



New York State Board for Professional Medical Conduct

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

Barbara A. DeBuono, M.D., M.P.H.
Commissioner of Health

Charles J. Vacanti, M.D.
Chair

January 15, 1997

PUBLIC

CERTIFIED MAIL-RETURN RECEIPT REQUESTED

Musheer Hussain, M.D.
23 Public Square
Holley, New York 14470

RE: License No. 121541

Dear Dr. Hussain:

Enclosed please find Order #BPMC 97-23 of the New York State Board for Professional Medical Conduct. This Order and any penalty provided therein goes into effect upon receipt of this letter or seven (7) days after the date of this letter, whichever is earlier.

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

Sincerely,

Charles Vacanti, M.D.
Chair
Board for Professional Medical Conduct

Enclosure

cc: Kenneth Gordon, Esq.
Barrett, Griesberger, Dollinger,
Fletcher & Gordon, LLP
80 East Main Street
Webster, New York 14580-3281

Frederick Zimmer, Esq.

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

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IN THE MATTER :
OF : ORDER
MUSHEER HUSSAIN, M.D. :
BPMC #97-23

-----x

Upon the Application of MUSHEER HUSSAIN, M.D. (Respondent) for Consent Order, which Application is made a part hereof, it is ORDERED, that the Application and the provisions thereof are hereby adopted and so ORDERED, and it is further

ORDERED, that this Order shall take effect as of the date of the personal service of this Order upon Respondent, upon receipt by Respondent of this Order via certified mail, or seven days after mailing of this Order by certified mail, whichever is earliest.

SO ORDERED,

DATED: 12-11-97

Charles J. Vacanti, M.D.
Chairperson
State Board for Professional
Medical Conduct

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

-----X
IN THE MATTER : APPLICATION
OF : FOR
MUSHEER HUSSAIN, M.D. : CONSENT
: ORDER
-----X

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

MUSHEER HUSSAIN, M.D., being duly sworn, deposes and says:
That on or about September 18, 1974, I was licensed to practice
as a physician in the State of New York, having been issued
License No. 121541 by the New York State Education Department.

I am currently registered with the New York State Education
Department to practice as a physician in the State of New York
for the period January 1, 1995 through March 31, 1997.

I understand that the New York State Board for Professional
Medical Conduct has charged me with thirteen (13) specifications
of professional misconduct.

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

I admit guilt to the eleventh specification insofar as it applies to the following Factual Allegations in full satisfaction of the charges against me;

1. B and B.1, B.2 and B.3.
2. E and E.1, E.2 and E.4.

I hereby agree to the following penalties:

1. I shall permanently refrain from the practice of surgery and my license to practice medicine shall be limited to those medical activities not involving surgery. I shall submit proof to the Office of Professional Medical Conduct (OPMC), acceptable to OPMC, from my medical malpractice insurance carrier within thirty days of the effective date of this Order and thereafter on a bi-annual basis that the terms of my insurance are limited to exclude surgery. Notwithstanding all of the above, I shall be entitled to perform minor surgical procedures as part of my general and family based medical practice such as the suturing of lacerations, the biopsy and excision of superficial growths, incisions of boils and superficial abscesses, the closed reduction of fractures and the circumcision of other than new born patients. I shall not perform surgery in either a hospital or an ambulatory care facility/setting. I shall inform OPMC within thirty days of my obtaining privileges at any hospital.
2. My license to practice medicine in the State of New York shall be suspended for a period of twenty-four (24) months beginning on the effective date of the Order. The twenty-

four month period of suspension shall be stayed and I shall be placed on probation during that twenty-four (24) month period. The twenty-four (24) month stay of suspension shall be subject to my compliance with the probation terms which are attached and annexed hereto as Exhibit "B". I shall fully comply with the probation terms.

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 am making this Application of my own free will and accord and not under duress, compulsion or restraint of any kind or manner.

Musheer Hussain

MUSHEER HUSSAIN, M.D.
RESPONDENT

Sworn to before me this
16th day of *JANUARY*, 1997.

William P Fletcher
NOTARY PUBLIC

WILLIAM P. FLETCHER
Notary Public, State of New York
No. 4830429
Qualified in Monroe County
Commission Expires March 30, 19*97*

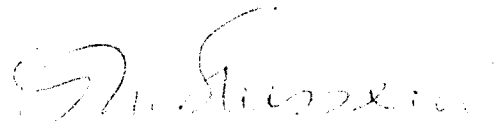
STATE OF NEW YORK : DEPARTMENT OF HEALTH
STATE BOARD FOR PROFESSIONAL MEDICAL CONDUCT

-----X
IN THE MATTER : APPLICATION
OF : FOR
MUSHEER HUSSAIN, M.D. : CONSENT
: ORDER
-----X

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

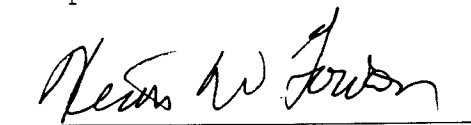
DATE:

1/6/97


MUSHEER HUSSAIN, M.D.
Respondent


DATE:

January 6, 1997


KENNETH GORDON, ESQ.
Attorney for Respondent

DATE:

