



Department of Health

ANDREW M. CUOMO
Governor

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

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

November 2, 2018

CERTIFIED MAIL-RETURN RECEIPT REQUESTED

Dante Acebo Cubangbang, M.D.
5123A Queens Boulevard
Woodside, New York 11377

Re: License No. 234017

Dear Dr. Cubangbang:

Enclosed is a copy of the New York State Board for Professional Medical Conduct (BPMC) Order No. 18-246. This order and any penalty provided therein goes into effect November 9, 2018.

You are required to deliver your license and registration within 5 days of the effective date of the surrender provision to: c/o Physician Monitoring Unit, NYS DOH - OPMC, Riverview Center, Suite 355, 150 Broadway, Albany, NY 12204-2719.

If your license is framed, please remove it from the frame and only send the parchment paper on which your name is printed. Our office is unable to store framed licenses.

If the document(s) are lost, misplaced or destroyed, you are required to submit to this office an affidavit to that effect. Please complete and sign the affidavit before a notary public and return it to the Office of Professional Medical Conduct.

Please direct any questions to: NYS DOH - OPMC, Riverview Center, Suite 355, 150 Broadway, Albany, NY 12204-2719, telephone # (518) 402-0846.

Sincerely,

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

Enclosure

cc: Chris Cardillo, Esq.
C. Cardillo, P.C.
9728 3rd Avenue, Suite 308
Brooklyn, New York 11209

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

BPMC No. 18-246

SURRENDER

ORDER

IN THE MATTER
OF
DANTE ACEBO CUBANGBANG, M.D.

Upon the application of (Respondent) DANTE ACEBO CUBANGBANG, M.D. to
surrender his or her license as a physician in the State of New York, which is made a part of
this Surrender Order, it is

ORDERED, that the Surrender, and its terms, are adopted and it is further

ORDERED, that Respondent's name be stricken from the roster of physicians in the
State of New York; it is further

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

- by mailing of a copy of this Surrender Order, either by first class mail to
Respondent at the address in the attached Surrender of License application
or by certified mail to Respondent's attorney, OR
- upon facsimile transmission to Respondent or Respondent's attorney,

Whichever is first,

SO ORDERED.

DATE: 11/01/2018


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
DANTE ACEBO CUBANGBANG, M.D.**

**SURRENDER
OF
LICENSE
AND
ORDER**

DANTE ACEBO CUBANGBANG, M.D., represents that all of the following statements are true:

That on or about September 20, 2004 I was licensed to practice as a physician in the State of New York, and issued License No. 234017 by the New York State Education Department.

My current address is 5123A Queens Boulevard, Woodside, New York 11377.

I understand that the New York State Board for Professional Medical Conduct (Board) has charged me with one or more specifications of professional misconduct for violating terms of probation imposed pursuant to the Board of Professional Medical Conduct Order # 15-137. Attached hereto and hereby made a part of this Surrender of License as Exhibit "A" is an amended Appendix B which sets forth allegations of misconduct.

I am applying to the State Board for Professional Medical Conduct for permission to surrender my license as a physician in the State of New York on the grounds that I agree not to contest the allegations in full satisfaction of the charges against me.

I ask the Board to accept my Surrender of License, and I agree to be bound by all of the terms set forth in attached Exhibit "B".

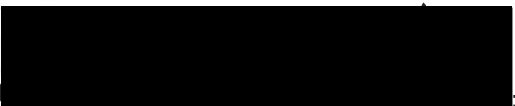
I understand that, if the Board does not accept my Surrender of License, none of its terms shall bind me or constitute an admission of any of the acts of misconduct alleged; this application shall not be used against me in any way and shall be kept in strict confidence; and the Board's denial shall be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

I agree that, if the Board accepts my Surrender of License, the Chair of the Board shall issue a Surrender Order in accordance with its terms. I agree that this Order shall take effect upon its issuance by the Board, either by mailing of a copy of the Surrender Order by first class mail to me at the address in this Surrender of License, or to my attorney by certified mail, or upon facsimile transmission to me or my attorney, whichever is first. The Surrender 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(s). OPMC shall report this action to the National Practitioner Data Bank, the Federation of State Medical Boards, and any other entities that the Director of OPMC shall deem appropriate.

