



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

August 29, 2006

CERTIFIED MAIL-RETURN RECEIPT REQUESTED

Swapnadip Lahiri, M.D.
5 Daniel Place
Saddlebrook, NJ 07663

Re: License No. 193715

Dear Dr. Lahiri:

Enclosed is a copy of Order #BPMC 06-203 of the New York State Board for Professional Medical Conduct. This order and any penalty provided therein goes into effect September 5, 2006.

If the penalty imposed by this Order is a surrender, revocation or suspension, you are required to deliver your license and registration within five (5) days of receipt of this Order. If the document(s) are lost, misplaced or destroyed, you are required to submit to this office an affidavit to that effect. Enclosed for your convenience is an affidavit. Please complete and sign the affidavit before a notary public and return it to: Office of Professional Medical Conduct, New York State Department of Health, 433 River Street, Suite 303, Troy, NY 12180-2299

Sincerely,

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

Enclosure

cc: Linda Clark, Esq.
Hiscock and Barclay
50 Beaver Street
Albany, NY 12207

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

IN THE MATTER
OF
SWAPNADIP LAHIRI, M.D.

ORDER

BPMC No. #06-203

Upon the application of (Respondent) SWAPNADIP LAHIRI, M.D. , annexed hereto and made a part of this ORDER, it is

ORDERED, that the terms of Respondent's Application, 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 Order, either by first class mail to Respondent at the address in the attached 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: 8-28-06



KENDRICK A. SEARS, 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
SWAPNADI LAHIRI, M.D.**

APPLICATION

**SWAPNADIP LAHIRI, M.D., representing that all of the following
statements are true, deposes and says:**

**That on or about September 20, 1993, I was licensed to practice as a
physician in the State of New York and issued License No. 193715 by the New
York State Education Department. Although I am registered as a physician in
New York State, I have not practiced in New York for over five years and have
no intention of resuming the practice of medicine in New York State.**

**My current address is 5 Daniel Place, Saddle Brook, New Jersey 07663,
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 has charged me with fifty-two (52) specifications of professional
misconduct. .**

**A copy of the Statement of Charges, marked as Exhibit "A", is attached to
and part of this Application.**

**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 am unable to defend against the Third Specification in full**

satisfaction of the charges against me.

I ask the Board to accept the surrender of my 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 this APPLICATION, none of its terms shall bind me or constitute an admission of any of the acts of alleged misconduct; 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 this APPLICATION to surrender my License, the Chair of the Board shall issue an 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 Order by first class mail to me at the address in this APPLICATION, or to my attorney by certified mail, OR upon facsimile transmission to me or my attorney, whichever is first. The Order, this agreement, and all attached Exhibits shall be public documents, with only patient identities, if any, redacted. As public documents, they may be posted on the Department's website.

I ask the Board to accept the surrender of my 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 APPLICATION, 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 Order for which I apply, whether administratively or judicially, and I agree to be bound by the 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 8/14/06

Swarnadip Lahiri
SWARNADIP LAHIRI, M.D.
RESPONDENT

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

DATE:

8/15/06


LINDA J. CLARK, ESQ.
Hiscock and Barclay
Attorney for Respondent

DATE:

8/17/06


DANIEL GUENZBURGER
Associate Counsel
Bureau of Professional Medical Conduct

DATE:

August 24, 2006


DENNIS J. GRAZIANO
Director
Office of Professional Medical Conduct

EXHIBIT A

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

IN THE MATTER
OF
SWAPNADIP LAHIRI

STATEMENT
OF
CHARGES

SWAPNADIP LAHIRI, MD, M.D., the Respondent, was authorized to practice medicine in New York State on or about September 20, 1993 by the issuance of license number 193715 by the New York State Education Department.

FACTUAL ALLEGATIONS

- A. On or about and between May 18, 2000 and July 18, 2000 the Respondent evaluated Patient A at the Plaza Medical and Pain Treatment, P.C., 450 Fordham Road, Bronx, New York for injuries the Patient reported she had sustained in an automobile accident. Respondent:
1. Inappropriately ordered:
 - a. MRI of the cervical spine.
 - b. Computerized range of motion testing .
 - c. Neurology consultation.
 - d. EMG studies of the upper extremities.
 - e. NCV studies of the upper extremities.
- B. On or about and between January 26, 2000 and June 27, 2000 the Respondent evaluated Patient B at Fordham Medical and Pain Treatment, P.C., 448 East Fordham Road, Bronx, New York, for injuries the Patient reported he had sustained in an automobile accident. Respondent was the sole shareholder of

Fordham Medical and Pain Treatment, P.C. ("Fordham Medical"). Respondent:

- 1. Inappropriately ordered:**
 - a. MRI of the cervical spine.**
 - b. MRI of the lumbar spine.**
 - c. Internal medicine consultation.**
 - d. Psychiatry consultation.**
 - e. Computerized range of motion study.**
 - f. Synaptic gradient study.**
 - g. EMG of the lower extremity.**
 - h. Nerve conduction study of the lower extremity.**

C. On or about and between January 7, 2000 and April 11, 2000 the Respondent evaluated Patient C at Fordham Medical for injuries the Patient reported she had sustained in an automobile accident. Respondent:

- 1. Inappropriately ordered:**
 - a. MRI of the cervical spine.**
 - b. MRI of the lumbar spine.**
 - c. Internal medicine consultation.**
 - d. Psychiatry consultation.**
 - e. Orthopaedic consultation.**
 - f. EMG of the upper extremity.**
 - g. Nerve conduction study of the upper extremity.**
 - h. EMG of the lower extremity.**
 - i. Nerve conduction study of the lower extremity.**
- 2. Failed to identify and/or note abnormal nerve conduction study findings, including but not limited to:**

- a. The low amplitude of the right sural sensory potential.
 - b. Significant differences between latencies of the left and right median F-waves.
 - c. Significant differences between latencies of the left and right tibial F-wave.
 - 3. Failed to properly perform and/or supervise the performance of various nerve conduction studies, including but not limited to:
 - a. The placement of:
 - i. Right tibial motor onsets.
 - ii. Right median sensory onsets.
 - b. The F-wave study of the lower extremity.
 - c. The right radial nerve conduction study.
 - d. The right ulnar sensory study.
- D. On or about January 7 and January 27, 2000 the Respondent evaluated Patient D at Fordham Medical for injuries the Patient reported she had sustained in an automobile accident. Respondent:
- 1. Inappropriately ordered:
 - a. MRI of the lumbar spine.
 - b. MRI of the cervical spine.
 - c. Computerized range of motion study.
 - d. Neurology consultation.
 - e. Psychiatry consultation.
 - f. Referral to a dentist.
 - g. EMG of the upper extremity.

- h. Nerve conduction study of the upper extremity.
 - i. EMG of the lower extremity.
 - j. Nerve conduction study of the lower extremity.
 - 2. Failed to properly perform and/or supervise the performance of various nerve conduction studies, including but not limited to:
 - a. Placement of the marker on the right tibial F -wave study.
 - b. Placement of the marker on the left tibial F wave study.
 - c. Placement of the marker on the left peroneal F-wave study.

E. On or about and between March 28, 2000 and August 7, 2000 the Respondent, evaluated Patient E at Plaza Medical for injuries the Patient reported he had sustained in an automobile accident. Respondent:

- 1. Inappropriately ordered:
 - a. MRI of the lumbar spine.
 - b. Synaptic gradient study.
 - c. EMG of the lower extremities.
 - d. Nerve conduction study of the lower extremities.
 - e. Neurology consultation.
- 2. Failed to properly perform and/or supervise the performance of various nerve conduction studies, including but not limited to placement of the latency marker on the F-wave study.
- 3. Deviated from medically accepted standards in the performance of the EMG study in that he:

- a. Failed to test paraspinal muscles.
- b. Failed to test at the L3-L4 myotomal level.
- 4. Failed to identify and/or note abnormal nerve conduction study findings, including but not limited to:
 - a. The low amplitude of the sensory potentials.
 - b. The significant latency differences between the left and right H-reflexes.

F. Pursuant to Article 15 of the Business Corporation Law, only licensed physicians may organize, hold stock in, direct and/or be an officer of a medical professional service corporation ("PC"). Respondent enabled non-physicians to evade the legal restrictions on ownership and control of PCs by:

- 1. Knowingly and falsely representing that he was the sole shareholder, director and officer in certificates of incorporation and other documents filed with the New York Departments of State and Education. Respondent concealed, with intent to mislead, that unqualified individuals owned, operated and/or controlled the following medical professional service corporations:
 - a. Advanced Physical Medicine and Rehabilitation, P.C.
 - b. Allied Medical Health Care, P.C.
 - c. Astoria Physical Medicine and Rehabilitation, P.C.
 - d. Better Care Health Care Pain Management and Rehabilitation, P.C.
 - e. Central Medical Rehabilitation, P.C.
 - f. Central Suffolk Medical Services, P.C.
 - g. First Queens Physical Medicine and Rehabilitation, P.C.

