



New York State Board for Professional Medical Conduct

433 River Street, Suite 303 • Troy, New York 12180-2299 • (518) 402-0863

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Dennis P. Whalen
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NYS Department of Health
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Office of Professional Medical Conduct

William P. Dillon, M.D.
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Denise M. Bolan, R.P.A.
Vice Chair

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

May 24, 2000

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Izhar A. Abdi, M.D.
146 Sheridan Avenue
Brooklyn, NY 11208

RE: License No. 111937

Dear Dr. Abdi:

Enclosed please find Order #BPMC 00-162 of the New York State Board for Professional Medical Conduct. This Order and any penalty provided therein goes into effect **May 24, 2000.**

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
Hedley Park Place, Suite 303
433 River Street
Troy, New York 12180

If the penalty imposed by the Order is a fine, please write the check payable to the New York State Department of Health. Noting the BPMC Order number on your remittance will assist in proper crediting. Payments should be directed to the following address:

Bureau of Accounts Management
New York State Department of Health
Corning Tower, Room 1258
Empire State Plaza
Albany, New York 12237

Sincerely,

A handwritten signature in black ink, appearing to read "Ansel R. Marks". The signature is fluid and cursive, with a large, stylized "A" and "M".

Ansel R. Marks, M.D., J.D.
Executive Secretary
Board for Professional Medical Conduct

Enclosure

cc: Joseph LaBarbera, Esq.
Lifshutz, Polland and Associates, P.C.
675 Third Avenue, Suite 2400
New York, NY 10017

Daniel Guenzburger, Esq.

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

IN THE MATTER
OF
IZHAR A. ABDI, M.D.

CONSENT
AGREEMENT
AND
ORDER
BPMC #00-162

STATE OF NEW YORK)
COUNTY OF NEW YORK) ss.:

IZHAR A. ABDI, M.D., (Respondent) being duly sworn, deposes and says:

That on or about March 23, 1972, I was licensed to practice as a physician in the State of New York, having been issued License No. 111937 by the New York State Education Department.

My current address is ^{146 Sheridan Ave.} ~~243 Crescent Street~~, Brooklyn, New York, and I will advise the Director of the Office of Professional Medical Conduct of any change of my address.

I understand that the New York State Board for Professional Medical Conduct has charged me with twenty-eight (28) specifications of professional misconduct.

A copy of the Statement of Charges is annexed hereto, made a part hereof, and marked as Exhibit "A".

I agree not to contest the first through twenty-seventh specifications, in full satisfaction of the charges against me. I hereby agree to the following penalty:

Thirty-six (36) months suspension, thirty months stayed, (6 months active license suspension), and three years probation.

I further agree that the following time periods shall apply to this Consent Agreement and Order: 1) The six month period of license

suspension shall commence 30 days from the effective date of the Order; 2) Following the period of active license suspension a three year period of probation shall commence; a) During the first 18 months of the period of probation the Respondent shall only practice medicine in a supervised setting, as set forth in paragraph 7 of Exhibit B, proposed by Respondent and subject to the written approval of the Director of OPMC acting in her reasonable discretion; b) During the first year of probation the Respondent may only make home medical visits if he is accompanied by another physician who will certify the accuracy of his medical record; c) During period of probation the Respondent may only practice medicine when monitored by a licensed physician, as set forth in paragraph 6 of Exhibit B, proposed by Respondent and subject to the written approval of the Director of OPMC acting in her reasonable discretion.

I further agree to a fifty thousand dollar fine (\$50,000.00), which shall be paid by check made payable to the NYS Department of Health and mailed to the Bureau of Accounts Management, NYS Department of Health, Corning Tower Building, Empire State Plaza, Albany, NY 12237-0030 in three installments by the dates set forth in this paragraph. The first installment of \$15,000.00 is due within 60 days of the effective date of the order. The second installment of \$15,000.00 is due by July 15, 2001. The third and final installment of \$20,000.00 is due by July 15, 2002.