I ask the Board to accept this Surrender of License, which I submit of my own free will and not under duress, compulsion or restraint. In consideration of the value to me of the Board's acceptance of this Surrender of License, 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 Surrender Order for which I apply, whether administratively or judicially, and I agree to be bound by the Surrender Order.

I understand and agree that the attorney for the Department, the Director of the Office of Professional Medical Conduct and the Chair of the State Board for Professional Medical Conduct each retain complete discretion either to enter into the proposed agreement and 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 10-30-2018


DANTE ACEBO CUBANGBANG, M.D.
RESPONDENT

The undersigned agree to Respondent's attached Surrender of License and Order and to its proposed penalty, terms and conditions.

DATE: 10/30/18


CHRIS CARDILLO, ESQ.
Attorney for Respondent

DATE: 10/31/18


DANIEL GUENZBURGER
Associate Counsel
Bureau of Professional Medical Conduct

DATE: 11/1/18


KEITH W. SERVIS
Director
Office of Professional Medical Conduct

EXHIBIT “A”

AMENDED APPENDIX B

The Probationer was authorized to practice medicine in New York State on or about September 20, 2004 by the issuance of license number 234017. The Probationer has been previously disciplined pursuant to Bureau of Professional Medical Conduct Order # 15-137 ("Consent Order") dated May 22, 2015. In the prior proceeding the Probationer agreed to a three-year period of probation commencing on the effective date of the Consent Order. Probation term 1 required that the Probationer conform his conduct to the moral and professional standards and law governing the practice of medicine. Any act of professional misconduct by the Probationer as defined in N.Y. Educ. Law §§ 6530 or 6531 constitutes a violation of probation and subjects Respondent to an action pursuant to N.Y. Pub. Health Law § 230.

FACTS

1. On or about and between August 25, 2015 through September 29, 2016, the Probationer treated Patient A, a fifty-nine-year-old male, with Oxycodone and other medications. Patient A reported that he had been receiving Oxycodone from a physician who would not give him a follow-up appointment. (Patient A and the other patients in the Statement of Charges are identified in Appendix C.)

Admit____ Deny____ Licensee's initials_____.

- a. The Probationer prescribed Patient A Oxycodone 30 mg, q.i.d. without adequately confirming the Patient's past medical history of opioid treatment, including but not limited to why the immediately prior treating physician declined continuing treatment.

Admit____ Deny____ Licensee's initials_____.

- b. The Probationer knowingly and falsely represented that Patient A had a longstanding chronic pain condition which impaired the Patient in the performance of activities of daily living, including ambulation and mobility. The Probationer intended to deceive.

Admit____ Deny____ Licensee's initials_____.

- c. The Probationer failed to appropriately address and/or note in the Patient's medical record multiple issues raising the suspicion of patient drug misuse and/or diversion, including but not limited to the following
- i. Patient A's imaging studies failed to support the need for opioid treatment at the prescribed dosages.
Admit_____ Deny_____ Licensee's initials_____.

- ii. Patient A was non-compliant with important components of Probationer's pain management treatment plan, including but not limited to:

1. Failing to take the prescribed medication Gabapentin (Neurontin).

Admit_____ Deny_____ Licensee's initials_____.

2. Failing to comply with instructions to participate in a program of physical therapy.

Admit_____ Deny_____ Licensee's initials_____.

3. Violating the Patient's pain management agreement by drinking alcohol.

Admit_____ Deny_____ Licensee's initials_____.

- iii. Multiple aberrant urine toxicology results, including but not limited to the:

1. Presence of a Midazolam metabolite as noted on the June 14, 2016 urine toxicology report.

Admit_____ Deny_____ Licensee's initials_____.

2. Presence of ethyl alcohol metabolites as noted on urine toxicology reports dated November 27, 2015 and July 21, 2016.

Admit_____ Deny_____ Licensee's initials_____.

