

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

IN THE MATTER
OF
ROGER JOSEPH FARES, M.D.

COMMISSIONER'S
ORDER AND
NOTICE OF
HEARING

TO: ROGER JOSEPH FARES, M.D.
1016 Lexington Avenue
New York, New York 10021

PUBLIC

The undersigned, Dennis P. Whalen, Executive Deputy Commissioner of Health, after an investigation, upon the recommendation of a Committee on Professional Medical Conduct of the State Board for Professional Medical Conduct, and upon the Statement of Charges attached hereto and made a part hereof, has determined that the continued practice of medicine in the State of New York by ROGER JOSEPH FARES, M.D. the Respondent, constitutes an imminent danger to the health of the people of this state.

It is therefore:

ORDERED, pursuant to N.Y. Pub. Health Law §230(12), that effective immediately ROGER JOSEPH FARES, M.D., Respondent, shall not practice medicine in the State of New York. This Order shall remain in effect unless modified or vacated by the Commissioner of Health pursuant to N.Y. Pub. Health Law §230(12).

PLEASE TAKE NOTICE that a hearing will be held pursuant to the provisions of N.Y. Pub. Health Law §230, and N.Y. State Admin. Proc. Act §§301-307 and 401. The hearing will be conducted before a committee on professional conduct of the State Board for Professional Medical Conduct on March 10, 2005 at 10:00 a.m., at the offices of the New York State Health Department, 90 Church Street, New York, New York, fourth floor, and at such other adjourned dates, times and places as the committee may direct. The Respondent may file an answer to the Statement of Charges with the below-named

attorney for the Department of Health.

At the hearing, evidence will be received concerning the allegations set forth in the Statement of Charges, which is attached. A stenographic record of the hearing will be made and the witnesses at the hearing will be sworn and examined. The Respondent shall appear in person at the hearing and may be represented by counsel. The Respondent has the right to produce witnesses and evidence on his behalf, to issue or have subpoenas issued on his behalf for the production of witnesses and documents and to cross-examine witnesses and examine evidence produced against him. A summary of the Department of Health Hearing Rules is enclosed. Pursuant to §301(5) of the State Administrative Procedure Act, the Department, upon reasonable notice, will provide at no charge a qualified interpreter of the deaf to interpret the proceedings to, and the testimony of, any deaf person.

The hearing will proceed whether or not the Respondent appears at the hearing. Scheduled hearing dates are considered dates certain and, therefore, adjournment requests are not routinely granted. Requests for adjournments must be made in writing to the New York State Department of Health, Division of Legal Affairs, Bureau of Adjudication, Hedley Park Place, 433 River Street, Fifth Floor South, Troy, NY 12180, ATTENTION: HON. SEAN D. O'BRIEN, DIRECTOR, BUREAU OF ADJUDICATION, and by telephone (518-402-0748), upon notice to the attorney for the Department of Health whose name appears below, and at least five days prior to the scheduled hearing date. Claims of court engagement will require detailed affidavits of actual engagement. Claims of illness will require medical documentation.

At the conclusion of the hearing, the committee shall make findings of fact, conclusions concerning the charges sustained or dismissed, and, in the event any of the charges are sustained, a determination of the penalty or sanction to be imposed or appropriate action to be taken. Such determination may be reviewed by the administrative review board for professional medical conduct.

THESE PROCEEDINGS MAY RESULT IN A DETERMINATION THAT YOUR LICENSE TO PRACTICE MEDICINE IN NEW YORK STATE BE REVOKED OR SUSPENDED, AND/OR THAT YOU BE FINED OR SUBJECT TO OTHER SANCTIONS SET FORTH IN NEW YORK PUBLIC HEALTH LAW §230-a. YOU ARE URGED TO OBTAIN AN ATTORNEY TO REPRESENT YOU IN THIS MATTER.

DATED: Albany, New York
February 25, 2005



DENNIS P. WHALEN
Executive Deputy Commissioner
New York State Health Department

Inquiries should be directed to:

Daniel Guenzburger
Associate Counsel
N.Y.S. Department of Health
Division of Legal Affairs
5 Penn Plaza,
New York, New York 10001
212-268-6806

Location after March 7, 2005:

90 Church Street - Fourth Floor
New York, NY 10007
212-417-4450

IN THE MATTER
OF
ROGER JOSEPH FARES, M.D.

STATEMENT
OF
CHARGES

ROGER JOSEPH FARES, M.D., the Respondent, was authorized to practice medicine in New York State on or about December 2, 1970, by the issuance of license number 107653 by the New York State Education Department.

