



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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Office of Professional Medical Conduct

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

October 30, 2000

CERTIFIED MAIL-RETURN RECEIPT REQUESTED

Adam Paal, M.D.
192 Nassau Road
Huntington, New York 11743

RE: License No. Resident

Dear Dr. Paal:

Enclosed please find Order #BPMC 00-288 of the New York State Board for Professional Medical Conduct. This Order and any penalty provided therein goes into effect October 30, 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 to 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: Lewis Tesser Esq.
Segal, Tesser and Ryan, L.L.P.
300 E. 42nd Street
New York, NY 10017

Marcia E. Kaplan, Esq.

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

IN THE MATTER
OF
ADAM PAAL, M.D.

CONSENT
AGREEMENT
AND
ORDER

BPMC No. 00-288

STATE OF NEW YORK)
COUNTY OF) ss.:

Adam Paal, M.D., (Respondent) being duly sworn, deposes and says:

That I have been a "licensee," as that term is defined in N.Y. Public Health Law §230(7), at times on and after July 1, ¹⁹⁹⁷~~1998~~. I do not hold and have not held a license to practice medicine in New York State issued by the New York State Education Department.

My current address is 192 Nassau Road, Huntington, N.Y. 11743, 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 one specification of professional misconduct.

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

I do not contest the Specification in Exhibit "A." I hereby agree to the following penalty:

Pursuant to N.Y. Public Health Law §230-a(6), a limitation shall be placed upon me precluding any further registration of license by me or issuance of any further license to me to practice medicine in New York State, unless and until the State Board for Professional Medical Conduct shall issue a

Modification Order staying such limitation. I understand and agree; (1) that upon compliance with all conditions of this Order, I may petition the State Board for Professional Medical Conduct for a Modification Order staying the suspension of my license; (2) that any Modification Order the Board may issue, in the exercise of its reasonable discretion, may include limitations, terms of probation, or further conditions on my practice; (3) that the Board will exercise its reasonable discretion upon my petition for a Modification Order through a Committee on Professional Conduct, after a proceeding in which I have met a burden of proof and persuasion as further set forth in attached Exhibit "B"; and (4) that the Committee's exercise of discretion shall not be reviewable by the Administrative Review Board.

I further agree that the Consent Order for which I hereby apply shall impose the following conditions:

That until and unless I am granted a license to practice medicine in the State of New York, I shall not engage in any practice of medicine in the State of New York, whether as a licensee, holder of a permit, or exempt person, beginning upon the effective date of the Consent Order; and

That I 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 me. I shall respond in a timely manner to each and every request by OPMC to provide written periodic verification of my compliance with the terms of this Order. I shall meet with a person designated by the Director of OPMC as directed. I shall respond promptly and provide any and all documents and information within my control upon the direction of OPMC. This condition shall be in effect beginning upon the effective date of the Consent Order and will continue at all times thereafter.

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)(McKinney Supp 2000).

I agree that in the event I am charged with ^{other} 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 10/10/2000


ADAM PAAL, M.D.
RESPONDENT


Sworn to before me
on this 10 day of
OCT 2000


NOTARY


MARGARET M. HANRAHAN
Notary Public, State of New York
No. 01HA6045823
Qualified in Suffolk County
Commission Expires July 31, 2002

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

DATE: Oct 13, 2000


LEWIS TESSER, ESQ.
Attorney for Respondent

DATE: October 13, 2000


MARCIA E. KAPLAN
Associate Counsel
Bureau of Professional
Medical Conduct

DATE: October 25, 2000


ANNE F. SAILE
Director
Office of Professional
Medical Conduct

EXHIBIT "A"

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

**IN THE MATTER
OF
ADAM PAAL, M.D.**

**STATEMENT
OF
CHARGES**

ADAM PAAL, M.D., the Respondent, has been a "licensee," as that term is defined in N.Y. Public Health Law §230(7), at times on and after July 1, ¹⁹⁹⁷~~1998~~. He does not hold a license to practice medicine in New York State issued by the New York State Education Department.

FACTUAL ALLEGATIONS

- A. Between in or between July ¹⁹⁹⁷~~1998~~ and January 1999, and specifically in or about December 1998, at Nassau County Medical Center, while Respondent was an Orthopedic Surgery Resident, Respondent abused controlled substances including Morphine, Fentanyl and benzodiazepines and attempted to divert and/or diverted those substances from hospital patients.

