



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.
*Commissioner
NYS Department of Health*

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

Dennis J. Graziano, Director
Office of Professional Medical Conduct

PUBLIC

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

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

October 19, 2004

CERTIFIED MAIL-RETURN RECEIPT REQUESTED

Sammer I. Fahmy, M.D.
800 Rano Boulevard
Vestal, New York 13850

Re: License No. 206480

Dear Dr. Fahmy:

Enclosed please find Order #BPMC 04-233 of the New York State Board for Professional Medical Conduct. This order and any penalty provided therein goes into effect October 26, 2004.

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: Thomas A. Saitta, Esq.
Aswad and Ingraham
46 Front Street
Binghamton, New York 13905

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

**IN THE MATTER
OF
SAMMER I. FAHMY, M.D.**

CONSENT

ORDER

BPMC No. 04-233

Upon the application of SAMMER I. FAHMY, 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

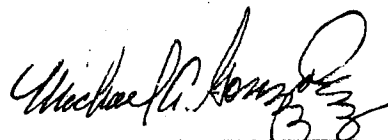
ORDERED, that this Order shall be effective upon issuance by the Board, either

- 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: 10/18/04



MICHAEL A. GONZALEZ, R.P.A.
Vice Chair
State Board for Professional Medical Conduct

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

**IN THE MATTER
OF
SAMMER I. FAHMY, M.D.**

**CONSENT
AGREEMENT
AND
ORDER**

SAMMER I. FAHMY, M.D., representing that all of the following statements are true, deposes and says:

That on or about April 23, 1997, I was licensed to practice as a physician in the State of New York, and issued License No. 206480 by the New York State Education Department.

My current address is 800 Rano Boulevard, Vestal, New York 13850, 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 eighteen specifications of professional misconduct.

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

I agree not to contest the first, second, third and eighteenth specifications, in full satisfaction of the charges against me, and agree to the following penalty:

Pursuant to §230-a(2) of the Public Health Law, my license to practice medicine in the State of New York shall be suspended for a period of 36 months, with the first month to be served as a period of actual suspension and with the last 35 months of said suspension to be stayed conditioned on my full compliance, for a probationary period of three years, with the terms and conditions of Probation appended hereto as Exhibit "B".

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

That Respondent shall maintain current registration of licensure with the New York State Education Department Division of Professional Licensing Services (except during periods of actual suspension), and shall pay all registration fees. This condition shall take effect thirty (30) days after the Consent Order's effective date and will continue so long as Respondent remains licensed in New York State; and

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 9/30/04



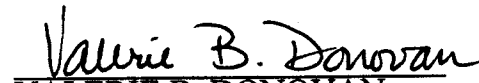
SAMMER I. FAHMY, M.D.
Respondent

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

DATE: 9/30/04


THOMAS A. SAITTA
Attorney for Respondent

DATE: 10/6/04


VALERIE B. DONOVAN
Assistant Counsel
Bureau of Professional Medical Conduct

DATE: 10/13/04

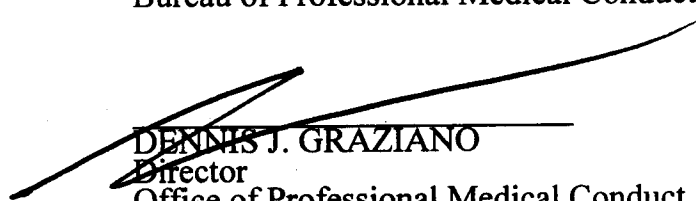

DENNIS J. GRAZIANO
Director
Office of Professional Medical Conduct

Exhibit "A"

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

IN THE MATTER
OF
SAMMER I. FAHMY, M.D.

STATEMENT
OF
CHARGES

SAMMER I. FAHMY, M.D., the Respondent, was authorized to practice medicine in New York State on or about April 23, 1997, by the issuance of license number 206480 by the New York State Education Department.