January 7, 1997


FREDERICK ZIMMER
ASSISTANT COUNSEL
Bureau of Professional
Medical Conduct

DATE:

Jan 13 1997

Anne Sale

ANNE F. SALE
DIRECTOR

Office of Professional Medical
Conduct

DATE:

12/20/97

Charles J. Vacanti

CHARLES J. VACANTI, M.D.
CHAIRPERSON

State Board for Professional
Medical Conduct

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

-----X AMENDED
IN THE MATTER : STATEMENT
OF : OF
MUSHEER HUSSAIN, M.D., : CHARGES
Respondent

-----X
MUSHEER HUSSAIN, M.D., the Respondent, was authorized to practice medicine in New York State on August 16, 1974, by the issuance of license number 121541 by the New York State Education Department.

FACTUAL ALLEGATIONS

- A. On or about August 14, 1989, Respondent treated Patient A [all patients are identified in the attached Appendix] in the Lakeside Memorial Hospital Emergency Room for a laceration to his left hand. Respondent's care and treatment of Patient A failed to meet acceptable standards of medical care in that:
1. Respondent failed to elicit and/or record an adequate history for Patient A, including information as to how Patient A received this laceration.
 2. Respondent sutured the laceration, and instructed Patient A to return to Respondent's office some ten days later.
 3. Respondent failed to order appropriate antibiotics for Patient A.

EXHIBIT A

B. On or about May 14, 1989, Respondent treated Patient B in the Lakeside Memorial Hospital Emergency Room for complaints of shoulder and abdominal pain. Respondent's care and treatment of Patient B failed to meet acceptable standards of medical care, in that:

1. Respondent failed to perform and/or record a complete and/or adequate physical examination.
2. Respondent failed to adequately evaluate, appreciate and/or follow up on the results of Patient B's lab work, x-rays, physical examination and/or signs and symptoms.
3. Respondent failed to order appropriate tests and treatment for Patient B.

C. On or about May 29, 1991 through approximately June 16, 1991, Respondent treated Patient C at the Lakeside Memorial Hospital. Respondent's care and treatment of Patient C failed to meet acceptable standards of medical care, in that:

1. Respondent, on or about May 29, 1991, failed to order an x-ray prior to performing a thoracentesis on Patient C.
2. Respondent, following the thoracentesis procedure, failed to properly read Patient C's chest X-rays which indicated Patient C had a pneumothorax on her right side rather than her left.
3. Respondent placed a chest tube on Patient C's left side for treatment of a pneumothorax which was on the patient's right side.

D. On or about January 21, 1986 through approximately April 14, 1986, Respondent treated Patient D at the Lakeside Memorial Hospital. Respondent's care and treatment of Patient D failed to meet acceptable standards of medical care, in that:

1. Respondent failed to appropriately evaluate the extent of the tumor and lines of resection at the time of surgery on January 22, 1986 (the proximal resection margin).
2. Respondent who was unqualified and unprepared to perform thoraco-abdominal surgery failed to appreciate the possible need for a thoraco-abdominal approach when he initiated surgery.
3. Respondent failed to recognize and/or adequately treat injury to the colon during the course of Patient D's surgery on January 22, 1986.
4. On or about April 3, 1986, Respondent failed to order appropriate preoperative gastrointestinal bowel prep for Patient D for his colon resection.

E. From on or about December 10, 1986 through approximately January 24, 1987, Respondent treated Patient E at the Lakeside Memorial Hospital. Respondent's care and treatment of Patient E failed to meet acceptable standards of medical care, in that:

1. Respondent, on or about December 10, 1986, failed to adequately diagnose and/or treat the source of Patient E's hemoperitoneum.
2. Respondent, on or about December 10, 1986, failed to recognize and/or adequately treat a perforation to the colon which occurred during or prior to the surgery of December 10, 1986.

*deleted
F2*

3.

[REDACTED]

4. Respondent failed to adequately treat a small bowel perforation which occurred during the surgery of December 22, 1986.

SPECIFICATIONS OF CHARGES

FIRST THROUGH FIFTH SPECIFICATIONS

GROSS NEGLIGENCE

Respondent is charged with practicing the profession with gross negligence on a particular occasion in violation of N.Y. Educ. Law §6530(4) (McKinney Supp. 1996) in that, Petitioner charges:

1. The facts in paragraphs A and A.1, A.2 and/or A.3.
2. The facts in paragraphs B and B.1, B.2 and/or B.3.
3. The facts in paragraphs C and C.1, C.2 and/or C.3.
4. The facts in paragraphs D and D.1, D.2, D.3 and/or D.4.
5. The facts in paragraphs E and E.1, E.2, [REDACTED] and/or E.4.

fz

SIXTH THROUGH TENTH SPECIFICATIONS

GROSS INCOMPETENCE

Respondent is charged with practicing the profession with gross incompetence in violation of N.Y. Educ. Law §6530(6) (McKinney Supp. 1996) in that, Petitioner charges:

5. The facts in paragraphs A and A.1, A.2 and/or A.3.
7. The facts in paragraphs B and B.1, B.2 and/or B.3.
8. The facts in paragraphs C and C.1, C.2 and/or C.3.