- d. In follow-up to the issues alleged in Paragraphs 1(c)(i), 1(c)(ii), and 1(c)(iii) and its subparagraphs, the Probationer failed to appropriately counsel Patient A and/or discontinue prescribed medications.

Admit_____ Deny_____ Licensee's initials_____.

2. On or about and between March 18, 2011 and November 26, 2016 the Probationer prescribed Patient B, a 39-year-old female, a combination of Oxycodone, Diazepam and Gabapentin.

Admit_____ Deny_____ Licensee's initials_____.

- a. During the period of probation, the Probationer failed to appropriately consider and/or note multiple issues raising the suspicion of patient drug misuse and/or diversion, including that:

- i. Patient B failed to take the prescribed medication Diazepam as reflected in multiple toxicology reports.

Admit_____ Deny_____ Licensee's initials_____.

- ii. Patient B failed to take the prescribed medication Phentermine as reflected in multiple toxicology reports.

Admit_____ Deny_____ Licensee's initials_____.

- iii. Patient B violated her pain management agreement by drinking alcohol. Patient B tested positive for ethyl alcohol metabolites on urine toxicology reports dated June 5, 2015, March 22, 2016 and August 4, 2016.

Admit_____ Deny_____ Licensee's initials_____.

- b. In follow-up to the issues alleged in Paragraphs 2 (a) and its subparagraphs, the Probationer failed to appropriately counsel and/or failed to reduce dosages or discontinue prescribed medications.

Admit_____ Deny_____ Licensee's initials_____.

- c. The Probationer failed to monitor and/or note Patient B's weight during the extended period that he prescribed weight-loss medication. Respondent prescribed Phentermine, from March 25, 2015 through July 30, 2016.

Admit_____ Deny_____ Licensee's initials_____.

- d. On or about and between January 21, 2016 and November 26, 2016 the Probationer failed to identify and/or document in Patient B's medical record aberrant urine toxicology results for benzodiazepines.

Admit_____ Deny_____ Licensee's initials_____.

- e. The Probationer concealed from his Practice Monitor and others that Patient B failed to take prescribed medication. The Probationer intended to deceive.

Admit_____ Deny_____ Licensee's initials_____.

3. The Probationer treated Patient C, a 38-year-old male, on or about and between May 9, 2012 and November 21, 2016. According to Respondent's record, Patient C had chronic severe sharp shooting pain in the neck, right shoulder, lower back and hips for which the

Probationer prescribed Oxycodone HCL 20 mg. q.i.d and Diazepam 5 mg. b.i.d. According to Probationer's medical record, Patient C's immediately prior pain management physician, Dr. Mirilashvili, "...refused to continue treating the Patient."

- a. During the period of probation, the Probationer failed to appropriately address and/or failed to note that he addressed multiple issues which raise the suspicion of opioid drug misuse and/or diversion, including but not limited to the following:
 - i. The Probationer failed to ascertain why the Patient's prior pain management physician refused to treat Patient C.
Admit_____ Deny_____ Licensee's initials_____.
 - ii. Patient C's imaging studies failed to support the need for opioid treatment at the dosages the Probationer prescribed.
Admit_____ Deny_____ Licensee's initials_____.
 - iii. Patient C failed to comply with the Probationer's recommendation to participate in a program of physical therapy.
Admit_____ Deny_____ Licensee's initials_____.
 - iv. Multiple aberrant urine toxicology results, including but not limited to:
 - a. Laboratory reports that were consistently negative for Diazepam.
Admit_____ Deny_____ Licensee's initial
 - b. Laboratory reports dated June 15, 2015, September 30, 2015 and May 29, 2016 that were negative for the metabolite Oxycodone.
Admit_____ Deny_____ Licensee's initials
 - c. Laboratory report dated May 29, 2016 that was positive for the un-prescribed medication Hydrocodone
Admit_____ Deny_____ Licensee's initials
 - d. Laboratory reports dated July 29, 2016 and October 27, 2016 that report significant elevations for the metabolite Oxycodone.

Admit_____ Deny_____ Licensee's initials

- b. The Probationer failed to identify and/or appropriately note in his medical record that Patient C was non-compliant with taking prescribed medication.

