



New York State Board for Professional Medical Conduct

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

Antonia C. Novello, M.D., M.P.H., Dr.P.H.
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Dennis P. Whalen
Executive Deputy Commissioner
NYS Department of Health
Anne F. Saile, Director
Office of Professional Medical Conduct

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Chair

Denise M. Bolan, R.P.A.
Vice Chair

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

October 11, 2000

CERTIFIED MAIL-RETURN RECEIPT REQUESTED

Antonio Tiu Que, M.D.
286 Temple Street
Fredonia, New York 14063

RE: License No. 180853

Dear Dr. Que:

Enclosed please find Order #BPMC 00-281 of the New York State Board for Professional Medical Conduct. This Order and any penalty provided therein goes into effect October 11, 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: Kevin Ricotta, Esq.
Connors and Vilardo
1020 Liberty Building
Buffalo, New York 14202

Joseph Cahill, Esq.

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

IN THE MATTER
OF
ANTONIO TIU QUE , M.D.

CONSENT
AGREEMENT
AND
ORDER

BPMC No: 00-281

ANTONIO TIU QUE , M.D., (Respondent) says:

That on or about November 29, 1989, I was licensed to practice as a physician in the State of New York, having been issued License No. 180853 by the New York State Education Department.

My current address is 286 Temple Street, Fredonia, NY 14063, 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 thirteen specifications (13) 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 eleventh specification, negligence on more than one occasion, as it relates to the factual allegations contained in paragraphs B and B.1, B and B.2, B and B.3, G and G.1, G and G.2. I hereby agree to the following penalty:

A suspension of my license, stayed upon compliance with the terms of probation as set forth in Exhibit B. Such terms shall include retraining and practice monitoring.

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

I agree to cease the practice of medicine from the effective date of this Order until such time as I comply with the requirements of this Order related to clinical

competency assessment and personalized continuing medical education.

I agree to a partial restriction on my New York medical license related to the practice of Medicine until such time that I successfully complete an evaluation and training program in accordance with the terms of probation contained herein. During the period of such program my license to practice medicine in New York State shall be partially restricted to permit the practice of medicine only as part of the personalized continuing medical education program.

I shall comply with all terms, conditions, restrictions, and penalties to which I am 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 proceeding and/or any such other proceeding against me as may be authorized pursuant to the law.

I shall 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; and

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 Respondent. 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.

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 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 9-18-2000



ANTONIO TIU QUE, M.D.
RESPONDENT

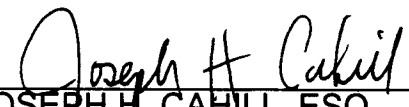
The undersigned agree to the attached application of the Respondent and to the proposed penalty based on the terms and conditions thereof.

DATE: 9/12/00




KEVIN RICOTTA, ESQ.
Attorney for Respondent

DATE: Sept 11, 00



JOSEPH H. CAHILL, ESQ.
Associate Counsel
Bureau of Professional
Medical Conduct

DATE: September 29, 2000



ANNE F. SAILE
Director
Office of Professional
Medical Conduct

EXHIBIT "B"

Terms of Probation

1. 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 his 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. 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.
4. 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.
5. 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.
6. Respondent shall obtain clinical competency assessment performed by a program for such assessment proposed by Respondent and subject to the prior written approval of the Director of OPMC. Respondent shall cause a written report to be provided of such assessment to the Director of OPMC.
7. Respondent shall enroll in a course of personalized continuing medical education in Emergency Medicine which includes an assigned preceptor, who is a physician board certified in Emergency Medicine, to be approved in writing, by the Director of OPMC. It shall be the responsibility of Respondent to identify such program and qualify therefor. Respondent shall remain enrolled and shall fully participate in the program for a period of 18 months or any lesser period as approved by the Director of OPMC provided that Respondent must successfully complete the approved program requirements.
8. Respondent shall cause the preceptor to:
 - a. Submit reports on a monthly basis to OPMC certifying whether Respondent is fully participating in the personalized continuing medical

education program.