- h. Dr. Swapnadip Lahiri, P.C.
- i. Flatbush Medical Services, P.C.
- j. Franklin Medical Rehab., P.C.
- k. Grand Central Healthcare and Physical Medicine, P.C.
- l. Mid-Island Medical Health Care, P.C.
- m. Millenium Medical Diagnostics, P.C.
- n. NY Alea Medical, P.C.
- o. NY Pro Care Medical and Rehabilitation, P.C.
- p. Patient's Choice Medical Services, P.C.
- q. Pelham Physical Medicine and Rehabilitation, P.C.
- r. South Shore Sports Medicine and Rehabilitation, P.C.
- s. Sterling Medical Diagnostics, P.C.
- t. Triborough Medical Diagnostics, P.C.
- u. Urban Medical Diagnostics, P.C.
- v. Valley Physical Medicine and Rehabilitation, P.C.
- w. Valley Rehabilitation and Medical Offices, P.C.

2. Respondent permitted, aided and/or abetted individuals who lacked a medical license to organize, own, operate and/or control the medical professional service corporations identified in factual allegations F1(a) through F1(w).

- a. As previously alleged in Factual Allegations F, F1 and F1(i), Flatbush Medical Services, P.C. was one of the 23 PCs in which Respondent falsely represented to government regulatory agencies that he was the sole shareholder, director and officer of a professional

service corporation. In or about October, 1999, the "true owners" of the Flatbush Medical Services, P.C., Tatiana Rybuk and Paul Schneider, plead guilty to various crimes related to their operation of the PC, including the crime of engaging in a scheme to defraud insurance companies.

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 two or more of the following:

1. C2, C2(a), C2(b), C2(c), C3, C3(a), C3(a)i, C3(a)ii, C3(b), C3(c), C3(d), D2, D2(a), D2(b), D2(c), E2, E3, E3(a), E3(b), E4, E4(a) and/or E4(b).

SECOND SPECIFICATION

INCOMPETENCE ON MORE THAN ONE OCCASION

Respondent is charged with committing professional misconduct as defined in N.Y. Educ. Law § 6530(5) by practicing the profession of medicine with incompetence on more than one occasion as alleged in the facts of two or more of the following:

2. C2, C2(a), C2(b), C2(c), C3, C3(a), C3(a)i, C3(a)ii, C3(b), C3(c), C3(d), D2, D2(a), D2(b), D2(c), E2, E3, E3(a), E3(b), E4, E4(a) and/or E4(b).

THIRD SPECIFICATION

UNWARRANTED TESTS/TREATMENT

Respondent is charged with committing professional misconduct as defined in N.Y. Educ. Law § 6530(35) by ordering of excessive tests, treatment, or use of treatment facilities not warranted by the condition of the patient, as alleged in the facts of:

3. A, A1, A1(a), A1(b), A1(c), A1(d), A1(e), B, B1, B1(a), B1(b), B1(c), B1(d), B1(e), B1(f), B1(g), B1(h), C, C1, C1(a), C1(b), C1(d), C1(e), C1(f), C1(g), C1(h), C1(i), D, D1, D1(a), D1(b), D1(c), D1(d), D1(e), D1(f), D1(g), D1(h), D1(i), D1(j), E, E1, E1(a), E1(b), E1(c), E1(d), and/or E1(e)

FOURTH THROUGH TWENTY-SIXTH SPECIFICATIONS

FRAUDULENT PRACTICE

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

4. F, F1, and F1(a).
5. F, F1, and F1(b).
6. F, F1, and F1(c).
7. F, F1, and F1(d).
8. F, F1, and F1(e).
9. F, F1, and F1(f).
10. F, F1, and F1(g).
11. F, F1, and F1(h).
12. F, F1, and F1(i).
13. F, F1, and F1(j).

14. F, F1, and F1(k).
15. F, F1, and F1(l).
16. F, F1, and F1(m).
17. F, F1, and F1(n).
18. F, F1, and F1(o).
19. F, F1, and F1(p).
20. F, F1, and F1(q).
21. F, F1, and F1(r).
22. F, F1, and F1(s).
23. F, F1, and F1(t).
24. F, F1, and F1(u).
25. F, F1, and F1(v).
26. F, F1, and F1(w).

TWENTY-SEVENTH THROUGH FORTY-NINTH SPECIFICATIONS

FALSE REPORT

Respondent is charged with committing professional misconduct as defined in N.Y. Educ. Law § 6530(21) by wilfully making or filing a false report, or failing to file a report required by law or by the department of health or the education department, as alleged in the facts of:

27. F, F1, and F1(a).
28. F, F1, and F1(b).
29. F, F1, and F1(c).
30. F, F1, and F1(d).
31. F, F1, and F1(e).
32. F, F1, and F1(f).
33. F, F1, and F1(g).

- 34. F, F1, and F1(h).
- 35. F, F1, and F1(i).
- 36. F, F1, and F1(j).
- 37. F, F1, and F1(k).
- 38. F, F1, and F1(l).
- 39. F, F1, and F1(m).
- 40. F, F1, and F1(n).
- 41. F, F1, and F1(o).
- 42. F, F1, and F1(p).
- 43. F, F1, and F1(q).
- 44. F, F1, and F1(r).
- 45. F, F1, and F1(s).
- 46. F, F1, and F1(t).
- 47. F, F1, and F1(u).
- 48. F, F1, and F1(v).
- 49. F, F1, and F1(w).