SPECIFICATION OF CHARGES

FIRST SPECIFICATION

PRACTICING WHILE IMPAIRED

Respondent is charged with committing professional misconduct as defined in N.Y. Educ. Law §6530(7)(McKinney Supp. 2000) by practicing the profession while impaired by alcohol, drugs, physical disability, or mental disability as alleged in the facts of the following:

1. Paragraph A.

DATED: July , 2000
New York, New York

ROY NEMERSON
Deputy Counsel
Bureau of Professional
Medical Conduct

EXHIBIT "B"

1. Respondent's indefinite license limitation shall be modified, and the limitation of his license terminated, only upon a showing by Respondent to the satisfaction of a Committee on Professional Conduct of the State Board for Professional Medical Conduct (henceforth "Committee"), and upon the Committee's determination, that: he has successfully complied with or completed a course of therapy and ongoing evaluation and he is both fit and clinically competent to practice as a Physician.

2. Upon Respondent's written request, no sooner than one year from the effective date of this Order, a Committee shall meet to hear and evaluate Respondent's showing, as referred to in paragraph 1 above, in support of a Modification Order. The Board will make reasonable attempts to convene a Committee within 90 days after Respondent's request, which shall not be perfected until the Director of the Office of Professional Medical Conduct receives all the documents Respondent is required to provide to satisfy the Conditions imposed upon him and as further set forth in paragraph 3 below. The procedural nature of said proceeding shall be determined by the State Board for Professional Medical Conduct, within the discretion of the Director of the Office of Professional Medical Conduct upon consultation with Counsel, Bureau of Professional Medical Conduct. Proceedings before said Committee shall *not* be in the nature of a *hearing* pursuant to New York Public Health Law §230, but shall instead be informal and intended only for the purpose of addressing any and all facts, evidence, information, circumstances, or issues that do or may relate to the advisability of terminating or modifying the prohibition against Respondent's practice of medicine in New York State. The Committee shall be given access to evidence including but not limited to:

- a. Any and all evidence pertaining to Respondent's compliance with the Conditions imposed.
- b. Any evidence that the Director of the Office of Professional Medical Conduct or Counsel, Bureau of Professional Medical Conduct deems appropriate.

3. At the time that Respondent requests that a Committee meeting be scheduled pursuant to paragraph 2, he shall provide the Director of the Office of Professional Medical Conduct, New York State Department of Health, 433 River Street, Suite 303, Troy, NY 12180-2299, with the following:

- a. The signed acknowledgment from the supervising physician referred to in paragraph 5c.
- b. The signed acknowledgment from the health care professional referred to in paragraph 5d.
- c. Certified true and complete copies of records of all evaluation and treatment, whether that evaluation and treatment occurred prior to or during the time this limitation is in effect. These records shall include documentation of the results of any and all tests conducted to evaluate Respondent's fitness and his clinical competence to practice medicine. Such records shall include documentation of his participation in the program(s) of the Committee for Physicians' Health of the New York State Medical Society, or other equivalent program(s).
- d. Fully executed waivers of patient confidentiality concerning any previous and prospective treatment records.
- e. An independent current psychiatric evaluation by a board certified psychiatrist. Also, upon request of the Director of OPMC, a current in-depth chemical dependency evaluation by a health care professional in a licensed facility.
- f. At the discretion of the Director of OPMC, a report of a complete clinical competency assessment, to be performed by a program proposed by Respondent and subject to the prior written approval of the Director of OPMC.
- g. Respondent's attendance at, participation in, and cooperation with an interview conducted by personnel of OPMC, upon the request of the Director thereof.

Provision of the aforesaid documents will not alone constitute a showing that Respondent is no longer incapacitated for active practice as a Physician.

4. At the proceeding referred to in paragraph 2, Respondent shall provide the committee, at a minimum, with the following:

- a. Certified true and complete records of all psychiatric, psychological, and/or any other mental health treatment, evaluation, and/or testing, whether in an out-patient, in-patient, office or consultation setting.
- b. Evidence of compliance with the terms of a continuing after-care out-patient treatment plan, if any.
- c. Evidence that Respondent has maintained adequate knowledge and competence to practice as a physician. Such evidence shall include documentation of continuing medical education and, if so requested by the Director of OPMC, a report of an independent evaluation of Respondent's medical knowledge and competence.

Submission of the aforesaid evidence shall not alone constitute a showing that Respondent is both fit and clinically competent for active practice as a Physician.