Admit_____ Deny_____ Licensee's initials

- c. In response to aberrant toxicology results, the Probationer failed to appropriately counsel and/or failed to reduce dosages or discontinue prescribed medications.

Admit_____ Deny_____ Licensee's initials_____.

- d. The Probationer concealed from his Practice Monitor and others that Patient C failed to take prescribed medication. The Probationer intended to deceive.

Admit_____ Deny_____ Licensee's initials_____.

4. On or about and between August 28, 2012 and December 12, 2016 the Probationer treated Patient D, a 56-year-old female at the onset of treatment, for chronic pain with opioid and other medication.

- a. The Probationer failed to appropriately address and/or failed to note that he addressed multiple issues raising the suspicion of opioid drug misuse and/or diversion, including but not limited to the following:

- i. Patient D's imaging studies failed to support the need for opioid treatment at the dosages the Probationer ordered.

Admit_____ Deny_____ Licensee's initials_____.

- ii. Patient D was non-compliant with important components of Probationer's treatment plan, including but not limited to:

1. Failing to take Gabapentin as prescribed.

Admit_____ Deny_____ Licensee's initials_____.

2. Failing to take Diazepam as prescribed.

3. Failing to take Phentermine as prescribed.

Admit_____ Deny_____ Licensee's initials_____.

- b. In response to aberrant toxicology results for Diazepam, Phentermine, Gabapentin and/or Zolpidem, the Probationer failed to appropriately counsel and/or failed to reduce dosages or discontinue prescribed medications.

Admit_____ Deny_____ Licensee's initials_____.

- c. In light of Patient D's history of non-compliance with important components of the Probationer's treatment plan, on or about May 20, 2015 the Probationer inappropriately initiated treatment with the controlled substance Phentermine.

Admit_____ Deny_____ Licensee's initials _____.

- d. The Probationer failed to monitor and/or note Patient D's weight during the extended period that he prescribed the weight-loss medication Phentermine, on or about and between May 20, 2015 and December 12, 2016.

Admit_____ Deny_____ Licensee's initials_____.

- e. The Probationer failed to identify and/or appropriately note in his medical record that Patient D was non-compliant with taking prescribed medication.

Admit_____ Deny_____ Licensee's initials_____.

- f. The Probationer concealed from his Practice Monitor and others that Patient D failed to take prescribed medication. The Probationer intended to deceive.

Admit_____ Deny_____ Licensee's initials _____.

5. On or about and between September 2, 2008 and December 14, 2016 the Probationer treated Patient E, a 44-year-old male at the onset of treatment, for chronic pain with opioid and other medications.

- a. The Probationer failed to appropriately consider and/or note multiple issues raising the suspicion of opioid drug misuse and/or diversion, including but not limited to the following:

- i. Patient E was non-compliant with important components of Probationer's treatment plan, including but not limited to:

1. Failing to take Diazepam as prescribed.

Admit_____ Deny_____ Licensee's initials

2. Failing to comply with the Probationer's instructions to participate in a program of physical therapy.

Admit_____ Deny_____ Licensee's initials_____.

- b. In response to aberrant toxicology results for Diazepam, the Probationer failed to appropriately counsel and/or failed to reduce dosages or discontinue prescribed medications.

Admit_____ Deny_____ Licensee's initials_____.

- c. The Probationer failed to identify and/or appropriately note in his medical record that Patient E was non-compliant with taking prescribed medication.

Admit_____ Deny_____ Licensee's initials_____.

- d. The Probationer concealed from his Practice Monitor and others that Patient E failed to take prescribed medication. The Probationer intended to deceive.

Admit_____ Deny_____ Licensee's initials _____.

