



**Department
of Health**

ANDREW M. CUOMO
Governor

HOWARD A. ZUCKER, M.D., J.D.
Commissioner

SALLY DRESLIN, M.S., R.N.
Executive Deputy Commissioner

October 23, 2017

CERTIFIED MAIL-RETURN RECEIPT REQUESTED

Mukesh Garg, M.D.


Re: License No. 258080

Dear Dr. Garg:

Enclosed is a copy of the New York State Board for Professional Medical Conduct (BPMC) Order No. 17-302. This order and any penalty provided therein goes into effect October 30, 2017.

Please direct any questions to: Board for Professional Medical Conduct, Riverview Center, 150 Broadway, Suite 355, Albany, New York 12204, telephone # 518-402-0846.

Sincerely,


Robert A. Catalano, M.D.
Executive Secretary
Board for Professional Medical Conduct

Enclosure

cc: Amy T. Kulb, Esq.
Jacobson, Goldberg & Kulb, LLP.
585 Stewart Avenue, Suite 720
Garden City, New York 11530

**IN THE MATTER
OF
MUKESH GARG, M.D.**

**CONSENT
ORDER**

Upon the application of (Respondent) MUKESH GARG, M.D. in the attached Consent Agreement and Order, which is made a part of this Consent Order, it is

ORDERED, that the Consent Agreement, and its terms, are adopted and

It is further

ORDERED, that this Consent Order shall be effective upon issuance by the Board,

either

by mailing of a copy of this Consent Order, either by first class mail to Respondent at the address in the attached Consent Agreement or by certified mail to Respondent's attorney, OR

upon facsimile transmission to Respondent or Respondent's attorney,

whichever is first.

SO ORDERED.

DATE: 10/21/2017


ARTHUR S. HENGERER, 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
MUKESH GARG, M.D.**

**CONSENT
AGREEMENT**

MUKESH GARG, M.D., represents that all of the following statements are true:

That on or about July 29, 2010, I was licensed to practice as a physician in the State of New York, and issued License No. 258080 by the New York State Education Department.

My current address is [REDACTED], and I will advise the Director of the Office of Professional Medical Conduct of any change of address.

I understand that the New York State Board for Professional Medical Conduct (Board) has charged me with one or more specifications of professional misconduct, as set forth in a Statement of Charges, marked as Exhibit "A", attached to and part of this Consent Agreement.

I agree not to contest the allegations, in full satisfaction of the charges against me, and agree to the following penalty:

Pursuant to New York Pub. Health Law § 230-a(2), my license to practice medicine in New York State shall be suspended for One (1) Year, with suspension stayed.

Pursuant to N.Y. Pub. Health Law § 230-a(9), I shall be placed on probation for 5 (Five) years, subject to the terms set forth in attached Exhibit "B."

I further agree that the Consent Order shall impose the following conditions:

Respondent shall comply fully with the April 4, 2016, Settlement Agreement between the Missouri State Board of Registration for the Healing Arts and Mukesh Garg, M.D. and any extension or modification thereof.

Respondent shall provide a written authorization for the Missouri State Board of Registration for the Healing Arts to provide the Director of OPMC with any/all information or documentation as requested by OPMC to enable OPMC to determine whether Respondent is in compliance with the Missouri Settlement Agreement.

Respondent, by making this application, asserts that Respondent does not currently practice medicine in New York State or in any setting or jurisdiction where that practice is predicated upon Respondent's New York State medical license ("New York Practice"). As a Condition of this Order, should Respondent decide to resume practicing medicine in New York, Respondent shall, before beginning such practice, provide 90 days advance written notice to the Director of OPMC.

Respondent may not begin practicing medicine in New York until after Respondent

receives the Director's written acknowledgment that this Condition has been satisfied, and Respondent shall be subject to any further Conditions the Director may impose upon Respondent's New York Practice based on matters underlying this Consent Agreement and/or any circumstances or information known to the Director at the time of Respondent's proposed return to New York Practice. Respondent, by making this Application, stipulates that the Director shall be authorized in his or her sole discretion to impose whatever further Conditions the Director deems appropriate upon Respondent's return to practice in New York, and Respondent further stipulates that Respondent's failure to comply with these Conditions shall constitute misconduct as defined by N.Y. Educ. Law § 6530(29).

That Respondent shall comply with each and every penalty imposed by this Order pursuant to N.Y. Pub. Health Law § 230-a.