I further agree that the Consent Order for which I hereby apply shall

impose the following conditions:

That, except during periods of actual suspension, Respondent shall maintain current registration of Respondent's license with the New York State Education Department Division of Professional Licensing Services, and pay all registration fees. This condition shall be in effect beginning thirty days after the effective date of the Consent Order and will continue while the licensee possesses his/her license; and

That Respondent shall fully cooperate in every respect with the Office of Professional Medical Conduct (OPMC) in its administration and enforcement of this Order and in its investigation of all matters regarding Respondent.

Respondent shall respond in a timely manner to each and every request by OPMC to provide written periodic verification of Respondent's compliance with the terms of this Order.

Respondent shall meet with a person designated by the Director of OPMC as directed. Respondent shall respond promptly and provide any and all documents and information within Respondent's control upon the direction of OPMC. This condition shall be in effect beginning upon the effective date of the Consent Order and will continue while the licensee possesses his/her license.

I hereby stipulate that any failure by me to comply with such conditions shall constitute misconduct as defined by New York State Education Law §6530(29).

I agree that in the event I am charged with professional misconduct in the future, this agreement and order shall be admitted into evidence in that proceeding.

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

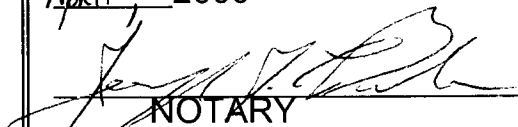
I understand that, in the event that this Application is not granted by the Board, nothing contained herein shall be binding upon me or construed to be an admission of any act of misconduct alleged or charged against me, such Application shall not be used against me in any way and shall be kept in strict 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 agree that such order shall be effective upon issuance by the Board which may be accomplished by mailing, by first class mail, a copy of the Consent Order to me at the address set forth in this agreement, or to my attorney, or upon transmission via facsimile to me or my attorney, whichever is earliest.

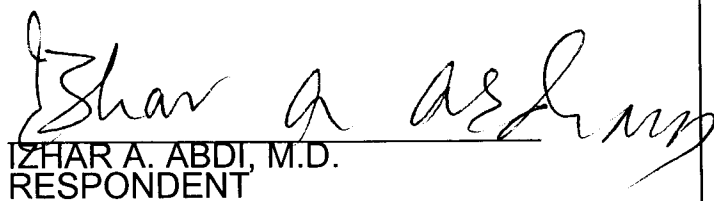
I am making this Application of my own free will and accord and not under duress, compulsion or restraint of any kind or manner. In consideration of the value to me of the acceptance by the Board of this Application, allowing me to resolve this matter without the various risks and burdens of a hearing on the merits, I knowingly waive any right I may have to contest the Consent Order for which I hereby apply, whether administratively or judicially, and ask that the Application be granted.

DATED 4/21/00

Sworn to before me
on this 21st day of
April, 2000


NOTARY

JOSEPH J. LABARELLA
Notary Public, State of New York
NO ~~443782~~ 02LA4961854
Qualified in Kings County
Commission Expires 2/05/2002

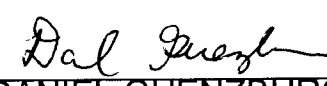

IZHAR A. ABDI, M.D.
RESPONDENT

The undersigned agree to the attached application of the Respondent and to the proposed penalty based on the terms and conditions thereof.

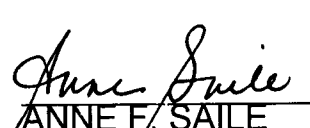
DATE: 4/24/00


JOSEPH LABARBERA, ESQ.
LIFSCHUTZ, POLLAND & ASSOCIATES
Attorney for Respondent

DATE: 5/12/00


DANIEL GUENZBURGER
ASSOCIATE COUNSEL
Bureau of Professional
Medical Conduct

DATE: May 17, 2000


ANNE F. SAILE
Director
Office of Professional
Medical Conduct

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

IN THE MATTER
OF
IZHAR A. ABDI, M.D.

