



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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NYS Department of Health

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

PUBLIC

January 11, 2005

CERTIFIED MAIL-RETURN RECEIPT REQUESTED

Robert Chandran Mallela, M.D.
22 Third Avenue
Roseland, NJ 07068

Re: License No. 197159

Dear Dr. Mallela:

Enclosed please find Order #BPMC 05-07 of the New York State Board for Professional Medical Conduct. This order and any penalty provided therein goes into effect January 18, 2005.

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 to the Board for Professional Medical Conduct, New York State Department of Health, Hedley Park Place, Suite 303, 433 River Street, Troy, New York 12180.

Sincerely,

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

Enclosure

cc: Barry M. Fallick, Esq.
Rochman, Platzer, Fallick, Sternheim, Luca & Pearl, LLP
666 Third Avenue
New York, NY 10017

IN THE MATTER
OF
ROBERT CHANDRAN MALLELA, M.D.

SURRENDER
ORDER

BPMC No. 05-07

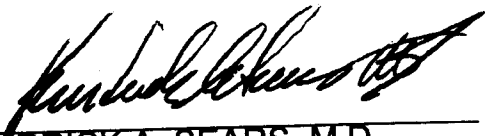
Upon the application of (Respondent) Robert Chandran Mallela, M.D., to Surrender his license as a physician in the State of New York, which is made a part of this Surrender Order, it is

ORDERED, that the Surrender, and its terms, are adopted and it is further ORDERED, that the name of Respondent 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 Application or by certified mail to Respondent's attorney, OR
 - upon facsimile transmission to Respondent or Respondent's attorney, Whichever is first.

SO ORDERED.

DATED: 1-8-2005


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
ROBERT CHANDRAN MALLELA, M.D.**

**SURRENDER
of
LICENSE**

Robert Chandran Mallela, M.D., representing that all of the following statements are true, deposes and says:

That on or about September 13, 1994, I was licensed to practice as a physician in the State of New York, and issued License No. 197159 by the New York State Education Department.

My current address is 22 Third Avenue, Roseland, NJ 07068, 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 19 specifications of professional misconduct.

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

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 admit the First Specification, in full satisfaction of the charges against me.

I ask the Board to accept the Surrender of my License.

I understand that if the Board does not accept this Surrender, 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 me.

pending disciplinary proceeding and the Board's final determination pursuant to the Public Health Law.

I agree that, if the Board accepts the Surrender of my 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 Order, this agreement, and all attached Exhibits shall be public documents, with only patient identities, if any, redacted.

I ask the Board to accept this Surrender of License 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.

DATE: 12/22/04


ROBERT CHANDRAN MALLELA, M.D.
RESPONDENT

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

DATE: 1-22-04


BARRY M. FALLICK, ESQ.
Attorney for Respondent

DATE: Jan. 3, 2005


RICHARD J. ZAHNLEUTER
Associate Counsel
Bureau of Professional Medical Conduct

DATE: January 7, 2005


DENNIS J. GRAZIANO
Director
Office of Professional Medical Conduct

EXHIBIT A

IN THE MATTER
OF
ROBERT CHANDRAN MALLELA, M.D.

STATEMENT
OF
CHARGES

Robert Chandran Mallela, M.D., referred to hereafter as the Respondent, was authorized to practice medicine in the State of New York on September 13, 1994 by the issuance of license number 197159 by the New York State Education Department. The Respondent's current address, upon information and belief, is 22 Third Avenue, Roseland, NJ 07068.

This Statement of Charges sets forth three separate categories of factual allegations:

1. The Respondent's statutory liability and accountability for billing fraud crimes committed by one of the Respondent's professional medical corporations;
2. The Respondent's deliberate concerted actions with non-physicians to illegally establish, control, and operate this professional medical corporation;
3. The Respondent's negligent and incompetent care and treatment of three patients at another one of the Respondent's professional medical corporations.

FACTUAL ALLEGATIONS

1. Statutory Liability and Accountability for Billing Fraud Crimes of Respondent's Professional Medical Corporation

- A. On January 9, 1997 through at least October 28, 1999, the Respondent was the President and sole shareholder of Avenue U Medical Services, P.C.
- B. Avenue U Medical Services, P.C., is a professional service corporation that was authorized to practice medicine in New York State pursuant to Business Corporation Law Article 15, captioned "Professional Service Corporations," on or about January 9, 1997 by the New York State Department of State.
- C. In June 1999, a Grand Jury empaneled in the Supreme Court of the State of New York, County of Kings, Criminal Term, Part 11, handed down an Indictment, denominated 4270-99, against Avenue U Medical Services, P.C.
- D. On October 28, 1999, the Respondent, as President of this corporation, authorized and directed that pleas of guilty be entered on behalf of Avenue U Medical Services, P.C., to Counts One and Three of the Indictment.
- E. Based on this authorization, on October 28, 1999, in the Supreme Court of the State of New York, County of Kings, Criminal Term, Part 11, Avenue U Medical Services, P.C., pled guilty to Counts One and Three of the Indictment, and, consequently, the professional medical corporation, by admission, was convicted of the crimes of Enterprise Corruption, and Scheme to Defraud in the First Degree.
- F. These criminal acts described and set forth in Counts One and Three of the Indictment are billing fraud activities which constitute professional medical misconduct. Pursuant to Section 1505 of the Business Corporation Law,

these admissions and pleas by the Respondent make him liable and accountable for those billing fraud activities.

