



**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*

Patrick F. Carone, M.D., M.P.H.  
*Chair*  
Ansel R. Marks, M.D., J.D.  
*Executive Secretary*

September 26, 1997

**CERTIFIED MAIL - RETURN RECEIPT REQUESTED**

Arun K. Agrawal, M.D.  
84 Second Street  
Garden City, New York 11530

RE: License No. 159622

Dear Dr. Agrawal:

Enclosed please find Order #BPMC 97-227 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.

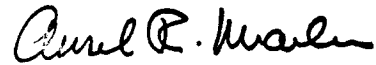
If the penalty imposed by the Order is a surrender, revocation or suspension of this license, you are required to deliver to the Board the license and registration within five (5) days of receipt of the Order.

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

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 1315  
Empire State Plaza  
Albany, New York 12237

Sincerely,

A handwritten signature in black ink, appearing to read "Ansel R. Marks". The signature is written in a cursive style with a large initial "A".

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

Enclosure

cc: Richard A. Finkel, Esq.  
Meissner, Kleinberg & Finkel, LLP  
275 Madison Avenue  
New York, New York 10016-8600

Paul Stein, Esq.

**IN THE MATTER**  
**OF**  
**ARUN KUMAR AGRAWAL, M.D.**

CONSENT  
ORDER

BPMC #97-227

Upon the proposed agreement of ARUN KUMAR AGRAWAL, 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 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: \_\_\_\_\_

\_\_\_\_\_  
THEA GRAVES PELLMAN  
Vice-Chairperson  
State Board for Professional  
Medical Conduct

**IN THE MATTER  
OF  
ARUN KUMAR AGRAWAL, M.D.**

CONSENT  
AGREEMENT  
AND  
ORDER

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

ARUN KUMAR AGRAWAL, M.D., being duly sworn, deposes and says:

That on or about August 13, 1984, I was licensed to practice as a physician in the State of New York, having been issued License No. 159622 by the New York State Education Department.

My current address is 84 Second Street, Garden City, NY 11530, 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 16 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 Specifications 9 through 16, in full satisfaction of the charges against me. I hereby agree to the following penalty:

Two years probation, subject to the terms set forth in Exhibit B attached, with quarterly record and billing review, as specified in Exhibit B; a

\$10,000 fine, as specified in Exhibit B; 100 hours of community service, as specified in Exhibit B; and 100 hours of continuing medical education, as specified in Exhibit B.

I further agree that the Consent Order for which I hereby apply shall impose a condition that, except during periods of actual suspension, I maintain current registration of my 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 continuing until the full term of the Order has run, and until any associated period of probation and all probation terms have been completed and satisfied. I hereby stipulate that any failure by me to comply with such condition shall constitute misconduct as defined by New York State Education Law §6530(29) (McKinney Supp 1997).


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 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.

  
\_\_\_\_\_  
ARUN KUMAR AGRAWAL, M.D.  
Respondent

Sworn to before me this  
day of ~~August~~, 1997.

\_\_\_\_\_  
NOTARY PUBLIC

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

DATE: \_\_\_\_\_

\_\_\_\_\_  
RICHARD A. FINKEL, ESQ.  
Attorney for Respondent

DATE: 9-15-97

Paul Stein  
\_\_\_\_\_  
PAUL STEIN, ESQ.  
Associate Counsel  
Bureau of Professional  
Medical Conduct

DATE: September 18 1997

Anne Saile  
\_\_\_\_\_  
ANNE F. SAILE  
Director  
Office of Professional  
Medical Conduct

**IN THE MATTER**  
**OF**  
**ARUN KUMAR AGRAWAL, M.D.**

STATEMENT  
OF  
CHARGES

ARUN KUMAR AGRAWAL, M.D., the Respondent, was authorized to practice medicine in New York State on August 13, 1984 by the issuance of license number 159622 by the New York State Education Department.

FACTUAL ALLEGATIONS

- A. Respondent administered anesthesia to Patients B, C, D, E, F, G, H, and I (all patients are identified in Appendix A), as specified below in paragraphs B through I. The below allegations (A-1 and A-2) each apply individually to patients B through I.
1. Respondent knowingly and intentionally, with intent to defraud, created a record for the patient that does not accurately document the patient's condition and anesthesia care.
  2. Respondent failed to keep an adequate record for the patient.
- B. On or about April 25, 1994, Respondent administered anesthesia to Patient B, a 34 year old female, at Mercy Medical Center, 1000 North Village Avenue, Rockville Center, New York, for a Cesarean section.