FACTUAL ALLEGATIONS

- A. On or about April 20, 2004, Patient A, a 23 year old female, presented to Respondent at his office, 1016 Lexington Avenue, New York, New York. Patient A requested vaccinations for tetanus, hepatitis A and meningitis. (Patient A and the other patients in the Statement of Charges are identified in the annexed appendix). Respondent:
1. Failed to take an adequate history, including failing to inquire about issues relating to possible pregnancy and allergic reactions to medications.
 2. Failed to comply with minimally acceptable infection control practices, including failing to put on a fresh pair of surgical gloves before examining Patient A.

3. Knowingly and falsely represented on Patient A's "certificate of vaccination" that he had administered meningitis, tetanus and Hepatitis A vaccinations, when, in fact, he knew that he had not administered the vaccinations. Respondent intended to deceive.
4. Failed to maintain a record that accurately reflected the evaluation and treatment.

B. On or about January 2, 2004, Patient B requested various vaccinations needed for travel to a foreign country. Respondent:

1. Knowingly and falsely represented on Patient B's "certificate of vaccination" that he had administered meningitis vaccination, when, in fact, he knew that he had not administered the vaccination. Respondent intended to deceive.
2. Knowingly and falsely represented on Patient B's "certificate of vaccination" that he had concluded that the Patient was "free of Hepatitis A, B, and C", when, in fact, Respondent knew that he lacked any medically acceptable basis for making such a determination. Respondent intended to deceive.
3. Failed to comply with minimally accepted infection control practices.

C. On or about January 2, 2004, Patient C, the wife of Patient B, requested various vaccinations needed for travel to a foreign country. Respondent:

1. Knowingly and falsely represented that he had administered

meningitis vaccination on Patient B's "certificate of vaccination", when, in fact, he knew that he had not administered the vaccination. Respondent intended to deceive.

2. Knowingly and falsely represented on Patient C's "certificate of vaccination" that he had concluded that the Patient was "free of Hepatitis A, B, and C", when, in fact, Respondent knew that he lacked any medically acceptable basis for making such a determination. Respondent intended to deceive.
3. Failed to comply with minimally accepted infection control practices.
4. Failed to take an adequate history, including failing to inquire about issues relating to possible pregnancy.

D. On or about April 26, 2004, Patient D, a 52 year old male presented to Respondent with a complaint of an itchy rash over both arms. Respondent deviated from medically accepted standards in that he:

1. Failed to take an adequate history
2. Prescribed the following medications without adequate indication:
 - a. Tetracycline.
 - b. Prednisone,
 - c. Zoloft.
3. Prescribed an inappropriate dose of Tetracycline.
4. Prescribed an inappropriate dose of Zoloft.

5. Failed to note and/or follow-up on abnormal electrolyte and renal function tests.

E. On or about April 27, 2004, Patient E, presented to Respondent with a complaint of sore throat and coughing. Respondent deviated from medically accepted standards in that he:

1. Failed to take and/or note an adequate history, including allergic reactions to medication.
2. Inappropriately administered Bicillin.
3. Inappropriately prescribed Amoxicillin.
4. Inappropriately diagnosed pharyngitis.
5. Inadequately evaluated the patient for sexually transmitted diseases.

F. On or about April 27, 2004, Patient F, 28 year old male, presented to Respondent with a complaint of urethral discharge for one week. Respondent deviated from medically accepted standards in that he:

1. Failed to take and/or note an adequate history, including a history of allergic reactions to medication.
2. Inappropriately diagnosed urinary tract infection.
3. Failed to adequately evaluate for sexually transmitted diseases, including failing to order a specific laboratory test for gonorrhea/chlamydia.

4. Inappropriately prescribed Bicillin.
5. Failed to appropriately treat for suspected sexually transmitted disease.

G. On or about April 30, 2004, Patient H, a 55 year old male, presented with a complaint of abdominal pain, nausea, vomiting and diarrhea for one day.

Respondent deviated from medically accepted standards in that he:

1. Failed to take an adequate history.
2. Inappropriately prescribed Bactrim.

H. On or about May 8, 2004 the Respondent inappropriately administered a second measles, mumps and rubella ("MMR") vaccination to Patient H. Respondent had previously vaccinated the Patient for MMR on or about March 20, 2004.

I. On or about July 19, 2004 the Respondent inappropriately administered a second MMR vaccination to Patient I. Respondent had previously vaccinated the Patient for MMR on or about May 11, 2004.

J. With respect to vaccinations administered to the patients listed below, Respondent willfully and/or grossly negligently failed to comply with Title 42 United States Code Section 300aa-25(a) in that he failed to maintain a record of the vaccine manufacturer and vaccine lot number:

1. Patient A

2. Patient H.
3. Patient I.
4. Patient J.
5. Patient K.
6. Patient L.
7. Patient M.

K. At his office on or about and prior to April 20, 2004, Respondent failed to comply with infection control practices established by the Department of Health in that he:

1. Failed to maintain sanitary conditions in the public parts of the office, including the waiting room and bathroom.
2. Failed to provide hot water, soap, and hand towels in the only bathroom in the office.
3. Failed to change surgical gloves from one patient to another.
4. Failed to wear sanitary medical clothing, including laboratory coat, surgical mask and gloves.