That Respondent shall remain in continuous compliance with all requirements of N.Y. Educ. Law § 6502 including but not limited to the requirements that a licensee shall register and continue to be registered with the New York State Education Department (except during periods of actual suspension) and that a licensee shall pay all registration fees. Respondent shall not exercise the option provided in N.Y. Educ. Law § 6502(4) to avoid registration and payment of fees. This condition shall take effect 120 days after the Consent Order's effective date and will continue so long as Respondent remains a licensee in New York State; and

That Respondent shall remain in continuous compliance with all requirements of N.Y. Pub. Health Law § 2995-a(4) and 10 NYCRR 1000.5, including but not limited to the requirements that a licensee shall: report to the department all information required by the Department to develop a public physician profile for the licensee; continue to notify the department of any change in profile information within 30 days of any change (or in the case of optional information, within 365 days of such change); and, in addition to such periodic reports and notification of any changes, update his or her profile information within six months prior to the expiration date of the licensee's registration period. Licensee shall submit changes to his or her physician profile information either electronically using the department's secure web site or on forms prescribed by the department, and licensee shall attest to the truthfulness, completeness and correctness of any changes licensee submits to the department. This condition shall take effect 30 days after the Order's effective date and shall continue so long as Respondent remains a licensee in New York State. Respondent's failure to comply with this condition, if proven and found at a hearing pursuant to N.Y. Pub. Health Law § 230, shall constitute professional misconduct as defined in N.Y. Educ. Law § 6530(21) and N.Y. Educ. Law § 6530(29). Potential penalties for failure to comply with this condition may include all penalties for professional misconduct set forth in N.Y. Pub. Health Law § 230-a, including but not limited to: revocation or suspension of license, Censure and Reprimand,

probation, public service and/or fines of up to \$10,000 per specification of misconduct found; and

That Respondent shall provide the Director, Office of Professional Medical Conduct (OPMC), Riverview Center, 150 Broadway, Suite 355, Albany, New York 12204-2719, with the following information, in writing, and ensure that this information is kept current: a full description of Respondent's employment and practice; all professional and residential addresses and telephone numbers within and outside New York State; and all investigations, arrests, charges, convictions or disciplinary actions by any local, state or federal agency, institution or facility. Respondent shall notify OPMC, in writing, within 30 days of any additions to or changes in the required information. This condition shall take effect 30 days after the Order's effective date and shall continue at all times until Respondent receives written notification from the Office of Professional Medical Conduct, Physician Monitoring Program, that OPMC has determined that Respondent has fully complied with and satisfied the requirements of the Order, regardless of tolling; and

That Respondent shall cooperate fully with the Office of Professional Medical Conduct (OPMC) in its administration and enforcement of this Consent Order and in its investigations of matters concerning Respondent. Respondent shall respond in a timely manner to all OPMC requests for written periodic

verification of Respondent's compliance with this Consent Order.

Respondent shall meet with a person designated by the Director of OPMC, as directed. Respondent shall respond promptly and provide all documents and information within Respondent's control, as directed. This condition shall take effect upon the Board's issuance of the Consent Order and will continue so long as Respondent remains licensed in New York State.

I stipulate that my failure to comply with any conditions of this Consent Order shall constitute misconduct as defined by N.Y. Educ. Law § 6530(29).

I agree that, if I am charged with professional misconduct in future, this Consent Agreement and Order **shall** be admitted into evidence in that proceeding.

I ask the Board to adopt this Consent Agreement.

I understand that if the Board does not adopt this Consent Agreement, none of its terms shall bind me or constitute an admission of any of the acts of alleged misconduct; this Consent Agreement shall not be used against me in any way and shall be kept in strict confidence; and the Board's denial shall be without prejudice to the pending disciplinary proceeding and the Board's final determination pursuant to the N.Y. Pub. Health Law.

I agree that, if the Board adopts this Consent Agreement, the Chair of the Board shall issue a Consent Order in accordance with its terms. I agree that this Consent Order shall take effect upon its issuance by the Board, either by mailing of a copy of the Consent

Order by first class mail to me at the address in this Consent Agreement, or to my attorney by certified mail, OR upon facsimile transmission to me or my attorney, whichever is first. The Consent Order, this agreement, and all attached Exhibits shall be public documents, with only patient identities or other confidential information, if any, redacted. As public documents, they may be posted on the Department's website. OPMC shall report this action to the National Practitioner Data Bank and the Federation of State Medical Boards, and any other entities that the Director of OPMC shall deem appropriate.

I stipulate that the proposed sanction and Consent Order are authorized by N.Y. Pub. Health Law §§ 230 and 230-a, and that the Board and OPMC have the requisite powers to carry out all included terms. I ask the Board to adopt this Consent Agreement of my own free will and not under duress, compulsion or restraint. In consideration of the value to me of the Board's adoption of this Consent Agreement, allowing me to resolve this matter without the various risks and burdens of a hearing on the merits, I knowingly waive my right to contest the Consent Order for which I apply, whether administratively or judicially, I agree to be bound by the Consent Order, and I ask that the Board adopt this Consent Agreement.

