



Board for Professional Medical Conduct

Corning Tower • Empire State Plaza • Albany, NY 12237 • (518) 474-8357

Mark R. Chassin, M.D., M.P.P., M.P.H.
Commissioner

C. Maynard Guest, M.D.
Executive Secretary

April 29, 1994

CERTIFIED MAIL-RETURN RECEIPT REQUESTED

Jamal Mustafa, M.D.
660 East 98th Street
Brooklyn, New York 11236

RE: License No. 181557
Effective Date: 5/6/94

Dear Dr. Mustafa:

Enclosed please find Order #BPMC 94-56 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
Empire State Plaza
Tower Building-Room 438
Albany, New York 12237-0756

Sincerely,

C. Maynard Guest, M.D.
Executive Secretary
Board for Professional Medical Conduct

Enclosure

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

-----X

IN THE MATTER :
OF : ORDER
JAMAL D. MUSTAFA, M.D. : BPMC #94-56

-----X

Upon the application of JAMAL D. MUSTAFA, 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: 21 April 1994

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
: APPLICATION
IN THE MATTER :
: FOR
OF :
: CONSENT
JAMAL D. MUSTAFA, M.D. :
: ORDER
-----X

~~STATE OF MARYLAND~~)
District of Columbia) ss.:
~~COUNTY OF~~)

JAMAL D. MUSTAFA, M.D., being duly sworn, deposes and
says:

On or about February 23, 1990, I was authorized to practice
medicine in the State of New York, having been issued License
No. 181557 by the New York State Education Department. I am not
currently registered with the New York State Education
Department to practice in the State of New York. I was last
registered for the period February 23, 1990 through December 31,
1992 from 660 East 98th Street, Brooklyn, New York 11236.

I understand that the New York State Board for Professional
Medical Conduct has charged me with three Specification 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 Factual Allegations in Paragraphs A, B, C, and thus to the First and Second Specifications of misconduct. I also admit guilt to the Factual Allegations in Paragraph D and in Paragraph E (to the extent that my conduct would have constituted a violation of N.Y. Educ. Law section 6530(21)), and thus to the Third Specification of Misconduct. These admissions are made in full satisfaction of the charge against me.

I hereby agree to the following penalty:

- a. My license to practice medicine shall be suspended for one year, with such suspension to be stayed;
- b. I shall be placed on probation subject to the Terms of Probation attached hereto as Exhibit "B".

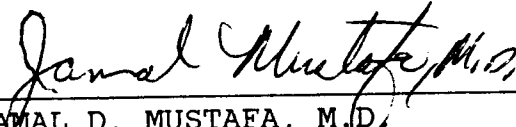
I hereby make this Application to the State Board for Professional Medical Conduct (the Board) and request that it be granted.

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.



JAMAL D. MUSTAFA, M.D.
RESPONDENT

Sworn to before me this
15th day of April, 1994.



NOTARY PUBLIC

My Commission Expires May 14, 1996

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

-----X
: APPLICATION
IN THE MATTER :
: FOR
OF :
: CONSENT
JAMAL D. MUSTAFA, M.D. :
: 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: 4-15-94

Jamal Mustafa, M.D.
JAMAL D. MUSTAFA, M.D.
RESPONDENT

Date: 15 April, 1994

Judith D. Hammerschmidt
DICKSTEIN, SHAPIRO & MORIN
BY JUDITH HAMMERSCHMIDT
SEENA GRESSIN
ATTORNEYS FOR RESPONDENT

Date: 4/18/94

M. A. Hiser
MICHAEL A. HISER
ASSOCIATE COUNSEL
BUREAU OF PROFESSIONAL
MEDICAL CONDUCT

Date: 27 April 1994

Kathleen M. Tanner
for KATHLEEN M. TANNER
DIRECTOR
OFFICE OF PROFESSIONAL
MEDICAL CONDUCT

Date: 21 April 1994

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 : STATEMENT
OF : OF
JAMAL D. MUSTAFA, M.D. : CHARGES
-----X

JAMAL D. MUSTAFA, M.D., the Respondent, was authorized to practice medicine in New York State on February 23, 1990 by the issuance of license number 181557 by the New York State Education Department. The Respondent is not currently registered with the New York State Education Department to practice medicine. He was initially registered to practice medicine for the period February 23, 1990 through December 31, 1992 from 660 East 98th Street, Brooklyn, New York 11236.

