



***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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NYS Department of Health*

Dennis P. Whalen  
*Executive Deputy Commissioner  
NYS Department of Health*

Dennis J. Graziano, Director  
*Office of Professional Medical Conduct*

William P. Dillon, M.D.  
*Chair*

Michael A. Gonzalez, R.P.A.  
*Vice Chair*

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

January 29, 2003

***CERTIFIED MAIL-RETURN RECEIPT REQUESTED***

Balkrishna Nigam, M.D.  
32 Victorian Drive  
Old Bridge, NJ 08857

RE: License No. 149452

Dear Dr. Nigam:

Enclosed please find Order #BPMC 03-23 of the New York State Board for Professional Medical Conduct. This Order and any penalty provided therein goes into effect January 29, 2003.

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: Donna Mantell, Esq  
Kern, Augustine, Conroy and Schoppman, P.C.  
11-20 Route 22 East  
Bridgewater, NJ 08807

**IN THE MATTER  
OF  
BALKRISHNA NIGAM, M.D.**

**CONSENT  
ORDER**  
BPMC No. 03-23

Upon the application of (Respondent) BALKRISHNA NIGAM, M.D. in the attached Consent Agreement and Order, which is made a part of this Consent Order, it is

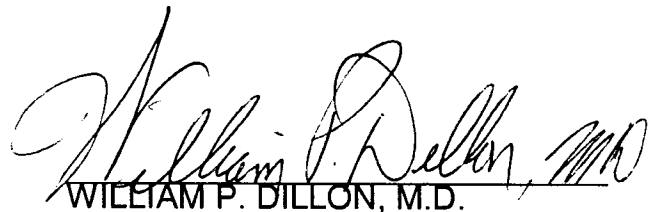
ORDERED, that the Consent Agreement, and its terms, are adopted and SO ORDERED, and it is further

ORDERED, that this Order shall be effective upon issuance by the Board, either

- by mailing of a copy of this Consent Order, either by first class mail to Respondent at the address in the attached Consent Agreement or by certified mail to Respondent's attorney, OR
- upon facsimile transmission to Respondent or Respondent's attorney, Whichever is first.

SO ORDERED.

DATED: 1/27/03



WILLIAM P. DILLON, 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  
BALKRISHNA NIGAM, M.D.**

**CONSENT  
AGREEMENT  
AND  
ORDER**

BALKRISHNA NIGAM, M.D., representing that all of the following statements are true, deposes and says:

That on or about April 2, 1982 I was licensed to practice as a physician in the State of New York, and issued License No. 149452 by the New York State Education Department. My license to practice medicine in the State of New York is currently inactive.

My current address is 32 Victorian Drive, Old Bridge, New Jersey 08857 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 one specification of professional misconduct.

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

I agree that I cannot successfully defend against one of the allegations of the Statement of Charges, in full satisfaction of the charges against me, and agree to the following penalty:

Pursuant to Public Health Law §230 -a(8), from the date of the issuance of the herin Order, my license to practice medicine will be conditioned upon the requirement that I participate and successfully complete a course of education or training as set forth in the Conditions of

Retraining (annexed as Exhibit B). Pending my successful completion of the course of retraining my license to practice medicine shall be suspended pursuant to Public Health Law § 230(a)(2)(b).

I further agree that upon successful completion of the course of retraining I shall be placed on probation pursuant to §230-a(9) of the Public Health Law for a period of five years, subject to the terms set forth in attached Exhibit "C."

I further agree that the Consent Order shall impose the following conditions:

That Respondent shall cooperate fully with the Office of Professional Medical Conduct (OPMC) in its administration and enforcement of this Order and in its investigations of matters concerning Respondent. Respondent shall respond in a timely manner to all OPMC requests for written periodic verification of Respondent's compliance with this Order. Respondent shall meet with a person designated by the Director of OPMC, as directed. Respondent shall respond promptly and provide all documents and information within Respondent's control, as directed. This condition shall take effect upon the Board's issuance of the Consent Order and will continue so long as Respondent remains licensed in New York State.

