



New York State Board for Professional Medical Conduct

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

Richard F. Daines, M.D.
Commissioner
NYS Department of Health

Keith W. Servis
Director
Office of Professional Medical Conduct

Public

Kendrick A. Sears, M.D.
Chair

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

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

July 2, 2007

CERTIFIED MAIL-RETURN RECEIPT REQUESTED

Sammer I. Fahmy, M.D.
300 E. 40th Street
Suite 18K
New York, NY 10016

Re: License No. 206480

Dear Dr. Fahmy:

Enclosed is a copy of Order #BPMC 07-137 of the New York State Board for Professional Medical Conduct. This order and any penalty provided therein goes into effect July 9, 2007.

If the penalty imposed by this Order is a surrender, revocation or suspension, you are required to deliver your license and registration within five (5) days of receipt of this Order. If the document(s) are lost, misplaced or destroyed, you are required to submit to this office an affidavit to that effect. Enclosed for your convenience is an affidavit. Please complete and sign the affidavit before a notary public and return it to: Office of Professional Medical Conduct, New York State Department of Health, 433 River Street, Suite 303, Troy, NY 12180-2299

Sincerely,

Ansel R. Marks, M.D., J.D.
Executive Secretary
Board for Professional Medical Conduct

Enclosure

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

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

**SURRENDER
ORDER**

BPMC No. #07-137

Upon the application of Respondent Sammer I. Fahmy, M.D. to Surrender his license as a physician in the State of New York, which is made a part of this Surrender Order, it is

ORDERED, that the Surrender, and its terms, are adopted and it is further

ORDERED, that Respondent's name be stricken from the roster of physicians in the State of New York; it is further

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

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

SO ORDERED.

DATE: 6-28-07

A handwritten signature in black ink, appearing to read "Kendrick A. Sears", is written over a horizontal line.

KENDRICK A. SEARS, 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
SAMMER I. FAHMY, M.D.**

**SURRENDER
of
LICENSE**

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 300 East 40th Street, Apartment 18K, New York, New York 10016, 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 twenty-two specifications of professional misconduct.

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

I am applying to the State Board for Professional Medical Conduct for permission to surrender my license as a physician in the State of New York on

the grounds that I do not contest the charges in full satisfaction of the charges against me.

I ask the Board to accept the Surrender of my License, and I agree to be bound by all of the terms set forth in attached Exhibit "B". In addition, I shall execute consent agreements and orders no more than (7) days after I execute this Surrender of License that revoke the certificate of incorporation or other applicable documents for any professional medical corporations for which the New York State Department of State and the New York State Department of Education identify me as the sole shareholder, director and officer, including, but not limited to Astor Medical, P.C.


I understand that if the Board does not accept this Surrender, none of its terms shall bind me or constitute an admission of any of the acts of alleged misconduct; this application 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 accepts the Surrender of my License, the Chair of the Board shall issue a Surrender 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 Surrender Order by first class mail to me at the address in this Surrender of License, or to my attorney by certified mail, or upon facsimile transmission to me or my attorney, whichever is first. The Order, this agreement, and all attached Exhibits shall be public documents, with only patient identities, if any, redacted. As public documents, they may be posted on the Department's website.

I ask the Board to accept this Surrender of License, which I submit of my own free will and not under duress, compulsion or restraint. In consideration of the value to me of the Board's acceptance of this Surrender of License, 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 Surrender Order for which I apply, whether administratively or judicially, and I agree to be bound by the Surrender Order.

I understand and agree that the attorney for the Department, the Director of the Office of Professional Medical Conduct and the Chair of the State Board for Professional Medical Conduct each retain complete discretion either to enter into the proposed agreement and Order, based upon my application, or to decline to do so. I further understand and agree that no prior or separate written or oral communication can limit that discretion.

DATE: 22nd / June, 2007



SAMMET T. FARMY, M.D.
RESPONDENT

The undersigned agree to Respondent's attached Surrender of License
and to its proposed penalty, terms and conditions.

DATE: June 22, 2007

Valerie B. Donovan

VALERIE B. DONOVAN
Assistant Counsel
Bureau of Professional Medical Conduct

DATE: 6/29/07

Cynthia Helen Glynn
for

KEITH W. SERVIS
Director
Office of Professional Medical Conduct

EXHIBIT "A"

NEW YORK STATE
STATE BOARD FOR PROFESSIONAL MEDICAL CONDUCT

DEPARTMENT OF HEALTH

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. On or about September 30, 2004, Respondent entered into Consent Agreement and Order, #BPMC 04-233 (hereinafter Order), with the New York State Board for Professional Medical Conduct, effective October 26, 2004. This Order, among other things, placed Respondent on probation for three years. From in or around January 2005, Respondent failed to comply with the Order's Terms of Probation as follows:

1. Respondent failed to provide OPMC with a full and current description, in writing and/or verbally, of his employment and practice.
2. Respondent failed to provide OPMC with all professional and residential addresses and telephone numbers within and outside New York State.
3. Respondent failed to provide OPMC with information regarding all disciplinary actions by any local, state or federal agency, institution or

facility, within 30 days of each action.

