



Department
of Health

KATHY HOCHUL
Governor

JAMES V. McDONALD, M.D., M.P.H.
Commissioner

MEGAN E. BALDWIN
Acting Executive Deputy Commissioner

July 3, 2023

CERTIFIED MAIL-RETURN RECEIPT REQUESTED

Frederick G. Tontarski, P.A.


Re: License No. 003616

Dear Frederick G. Tontarski:

Enclosed is a copy of the New York State Board for Professional Medical Conduct (BPMC) Order No. 23-145. This order and any penalty provided therein goes into effect July 10, 2023.

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,



David Besser, M.D.
Executive Secretary
Board for Professional Medical Conduct

Enclosure

cc: Catherine A. Gale, Esq.
Gale, Gale & Hunt, LLC.
P.O. Box 97
Fayetteville, New York 13066

**IN THE MATTER
OF
FREDERICK GERALD TONTARSKI, P.A.**

CONSENT
ORDER

Upon the application of (Respondent) FREDERICK GERALD TONTARSKI, P.A.
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

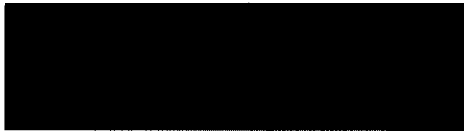
by mailing of a copy of this Consent Order, either by first class mail to Respondent at
the address in the attached Consent Agreement or by certified mail to Respondent's
attorney, OR

upon facsimile transmission to Respondent or Respondent's attorney,

whichever is first.

SO ORDERED.

DATE: 7/03/2023


THOMAS T. LEE, 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
FREDERICK GERALD TONTARSKI, P.A.**

**CONSENT
AGREEMENT**

FREDERICK GERALD TONTARSKI, P.A., represents that all of the following statements are true:

That on or about September 21, 1988, I was licensed to practice as a physician assistant in the State of New York, and issued License No. 003616 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 as a physician assistant in New York State shall be suspended for thirty-six (36) months, with the entire period stayed.

Pursuant to New York Pub. Health Law § 230-a(9), I shall be placed on probation for thirty-six (36) months, subject to the terms set forth in attached Exhibit "B."

Pursuant to N.Y. Pub. Health Law § 230-a(3), my license to practice as a physician assistant in New York State shall be limited to preclude the management or treatment of chronic pain.

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

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 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 6/17/2023



FREDERICK GERALD TONTARSKI, P.A.
RESPONDENT

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

DATE: June 23 2023



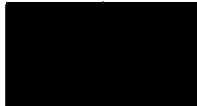
CATHERINE A. GALE, ESQ.
Attorney for Respondent

DATE: 27 June 2023



DAVID W. QUIST
Associate Attorney
Bureau of Professional Medical Conduct

DATE: 6/29/2023



For

SHELLY WANG BANDAGO
Director
Office of Professional Medical Conduct

EXHIBIT "A"

IN THE MATTER

OF

FREDERICK GERALD TONTARSKI, P.A.

STATEMENT

OF

CHARGES

FREDERICK GERALD TONTARSKI, P.A., the Respondent, was authorized to practice as a physician assistant in New York State on or about September 21, 1988, by the issuance of license number 003616 by the New York State Education Department.

FACTUAL ALLEGATIONS

A. Respondent provided medical care to Patient A (all patients are identified in the Appendix), a 38-year-old male when Respondent began treating him, from on or about May 28, 2015 to on or about July 10, 2018. Respondent provided care for conditions including but not limited to chronic pain and neuropathy. Respondent's care and treatment of Patient A failed to meet accepted standards of medical practice, in that:

1. Respondent, on one or more occasions, failed to adequately evaluate and/or adequately document such evaluation of Patient A.
2. Respondent, on one or more occasions, failed to adequately address, and/or failed to adequately document having addressed, evidence of possible substance abuse and/or diversion by Patient A.
3. Respondent failed to maintain a record which accurately reflects the evaluation and treatment of Patient A.

B. Respondent provided medical care to Patient B (all patients are identified in the Appendix), a 36-year-old male when Respondent began treating him, from on or about April 14, 2017 to on or about June 27, 2018. Respondent provided care for conditions including but not limited to pain and chronic pain. Respondent's care and treatment of Patient B failed to meet accepted standards of medical practice, in that:

1. Respondent, on one or more occasions, failed to adequately evaluate and/or adequately document such evaluation of Patient B.
2. Respondent failed to maintain a record which accurately reflects the evaluation and treatment of Patient B.

C. Respondent provided medical care to Patient C (all patients are identified in the Appendix), a 55-year-old female when Respondent began treating her, from on or about December 2, 2015 to on or about July 6, 2018. Respondent provided care for conditions including but not limited to angioedema and chronic pain. Respondent's care and treatment of Patient C failed to meet accepted standards of medical practice, in that:

1. Respondent, on one or more occasions, failed to adequately evaluate and/or adequately document such evaluation of Patient C.
2. Respondent, on one or more occasions, failed to adequately address, and/or failed to adequately document having addressed, evidence of possible substance abuse and/or diversion by Patient C.
3. Respondent failed to maintain a record which accurately reflects the evaluation and treatment of Patient C.