- C. On or about August 11, 1994, Respondent administered anesthesia to Patient C, a 35 year old female, at Mercy Medical Center, 1000 North Village Avenue, Rockville Center, New York, for a Cesarean section.
- D. On or about January 4, 1995, Respondent administered anesthesia to Patient D, a 28 year old female, at Mercy Medical Center, 1000 North Village Avenue, Rockville Center, New York, for a Cesarean section.
- E. On or about May 9, 1994, Respondent administered anesthesia to Patient E, a 30 year old female, at Mercy Medical Center, 1000 North Village Avenue, Rockville Center, New York, for a Cesarean section.
- F. On or about September 20, 1994, Respondent administered anesthesia to Patient F, a 25 year old female, at Mercy Medical Center, 1000 North Village Avenue, Rockville Center, New York, for a vaginal delivery and episiotomy.
- G. On or about October 12, 1994, Respondent administered anesthesia to Patient G, a 28 year old female, at Mercy Medical Center, 1000 North Village Avenue, Rockville Center, New York, for a vaginal delivery and episiotomy.
- H. On or about December 1, 1994, Respondent administered

anesthesia to Patient H, a 30 year old female, at Mercy Medical Center, 1000 North Village Avenue, Rockville Center, New York, for a Cesarean section.

- I. On or about August 11, 1994, Respondent administered anesthesia to Patient I, a 28 year old female, at Mercy Medical Center, 1000 North Village Avenue, Rockville Center, New York, for a vaginal delivery and episiotomy.

### SPECIFICATIONS

#### FIRST THROUGH EIGHTH SPECIFICATIONS

#### FRAUDULENT PRACTICE

Respondent is charged with committing professional misconduct as defined by N.Y. Educ. Law §6530(2) (McKinney Supp. 1997) by practicing the profession of medicine fraudulently as alleged in the facts of the following:

1. Paragraphs A and A1 in so far as they apply to Patient B and paragraph B.
2. Paragraphs A and A1 in so far as they apply to Patient C and paragraph C.
3. Paragraphs A and A1 in so far as they apply to Patient D and paragraph D.
4. Paragraphs A and A1 in so far as they apply to Patient E and paragraph E.
5. Paragraphs A and A1 in so far as they apply to Patient F and

paragraph F.

6. Paragraphs A and A1 in so far as they apply to Patient G and paragraph G.
7. Paragraphs A and A1 in so far as they apply to Patient H and paragraph H.
8. Paragraphs A and A1 in so far as they apply to Patient I and paragraph I.

#### NINTH THROUGH SIXTEENTH SPECIFICATIONS

##### FAILING TO MAINTAIN A RECORD

Respondent is charged with committing professional misconduct as defined in N.Y. Educ. Law §6530(32) (McKinney Supp. 1997) 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 the following:

9. Paragraphs A and A2 in so far as they apply to Patient B and paragraph B.
10. Paragraphs A and A2 in so far as they apply to Patient C and paragraph C.
11. Paragraphs A and A2 in so far as they apply to Patient D and paragraph D.
12. Paragraphs A and A2 in so far as they apply to Patient E and paragraph E.
13. Paragraphs A and A2 in so far as they apply to Patient F and paragraph F.
14. Paragraphs A and A2 in so far as they apply to Patient G and paragraph G.

15. Paragraphs A and A2 in so far as they apply to Patient H and paragraph H.
16. Paragraphs A and A2 in so far as they apply to Patient I and paragraph I.

DATED:       New York, New York  
              August       , 1997

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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. 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 person designated by the Director of OPMC as requested by the Director.
4. 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].
5. 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.
6. 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, billing records and/or hospital charts, interviews with or periodic visits with Respondent and his/her staff at practice locations or OPMC offices.
7. Respondent shall maintain legible and complete medical and billing 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.

8. Respondent's practice shall be monitored, at his expense, by a board-certified anesthesiologist approved by the Director of the Office of Professional Medical Conduct. Respondent shall meet with the practice monitor quarterly and provide at each meeting complete treatment and billing records of fifteen patients treated by Respondent that are representative of Respondent's practice. The practice monitor shall provide quarterly reports to the Director of the Office of Professional Medical Conduct evaluating whether or not the treatment provided by Respondent and the treatment and billing records kept by Respondent meet the standard of care of the medical community. If at any time the practice monitor is not satisfied that the records provided are representative of Respondent's practice, Respondent shall provide additional records until the practice monitor is satisfied that the sample is representative of Respondent's practice.
9. Respondent shall pay a \$10,000 fine, at least \$5,000 of which is to be paid by the last day of the first year of probation, with the balance to be paid before the last day of the second year of probation. If for any reason the period of probation is to be tolled, the fine shall become immediately due and payable before the toll takes effect.
10. Respondent shall complete 100 hours of community service during the period of probation: 50 hours in the first year of probation and 50 hours in the second year of probation. All community service must be approved by the Director of the Office of Professional Medical Conduct before it is commenced. Proof of completion of the community service requirement shall be provided to the Director of the Office of Professional Medical Conduct prior to the termination of the period of probation.
11. Respondent shall complete during the period of probation 100 hours of continuing medical education over and above the recommended minimum set by the specialty accrediting body: 50 hours in the first year of probation and 50 hours in the second year of probation. Continuing medical education shall consist of lectures, courses or seminars that are sponsored by an institution accredited by the Accreditation Counsel for Continuing Medical Education. Said continuing medical education programs shall be subject to the prior written approval of the Director of the Office of Professional Medical Conduct. At least one course shall cover anesthesia record keeping. Proof of completion of the continuing medical education requirement shall be provided to the Director of the Office of Professional Medical Conduct prior to the termination of the period of probation.
12. 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.