- b. Report immediately to the Director of OPMC if Respondent withdraws from the program and report promptly to OPMC any significant pattern of non-compliance by Respondent.
 - c. At the conclusion of the program, submit to the Director of OPMC a detailed assessment of the progress made by Respondent toward remediation of all identified deficiencies.
9. Respondent shall be solely responsible for all expenses associated with the assessment, medical education program, and monitoring terms herein.
10. Respondent's license to practice medicine in the State of New York during the first 18 months of this Order shall be partially restricted to permit the practice of medicine only as part of the personalized continuing medical education program and thereafter only in accordance with the terms and conditions described herein.
11. Upon successful completion of the 18 months of personalized continuing medical education, and immediately following that period of time, Respondent shall practice medicine for a period of 36 months only when monitored by a licensed physician, board certified in Emergency Medicine, ("practice monitor") proposed by Respondent and subject to the written approval of the Director of OPMC.
 - a. Respondent shall make available to the monitor any and all records or access to the practice requested by the monitor, including onsite observation. The practice monitor shall visit Respondent's medical practice at least monthly and shall examine a selection (no less than 10%) of records maintained by Respondent, prescribing information and office records. The review will determine whether the Respondent's practice is conducted in accordance with the generally accepted standards of professional care. Any perceived deviation of accepted standards of care or refusal to cooperate with the monitor shall be reported within 24 hours to 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 monthly, in writing, to the Director of OPMC.
12. 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 of OPMC prior to Respondent's practice after the effective date of this order.
16. Respondent shall comply with all terms, conditions, restrictions, 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
ANTONIO TIU QUE, M.D.

CONSENT
ORDER

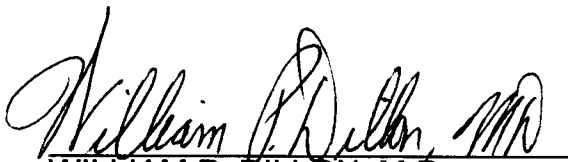
Upon the proposed agreement of **ANTONIO TIU QUE, M.D.** (Respondent) for Consent Order, which application is made a part hereof, it is agreed to and

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: 10/7/00


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

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

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IN THE MATTER	:	STATEMENT
OF	:	OF
ANTONIO TIU QUE, M.D.	:	CHARGES

-----X

ANTONIO TIU QUE, M.D., Respondent, was authorized to practice medicine in New York State on November 29, 1989, by the issuance of license number 180853, by the New York State Education Department. Respondent is currently registered with the New York State Education Department to practice medicine.

FACTUAL ALLEGATIONS

A. Respondent provided medical care to Patient A, a 72 year old man, in the Emergency Department of Brooks Memorial Hospital, 529 Central Avenue, Dunkirk, New York on April 28, 1999, at 02:31 hours, for among other conditions, mid-sternal chest pain that awakened the patient from a sound sleep. Patient A's history included myocardial infarction, coronary stent replacement, atrial fibrillation and pacemaker implant. Respondent's care and treatment of Patient A failed to meet accepted standards of care, in that:

1. Respondent failed to adequately evaluate and/or treat Patient A for complaints of chest pain while

at rest.

2. Respondent failed to appropriately interpret Patient A's electrocardiogram.
3. Respondent inappropriately discharged Patient A from the Emergency Department.

B. Respondent provided medical care and treatment to Patient B, a 69 year old man, in the Emergency Department of Brooks Memorial Hospital, on February 4, 1998, beginning at 01:57 hours, for among other conditions, left anterior chest pain and rapid heart rate. Patient B had a history of cardiac disease, including a myocardial infarction and coronary artery bypass graft. Respondent's care and treatment of Patient B failed to meet accepted standards of care, in that:

1. Respondent failed to appropriately interpret Patient B's electrocardiogram.
2. Respondent ordered a calcium channel blocker (Cardizem) when such medication was contraindicated.
3. Respondent failed to perform an electrocardioversion.

C. Respondent provided medical care and treatment to Patient C, a 55 year old man, in the Emergency Department of Brooks Memorial Hospital on January 11, 1999. Patient C, was admitted at approximately 23:38 hours, for among other conditions, complaints of squeezing chest pain radiating to both arms. Patient C had a history of arteriosclerotic heart disease, angioplasty, coronary artery bypass graft and a stent on a vein graft. Respondent's care and treatment of Patient C failed to meet accepted standards of care, in that:

1. Respondent failed to timely administer an appropriate thrombolytic agent to Patient C.
2. Respondent failed to appropriately interpret Patient C's electrocardiogram.

D. Respondent provided medical care and treatment to Patient D, a 75 year old man, in the Emergency Department of the Lake Shore Health Care Center, 845 Routes 5 and 20, Irving, New York, on September 25, 1998, at 18:00 hours, for among other conditions, an apparent trauma to the head by a falling tree or branch. Respondent's care and treatment of Patient D failed to meet accepted standards of care, in that:

1. Respondent failed to perform and/or document an adequate trauma examination.
2. Respondent failed to perform and/or document an adequate neurological examination.