L. Respondent willfully and/or grossly negligently failed to comply with New York State Public Health Law Section 239 in that he failed to complete required course work or training in infection control and barrier precautions.

SPECIFICATION OF CHARGES

FIRST 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, A2, A3, A4, B, B1, B2, B3, C, C1, C2, C3, C4, D, D1, D2, D2(a), D2(b), D2(c), D3, D4, D5, E1, E2, E,3, E4, E5, F, F1, F2, F3, F4, F5, G, G1, G2, H, I, K1, K2, K3, and/or K4.

SECOND 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:

2. Paragraphs A, A1, A2, A3, A4, B, B1, B2, B3, C, C1, C2, C3, C4, D, D1, D2, D2(a), D2(b), D2(c), D3, D4, D5, E1, E2, E,3, E4, E5, F, F1, F2, F3, F4, F5, G, G1, G2, H, I, K1, K2, K3, and/or K4.

THIRD THROUGH TWELFTH 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:

3. Paragraphs A, A1, A2, A3, and/or A4.
4. Paragraphs B, B1, B2, and/or B3.
5. Paragraphs C, C1, C2, C3, and/or C4.
6. Paragraphs D, D1, D2, D2(a), D2(b), D2(c), D3, D4, and/or D5.
7. Paragraphs E1, E2, E,3, E4, and/or E5.
8. Paragraphs F, F1, F2, F3, F4, and/or F5.
9. Paragraphs G, G1, and/or G2.
10. Paragraph H.
11. Paragraph I.
12. Paragraphs K1, K2, K3, and/or K4.

THIRTEENTH SPECIFICATION

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:

13. Paragraphs A, A1, A2, A3, A4, B, B1, B2, B3, C, C1, C2, C3, C4, D, D1, D2, D2(a), D2(b), D2(c), D3, D4, D5, E1, E2, E,3, E4, E5, F, F1, F2, F3, F4, F5, G, G1, G2, H, I,K1, K2, K3, and/or K4.

FOURTEEN THROUGH SIXTEENTH SPECIFICATIONS

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:

14. Paragraphs A, and/or A3.
15. Paragraphs B, B1 and/or B2.
16. Paragraphs C, C1, and/or C2.

SEVENTEENTH THROUGH NINETEENTH SPECIFICATIONS

FALSE REPORT

Respondent is charged with committing professional misconduct as defined in N.Y. Educ. Law §6530(21) by wilfully making or filing a false report, or failing to file a report required by law or by the department of health or the education department, as alleged in the facts of:

17. Paragraphs A, and/or A3.
18. Paragraphs B, B1 and/or B2.
19. Paragraphs C, C1, and/or C2.

TWENTIETH SPECIFICATION

FAILING TO COMPLY WITH A FEDERAL LAW

Respondent is charged with committing professional misconduct as defined in N.Y. Educ. Law §6530(16) by willfully or grossly negligently failing to comply with

substantial provisions of federal law, rules or regulations governing the practice of medicine, as alleged in the facts of:

20. Paragraphs J, J1, J2, J3, J4, J5, J6, and/or J7.

TWENTY-FIRST SPECIFICATION

FAILING TO COMPLY WITH A STATE LAW

Respondent is charged with committing professional misconduct as defined in N.Y. Educ. Law §6530(16) by willfully or grossly negligently failing to comply with substantial provisions of a New York State law governing the practice of medicine, as alleged in the facts of:

21. Paragraph L.

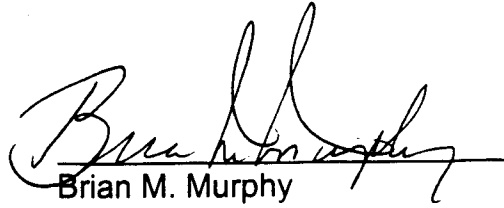
TWENTY-SECOND SPECIFICATION

INFECTION CONTROL

Respondent is charged with committing professional misconduct as defined in N.Y. Educ. Law §6530(46) by failing to use scientifically accepted barrier precautions and infection control practices established by the Department of Health, as alleged in the facts of:

22. Paragraphs A, A2, B, B3, C, C3, K, K1, K2, K3, and/or K4.

DATED: February 25, 2005
New York, New York

A handwritten signature in cursive script, appearing to read "Brian M. Murphy", written over a horizontal line.

Brian M. Murphy
Chief Counsel
Bureau of Professional
Medical Conduct