FACTUAL ALLEGATIONS

A. By Letter of Surrender in Case Number 93-0374, signed by Respondent on December 15, 1992, and accepted by the Maryland Board of Physician Quality Assurance (hereafter, "Maryland Board") on December 22, 1992, Respondent voluntarily surrendered his license to practice medicine in the State of Maryland. The Letter of Surrender was prompted by the Respondent's desire to

avoid being charged under the Maryland Medical Practice Act, Maryland Health Occupations Code Ann. §14-404 (1991 Repl. Volume).

B. On or about December 28, 1993, the Maryland Board issued a Final Order in Case Number 93-0374, reinstating Respondent's license to practice medicine in Maryland. The reinstatement was subject to Respondent's compliance with the conditions of a Non-Public Consent Order. The Final Order also made findings of fact that Respondent had violated Maryland Health Occ. Code Ann. §14-404(a)(8) and (21) (1991 Replacement Volume). Under §14-404(a)(8), Respondent was found to be "addicted to, or habitually use, any narcotic or controlled dangerous substance as defined in Article 27 of the Code".

C. The conduct upon which the finding of improper professional practice or professional misconduct regarding Respondent's medical license in the State of Maryland was based would, if committed in New York State, constitute professional misconduct under the laws of New York State, specifically, N.Y. Educ. Law §6530(8) (being a habitual abuser of narcotics, barbiturates, amphetamines, hallucinogens, or other drugs having similar effects), and §6530(20) (conduct in the practice of medicine which evidences moral unfitness to practice medicine).

D. On or about May 15, 1992, the Medical Examining Board of the State of Wisconsin (hereafter, "Wisconsin Board") issued an Order In the Matter of The Application For a License of Jamal

D. Mustafa, M.D. The Wisconsin Board denied Respondent's application for a license to practice medicine in Wisconsin. The basis for the denial was that Respondent falsely answered "No" to the question of whether he had ever failed to pass any FLEX examination, in violation of Wisconsin Administrative Code sec. Med. 10.02(2)(c). In fact, Respondent had failed to pass the FLEX examination on four (4) occasions.

E. The conduct resulting in the denial of the Respondent's application to practice medicine in Wisconsin would, if committed in New York State, constitute professional misconduct under the laws of New York State, specifically, N.Y. Educ. Law §6530(2) (practicing the profession fraudulently), §6530(16) (a wilful or grossly negligent failure to comply with substantial provisions of federal, state, or local laws, rules, or regulations governing the practice of medicine), §6530(20) (conduct in the practice of medicine which evidences moral unfitness to practice medicine), and §6530(21) (wilfully making or filing a false report required by law).

SPECIFICATION OF CHARGES

HAVING BEEN FOUND GUILTY OF IMPROPER
PROFESSIONAL PRACTICE OR
PROFESSIONAL MISCONDUCT

Respondent is charged with having been found guilty of improper professional practice or professional misconduct by a duly authorized disciplinary agency of another state, under N.Y. Educ. Law §6530(9)(b) (McKinney Supp. 1994), where the conduct upon which the finding was based would, if committed in New York State, constitute professional misconduct under the laws of New York State, in that Petitioner charges:

1. The facts in Paragraphs A and/or B and/or C.

SECOND SPECIFICATION

HAVING DISCIPLINARY ACTION TAKEN BY A
DULY AUTHORIZED PROFESSIONAL DISCIPLINARY
AGENCY OF ANOTHER STATE (VOLUNTARY SURRENDER)

Respondent is charged with having voluntarily surrendered his license to practice medicine after a disciplinary action was instituted by a duly authorized disciplinary agency of another state, under N.Y. Educ. Law §6530(9)(d) (McKinney Supp. 1994), where the conduct resulting in the surrender of the license would, if committed in New York state, constitute professional misconduct under the laws of New York state, in that Petitioner charges:

2. The facts in Paragraphs A and/or B and/or C.


THIRD SPECIFICATION

HAVING APPLICATION FOR LICENSE REFUSED

Respondent is charged with having his application for a license refused, under N.Y. Educ. Law §6530(9)(d) (McKinney Supp. 1994), where the conduct resulting in the refusal would, if committed in New York state, constitute professional misconduct under the laws of New York state, in that Petitioner charges:

3. The facts in Paragraphs D and E.

DATED: Albany, New York
March 16, 1994



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

EXHIBIT "B"

TERMS OF PROBATION

- a. JAMAL D. MUSTAFA, 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;
- b. 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;
- c. 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;
- d. 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;
- e. Respondent shall comply with all terms, conditions, restrictions, and penalties to which he is subject pursuant to the order of the Board;
- f. 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).