2. Deliberate Concerted Actions with Non-Physicians to Illegally Establish, Control, and Operate Respondent's Professional Medical Corporation

- G. The activities set forth in Count One of the Indictment constitute professional medical misconduct in that the Respondent directed and/or allowed non-physicians to establish, control, and operate Avenue U Medical Services, P.C., unlawfully.

3. The Respondent's Negligent and Incompetent Care and Treatment of Patients A, B, C

H. At a P.C. known as Canarsie Medical Services P.C., which was established on April 6, 1998 by the Respondent as the original sole shareholder, director and officer, the Respondent evaluated Patient A¹, beginning on April 29, 1998, for injuries that Patient A sustained in an automobile accident on April 18, 1998. The Respondent cared for Patient A by ordering diagnostic imaging studies, physical therapy, home therapy with supportive devices, and a neurological consultation. The Respondent's care of Patient A did not meet acceptable standards of medical care in that:

1. The Respondent failed to formulate and/or document a patient-specific clinical rationale for the care that the Respondent provided.
2. The Respondent failed to provide and/or document in an adequate manner a paravertebral nerve block given on May 5, 1998.

¹To preserve privacy throughout this document, patients are referred to by letter designation. An Appendix of Patient Names is attached hereto for appropriate recipients.

3. The Respondent failed to obtain and/or document informed consent for the paravertebral nerve block given on May 5, 1998.
4. The Respondent failed to provide and/or document in an adequate manner a sciatic nerve block given on May 11, 1998.
5. The Respondent failed to obtain and/or document informed consent for the sciatic nerve block given on May 11, 1998.
6. The amount of physical therapy sessions and durable medical devices that the Respondent ordered was not supported by documentation in the medical record.

I. At Canarsie Medical Services P.C., the Respondent evaluated Patient B, beginning on April 29, 1998, for injuries that Patient B sustained in an automobile accident on April 18, 1998. The Respondent cared for Patient B by ordering diagnostic imaging studies, physical therapy, home therapy with supportive devices, and a neurological consultation. The Respondent's care of Patient B did not meet acceptable standards of medical care in that:

1. The Respondent failed to formulate and/or document a patient-specific clinical rationale for the care that the Respondent provided.
2. The amount of physical therapy sessions and durable medical devices that the Respondent ordered was not supported by documentation in the medical record.

Q. At Canarsie Medical Services P.C., the Respondent evaluated Patient C, beginning on April 28, 1998, for injuries that Patient C sustained in an automobile accident on April 18, 1998. The Respondent treated Patient C by ordering diagnostic imaging studies, physical therapy, home therapy with supportive devices, and a

neurological consultation. The Respondent's care of Patient C did not meet acceptable standards of medical care in that:

1. The Respondent failed to formulate and/or document a patient-specific clinical rationale for the care that the Respondent provided.
2. The amount of physical therapy sessions and durable medical devices that the Respondent ordered was not supported by documentation in the medical record.

SPECIFICATIONS OF MISCONDUCT

FIRST SPECIFICATION

(PRACTICING MEDICINE WITH INTENT TO DEFRAUD INSURANCE COMPANIES)

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

1. The facts set forth in paragraphs A, B, C, D, E, F, and/or G.

SECOND SPECIFICATION

(FAILING TO COMPLY WITH STATE LAWS)

Respondent is charged with committing professional misconduct as defined in N.Y. Educ. Law §6530(16) by willfully or in a grossly negligent way failing to comply with substantial provisions of State law, namely BCL Sections 1503(a), 1507, 1508, 1511 and 1504(c):

2. The facts set forth in paragraph G.

THIRD SPECIFICATION

(IMPROPERLY DELEGATING PROFESSIONAL RESPONSIBILITIES)

Respondent is charged with committing professional misconduct as defined in N.Y. Educ. Law §6530(25) by delegating professional responsibilities to a person when the licensee knows or has reason to know that such person is not qualified, by training, by experience, or by licensure, as alleged in the following:

3. The facts set forth in paragraph G.

FOURTH SPECIFICATION
(PERMITTING, AIDING OR ABETTING
UNLICENSED PERSONS TO PRACTICE 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 following:

4. The facts set forth in paragraph G.

FIFTH THROUGH SEVENTH SPECIFICATIONS
(GROSS NEGLIGENCE)

Respondent is charged with committing professional misconduct as defined in N.Y. Educ. Law §6530(4) by practicing the profession of medicine with gross negligence on a particular occasion as alleged in the following:

5. The facts set forth in paragraphs H, H(1), H(2), H(3), H(4), H(5), and/or H(6).
6. The facts set forth in paragraphs I, I(1), and/or I(2).
7. The facts set forth in paragraphs J, J(1), and/or J(2).