3. Respondent failed to take adequate measures to safeguard Patient D's spine.
4. Respondent failed to adequately monitor and/or document Patient D's neurological status.
5. Respondent failed to intubate the patient prior to emergency airlift transfer to another facility.

E. Respondent provided medical care and treatment to Patient E, a 53 year old woman, in the Emergency Department of Brooks Memorial Hospital on December 22, 1998, at 03:07 hours, for among other conditions, nausea and headache for three days. Respondent's care and treatment of Patient E failed to meet accepted standards of care, in that:

1. Respondent failed to perform and/or document an adequate neurological examination.
2. Respondent failed to obtain and/or document an adequate neurological history.

F. Respondent provided medical care and treatment to Patient F, a 45 year old man, in the Emergency Department of Brooks Memorial Hospital on March 1, 1998, at 23:57 hours, for among other conditions, a complaint of inability to urinate for two days. Respondent's care and treatment of Patient F

failed to meet accepted standards of care, in that:

1. Respondent failed to catheterize Patient F or refer the patient to a urologist or other consultant to perform the catheterization if he was unable to do so himself.
2. Respondent failed to perform a prostate examination.
3. Respondent inappropriately discharged Patient F without adequately addressing his presenting complaints.
4. Respondent failed to provide and/or document an adequate discharge planning for Patient F.

G. Respondent provided medical care and treatment to Patient G, a 25 year old man, in the Emergency Department of the Lake Shore Health Care Center, on April 1, 1994, at 22:27 hours, for among other conditions, "choking and gagging on a piece of meat." Respondent's care and treatment of Patient G failed to meet accepted standards of care, in that:

1. Respondent inappropriately discharged Patient G despite Patient G's condition, including the inability to swallow liquids, the spitting of saliva, choked feelings, as well as a barium swallow test demonstrating a stoppage at the level of the

angle of Lewis in the second rib area.

2. Respondent failed to take timely measures to transfer the patient to a facility where this obstruction could be appropriately treated.

SPECIFICATIONS

FIRST THROUGH FIFTH SPECIFICATIONS

GROSS NEGLIGENCE

Respondent is charged with professional misconduct under N.Y. Education Law §6530(4) by reason of the practice of the profession of medicine with gross negligence on a particular occasion, in that Petitioner charges the following:

1. The facts in Paragraphs A and A.1., A and A2 and/or A and A.3.
2. The facts in Paragraphs B and B/1, B and B.2 and/or B and B.3.
3. The facts in Paragraphs C and C.2.
4. The facts in Paragraphs D and D.5.
5. The facts in Paragraphs E and E.1.

SIXTH THROUGH TENTH SPECIFICATIONS

GROSS INCOMPETENCE

Respondent is charged with professional misconduct under N.Y. Education Law §6530(6) by reason of the practice of the profession of medicine with gross incompetence on a particular occasion, in that Petitioner charges the following:

6. The facts in Paragraphs A and A.1., A and A.2 and/or A and A.3.
7. The facts in Paragraphs B and B.1, B and B.2 and/or B and B.3.
8. The facts in Paragraphs C and C.2.
9. The facts in Paragraphs D and D.5.
10. The facts in Paragraphs E and E.1.

ELEVENTH SPECIFICATION

NEGLIGENCE

Respondent is charged with professional misconduct under N.Y. Education Law §6530(3) by reason of the practice of the profession of medicine with negligence on more than one occasion, in that Petitioner charges the following:

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; D and D.1, D and D.2, D and D.3, D and D.4, D and D.5; E and E.1, E and E.2; F and F.1, F and

F.2, F and F.3, F and F.4; G and G.1 and/or G and G.2.

TWELFTH SPECIFICATION

INCOMPETENCE

Respondent is charged with professional misconduct under N.Y. Education Law §6530(5) by reason of the practice of the profession of medicine with incompetence on more than one occasion, in that Petitioner charges the following:

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; D and D.1, D and D.2, D and D.3, D and D.4, D and D.5; E and E.1, E and E.2; F and F.1, F and F.2, F and F.3, F and F.4; G and G.1 and/or G and G.2.

THIRTEENTH SPECIFICATION


RECORD KEEPING

Respondent is charged with professional misconduct under N.Y. Education Law §6530(32) by reason of failure to maintain a record for each patient which accurately reflects the evaluation and treatment of the patient, in that Petitioner charges the following:

13. The facts in Paragraphs D and D.1, D and D.2; E and

E.1, E and E.2 and/or F and F.4.

DATED: *September 22*, 2000
Albany, New York


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