- g. Respondent warrants that he is presently subject to conditions of probation imposed by the State of Maryland's State Board of Physician Quality Assurance ("Maryland Board") pursuant to a public Final Order in Case Number 93-0374. The conditions of probation are set forth in a non-public Consent Order executed simultaneously with the public Final Order referred to above. Respondent is required to abide by those conditions of probation for a period of five years, beginning May 10, 1993, and ending May 9, 1998. Respondent has provided the Director, OPMC, with a copy of the non-public Order. Respondent warrants he is in compliance with all terms of the non-public Order.
- h. Respondent agrees to abide by the terms of probation of the Public and non-public portion of the Maryland Order and to send all reports he is required to file with or make to the Maryland Board and/or Medical Society of the District of Columbia regarding his compliance with the conditions of probation, to the Director of OPMC. Respondent also agrees to send all other reports he is required to make, from whatever source, including reports of monitors and lab reports, to the Director of OPMC at the same time the reports are sent to the Maryland Board and/or the Medical Society of the District of Columbia. Respondent will apprise the Director of OPMC of the status of his compliance with the Maryland probation semi-annually during the five years the conditions are in effect, beginning six (6) months after the date of this Consent Order.
- i. If Respondent relocates his practice of medicine to New York State before May 9, 1996, he will be required to comply with the monitoring provisions set out below in paragraphs (1) - (5), until May 9, 1998. If Respondent relocates his practice to New York State on or after May 9, 1996, then for a period of 2 years after such relocation (as measured from the time Respondent commences such work in New York), Respondent will be required to comply with the following monitoring provisions:
- (1) He will remain drug and alcohol free.
 - (2) His sobriety will be monitored by a health care professional, who shall supervise his compliance with these probationary terms. The monitor will be subject to the approval of the Director of OPMC. Said monitor shall acknowledge his/her willingness to comply with the monitoring by executing an acknowledgement provided by the Office of Professional Medical Conduct.

- i. Said monitor shall be familiar with his history of drug abuse, and with the terms of probation contained in or annexed to this Order. Said monitor shall not be his treating physician.
 - ii. Said monitor shall see him at least twice during a quarter.
 - iii. Said monitor shall direct him to submit to unannounced tests of his blood, breath, and/or urine for the presence of drugs or alcohol and shall report to the Office of Professional Medical Conduct (the Office) within 24 hours if at any time such a test is refused by him or is positive.
 - iv. Said monitor shall report to the Office a pattern of noncompliance with the terms of probation.
 - v. Said monitor shall not be a personal friend.
 - vi. Said monitor shall submit to the Office quarterly reports either certifying his compliance, or detailing his failure to comply, with each of the terms of probation. The reports shall include the results of all body fluid and/or breath tests for drugs and/or alcohol performed during that quarter.
- (3) He will be supervised in his medical practice by a licensed physician who shall be familiar with his history of drug abuse. Said supervising physician shall be in a position regularly to observe and assess his medical practice. The supervising physician will be subject to the approval of the Director of OPMC. Said supervising physician shall acknowledge their willingness to comply with this supervision by executing an acknowledgement provided by the Office of Professional Medical Conduct.
- i. Said supervising physician shall have the authority to direct Respondent to submit to unannounced tests of his blood, breath, and/or urine for the presence of drugs or alcohol and shall report to the office within 24 hours if at any time such a test is refused by him or is positive.
 - ii. Said supervising physician shall submit to the Office quarterly reports regarding the quality of his medical practice, any

unexplained absences from work and certifying his compliance or detailing his failure to comply with each term of probation.

- (4) Respondent will continue in treatment with a health care professional or a treatment program for as long the health care professional or treatment program determines it is necessary. The health care professional shall be subject to the approval of the Director of OPMC.
- i. His treating health care professional or program shall submit to the Office quarterly reports certifying that Respondent is complying with the treatment.
 - ii. Said treating health care professional or program shall report to the Office immediately if he drop out of treatment.
 - iii. Said treating health care professional or program shall report to the Office any significant pattern of absences.
 - iv. Said treating health care professional or program shall acknowledge his/her/its willingness to comply with the above-mentioned reporting by executing an acknowledgment provided by the Office of Professional Medical Conduct.
- (5) Respondent agrees that the costs of complying with all such terms will be his responsibility. He understands that any failure to comply with the terms of probation or limitations, may result in disciplinary action being brought against him charging professional misconduct as defined by the New York State Education Law, including but not limited to N.Y. Educ. Law section 6530(29) (McKinney Supp. 1994). That section defines professional misconduct to include "(V)IOLATING ANY TERM OF PROBATION OR CONDITION OR LIMITATION imposed on the licensee pursuant to section two hundred thirty of the public health law." (Emphasis added.)

J. 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.