EIGHTH THROUGH TENTH SPECIFICATIONS
(GROSS INCOMPETENCE)

Respondent is charged with committing professional misconduct as defined in N.Y. Educ. Law §6530(6) by practicing the profession of medicine with gross incompetence as alleged in the following:

8. The facts set forth in paragraphs H, H(1), H(2), H(3), H(4), H(5), and/or H(6).

9. The facts set forth in paragraphs I, I(1), and/or I(2).
10. The facts set forth in paragraphs J, J(1), and/or J(2).

**ELEVENTH 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 two or more of the following:

11. The facts set forth in paragraphs H, H(1), H(2), H(3), H(4), H(5), H(6), I, I(1), I(2), J, J(1), and/or J(2).

**TWELFTH 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 two or more of the following:

12. The facts set forth in paragraphs H, H(1), H(2), H(3), H(4), H(5), H(6), I, I(1), I(2), J, J(1), and/or J(2).

**THIRTEENTH THROUGH FIFTEENTH SPECIFICATIONS
(FAILING 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 that

accurately reflects the evaluation and treatment of the patient as alleged in the following:

13. The facts set forth in paragraphs H, H(1), H(2), H(3), H(4), H(5), and/or H(6).
14. The facts set forth in paragraphs I, I(1), and/or I(2).
15. The facts set forth in paragraphs J, J(1), and/or J(2).

**SIXTEENTH THROUGH EIGHTEENTH SPECIFICATIONS
(ORDERING EXCESSIVE TESTS AND TREATMENT)**

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

16. The facts set forth in paragraphs H, H(1), H(2), H(4), and/or H(6).
17. The facts set forth in paragraphs I, I(1), and/or I(2).
18. The facts set forth in paragraphs J, J(1), and/or J(2).

**NINETEENTH SPECIFICATION
(PERFORMING PROFESSIONAL SERVICES NOT AUTHORIZED BY THE PATIENT)**

Respondent is charged with committing professional misconduct as defined in N.Y. Educ. Law §6530(26) by performing professional services which have not been duly authorized by the patient, as alleged in the following:

19. The facts set forth in paragraphs H, H(3), and/or H(5).

DATED: *January 4, 2005*
~~December~~, 2004
Albany, New York

Peter D. Van Buren
Peter D. Van Buren
Deputy Counsel
Bureau of Professional
Medical Conduct

EXHIBIT "B"

**GUIDELINES FOR CLOSING A MEDICAL PRACTICE FOLLOWING A
REVOCATION, SURRENDER OR SUSPENSION (of 6 months or more)
OF A MEDICAL LICENSE**

1. Respondent shall immediately cease and desist the practice of medicine in compliance with the terms of the Surrender Order. Respondent shall not represent himself or herself as eligible to practice medicine and shall refrain from providing an opinion as to professional practice or its application.
2. Within fifteen (15) days of the Surrender Order's effective date, Respondent shall notify all patients that he or she 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 (30) days of the Surrender Order's effective date, Respondent shall have his or her original license to practice medicine in New York State and current biennial registration delivered 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 (30) days of the Surrender 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 (6) years after the last date of service, and, for minors, at least six (6) years after the last date of service or three (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 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 seventy-five 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.
5. Within fifteen (15) days of the Order's effective date, if Respondent holds a Drug Enforcement Agency (DEA) certificate, Respondent shall advise the DEA in writing of the licensure action and shall surrender his or her DEA controlled substance certificate, privileges, and any used DEA #222 U.S. Official Order Forms Schedules 1 and 2, to the DEA.
6. Within fifteen (15) days of the Order's effective date, Respondent shall return any unused New York State official prescription forms to the Bureau of Controlled Substances of the New York State Department of Health. Respondent shall have all prescription pads bearing Respondent's name destroyed. If no other licensee is providing services at his practice location, Respondent shall dispose of all medications.
7. Within fifteen (15) days of the Order's effective date, Respondent shall remove from the public domain any representation that Respondent is eligible to practice medicine, 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 himself 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 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 (6) months or more pursuant to this Order, Respondent shall, within ninety (90) days of the Order's effective date, divest himself/herself 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 (90) 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 (4) years, under Section 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 Section 230-a of the Public Health Law.