



New York State Board for Professional Medical Conduct

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

October 10, 2002

CERTIFIED MAIL-RETURN RECEIPT REQUESTED

Louis C. Marotta, M.D.
24 Hunter Avenue
Glens Falls, NY 12801

**RE: Modification of Consent Order
BPMC No. 98-87**

Dear Dr. Marotta

A Committee of the Board for Professional Medical Conduct has granted your request for a modification of the terms of your May 18, 1998 Consent Order.

This **Modification of Consent Order** became effective September 27, 2002.

Sincerely,

Ansel R. Marks, MD, JD
Executive Secretary

Board for Professional Medical Conduct

Enclosure

cc: Sharif Mahdavian
36 West 44th Street Suite 1205
New York NY 10036

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

IN THE MATTER

MODIFICATION

OF

OF

LOUIS MAROTTA, M.D.

CONSENT ORDER
BPMC No. 98-87

This matter was brought to the New York State Board for Professional Medical Conduct (Board) for decision at the request of Louis Marotta, M.D., (Petitioner), License No. 186279. Petitioner entered into a Consent Order BPMC No. 98-87 effective May 18, 1998. The Order suspended Petitioner's license to practice medicine for a minimum period of six months. The purpose of the proceeding was to determine whether this suspension was to be stayed upon the satisfaction of a Committee of the Board for Professional Medical Conduct that Petitioner, among other things, has successfully completed a course of therapy prescribed by the Board which includes a determination that Petitioner is no longer incapacitated for active practice and that he is both fit and competent to practice medicine.

A meeting of the Committee was held in the above-entitled proceeding on June 21, 2002. Petitioner appeared with his attorney, Sharif Mahdavian, Esquire, before a Committee of the State Board for Professional Medical Conduct consisting of Daniel W. Morrissey, O.P., Chair, Walter M. Farkas, M.D. and Margaret H. McAloon, M.D. The Committee determined, by unanimous decision, after careful consideration of all evidence submitted to them prior to the meeting and the testimony provided, that the suspension of Petitioner's license shall be stayed and he shall be allowed to practice medicine subject to the following conditions.

THEREFORE, IT IS HEREBY ORDERED THAT:

Petitioner's return to practice is subject to the following conditions. Unless otherwise indicated, these conditions shall remain in effect for a period of probation lasting **eight (8) years** from the effective date of this Order.

1. Prior to the resumption of any clinical practice of medicine, Petitioner shall obtain a clinical competency assessment performed by a program for such assessment as directed by the Director of OPMC. Petitioner shall cause a written report of such assessment to be provided directly to the Director of OPMC. Petitioner shall comply with any and all recommendations for personalized continuing medical education as directed by OPMC. Petitioner shall not engage in the clinical practice of medicine until he has obtained the clinical competency evaluation and has successfully completed any directed continuing medical education. Petitioner shall not commence the clinical practice of medicine without prior written approval from the Director of OPMC.

2. The period of probation, including some or all of the terms and conditions described herein, may be tolled, at the discretion of the Director, during periods in which the Petitioner is not engaged in the active practice of medicine in New York State. Petitioner shall notify the Director of OPMC, in writing, if he 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. Petitioner shall not resume the practice of medicine in New York State without the approval of the Director and shall comply with any requests from the Director necessary for such approval. The period of probation shall resume and any terms of probation, which were not fulfilled, shall be fulfilled upon Petitioner's return to practice in New York State.

3. Petitioner shall remain free from alcohol and all other mood altering substances other than those prescribed for Petitioner's treatment by a licensed physician aware of Petitioner's history. **Petitioner shall not self-prescribe any medications.**

4. Petitioner shall be monitored by a qualified health care professional (Sobriety Monitor) proposed by Petitioner and approved in writing by the Director of the Office of Professional Medical Conduct (OPMC). The Sobriety Monitor is to be familiar with Petitioner's history of chemical

dependency, mental illness and with the terms of this Order. Petitioner shall submit the name of a proposed successor within seven (7) days of learning that the approved Sobriety Monitor is no longer willing or able to serve.