SPECIFICATION OF CHARGES

FIRST SPECIFICATION **NEGLIGENCE ON MORE THAN ONE OCCASION**

Respondent is charged with committing professional misconduct as defined in N.Y. Educ. Law § 6530(3) by practicing the profession of medicine with negligence on more than one occasion as alleged in the facts of:

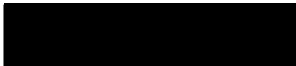
1. The facts in Paragraphs, A and A.1, A and A.2, A and A.3, B and B.1, B and B.2, C and C.1, C and C.2, and/or C and C.3.

SECOND THROUGH FOURTH SPECIFICATIONS
FAILURE TO MAINTAIN RECORDS

Respondent is charged with committing professional misconduct as defined in N.Y. Educ. Law § 6530(32) by failing to maintain a record for each patient which accurately reflects the evaluation and treatment of the patient, as alleged in the facts of:

2. The facts in A and A.3.
3. The facts in B and B.2
4. The facts in C and C.3

DATE: June 27, 2023
Albany, New York



JEFFREY J. CONKLIN, ESQ.
Deputy Director
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 practice as a physician assistant 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 practice as a physician assistant 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) 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.
- 6) 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.

- 7) 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.
- 8) REVIEW OF PRESCRIBING PRACTICES
 - a) Respondent shall comply with all requirements of Article 33 of the Public Health Law and of New York State Department of Health regulations, including but not limited to all requirements related to consultation of the iStop / Prescription Monitoring Program (PMP) Registry when writing prescriptions for Schedule II, III, and/or IV controlled substances, pursuant to Public Health Law Section 3343-a and 10 NYCRR 80.63. Respondent shall meet as requested with OPMC to provide proof of compliance.
 - b) Respondent shall maintain, in a format that is acceptable to OPMC, a log of all ordering, prescribing, administering and/or dispensing of all controlled substances.
 - i) This log shall include the following information: the drug, the dose, the patient, the diagnosis, the date that the drug was prescribed, and such other information related to ordering, prescribing, administering and/or dispensing as may be requested by OPMC. The log shall also include all information related to compliance with iStop /PMP Registry consultation requirements, as set forth in paragraph 8.a above, including a notation of all iStop / PMP Registry consultations performed, including the date and time performed, and the information contained in the registry upon each consultation. The log entry shall not, by itself, satisfy Respondent's obligation to document consultation with the iStop / PMP Registry in a patient's medical chart.
 - ii) This log shall be subject to review by Respondent's Practice and Records Supervisor and Respondent shall make this log, and the records of any patient referenced in this log, immediately available to OPMC, upon demand.
 - iii) Respondent shall cause the Practice and Records Supervisor to examine this log, and include, as part of the Practice and Records Supervisor's review of the medical records of patients treated by Respondent, an examination of at least 10 medical records per month obtained through examination of the log entries. If the log shows that there are fewer than 10 medical records involving such prescribing, the Practice and Records Supervisor shall examine all records involving such prescribing as part of the Practice and Records Supervisor's review.
- 9) No more than 30 days after the Consent Order's effective date, Respondent shall practice as a physician assistant only when subject to review by a licensed physician, board-certified in an appropriate specialty, (henceforth "Practice and

Records Supervisor") proposed by Respondent and subject to the Director of OPMC's written approval. No more than 30 days after learning that the approved Practice and Records Supervisor is no longer willing or able to serve or no more than 30 days after having been notified by the Director that the Practice and Records Supervisor has been discharged for cause, which shall include but not be limited to the inadequacy of the Practice and Records Supervisor's reports and/or performance, Respondent shall have an approved successor in place, subject to the Director's written approval. Upon approval, the new Practice and Records Supervisor shall perform the duties described in Paragraphs (a) and (c) below. Regardless of the reason necessitating a replacement, if the Director does not approve Respondent's proposed new Practice and Records Supervisor, Respondent shall immediately cease practicing as a physician assistant, unless notified by the Director, in writing, of an extension, which may be granted at the Director's discretion. In that event, Respondent shall propose another Practice and Records Supervisor, which the Director has 30 days to approve or disapprove until a Practice and Records Supervisor is accepted. Any practice as a physician assistant in violation of this term shall constitute unauthorized practice.

- a) Respondent shall make available to the Practice and Records Supervisor any and all records or access to the practice requested by the Practice and Records Supervisor, including on-site observation. The Practice and Records Supervisor shall visit each and every location where Respondent practices as a physician assistant, on a random unannounced basis at least monthly and shall examine a selection (no fewer than 20) of records maintained by Respondent, including patient records, prescribing information and office records. Where the prescribing log shows that medication was administered, ordered, or prescribed to a patient by Respondent or at Respondent's direction, the Practice and Records Supervisor shall ensure review of the relevant patient's record. The review will determine whether Respondent's practice as a physician assistant is conducted in accordance with the generally accepted standards of profession. Any perceived deviation of accepted standards of medical care or refusal to cooperate with the Practice and Records Supervisor shall be reported within 24 hours to OPMC.
- b) Respondent shall be solely responsible for all expenses associated with Practice and Records Supervisor's review, including fees, if any, to the Practice and Records Supervisor.
- c) Respondent shall cause the Practice and Records Supervisor to report quarterly, in writing, to the Director of OPMC.
- d) The period during which Respondent's practice as a physician assistant shall be subject to review by a Practice and Records Supervisor, and all related Conditions, shall toll when Licensee is not engaged in active

practice as a physician assistant in New York State for 30 consecutive days or more pursuant to the provisions of paragraph 4, above.

- 10) Respondent shall enroll in and successfully complete continuing education as directed by the Office of Professional Medical Conduct, subject to the Director of OPMC's prior written approval.
- 11) 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.