I stipulate that my failure to comply with any conditions of this Order shall constitute misconduct as defined by New York State Education Law §6530(29).

I agree that if I am charged with professional misconduct in future, this

Consent Agreement and Order **shall** be admitted into evidence in that proceeding.

I ask the Board to adopt this Consent Agreement.

I understand that if the Board does not adopt this Consent Agreement, none of its terms shall bind me or constitute an admission of any of the acts of alleged misconduct; this Consent Agreement 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 adopts this Consent Agreement, the Chair of the Board shall issue a Consent 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 Consent Order by first class mail to me at the address in this Consent Agreement or to my attorney by certified mail, OR upon facsimile transmission to me or my attorney, whichever is first.

I ask the Board to adopt this Consent Agreement of my own free will and not under duress, compulsion or restraint. In consideration of the value to me of the Board's adoption of this Consent Agreement, 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 Consent Order for which I apply, whether administratively or judicially, I agree to be bound by the Consent Order, and ask that the Board adopt this Consent Agreement.

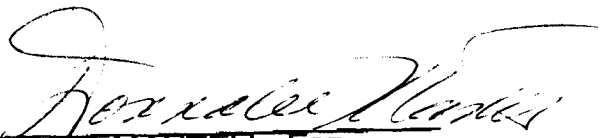
DATED

12/16/02


BALKRISHNA NIGAM, M.D.  
RESPONDENT

The undersigned agree to Respondent's attached Consent Agreement and to its proposed penalty, terms and conditions.

DATE: 1/13/02

  
DONNA MANTELL, Esq.  
KERN, AUGUSTINE and CONROY, ESQ.  
Attorney for Respondent

DATE: 1/14/03

  
DANIEL GUENZBURGER  
Associate Counsel  
Bureau of Professional Medical Conduct

DATE: 1/24/03

  
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  
BALKRISHNA NIGAM, M.D.

STATEMENT  
OF  
CHARGES

BALKRISHNA NIGAM, M.D., the Respondent, was authorized to practice medicine in New York State on or about April 2, 1982 by the issuance of license number 149452 by the New York State Education Department.

**FACTUAL ALLEGATIONS**

- A. At all times relevant to the Statement of Charges the Respondent worked as a physician in the Emergency Room at Victory Memorial Hospital, Brooklyn, New York. ("Emergency Room"). On or about January 13, 1999 Patient A, a 59 year old male, presented to the Emergency Room with complaints of dizziness and vertigo for several hours. Approximately six hours after having been discharged from the emergency room, Patient A returns to the Emergency Room, appearing drowsy and unresponsive.
1. Respondent deviated from medically accepted standard by failing to administer anti-biotics with meningitis coverage and by failing to immediately intubate the patient.
- B. On or about March 12, 1997, Patient B, a 54 year old male, presented to the Emergency Room with complaints of a sudden onset of dizziness and slurred speech.
1. Respondent inappropriately discharged Patient B without

ordering and evaluating a CT scan.

**SPECIFICATION OF CHARGES**

**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. Paragraphs A, A1, B and/or B1.

DATED: January 14, 2003  
New York, New York


  
Roy Nemerson  
Deputy Counsel  
Bureau of Professional  
Medical Conduct



EXHIBIT "B"

CONDITIONS FOR RETRAINING

1. Respondent shall obtain a clinical competency assessment performed by a program for such assessment as directed by the Director of OPMC.
2. Respondent shall be responsible for all expenses related to the clinical competency assessment and shall provide to the Director of OPMC proof of full payment of all costs that may be charged. This condition shall not be satisfied in the absence of actual receipt, by the Director, of such documentation, and any failure to satisfy shall provide a basis for a Violation of Probation proceeding.
3. If it is determined by the clinical competency assessment report that personalized continuing medical education is warranted, within 60 days of the issuance of the report, the Respondent shall be enrolled in a course of personalized continuing medical education, which includes an assigned preceptor, preferably a physician board certified in the same specialty, to be approved, in writing, by the Director of OPMC. Respondent shall remain enrolled and shall fully participate in the program for a period of not less than six months nor more than twelve months.
4. Respondent shall cause the preceptor to:
  - a. Submit reports on a quarterly 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.