5. If the Chairperson of the Committee issues an order (Order) finding that Respondent has successfully completed the prescribed course of treatment and has regained fitness and competence to practice medicine, therefore staying the limitation on Respondent's license, the Order shall further impose a period of probation, pursuant to New York Public Health Law §230-a, during which his practice as a Physician shall be subject to conditions imposed. Respondent's practice shall be subject to such conditions for a period of not less than five years. The minimum conditions shall include:

- a. Respondent shall be required to comply with the terms of a continuing after-care treatment plan, if any.
- b. At the direction of the Director of OPMC, Respondent shall submit to periodic interviews with, and evaluations by, a board certified psychiatrist or other licensed mental health practitioner designated by the Director. Said practitioner shall report to the Director regarding Respondent's condition and his fitness or incapacity to practice as a Physician.
- c. Respondent shall be supervised in his medical practice by a licensed physician, proposed by him and approved in writing by the Director of OPMC, in accordance with the conditions contained in or annexed to the Order. Said supervising physician shall be familiar with Respondent's treatment history

and with the Order and its conditions. Said supervising physician shall supervise Respondent's compliance with the conditions of practice imposed by the Order. Said supervising physician shall be in a position regularly to observe and assess Respondent's medical practice. Said supervising physician shall acknowledge his willingness to comply with the supervision by executing the acknowledgement provided by OPMC.

- i. Said supervising physician shall submit to OPMC quarterly reports regarding the quality of Respondent's medical practice, any unexplained absences from work and certifying compliance or detailing his failure to comply with each condition imposed.
 - ii. Said supervising physician shall report any suspected impairment, inappropriate behavior, questionable medical practices or possible misconduct to OPMC.
- d. Respondent shall continue in treatment with a health care professional, proposed by him and approved, in writing, by the Director of OPMC, for as long as the health care professional determines it is necessary.
- i. Respondent's treating health care professional or program shall submit to OPMC quarterly reports certifying that Respondent is complying with the treatment.
 - ii. Said treating health care professional shall report to OPMC immediately if Respondent is noncompliant with his treatment plan or if he demonstrates any significant pattern of absences.
 - iii. Said treating health care professional shall acknowledge his willingness to comply with the above-mentioned reporting by executing the acknowledgment provided by OPMC.

6. The terms set out in paragraph 5 shall be the minimum probation terms, related to Respondent's fitness to practice, to be imposed on his practice upon restoration of his license. Other terms may be added by the Committee at the time of license restoration and the costs of complying with all such terms shall be Respondent's responsibility. Any failure by Respondent to comply with the conditions imposed upon his practice at the time of license restoration may result in disciplinary action being brought against him, charging professional misconduct as defined by the New York State Education Law, including but not limited to N.Y. Educ. Law Section 6530(29) (McKinney Supp. 2000). That section defines professional misconduct to include "violating any... condition... imposed on the licensee pursuant to section two hundred thirty of the public health law."

7. Upon any denial of license restoration made by the Committee, Respondent shall not again request convening of a Committee until a minimum period of nine months has elapsed since such denial.

8. In addition to the terms set out in paragraph 5 and any other terms imposed by the Committee upon restoration of Respondent's license, he shall also be subject to the following standard terms of probation:

- a. Respondent 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 the profession of medicine.
- b. Respondent shall submit written notification of all sites of employment and/or medical practice 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 shall include a full description of any employment and practice, professional and residential addresses and telephone numbers within or without New York State, and notification of 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.
- c. 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. He shall personally

meet with a person designated by the Director of OPMC, as requested by the Director.

- d. 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].
- e. Any period of probation shall be tolled during periods in which Respondent is not engaged in the active practice as a Physician in New York State. Respondent shall notify the Director of OPMC, in writing, if he is not currently engaged in or intends to leave the active practice as a Physician 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 that were not fulfilled shall be fulfilled upon Respondent's return to practice in New York State. The tolling provision set forth in this paragraph may be waived by the Director of the OPMC, in the Director's discretion.
- f. 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 staff at practice locations or OPMC offices.
- g. Respondent shall maintain legible and complete medical records that accurately reflect the evaluation and treatment of patients. The medical records shall contain all information required by State rules and regulations regarding controlled substances.
- h. 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.

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

IN THE MATTER
OF
ADAM PAAL, M.D.


CONSENT
ORDER

Upon the proposed agreement of Adam Paal, 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: 10/26/00


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