I understand and agree that the attorney for the Department, the Director of OPMC and the Chair of the Board each retain complete discretion either to enter into the proposed agreement and Consent Order, based upon my application, or to decline to do so. I further understand and agree that no prior or separate written or oral communication can limit that discretion.

DATE 10/13/2017



MUKESH GARG, M.D.
RESPONDENT

The undersigned agree to Respondent's attached Consent Agreement and to its proposed penalty, terms and conditions.

DATE: 10/13/17



AMY T. KULB, ESQ.
Attorney for Respondent

DATE: 10/16/17



JOHN THOMAS VITI
Associate Counsel
Bureau of Professional Medical Conduct

DATE: 10/19/17



KEITH W. SERVIS
Director
Office of Professional Medical Conduct

Exhibit "A"

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

IN THE MATTER
OF
MUKESH GARG, M.D.

STATEMENT
OF
CHARGES

Mukesh Garg, M.D., the Respondent, was authorized to practice medicine in New York State on or about July 29, 2010, by the issuance of license number 258080 by the New York State Education Department.

FACTUAL ALLEGATIONS

A. On or about April 4, 2016 the Missouri State Board of Registration for the Healing Arts (herein after the "Mo Board") by entered into a Settlement Agreement (herein after the "Mo Agreement"), after having opened an investigation into the conduct and medical practice of Respondent, extended Respondent's Probation of his Physician's and Surgeon's Certificate under a July 30, 2013 Settlement Agreement between Respondent and the MO Board for two (2) additional years, as cause existed to discipline Respondent pursuant to RSMO §§324.042, 334.100.2(4) and 334.100.2(4)(p), violating a probation agreement, order, or other settlement agreement with this board or any other licensing agency. The Agreement was based on the facts, which Respondent stipulated to, that Respondent violated Paragraph 25 of the July 30, 2013, Settlement Agreement, whereby Respondent was required to abstain completely from the use or consumption of alcohol. The presence of any alcohol whatsoever in a biological fluid sample shall constitute a violation, and that Respondent tested positive for alcohol in March of 2015.

1. The conduct resulting in the Order would constitute misconduct under the laws of New York State, pursuant to the following section of New York State Law:

- a. New York Education Law Section 6530(16) (Willful or grossly negligent failure to comply with substantial provisions of federal, state, or local laws, rules or regulations, governing the practice of medicine.)
- b. New York Education Law Section 6530(29) (Violating any term of probation or condition or limitation imposed on the licensee pursuant to section two hundred and thirty of the public health law.)

B. On or about June 27, 2016, the State Board of Medicine for the Commonwealth of Pennsylvania (herein after the "PA Board") by Consent Agreement and Order (herein after the "PA Order"), after having opened an investigation into the conduct and medical practice of Respondent, Indefinitely Suspended until at least May 24, 2021, Respondent's license to practice medicine in the Commonwealth of Pennsylvania, with the suspension to be Immediately Stayed in favor of an Indefinite Period of Probation until at least May 24, 2021, subjected to various terms and agreements. The PA Order was predicated on the Mo Agreement, noticed above. Respondent acknowledged that he violated, the Medical Practice Act §41(4), 63 P.S. §422.41(4), in that Respondent had a license or other authorization to practice the profession suspended, revoked, refused or otherwise disciplined by the proper licensing authority of another state, territory, possession or country, or branch of the federal government.

1. The conduct resulting in the Order would constitute misconduct under the laws of New York State, pursuant to the following section of New York State Law:

- a. New York Education Law Section 6530(16) (Willful or grossly negligent failure to comply with substantial provisions of federal, state, or local laws, rules or regulations, governing the practice of medicine.)
- b. New York Education Law Section 6530(29) (Violating any term of probation or condition or limitation imposed on the licensee pursuant to section two hundred and thirty of the public health law.)