FACTUAL ALLEGATIONS

- A. Respondent provided medical care and treatment to Patient A (patients are identified in Appendix A, attached hereto), a female born on April 25, 1973, beginning in March of 2002, through in or around March, 2003, at Guthrie Medical Group, Vestal, New York 13850 (hereinafter Guthrie). Respondent's care and treatment of Patient A did not meet acceptable standards of care, in that:
1. Respondent prescribed medications including Valium, Vicodin, Ambien and Prozac for Patient A without adequate evaluation, indication, in inappropriate quantities and without monitoring the patient's response.
 2. Respondent engaged in a sexual relationship with Patient A while she was his patient.
 3. Respondent encouraged Patient A to take multiple Vicodin to "get high" while he was smoking marijuana.
 4. Patient A was hospitalized at Binghamton General Hospital, Psychiatry Unit from on or around February 20, 2003, after a suicide

attempt. On February 20, 2003, Respondent recorded a Medical Consult which was incomplete and/or in which Respondent failed to disclose the fact of their sexual relationship.

5. Respondent failed to maintain a record which adequately reflected Respondent's medical care, treatment and evaluation of Patient A.

B. Respondent provided medical care and treatment to Patient B, a male born on February 14, 1954, beginning in July of 1999, through in or around January, 2001, at Lourdes Hospital, Binghamton, New York and at Guthrie. Respondent's care and treatment of Patient B did not meet acceptable standards of care, in that:

1. Respondent prescribed large quantities of Xanax to Patient B, a Patient with a documented history of substance abuse, and failed to document office visits, failed to follow his own management plan and/or failed to document an assessment of the patient's response to therapy.
2. On or about August 17, 1999, Respondent treated Patient B's complaint of wrist pain with Vicodin without adequate indication.
3. Respondent failed to appropriately treat Patient B and/or refer Patient B to a mental health professional after diagnosing him with depression, anxiety and history of substance abuse.
4. Respondent failed to maintain a record which adequately reflects Respondent's care, treatment and evaluation of Patient B.

C. Respondent provided medical care and treatment to Patient C, a female born on May 7, 1957, beginning in May of 1997 through in or around December, 2003 at Guthrie. Respondent's care and treatment of Patient C did not meet acceptable standards of care, in that:

1. Respondent prescribed medications for Patient C including Vicodin, Percocet, Valium, Dilaudid, Guaifenesin, Duragesic Patches, Sonata and/or Wellbutrin, without adequate indication, in inappropriate quantities, without an adequate treatment plan and/or without adequate monitoring.

2. Respondent failed to refer Patient C to a chronic pain management specialist and/or failed to consult with a specialist.
3. Respondent failed to maintain a record which adequately reflects the care, treatment and evaluation of Patient C.

D. Respondent provided medical care and treatment to Patient D, a female born on November 24, 1977, beginning in March of 2002 through in or around September, 2003 at Guthrie. Respondent's care and treatment of Patient D did not meet acceptable standards of care, in that:

1. Respondent failed to appropriately evaluate and/or manage Patient D's chronic pain.
2. Patient D's medical record does not confirm Respondent's diagnosis of neuropathy, there is no documented work-up to determine the etiology of the neuropathy and/or Respondent failed to refer Patient D to a neurologist.
3. Respondent prescribed high doses of narcotics to Patient D for her fibromyalgia and chronic pain without adequate evaluation, without an adequate treatment plan, without adequate monitoring, without adequate office visits and/or failed to consider alternative therapies including antidepressants and exercise.
4. In or about April 8, 2002, Respondent documented that Patient D was to continue on Soma but failed to note when he had initiated this therapy.
5. On or about November 8, 2002, Respondent diagnosed Patient D with scoliosis; when a radiology report did not support this diagnosis, Respondent failed to adjust his management and treatment plan for Patient D.
6. From in or about January 2003 through in or about September 2003, Respondent refilled Patient D's high doses of Oxycontin with regularity without any office visits for Patient D, without performing any physical assessments of Patient D and/or without monitoring Patient D.
7. Respondent failed to maintain a record which adequately reflects the care, treatment and evaluation of Patient D.

E. Respondent provided medical care and treatment to Patient E, a male born on April 28, 1966, beginning in March of 2000 through in or about April,

2004, at Guthrie. Patient E's medical history was significant for tobacco abuse, alcohol use, amphetamine abuse, bipolar disorder and obesity. Respondent's care and treatment of Patient E did not meet acceptable standards of care, in that:

1. Respondent prescribed large quantities of narcotics to Patient E without adequate indication, without an adequate management plan, without adequate evaluation and/or without adequate monitoring of the narcotic therapy.
2. Respondent failed to refer Patient E to a drug rehabilitation facility and/or to a pain specialist.
3. Respondent prescribed Paxil to Patient E but he failed to adequately evaluate Patient E's mood and/or refer him to a psychiatrist to assess the status of Patient E's bipolar disorder.
4. Respondent failed to maintain a record which adequately reflects the care, treatment and evaluation of Patient E.