4. Respondent failed to 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 the Order.
 5. Respondent failed to meet in person with the Director of OPMC's designee upon request.
 6. After Respondent's probation period had been tolled, Respondent failed to provide OPMC with at least fourteen days notice before returning to active practice.
 7. The Order required Respondent to practice medicine only when monitored by a licensed physician; however, Respondent practiced medicine at multiple locations without a practice monitor.
 8. The Order required that Respondent maintain medical malpractice insurance coverage with limits no less than \$2 million; however, Respondent failed to maintain medical malpractice insurance coverage.
 9. Respondent failed to enroll in a continuing education program in the areas of pain management and boundary issues.
- B. The above Order required Respondent to cooperate fully with the Office of Professional Medical Conduct (OPMC) in its administration and enforcement of the order. From in or around summer 2005 though in or around January, 2007, Respondent violated the Order as follows:
1. Respondent failed to respond in a timely manner to OPMC requests for written periodic verification of his compliance with the Order.
 2. Respondent failed to meet with OPMC as directed.
 3. Respondent failed to respond promptly and provide all documents and information as directed by OPMC.
- C. On or about September 26, 2006, the Commonwealth of Pennsylvania, Board of Medicine (hereinafter Pennsylvania Board), adopted a Consent Agreement and Order, in which Respondent agreed to pay a fine and have his license suspended until all terms and conditions were removed from his New York

license.

1. The Pennsylvania Board took this action because Respondent failed to report his 2004 New York State disciplinary action to the Pennsylvania Board within 60 days of the occurrence of the action as required by 40 P.S. §1303.903(2).
2. The conduct resulting in the Pennsylvania Board's disciplinary action against Respondent would constitute misconduct under the laws of New York state, pursuant to N. Y. Education Law §6530(16) (willful or grossly negligent failure to comply with substantial provisions of state laws, rules, or regulations governing the practice of medicine) and/or N.Y. Education Law §6530(21) (failing to file a report required by law).

D. Respondent Fahmy provided medical care and treatment to Patient A (patient is identified in Appendix A, attached hereto), a female born in 1939, from in or around 1997 through in or around May 2004, at Guthrie Medical Group, Vestal, New York. Respondent treated Patient A regularly for multiple medical conditions. Respondent's care of Patient A did not meet acceptable standards of care, in that:

1. Respondent violated appropriate professional boundaries with Patient A by developing a social relationship with Patient A from in or around 2001 through in or around 2004.
2. In or around May 2002, Respondent and/or his wife obtained forty thousand dollars (\$40,000) from Patient A as a purported loan.
3. In or around June, 2002, Respondent and/or his wife obtained a second purported loan from Patient A of \$2,000.
4. In or around April 2003, Respondent obtained \$500 from Patient A.
5. In or around Spring 2004, Patient A brought a legal action to recover the money she had loaned to Respondent and recovered \$20,000. Respondent benefitted from his and/or his wife's debt to patient and has not paid Patient A the remaining \$21,000.

SPECIFICATION OF CHARGES

FIRST THROUGH THIRD SPECIFICATIONS

EXERCISING UNDUE INFLUENCE

Respondent is charged with committing professional misconduct as defined in N.Y. Educ. Law § 6530(17) by exercising undue influence on a patient in such a manner as to exploit the patient for the financial gain of the licensee or a third party, as alleged in:

1. The facts in paragraphs D and D.2.
2. The facts in paragraphs D and D.3.
3. The facts in paragraphs D and D.4.

FOURTH THROUGH EIGHTH 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 following:

4. The facts in paragraphs D and D.1
5. The facts in paragraphs D and D.2.
6. The facts in paragraphs D and D.3.
7. The facts in paragraphs D and D.4.
8. The facts in paragraphs D and D.5.

NINTH THROUGH SEVENTEENTH SPECIFICATIONS

VIOLATING ANY TERM OF PROBATION OR CONDITION OR LIMITATION

Respondent is charged with committing professional misconduct as defined in N.Y. Educ. Law § 6530(29) by violating any term of probation or condition or limitation imposed on the licensee pursuant to section two hundred thirty of the public health law, as alleged in the following:

9. The facts in paragraphs A and A.1.
10. The facts in paragraphs A and A.2.
11. The facts in paragraphs A and A.3.
12. The facts in paragraphs A and A.4.
13. The facts in paragraphs A and A.5.
14. The facts in paragraphs A and A.6.
15. The facts in paragraphs A and A.7.
16. The facts in paragraphs A and A.8.
17. The facts in paragraphs A and A.9.

NINETEENTH AND TWENTIETH SPECIFICATIONS

FAILURE TO COMPLY WITH AN ORDER PURSUANT TO

N.Y. PUBLIC HEALTH LAW SECTION 230

Respondent is charged with committing professional misconduct as defined in N.Y. Educ. Law § 6530(15) by failing to comply with an order issued pursuant to N.Y.