CONSENT
ORDER

Upon the proposed agreement of IZHAR A. ABDI, M.D. (Respondent) for Consent Order, which application is made a part hereof, it is agreed to and

ORDERED, that the application and the provisions thereof are hereby adopted and so ORDERED, and it is further

ORDERED, that this order shall be effective upon issuance by the Board, which may be accomplished by mailing, by first class mail, a copy of the Consent Order to Respondent at the address set forth in this agreement or to Respondent's attorney by certified mail, or upon transmission via facsimile to Respondent or Respondent's attorney, whichever is earliest.

SO ORDERED.

DATED: 5/17/00

William P. Dillon, M.D.

WILLIAM P. DILLON, M.D.
Chair
State Board for Professional
Medical Conduct

"EXHIBIT A"

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

IN THE MATTER
OF
IZHAR A. ABDI, M.D.

STATEMENT
OF
CHARGES

IZHAR A. ABDI, M.D., the Respondent, was authorized to practice medicine in New York State on or about March 23, 1972, by the issuance of license number 111937 by the New York State Education Department.

FACTUAL ALLEGATIONS

- A. In connection with an investigation of Respondent's medical practice that commenced in or about June, 1996, the Office of Professional Medical Conduct ("OPMC") requested that Respondent submit certified complete copies of medical records for Patients A, B, C, and D. (Patients A, B, C and D are identified in the attached appendix.) With respect to records that Respondent submitted to OPMC in 1997, Respondent:
1. Failed to disclose, with the intent to mislead OPMC, that the records were not an accurate reflection of his evaluation and treatment, with regard respectively to:
 - a. Patient A.
 - b. Patient B.
 - c. Patient C.
 - d. Patient D.
 2. Failed to make available to the Department of Health relevant

records with respect to an inquiry or complaint within 30 days of a written request, with regard respectively to:

- a. Patient A.
- b. Patient B.
- c. Patient C.
- d. Patient D.

3. Failed to maintain records which accurately reflect the evaluation and treatment of the patient, with regard respectively to:

- a. Patient A.
- b. Patient B.
- c. Patient C.
- d. Patient D.

- B. Respondent concealed from health care professionals from the Visiting Nurse Service of New York ("VNS"), with the intent to mislead, that he was administering and/or dispensing Demerol to Patient A on or about and between March 25, 1997 and May 24, 1997.
- C. At an OPMC interview on or about April 29, 1998, Respondent knowingly and falsely represented that between April 1, 1997 and October 23, 1997 he treated Patient A on only 7 occasions, primarily for episodic acute pain with medications Ultram and Benadryl, when, in fact, he knew that he treated Patient A far more frequently, for other reasons and with other medications.

- D. At an OPMC interview regarding Patient B conducted on or about November 18, 1998, Respondent knowingly, falsely, and with intent to deceive, represented that the medical record which he had submitted to OPMC was a true and accurate reflection of his treatment of Patient B, when, in fact, he knew that the record did not accurately reflect the treatment.
- E. Between in or about August, 1995 and April 8, 1998, the Respondent submitted insurance claims to Group Health Incorporated ("GHI") for medical care which he purports to have rendered to Patient A on approximately 83 occasions. With respect to the insurance claim submissions, Respondent:
1. Knowingly and with the intent to deceive GHI, falsely represented the dates of visits, diagnoses and/or the medical procedures.
 2. Willfully filed false insurance claims with GHI.
- F. Between in or about December, 1994 and December, 1996, the Respondent submitted insurance claims to GHI for care which he purported to have rendered to Patient B on 34 occasions. With respect to the insurance claim submissions, Respondent:
1. Knowingly and with intent to deceive GHI, falsely represented the dates of visits, diagnoses and/or the medical procedures.
 2. Willfully filed false insurance claims with GHI.
- G. Between in or about January, 1995 and March 1998, the Respondent

submitted insurance claims to GHI for care which he purported to have rendered to Patient C on 9 occasions. With respect to the insurance claim submissions, Respondent:

1. Knowingly and with intent to deceive GHI, falsely represented the dates of visits, diagnoses and/or the medical procedures.
2. Willfully filed false insurance claims with GHI.