F. Respondent provided medical care and treatment to Patient F, a female born on May 22, 1923, beginning in October, 2000 through in or around February, 2004 at Guthrie. Respondent's care and treatment of Patient F did not meet acceptable standards of care, in that:

1. Respondent prescribed Ambien for Patient F's insomnia and failed to document and/or perform an adequate patient sleep history, failed to perform an evaluation to discern the reason for the insomnia, failed to evaluate the effectiveness of the Ambien regimen after long term use and/or failed to consider alternatives to pharmacological intervention.
2. From in or around January, 2002 through in or around March, 2004, Respondent treated Patient F with narcotics without adequate indication and/or failed to evaluate this elderly patient for side effects of narcotic use.
3. Respondent failed to appropriately manage Patient F's hypertension.
4. Respondent failed to appropriately and systematically manage Patient F's anxiety and depression and/or failed to refer Patient F to a specialist.

5. Respondent failed to maintain a record which adequately reflects the care, treatment and evaluation of Patient F.

SPECIFICATION OF CHARGES

FIRST THROUGH SIXTH 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 facts of the following:

1. The facts in paragraphs A and A.1 and/or A and A.2.
2. The facts in paragraphs B and B.1 and/or B and B.2.
3. The facts in paragraphs C and C.1 and/or C and C.2.
4. The facts in paragraphs D and D.1, D and D.3. and/or D and D.6.
5. The facts in paragraphs E and E.1, E and E.2 and/or E and E.3.
6. The facts in paragraphs F and F.1.

SEVENTH THROUGH TWELFTH 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 facts of the following:

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

11. The facts in paragraphs E and E.1, E and E.2 and/or E and E.3.
12. The facts in paragraphs F and F.1.

THIRTEENTH 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:

13. The facts in paragraphs A and A.1, A and A.2, A and A.3, A and A.4, A and A.5, B and B.1, B and B.2, B and B.3, B and B.4, C and C.1, C and C.2, C and C.3, D and D.1, D and D.2, D and D.3, D and D.4, D and D.5, D and D.6, D and D.7, E and E.1, E and E.2, E and E.3, E and E.4, F and F.1, F and F.2, F and F.3, F and F.4 and/or F and F.5.

FOURTEENTH 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 the facts of two or more of the following:

14. The facts in paragraphs A and A.1, A and A.2, A and A.3, A and A.4, A and A.5, B and B.1, B and B.2, B and B.3, B and B.4, C and C.1, C and C.2, C and C.3, D and D.1, D and D.2, D and D.3, D and D.4, D and D.5, D and D.6, D and D.7, E and E.1, E and E.2, E and E.3, E and E.4, F and F.1, F and F.2, F and F.3, F and F.4 and/or F and F.5.

FIFTEENTH AND SIXTEENTH SPECIFICATIONS

MORAL UNFITNESS

Respondent is charged with committing professional misconduct as defined in N.Y. Educ. Law §6530(20) by engaging in conduct in the practice of the profession of medicine that evidences moral unfitness to practice as alleged in the facts of the following:

15. The facts in paragraphs A and A.2.
16. The facts in paragraphs A and A.3.

SEVENTEENTH SPECIFICATION

FRAUDULENT PRACTICE

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

17. The facts in paragraphs A and A.4.

EIGHTEENTH SPECIFICATION

FAILURE 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 which accurately reflects the care and treatment of the patient, as alleged in the facts of:

18. The facts in paragraphs A and A.4, A and A.5, B and B.4, C and C.3, D and D.7, E and E.4 and/or F and F.5.

DATED: *October 6*
September, 2004
Albany, New York

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

EXHIBIT "B"

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 maintain current registration of licensure with the New York State Education Department Division of Professional Licensing Services (except during periods of actual suspension), and shall pay all registration fees.
3. 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.
4. 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.
5. 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].
6. 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.
7. 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 staff at practice locations or OPMC offices.
8. 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.
9. Within thirty days of the effective date of the order, 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.
10. Respondent shall enroll in and complete a continuing education program in the areas of pain management and boundary issues. Said continuing education programs shall be subject to the prior written approval of the Director of OPMC and be completed within the first year of the period of probation.
11. 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.