Public Health Law §230 , as alleged in the following facts:

18. The facts in paragraphs B and B.1.
19. The facts in paragraphs B and B.2.
20. The facts in paragraphs B and B.3.

TWENTY-FIRST SPECIFICATION

FAILURE TO COMPLY WITH STATE LAWS OR REGULATIONS

Respondent is charged with committing professional misconduct as defined in N.Y. Educ. Law § 6530(16) by willful or grossly negligent failure to comply with substantial provisions of state laws, rules or regulations governing the practice of medicine, as alleged in the following:

21. The facts in paragraphs C, C.1 and C.2.

TWENTY-SECOND SPECIFICATION

FAILURE TO FILE A REPORT

Respondent is charged with committing professional misconduct as defined in N.Y. Educ. Law § 6530(21) by failing to file a report required by law as alleged in the following:

22. The facts in paragraphs C, C.1 and C.2.

DATED: *June 25*, 2007
Albany, New York



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

EXHIBIT "B"

GUIDELINES FOR CLOSING A MEDICAL PRACTICE FOLLOWING A REVOCATION, SURRENDER OR SUSPENSION (of six months or more) OF A MEDICAL LICENSE

1. Respondent shall immediately cease the practice of medicine in compliance with the terms of the Surrender Order. Respondent shall not represent that Respondent is eligible to practice medicine and shall refrain from providing an opinion as to professional practice or its application.
2. Within 15 days of the Surrender Order's effective date, Respondent shall notify all patients that Respondent has ceased the practice of medicine, and shall refer all patients to another licensed practicing physician for their continued care, as appropriate.
3. Within thirty days of the Surrender Order's effective date, Respondent shall deliver Respondent's original license to practice medicine in New York State and current biennial registration to the Office of Professional Medical Conduct (OPMC) at 433 River Street Suite 303, Troy, NY 12180-2299.
4. Respondent shall arrange for the transfer and maintenance of all patient medical records. Within thirty days of the Surrender Order's effective date, Respondent shall notify OPMC of these arrangements, including the name, address, and telephone number of an appropriate contact person, acceptable to the Director of OPMC, who shall have access to these records. Original records shall be retained for patients for at least six years after the last date of service, and, for minors, for at least six years after the last date of service or three years after the patient reaches the age of majority, whichever time period is longer. Records shall be maintained in a safe and secure place that is reasonably accessible to former patients. The arrangements shall ensure that all patient information is kept confidential and is available only to authorized persons. When a patient or authorized representative requests a copy of the patient's medical record, or requests that the original medical record be sent to another health care provider, a copy of the record shall be promptly provided or sent at reasonable cost to the patient (not to exceed 75 cents per page.) Radiographic, sonographic and like materials shall be provided at cost. A qualified person shall not be denied access to patient information solely because of inability to pay.
5. Within 15 days of the Surrender Order's effective date, if Respondent holds a Drug Enforcement Agency (DEA) certificate, Respondent shall advise the DEA in writing of the licensure action and shall surrender Respondent's DEA controlled substance certificate, privileges, and any used DEA #222 U.S. Official Order Forms Schedules 1 and 2, to the DEA.
6. Within 15 days of the Surrender Order's effective date, Respondent shall return any unused New York State official prescription forms to the Bureau of Narcotic Enforcement of the New York State Department of Health. Respondent shall have all prescription pads bearing Respondent's name destroyed. If no other licensee is providing services at Respondent's practice location, Respondent shall dispose of all medications.

EXHIBIT "B"

7. Within 15 days of the Surrender Order's effective date, Respondent shall remove from the public domain any representation that Respondent is eligible to practice medicine, including all related signs, advertisements, professional listings whether in telephone directories or otherwise, professional stationery or billings. Respondent shall not share, occupy or use office space in which another licensee provides health care services.
8. Respondent shall not charge, receive or share any fee or distribution of dividends for professional services rendered (by Respondent or others) while barred from practicing medicine. Respondent may receive compensation for the reasonable value of services lawfully rendered, and disbursements incurred on a patient's behalf, prior to the Surrender Order's effective date.
9. If Respondent is a shareholder in any professional service corporation organized to engage in the practice of medicine and Respondent's license is revoked, surrendered or suspended for six months or more pursuant to this Order, Respondent shall, within ninety days of the Order's effective date, divest completely of all financial interest in such professional services corporation in accordance with New York Business Corporation Law. If Respondent is the sole shareholder in a professional services corporation, the corporation must be dissolved or sold within ninety days of the Order's effective date.
10. Failure to comply with the above directives may result in civil or criminal penalties. Practicing medicine when a medical license has been suspended, revoked or annulled is a Class E Felony, punishable by imprisonment for up to four years, under § 6512 of the Education Law. Professional misconduct may result in penalties including revocation of the suspended license and/or fines of up to \$10,000 for each specification of misconduct, under § 230-a of the Public Health Law.