## EXHIBIT "C"

### Terms of Probation

1. Respondent's conduct shall conform to moral and professional standards of conduct and governing law. Any act of professional misconduct by Respondent as defined by New York State Education Law §6530 or §6531 shall constitute a violation of probation and may subject Respondent to an action pursuant to New York State Public Health Law §230(19).
2. Respondent shall provide the Director, Office of Professional Medical Conduct (OPMC), Hedley Park Place, 433 River Street Suite 303, Troy, New York 12180-2299 with the following information, in writing, and ensure that such information is kept current: a full description of Respondent's employment and practice; all professional and residential addresses and telephone numbers within and outside New York State; and all investigations, charges, convictions or disciplinary actions by any local, state or federal agency, institution or facility, within thirty (30) days of each action.
3. Respondent shall cooperate fully with, and respond in a timely manner to, OPMC requests to provide written periodic verification of Respondent's compliance with the terms of this Consent Order. Upon the Director of OPMC's request, Respondent shall meet in person with the Director's designee.
4. Respondent's failure to pay any monetary penalty by the prescribed date shall subject Respondent to all provisions of law relating to debt collection by New York State, including but 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 probation period shall toll when Respondent is not engaged in active medical practice in New York State for a period of thirty (30) consecutive days or more. Respondent shall notify the Director of OPMC, in writing, if Respondent is not currently engaged in, or intends to leave, active medical practice in New York State for a consecutive thirty (30) day period. Respondent shall then notify the Director again at least fourteen (14) days before returning to active practice. Upon Respondent's return to active practice in New York State, the probation period will resume and Respondent shall fulfill any unfulfilled probation terms.
6. The Director of OPMC may review Respondent's professional performance. This review may include but shall not be limited to: a review of office records, patient records and/or hospital charts; and interviews with or periodic visits with Respondent and Respondent's staff at practice locations or OPMC offices.
7. Respondent shall maintain complete and legible medical records that accurately reflect the evaluation and treatment of patients and contain all information required by State rules and regulations concerning controlled substances.

## **PRACTICE MONITOR**

8. Upon successful completion of course of retraining as set forth in Exhibit B, Respondent shall practice medicine only when monitored by a licensed physician, board certified in an appropriate specialty, ("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 on-site observation. The practice monitor shall visit Respondent's medical practice at each and every location, on a random unannounced basis at least monthly and shall examine a selection (no fewer than 20) of records maintained by Respondent, including patient records, prescribing information and office records. The review will determine whether the Respondent's medical practice is conducted in accordance with the generally accepted standards of professional medical care. Any perceived deviation of accepted standards of medical 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 quarterly, in writing, to the Director of OPMC.
  - d. 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. Respondent shall practice medicine in either private practice, hospitals or other institutional settings outside of the personalized continuing medical education program, only when monitored by a licensed physician, board certified in an appropriate specialty (practice monitor), proposed by Respondent and subject to the written approval of the Director of OPMC.
9. Respondent may be directed by the Director of OPMC to enroll in and complete a continuing education program in the area of emergency room or internal medicine for a minimum of 20 credit hours. This continuing education program is subject to the Director of OPMC's prior written approval and shall be completed within the probation period, unless the Order specifies otherwise.
10. Respondent shall comply with this Order and all its terms, and shall bear all associated compliance costs. Upon receiving evidence of noncompliance with, or violation of, these terms, the Director of OPMC and/or the Board may initiate a violation of probation proceeding, and/or any other such proceeding authorized by law, against Respondent.