H. Between in or about November 1994 and April 1998, the Respondent submitted insurance claims to Medicare and to GHI for care which he purported to have rendered to Patient D on 84 occasions. With respect to the insurance claim submissions, Respondent:

1. Knowingly and with the intent to deceive Medicare and GHI, falsely represented the dates of visits, diagnoses and/or the medical procedures.
2. Willfully filed false insurance claims with GHI.

SPECIFICATION OF CHARGES

FIRST THROUGH ELEVENTH SPECIFICATIONS

FRAUDULENT PRACTICE

Respondent is charged with committing professional misconduct as defined by N.Y. Educ. Law §6530(2)(McKinney Supp. 2000) by practicing the profession of medicine fraudulently as alleged in the facts of the following:

1. Paragraphs A, A1, and A1(a).
2. Paragraphs A, A1, and A1(b).
3. Paragraphs A, A1, and A1(c).
4. Paragraphs A, A1, and A1(d).
5. Paragraph B.
6. Paragraph C.
7. Paragraph D.
8. Paragraphs E and E1.
9. Paragraphs F and F1.
10. Paragraphs G and G1.
11. Paragraphs H and H1.

TWELFTH THROUGH EIGHTEENTH SPECIFICATIONS

FALSE REPORTS

Respondent is charged with committing professional misconduct as defined in N.Y. Educ. Law §6530(21)(McKinney Supp. 2000) by wilfully making or filing a false report, as alleged in the facts of:

12. Paragraphs A, A1 and A1(a).

13. Paragraphs A, A1 and A1(b).
14. Paragraphs A, A1 and A1(c).
15. Paragraphs A, A1 and A1(d).
16. Paragraphs E and E2.
17. Paragraphs F and F2.
18. Paragraphs G and G2.
19. Paragraphs H and H2

TWENTIETH THROUGH TWENTY-THIRD SPECIFICATIONS

RECORDKEEPING

Respondent is charged with committing professional misconduct as defined in N.Y. Educ. Law §6530(32)(McKinney Supp. 2000) by failing to maintain a record that accurately reflects the evaluation and treatment of the patient, as alleged in the facts of:

20. Paragraphs A, A3 and A3(a).
21. Paragraphs A, A3 and A3(b).
22. Paragraphs A, A3 and A3(c).
23. Paragraphs A, A3, and A3(d).

TWENTY-FOURTH THROUGH TWENTY-SEVENTH SPECIFICATIONS

PROVIDING RECORDS TO THE DEPARTMENT OF HEALTH

Respondent is charged with committing professional misconduct as defined in N.Y. Educ. Law §6530(28)(McKinney Supp. 2000) by failing to respond within thirty days to written communications from the Department of Health and to make

available any relevant records with respect to an inquiry or complaint about the licensee's professional misconduct, as alleged in the facts of:

- 24. Paragraphs A, A2 and A2(a).
- 25. Paragraphs A, A2 and A2(b).
- 26. Paragraphs A, A2 and A2(c).
- 27. Paragraphs A, A2 and A2(d).

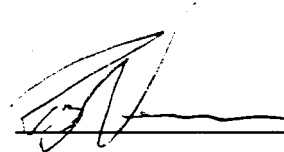
TWENTY-EIGHTH SPECIFICATION

MORAL UNFITNESS

Respondent is charged with committing professional misconduct as defined in N.Y. Educ. Law §6530(20)(McKinney Supp. 2000) by engaging in conduct in the practice of the profession of medicine that evidences moral unfitness to practice, as alleged in the facts of the following:

- 28. Paragraphs A, A1, A1(a), A1(b), A1(c), A1(d), A2, A2(a), A2(b), A2(c), A2(d), A, A(a), A(b), A(c), A(d), B, C, D, E, E1, E2, F, F1, F2, G, G1, G2, H, H1, and /or H2.