- a. The Sobriety Monitor shall oversee Petitioner's compliance with the terms and conditions imposed herein and shall cause to be performed forensically valid, random, directly observed, unannounced blood, saliva, breath and/or urine tests for the presence of alcohol and other drugs in Petitioner. Petitioner must be specifically tested for the presence of amphetamines. **Petitioner shall be screened no less than four (4) times per month until he resumes the active practice of medicine. Upon the resumption of active practice, Petitioner shall be screened no less than eight (8) times per month for the first year of practice. The Petitioner shall be called on a seven day a week basis. For the duration of the Order, at least one drug screen per month must be performed on a Saturday or Sunday. After the first year of practice, if Petitioner has been fully compliant with this Order, a request for a reduction in the number of screenings may be submitted for approval in writing by the Director of OPMC.**
- b. The Sobriety Monitor shall notify OPMC immediately if Petitioner refuses such a test.
- c. **The Sobriety Monitor shall notify OPMC immediately if such a test reveals, or if the monitor otherwise learns, the Petitioner is not alcohol/drug free.**
- d. Every three (3) months, the Sobriety Monitor shall submit to OPMC a report certifying compliance with each of the terms of this Order or describing in detail any failure to comply. The quarterly reports shall include forensically valid results of all tests for the presence of alcohol and other drugs performed during that quarter.

- e. Petitioner shall report to the Sobriety Monitor **within four (4) hours** of being contacted by the Sobriety Monitor to submit a blood, saliva, breath and/or urine test.
- f. Petitioner shall avoid all substances that may cause positive results such as poppy seeds/mouthwash/cough medication. **Any positive result will be considered a violation of this Order.**
- g. If Petitioner is to be unavailable for sobriety monitoring for a period of 15 days or more, Petitioner shall notify his Sobriety Monitor and seek and receive prior written permission from the Director of OPMC subject to any additional terms and conditions required by the OPMC.
5. Contingent upon Petitioner's compliance with Term # 1 of this Order, the Committee approves the Petitioner's practice proposal for his return to practice at Mineville Health Center. For practice in any other setting, Petitioner must submit a new practice proposal, in writing, for approval by the Director of OPMC.
6. **Petitioner shall be restricted to a limited number of clinical hours per week. This restriction shall be twenty-four (24) hours per week for the first six (6) months of practice.** After that time, Petitioner's clinical hours may be increased at the discretion of the Practice Supervisor with written approval from the Director of OPMC.
7. Petitioner must maintain a log of all controlled substances he prescribes. This log must be made available to the Petitioner's Practice Supervisor or the Director of OPMC upon request.
8. Petitioner shall be supervised in his practice by a licensed physician (Practice Supervisor) proposed by Petitioner and approved in writing by the Director of OPMC. The Practice Supervisor is to

be familiar with Petitioner's history of chemical dependency, mental illness and with the terms of this Order.

- a. The Practice Supervisor shall establish the capability of doing a "stat" toxicological screen on Petitioner in response to any complaint or observation that indicates Petitioner may not be drug or alcohol free
- b. The Practice Supervisor shall oversee the Petitioner's prescribing, administering, dispensing, inventory and wasting of controlled substances.
- c. The Practice Supervisor must review the charts of all patients to which the Petitioner prescribes a controlled substance. The Practice Supervisor must provide documentation to OPMC, in a format approved by OPMC, that the controlled substances prescribed for each individual was indicated and appropriate.
- d. The Practice Supervisor shall immediately report any suspected impairment, inappropriate behavior, questionable medical practice or possible misconduct to OPMC.
- e. The Practice Supervisor shall notify OPMC immediately if Petitioner violates any term(s) of this Order
- f. The Practice Supervisor shall submit a report to OPMC every three (3) months regarding the quality of Petitioner's practice, any unexplained absences from work, and Petitioner's compliance or failure to comply with each condition described within this Order.