9. The facts in paragraphs D and D.1, D.2, D.3 and/or D.4.
- FZ 10. The facts in paragraphs E and E.1, E.2, [REDACTED] and/or E.4.

ELEVENTH SPECIFICATION

NEGLIGENCE ON MORE THAN ONE OCCASION

Respondent is charged with practicing the profession with negligence on more than one occasion in violation of N.Y. Educ. Law §6530(3) (McKinney Supp. 1996) in that, Petitioner charges two or more of the following:

- FZ 11. The facts in paragraphs A and A.1, A and A.2, A and A.3, B and B.1, B and B.2, B and B.3, C and C.1, C and C.2, C and C.3, D and D.1, D and D.2, D and D.3, D and D.4, E and E.1, E and E.2, [REDACTED] and/or E and E.4.

TWELFTH SPECIFICATION

INCOMPETENCE ON MORE THAN ONE OCCASION

Respondent is charged with practicing the profession with incompetence on more than one occasion in violation of N.Y. Educ. Law §6530(5) (McKinney Supp. 1996) in that, Petitioner charges two or more of the following:

- FZ 12. The facts in paragraphs A and A.1, A and A.2, A and A.3, B and B.1, B and B.2, B and B.3, C and C.1, C and C.2, C and C.3, D and D.1, D and D.2, D and D.3, D and D.4, E and E.1, E and E.2, [REDACTED] and/or E and E.4.

THIRTEENTH SPECIFICATION
FAILING TO MAINTAIN RECORDS

Respondent is charged with failing to maintain records which accurately reflect the evaluation and treatment of the patient in violation of N.Y. Educ. Law §6530(32) (McKinney Supp 1996) in that Petitioner charges:

13. The facts in Paragraphs A and A.1 and/or B and B.1.

DATED: *Sept 27*, 1996
Albany, New York



PETER D. VAN BUREN
Deputy Counsel
Bureau of Professional
Medical Conduct

EXHIBIT B
TERMS OF PROBATION

1. Musheer Hussain, M.D. (hereafter "Respondent"), during the period of probation shall conduct himself in all ways in a manner befitting his professional status, and shall conform fully to the moral and professional standards of conduct and obligations imposed by law and by his profession.
2. Respondent shall submit written notification to the New York State Department of Health addressed to the Director, Office of Professional Medical Conduct (OPMC), Hedley Park Place, 4th Floor, 433 River Street, Troy, New York 12180; said notice is to include a full description of any employment and practice; professional and residential addresses and telephone numbers within or without the State of New York; and any and all investigations, charges, convictions or disciplinary actions by any local, state or federal agency, institution or facility, within thirty (30) days of each action.
3. Respondent shall submit written proof to the Director, OPMC, as aforesaid, that Respondent is currently registered with the New York State Education Department; said proof of the above to be submitted no later than sixty (60) days following the effective date of this Order.
4. Respondent shall fully cooperate with and respond in a timely manner to requests from OPMC to provide written periodic verification of Respondent's compliance with the terms of this Order. Respondent shall personally meet with a member of the OPMC staff at the discretion of the Director of the Office.
5. The period of probation shall be tolled during periods Respondent is not engaged in the active practice of medicine in the State of New York. Respondent shall notify the 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 OPMC again prior to any change in that status. The period of probation shall resume and any terms of probation which were not fulfilled while Respondent was not in New York State shall be fulfilled upon his return to practice in New York State.
6. Respondent's professional performance may be reviewed by the Director, OPMC. This review may include, but not be limited to, a review of office records, patient records and/or hospital charts, interviews with or periodic visits with Respondent and his staff at practice locations or OPMC offices.

7. Respondent shall make available for review by the Office of Professional Medical Conduct and/or in OPMC's discretion, by a physician proposed by Respondent and approved in writing by the Director of OPMC, complete copies of any and all medical and office records selected by the OPMC. Respondent shall fully cooperate in the review process.
8. Respondent shall maintain legible and complete medical records which accurately reflect the evaluation and treatment of patients. The medical records shall contain all information required by state rules and regulations regarding controlled substances.
9. Respondent shall practice medicine only 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. The practice monitor shall be proposed by Respondent and approved by OPMC within thirty days of the effective date of this Order.
 - a. Respondent shall make available to the practice monitor any and all records or access to the practice requested by the practice 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 once per quarter and shall examine a selection, no less than 10 percent, of records maintained by Respondent, including patient records, prescribing information and office records. The review will determine whether the Respondent's medical practice, including but not limited to his performance of minor surgical procedures as described in paragraph 1 of the Application for Consent Order, is conducted in accordance with the generally accepted standards of professional medical care and with the limitations placed on Respondent's practice of medicine by the terms of this Application for Consent Order. Any perceived deviation by Respondent from accepted standards of medical care, the terms of this Application for Consent Order or refusal by Respondent to cooperate with the practice monitor shall be reported within twenty-four (24) hours to the 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, 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, OPMC, prior to Respondent's practice after the effective date of this Order.

10. Respondent shall comply with all terms, conditions, restrictions, limitations and penalties to which he 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.