DATED: March 17, 2000
New York, New York



ROY NEMERSON
Deputy Counsel
Bureau of Professional
Medical Conduct

EXHIBIT "B"

Terms of Probation

1. Respondent shall conduct himself/herself in all ways in a manner befitting his/her professional status, and shall conform fully to the moral and professional standards of conduct and obligations imposed by law and by his/her profession.
2. Respondent shall submit written notification to the New York State Department of Health addressed to the Director of the Office of Professional Medical Conduct, New York State Department of Health, 433 River Street, Suite 303, Troy, NY 12180-2299; said notice is to include a full description of any employment and practice, professional and residential addresses and telephone numbers within or without New York State, and any and all investigations, charges, convictions or disciplinary actions by any local, state or federal agency, institution or facility, within thirty days of each action.
3. Any civil penalty not paid by the date prescribed herein shall be subject to all provisions of law relating to debt collection by New York State. 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].
4. The period of probation shall be tolled during periods in which Respondent is not engaged in the active practice of medicine in New York State. Respondent shall notify the Director of OPMC, in writing, if Respondent 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. Respondent shall then notify the Director again prior to any change in that status. The period of probation shall resume and any terms of probation which were not fulfilled shall be fulfilled upon Respondent's return to practice in New York State.
5. Respondent's professional performance may be reviewed by the Director of OPMC. This review may include, but shall not be limited to, a review of office records, patient records and/or hospital charts, interviews with or periodic visits with Respondent and his/her staff at practice locations or OPMC offices.

PRACTICE MONITOR

6. For the entire period of probation, Respondent shall only practice medicine when monitored by a licensed physician, board certified in an appropriate specialty, ("practice monitor") proposed by Respondent and subject to the written approval of the Director of OPMC.
 - a. Respondent shall make available to the monitor any and all records or access to the practice requested by the monitor, including on-site observation. The practice monitor shall visit Respondent's medical practice at each and every location, on a random unannounced basis at least monthly and shall examine a selection (no less than 15) of

records maintained by Respondent, including patient records, prescribing information and office records. The review will determine whether the Respondent's medical practice is conducted in accordance with the generally accepted standards of professional medical care. Any perceived deviation of accepted standards of medical care or refusal to cooperate with the monitor shall be reported within 24 hours to OPMC.

- b. Respondent shall be solely responsible for all expenses associated with monitoring, including fees, if any, to the monitoring physician.
- c. Respondent shall cause the practice monitor to report quarterly, in writing, to the Director of OPMC.
- d. Respondent shall maintain medical malpractice insurance coverage with limits no less than \$2 million per occurrence and \$6 million per policy year, in accordance with Section 230(18)(b) of the Public Health Law. Proof of coverage shall be submitted to the Director of OPMC prior to Respondent's practice after the effective date of this Order.

7. PRACTICE LIMITED TO A SUPERVISED SETTING

For the first 18 months of the period of probation, Respondent shall only work in a supervised setting, where close practice oversight is available on a daily basis and where quality assurance and risk management protocols are in effect. Respondent shall not practice medicine until the supervised setting proposed by Respondent is approved, in writing, by the Director of OPMC.

- a. Respondent shall propose an appropriate supervisor or administrator in all practice settings, who shall be subject to the written approval of the Director of OPMC. Respondent shall cause the supervisor or administrator to submit reports, as requested (or quarterly), regarding Respondent's overall quality of medical practice.
- b. Respondent shall provide the supervisor/administrator in all settings with the Order and terms of probation and shall cause the supervisor/administrator, in writing, to comply with OPMC schedules and requests for information.
- c. Respondent shall submit semi-annually a signed Compliance Declaration to the Director of OPMC which truthfully attests whether Respondent has been in compliance with the employment setting and required supervision.
- d. For the first year in which Respondent's practice is limited to a supervised setting, Respondent may only make home medical visits if he is accompanied by a physician who is licensed to practice medicine in the State of New York. The physician who accompanies Respondent must certify in writing on Respondent's medical record

that the progress note entry for a particular home visit is an accurate reflection of Respondent's evaluation and treatment of the patient.

8. Respondent shall comply with all terms, conditions, restrictions, limitations and penalties to which he or she is subject pursuant to the Order and shall assume and bear all costs related to compliance. 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 Respondent as may be authorized pursuant to the law.