9. Petitioner shall continue in treatment with qualified health care professionals (Psychiatrist and Group Therapy) proposed by Petitioner and approved in writing by the Director of OPMC. The Therapists are to be familiar with the Petitioner's history of chemical dependency, mental illness and the terms of this Order. Petitioner will continue in treatment with the Therapists for the duration of the Order, at a frequency of therapy visits to be decided by the Therapists. Petitioner shall submit the name of a proposed successor within seven (7) days of becoming aware that an approved Therapist is no longer willing or able to serve in that capacity.

a. The Therapists shall submit reports to OPMC every three (3) months certifying compliance with treatment by Petitioner and describing in detail any failure to comply.

b. The Therapists shall report immediately to OPMC any significant pattern of absences or failure to comply with recommended treatment by Petitioner.

10. The Director of OPMC shall reserve the authority to direct the Petitioner to undergo an independent evaluation by a practitioner approved by the Director of OPMC who specializes in alcohol/chemical dependency issues and/or mental illness. The Petitioner shall provide the evaluator with copies of all previous treatment records and a copy of this Order. Reports of such evaluations shall be submitted promptly to the Director. Petitioner shall follow treatment recommendations made by the evaluator. If the evaluator determines that the Petitioner is not fit to practice, the Petitioner shall immediately cease practice until it is determined she is fit to resume practice. Failure to comply with treatment recommendations will be considered a violation of this Order.

11. Petitioner shall continue participation in self-help fellowship (e.g., AA, Caduceus, other). Petitioner shall maintain an ongoing relationship with a sponsor.

12. Petitioner shall inform all physicians or other health care practitioners from whom Petitioner seeks treatment of Petitioner's history of chemical dependency and mental illness. Should Petitioner be prescribed any controlled or mood-altering substances, Petitioner shall notify the Sobriety Monitor and the Director of OPMC before such medications are administered.

13. The Director of OPMC shall reserve the right to conduct on-site review of Petitioner's office, office records, hospital practice and hospital records at least semi-annually. These reviews will include a review of Petitioner's prescribing practices.

14. Petitioner shall maintain legible and complete medical records that accurately reflect the evaluation and treatment of patients. The medical records shall contain all information required by State rules and regulations regarding controlled substances.

15. Petitioner 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.

16. Petitioner shall comply with all terms, conditions, restrictions and limitations to which he is subject pursuant to the Order and shall assume and bear all costs related to compliance of the Order. 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 Petitioner as may be authorized pursuant to the law.

17. Petitioner shall provide the Director of OPMC with the following information and shall ensure that such information is kept current: a full description of Petitioner's employment and practice; all professional and residential addresses and telephone numbers within and outside New York State; and

all investigations, charges, convictions or disciplinary actions by any local, state or federal agency, institution or facility, within thirty (30) days of each action.

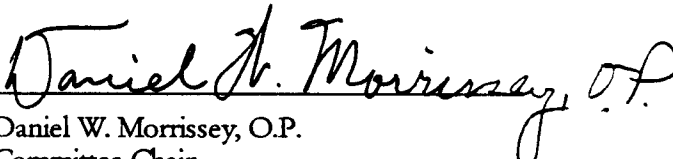
18. Petitioner shall fully cooperate with and respond in a timely manner to requests from OPMC to provide written periodic verification of Petitioner's compliance with the terms of this Order. Petitioner shall personally meet with a person designated by the Director of OPMC as requested by the Director.

As Petitioner agreed in the Consent Order, failure to comply with any of the conditions described above may result in disciplinary action.

This Order shall be effective upon issuance.

Dated: Troy, NY

September 27, 2002


Daniel W. Morrissey, O.P.
Committee Chair
State Board for Professional Medical Conduct