. Lantier, Esq.
Smith, Sovik, Kendrick & Sugnet, P.C.
250 S. Clinton Street, Suite 600
Syracuse, NY 13202-1140

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

**IN THE MATTER
OF
SUNDAY ASAJU, M.D.**

CONSENT
ORDER

BPMC No. #07-77


Upon the proposed agreement of **SUNDAY ASAJU, M.D.** 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 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 application 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: 4-19, 2007


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

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

Except during periods of actual suspension, Respondent shall maintain current registration of his 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 this order and will continue while the licensee possesses his/her license; and

Respondent shall 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 order and will continue while the licensee possesses his/her license.

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

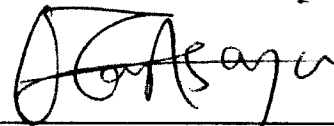
I understand that, in the event that this application is not granted by the Board, nothing contained herein shall be binding upon me or construed to be an admission of any act of misconduct alleged or charged against me, such application shall not be used against me in any way and shall be kept in strict confidence. Denial of this application 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 the order shall be effective upon issuance by the Board, which may be accomplished by mailing, by first class mail, a copy of the 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 order for which I hereby apply, whether administratively or judicially, and ask that the application be granted.

AFFIRMED:

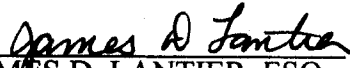
DATED *March 5*, 2007




SUNDAY ASAJU, M.D.

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

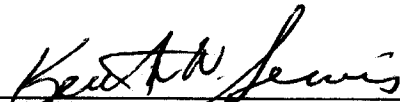
DATE: *March 27*, 2007


JAMES D. LANTIER, ESQ.
Attorney for Respondent

DATE: *4/11*, 2007


KEVIN C. ROE
Associate Counsel
Bureau of Professional
Medical Conduct

DATE: *4/18*, 2007


KEITH W. SERVIS
Director
Office of Professional
Medical Conduct

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

IN THE MATTER
OF
SUNDAY ASAJU, M.D.

STATEMENT
OF
CHARGES

SUNDAY ASAJU, M.D., the Respondent, was authorized to practice medicine in New York State on or about November 30, 1987, by the issuance of license number 173105 by the New York State Education Department.

FACTUAL ALLEGATIONS

- A. Respondent treated Patient A at his office, 2212 Genesee Street, Utica New York, and Faxton-St. Luke's Healthcare, Utica, New York, from on or about March 23, 2005 to on or about July 3, 2005. Respondent's care and treatment of Patient A failed to meet acceptable standards of medical care, in that:
1. Respondent failed to order and/or obtain serial HCG testing in a timely manner.
 2. Respondent failed to diagnose postmolar gestational trophoblastic disease in a timely manner.
 3. Respondent failed to order and/or obtain ultrasound evaluation in a timely manner.
 4. Respondent failed to schedule and/or perform laparoscopy in a timely manner.

SPECIFICATION

NEGLIGENCE ON MORE THAN ONE OCCASION

Respondent is charged with negligence on more than one occasion in violation of New York Education Law §6530(3) in that, Petitioner charges two or more of the following: The facts in Paragraphs A and A.1 and/or A.2 and/or A.3 and/or A.4.

DATED: *April 10*, 2007

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/her 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. 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.
4. 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.
5. 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.
6. Beginning thirty days after the effective date of this order, 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 random selection of no less than 25 records maintained by Respondent, including patient records, prescribing information, hospital and office records. 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 monthly during the first six months of probation and then quarterly 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.

7. Respondent shall obtain 30 hours of Continuing Medical Education in a course approved by the Director of OPMC during the period of probation.
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 law.