SPECIFICATION OF CHARGES

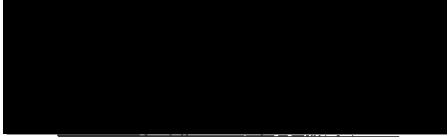
FIRST, AND SECOND SPECIFICATION

HAVING HAD DISCIPLINARY ACTION TAKEN

Respondent is charged with committing professional misconduct as defined in N.Y. Educ. Law § 6530(9)(d) by having his or her license to practice medicine revoked, suspended or having other disciplinary action taken, or having his or her application for a license refused, revoked or suspended or having voluntarily or otherwise surrendered his or her license after a disciplinary action was instituted by a duly authorized professional disciplinary agency of another state, where the conduct resulting in the revocation, suspension or other disciplinary action involving the license or refusal, revocation or suspension of an application for a license or the surrender of the license would, if committed in New York state, constitute professional misconduct under the laws of New York state (namely N.Y. Educ. Law §6530(16), and/or (29) as alleged in the facts of the following:

1. The facts in Paragraph A, A1 and its subparagraphs.
2. The facts in Paragraph B, B1 and its subparagraphs.

DATE: September 14, 2017
New York, New York



1121
Roy Nemerson
Deputy Counsel
Bureau of Professional Medical Conduct

EXHIBIT "B"

Terms of Probation

- 1) Respondent's conduct shall conform to moral and professional standards of conduct and governing law. Any act of professional misconduct by Respondent as defined by N.Y. Educ. Law §§ 6530 or 6531 shall constitute a violation of probation and may subject Respondent to an action pursuant to N.Y. Pub. Health Law § 230(19).
- 2) Respondent shall cooperate fully with, and respond in a timely manner to, OPMC requests to provide written periodic verification of Respondent's compliance with the terms of this Consent Order. Upon the Director of OPMC's request, Respondent shall meet in person with the Director's designee.
- 3) Respondent's failure to pay any monetary penalty by the prescribed date shall subject Respondent to all provisions of law relating to debt collection by New York State, including but 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 § 171(27); State Finance Law § 18; CPLR § 5001; Executive Law § 32].
- 4) The probation period shall toll when Respondent is not engaged in active medical practice in New York State for a period of 30 consecutive days or more. Respondent shall notify the Director of OPMC, in writing, if Respondent is not currently engaged in, or intends to leave, active medical practice in New York State for a consecutive 30 day period. Respondent shall then notify the Director again at least 14 days before returning to active practice. Upon Respondent's return to active practice in New York State, the probation period shall resume and Respondent shall fulfill any unfulfilled probation terms and such additional requirements as the Director may impose as reasonably relate to the matters set forth in Exhibit "A" or as are necessary to protect the public health.
- 5) Respondent shall remain free from alcohol and all other mood altering substances other than those prescribed for Respondent's treatment by a licensed health care professional aware of Respondent's history of chemical dependency and/or mental illness. Respondent shall not self-prescribe any medications.
- 6) Respondent shall remain active in self-help groups such as, but not limited to, Narcotics Anonymous, Alcoholics Anonymous and Caduceus.
- 7) Respondent shall notify all treating physicians of Respondent's history of substance abuse. Respondent shall advise OPMC of any controlled or mood-altering substance given or prescribed by treating health care professionals.

- 8) Beginning 30 days after the effective date of the Consent Order's, Respondent shall not be permitted to practice medicine except when monitored by qualified health care professional monitors: a Toxicology Monitor, a Practice Supervisor, and a Therapist, proposed by Respondent and approved, in writing, by the Director of OPMC. Any medical practice in violation of this term shall constitute the unauthorized practice of medicine,

Within 7 days of learning an approved monitor is no longer willing or able to serve, Respondent shall submit the name of a proposed successor to the Director of OPMC. Monitors shall not be family members or personal friends or be in professional relationships that would pose a conflict with monitoring responsibilities. All monitors shall execute acknowledgment forms provided by OPMC certifying familiarity with Respondent's history of substance abuse, with this Order and its terms, and acknowledging a willingness to comply with the monitor's reporting responsibilities regarding Respondent's compliance with the terms of this Order.

- a) Respondent shall ensure that the monitors are familiar with Respondent's history of substance abuse and with the terms of this Order. Respondent shall cause the monitors to report any deviation from compliance with the terms of this Order to OPMC. Respondent shall cause the monitors to submit required reports on a timely basis.
- b) Respondent shall submit to random, unannounced observed blood, breath, hair, and/or urine screens for the presence of drugs and alcohol (hereafter "drug screen"), when requested by a monitor. The monitoring shall be on a random, unannounced, directly-observed, 7-day-a-week, 24-hour-a-day basis. Respondent shall report for a drug screen within 8 hours of being contacted by a monitor. Monitors shall report to OPMC immediately if Respondent refuses or delays a test or if a test is positive for alcohol, or any other unauthorized drug or substance. Respondent shall avoid all substances that may cause positive urine drug screens, such as poppy seeds, mouthwash or cough medicine. Any positive test result shall constitute a violation of the terms of this Order.
- c) Respondent shall meet regularly with a Toxicology Monitor. During the first 12 months of monitoring, Respondent shall cause the Toxicology Monitor to obtain drug screens at a frequency of no less than 6 times per month. If Respondent is compliant throughout the first 12-month period, subsequent drug screens shall be obtained at a frequency to be proposed by the Toxicology Monitor and approved by OPMC. Respondent shall cause the Toxicology Monitor to submit quarterly reports to OPMC certifying Respondent's sobriety or lack of sobriety. These reports are to

include forensically valid results of all drug screens performed and an assessment of self-help group (e.g., AA/NA/Caduceus) attendance and 12-step progress.