FIFTIETH SPECIFICATION

PERMITTING, AIDING OR ABETTING THE UNLICENSED PRACTICE OF MEDICINE

Respondent is charged with committing professional misconduct as defined in N.Y. Educ. Law § 6530(11) by permitting, aiding, or abetting an unlicensed person to perform activities requiring a license, as alleged in the facts of:

- 50. F and F2.

FIFTY-FIRST SPECIFICATION

MORAL UNFITNESS

Respondent is charged with committing professional misconduct as defined in N.Y. Educ. Law § 6530(20) 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:

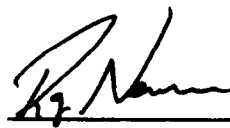
51. F, F1, F1(a) through F1(w), F2, and/or F2(a).

FIFTY-SECOND SPECIFICATION
FAILING TO COMPLY WITH A STATE LAW

Respondent is charged with committing professional misconduct as defined in N.Y. Educ. Law § 6530(16) by willfully and/or grossly negligently failing to comply with substantial provisions of State law governing the practice of Medicine, namely Business Corporation Law Section 1503, as alleged in the facts of:

52. F, F1, F1(a) through F1(w), and/or F2.

DATE: July 17, 2006
New York, New York



Roy Nemerson
Deputy Counsel
Bureau of Professional Medical Conduct

EXHIBIT "B"

GUIDELINES FOR CLOSING A MEDICAL PRACTICE FOLLOWING A REVOCATION, SURRENDER OR SUSPENSION (of six months or more) OF A MEDICAL LICENSE

1. Respondent shall immediately cease the practice of medicine in compliance with the terms of the Order. Respondent shall not represent that Respondent is eligible to practice medicine and shall refrain from providing an opinion as to professional practice or its application.
2. Within 15 days of the Order's effective date, Respondent shall notify all patients that Respondent has ceased the practice of medicine, and shall refer all patients to another licensed practicing physician for their continued care, as appropriate.
3. Within thirty days of the Order's effective date, Respondent shall deliver Respondent's original license to practice medicine in New York State and current biennial registration to the Office of Professional Medical Conduct (OPMC) at 433 River Street Suite 303, Troy, NY 12180-2299.
4. Respondent shall arrange for the transfer and maintenance of all patient medical records. Within thirty days of the Order's effective date, Respondent shall notify OPMC of these arrangements, including the name, address, and telephone number of an appropriate contact person, acceptable to the Director of OPMC, who shall have access to these records. Original records shall be retained for patients for at least six years after the last date of service, and, for minors, for at least six years after the last date of service or three 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 ensure that all patient information is kept confidential and is available only to authorized persons. When a patient or authorized 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 sent at reasonable cost to the patient (not to exceed 75 cents per page.) Radiographic, sonographic and like materials shall be provided at cost. A qualified person shall not be denied access to patient information solely because of inability to pay.
6. Within 15 days of the Order's effective date, Respondent shall return any unused New York State official prescription forms to the Bureau of Narcotic Enforcement of the New York State Department of Health. With respect to any prescription pads bearing Respondent's name and involving a New York State medical facility, Respondent shall have all such prescription pads destroyed.
7. Within 15 days of the Order's effective date, Respondent shall remove from the public domain any representation that Respondent is eligible to practice medicine in New York State, including all related signs, advertisements, professional listings whether in telephone directories or otherwise, professional stationery or billings. Respondent shall not share, occupy or use office space in which another licensee provides health care services.
8. Respondent shall not charge, receive or share any fee or distribution of dividends for professional services rendered (by Respondent or others)

while barred from practicing medicine. Respondent may receive compensation for the reasonable value of services lawfully rendered, and disbursements incurred on a patient's behalf, prior to the Surrender Order's effective date.

9. If Respondent is a shareholder in any professional service corporation organized to engage in the practice of medicine and Respondent's license is revoked, surrendered or suspended for six months or more pursuant to this Order, Respondent shall, within ninety days of the Order's effective date, divest completely of all financial interest in such professional services corporation in accordance with New York Business Corporation Law. If Respondent is the sole shareholder in a professional services corporation, the corporation must be dissolved or sold within ninety days of the Order's effective date.
10. Failure to comply with the above directives may result in civil or criminal penalties. Practicing medicine when a medical license has been suspended, revoked or annulled is a Class E Felony, punishable by imprisonment for up to four years, under § 6512 of the Education Law. Professional misconduct may result in penalties including revocation of the suspended license and/or fines of up to \$10,000 for each specification of misconduct, under § 230-a of the Public Health Law.