EXHIBIT "B"

Requirements for Closing a Medical Practice Following a Revocation, Surrender, Limitation or Suspension of a Medical License

1. Licensee shall immediately cease and desist from engaging in the practice of medicine in New York State, or under Licensee's New York license, in accordance with the terms of the Order. In addition, Licensee shall refrain from providing an opinion as to professional practice or its application and from representing that Licensee is eligible to practice medicine.
2. Within 5 days of the Order's effective date, Licensee shall deliver Licensee's original license to practice medicine in New York State and current biennial registration to the Office of Professional Medical Conduct (OPMC) at Riverview Center, 150 Broadway, Suite 355, Albany, New York 12204-2719.
3. Within 15 days of the Order's effective date, Licensee shall notify all patients of the cessation or limitation of Licensee's medical practice, and shall refer all patients to another licensed practicing physician for continued care, as appropriate. Licensee shall notify, in writing, each health care plan with which the Licensee contracts or is employed, and each hospital where Licensee has privileges, that Licensee has ceased medical practice. Within 45 days of the Order's effective date, Licensee shall provide OPMC with written documentation that all patients and hospitals have been notified of the cessation of Licensee's medical practice.
4. Licensee shall make arrangements for the transfer and maintenance of all patient medical records. Within 30 days of the Order's effective date, Licensee shall notify OPMC of these arrangements, including the name, address, and telephone number of an appropriate and acceptable contact person who shall have access to these records. Original records shall be retained for at least 6 years after the last date of service rendered to a patient or, in the case of a minor, for at least 6 years after the last date of service or 3 years after the patient reaches the age of majority, whichever time period is longer. Records shall be maintained in a safe and secure place that is reasonably accessible to former patients. The arrangements shall include provisions to ensure that the information in the record is kept confidential and is available only to authorized persons. When a patient or a patient's representative requests a copy of the patient's medical record, or requests that the original medical record be sent to another health care provider, a copy of the record shall be promptly provided or forwarded at a reasonable cost to the patient (not to exceed 75 cents per page.) Radiographic, sonographic and similar materials shall be provided at cost. A qualified person shall not be denied access to patient information solely because of an inability to pay.
5. In the event that Licensee holds a Drug Enforcement Administration (DEA) certificate for New York State, Licensee shall, within 15 days of the Order's

effective date, advise the DEA, in writing, of the licensure action and shall surrender Licensee's DEA controlled substance privileges for New York State to the DEA. Licensee shall promptly surrender any unused DEA #222 U.S. Official Order Forms Schedules 1 and 2 for New York State to the DEA. All submissions to the DEA shall be addressed to Diversion Program Manager, New York Field Division, U.S. Drug Enforcement Administration, 99 Tenth Avenue, New York, NY 10011.

6. Within 15 days of the Order's effective date, Licensee shall return any unused New York State official prescription forms to the Bureau of Narcotic Enforcement of the New York State Department of Health. If no other licensee is providing services at Licensee's practice location, Licensee shall properly dispose of all medications.
7. Within 15 days of the Order's effective date, Licensee shall remove from the public domain any representation that Licensee is eligible to practice medicine, including all related signs, advertisements, professional listings (whether in telephone directories, internet or otherwise), professional stationery or billings. Licensee shall not share, occupy, or use office space in which another licensee provides health care services.
8. Licensee shall not charge, receive or share any fee or distribution of dividends for professional services rendered by Licensee or others while Licensee is barred from engaging in the practice of medicine. Licensee may be compensated for the reasonable value of services lawfully rendered, and disbursements incurred on a patient's behalf, prior to the Order's effective date.
9. If Licensee is a shareholder in any professional service corporation organized to engage in the practice of medicine, Licensee shall divest all financial interest in the professional services corporation, in accordance with New York Business Corporation Law. Such divestiture shall occur within 90 days. If Licensee is the sole shareholder in a professional services corporation, the corporation must be dissolved or sold within 90 days of the Order's effective date.
10. Failure to comply with the above directives may result in a civil penalty or criminal penalties as may be authorized by governing law. Under N.Y. Educ. Law § 6512, it is a Class E Felony, punishable by imprisonment for up to 4 years, to practice the profession of medicine when a professional license has been suspended, revoked or annulled. Such punishment is in addition to the penalties for professional misconduct set forth in N.Y. Pub. Health Law § 230-a, which include fines of up to \$10,000 for each specification of charges of which the Licensee is found guilty, and may include revocation of a suspended license.