- d) Respondent shall practice only when supervised in medical practice by a licensed physician (hereafter "Practice Supervisor"). The Practice Supervisor shall be on-site at all locations, unless determined otherwise by the Director of OPMC, and shall be in a position to regularly observe and assess Respondent's medical practice. The Practice Supervisor shall oversee Respondent's compliance with the terms of practice imposed by the Order and Respondent's prescribing, administering, dispensing, inventorying, wasting and disposal of controlled substances. Respondent shall cause the Practice Supervisor to report to OPMC immediately any suspected impairment, inappropriate behavior, questionable medical practice, possible misconduct, or violation by Respondent of any of the terms of this Order. Respondent shall cause the Practice Supervisor to submit quarterly reports to OPMC regarding the quality of Respondent's medical practice and prescribing practices, any unexplained absences from work, and certifying Respondent's compliance or detailing Respondent's failure to comply with each term imposed.
 - e) Respondent shall engage and continue in therapy with a treating health care professional (hereafter "Therapist"). Respondent shall cause the Therapist to submit a proposed treatment plan and quarterly reports to OPMC certifying whether Respondent is in compliance with the treatment plan. OPMC, at its discretion, may provide information or documentation from its investigative files concerning Respondent to Respondent's Therapist. Respondent shall cause the Therapist to report to OPMC immediately if Respondent leaves treatment against medical advice or displays any symptoms of a suspected or actual relapse. Respondent shall cause the Therapist to notify OPMC, in writing, of any termination of treatment approved by the Therapist, no less than 30 days prior to such termination.
- 9) At the direction of the Director of OPMC, Respondent shall submit to evaluations by a board-certified psychiatrist, licensed mental health practitioner or other health care professional or program designated by the Director (hereafter "Evaluator.") Respondent shall provide the Evaluator with a copy of this Order and copies of all previous treatment records. OPMC, at its discretion, may provide information or documentation from its investigative files concerning Respondent to Respondent's Evaluator. The Evaluator shall report to the Director regarding Respondent's condition and fitness or incapacity to practice medicine. Respondent shall comply

with all treatment recommendations based upon the evaluation; failure to comply with such treatment recommendations shall constitute professional misconduct.

- 10) Respondent shall enroll, or continue enrollment, in the Committee for Physician Health (CPH) and shall engage in a contract with CPH that defines the terms, conditions and duration of Respondent's recovery program. Respondent shall comply with the contract. Respondent shall give written authorization for CPH to provide the Director of OPMC with all information or documentation requested by OPMC to determine whether Respondent is in compliance with the contract and with this Order, including full access to all records maintained by CPH with respect to Respondent.
 - a) Respondent shall cause CPH to report to OPMC promptly if Respondent refuses to comply with the contract, refuses to submit to treatment or if Respondent's impairment is not substantially alleviated by treatment.
 - b) Respondent shall cause CPH to report immediately to OPMC if Respondent is regarded at any time to be an imminent danger to the public.
- 11) The Director of OPMC may review Respondent's professional performance. This review may include but shall not be limited to: a review of office records, patient records, hospital charts, and/or electronic records; and interviews with or periodic visits with Respondent and staff at practice locations or OPMC offices.
- 12) Respondent shall adhere to federal and state guidelines and professional standards of care with respect to infection control practices. Respondent shall ensure education, training and oversight of all office personnel involved in medical care, with respect to these practices.
- 13) Respondent shall maintain complete and legible medical records that accurately reflect the evaluation and treatment of patients and contain all information required by State rules and regulations concerning controlled substances.
- 14) Respondent shall enroll in and successfully complete a continuing education program the area or areas as designated by the Director of OPMC. This continuing education program is subject to the Director of OPMC's prior written approval and shall be successfully completed within the first 90 days of the probation period.
- 15) Respondent shall comply with this Consent Order and all its terms, and shall bear all associated compliance costs. Upon receiving evidence of noncompliance with, or a violation of, these terms, the Director of OPMC and/or the Board may initiate a

violation of probation proceeding, and/or any other such proceeding authorized by law, against Respondent.