



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

Kendrick A. Sears, M.D.
Chair

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

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

Public

May 10, 2007

CERTIFIED MAIL-RETURN RECEIPT REQUESTED

Steven Fakheri, M.D.
2 Sinclair Drive
Kings Point, NY 11024

Re: License No. 121471

Dear Dr. Fakheri:

Enclosed is a copy of Order #BPMC 07-108 of the New York State Board for Professional Medical Conduct. This order and any penalty provided therein goes into effect May 17, 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 to the Board for Professional Medical Conduct, New York State Department of Health, 433 River Street, Suite 303, Troy, NY 12180.

Sincerely,

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

Enclosure

cc: George Weinbaum, Esq.
175 Main Street, Suite 74
White Plains, NY 10601

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

IN THE MATTER
OF
STEVEN FAKHERI, M.D.

CONSENT
ORDER

BPMC No. #07-108

Upon the application of (Respondent) STEVEN FAKHERI, 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 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.

DATE: 7-9-07


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
STEVEN FAKHERI, M.D.

CONSENT
AGREEMENT
AND
ORDER

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

That on or about September 16, 1974, I was licensed to practice as a physician in the State of New York, and issued License No. 121471 by the New York State Education Department.

My current address is 2 Sinclair Drive, Kings Point, N.Y. 11024, 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 assert that I cannot defend against at least one act of misconduct alleged against me, and therefore, in full satisfaction of the charges against me, agree to the following penalty:

Pursuant to N.Y. Pub. Health Law § 230-a(3), Respondent's license to practice medicine in New York State shall be limited as follows:

- Beginning upon the effective date of this Order and continuing

through close of business, June 14, 2007, Respondent shall, in the course of practicing medicine in New York State, consult with, examine and/or treat any female patient only in the presence of a chaperone, as is further set forth in Exhibit C, whose terms are incorporated in this limitation. Any practice in violation of this license limitation shall be unauthorized practice, within the meaning of N.Y. Educ. Law §6512.

- Beginning June 15, 2007 Respondent's license to practice medicine shall be limited, pursuant to §230-a of the Public Health Law, to preclude patient contact and any practice of medicine, clinical or otherwise. Respondent shall be precluded from diagnosing, treating, operating, or prescribing for any human disease, pain, injury, deformity, or physical condition.

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

- That Respondent shall, within thirty days of the June 15, 2007, notify the New York State Education Department, Division of Professional Licensing Services, that Respondent's license status is "inactive," and shall provide proof of such notification to the Director of OPMC within thirty days thereafter; and
- That Respondent shall return any and all official New York State prescriptions to the Bureau of Narcotic Enforcement, and shall surrender Respondent's Controlled Substance Registration Certificate to the United States Department of Justice, Drug Enforcement Administration, within 15 days of June 15, 2007. Further, within thirty days of returning said prescriptions and surrendering said registration, Respondent shall provide

documentary proof of such transaction(s) to the Director of OPMC; and

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; and

Respondent shall comply with all conditions set forth in attached Exhibit "B" ("Guidelines for Closing a Medical Practice") which is attached.

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

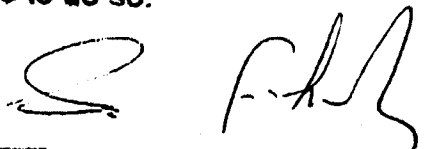
alleged misconduct; this Consent Agreement shall not be used against me in any way and shall be kept in strict confidence; and the Board's denial shall be without prejudice to the pending disciplinary proceeding and the Board's final determination pursuant to the Public Health Law.

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. 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 stipulate that the proposed sanction and Order are authorized by Public Health Law § 230 and § 230-a and that the Board for Professional Medical Conduct and the Office of Professional Medical Conduct have the requisite powers to carry out all included terms. 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.

I am aware and agree that regardless of prior communication, the attorney for the Department, the Director of the Office of Professional Medical Conduct, and the Chairperson of the State Board for Professional Medical Conduct each

reserve full discretion to enter into the agreement which I propose and this application which I submit, or to decline to do so.



STEVEN FAKHERI, M.D.
RESPONDENT

DATE 4-23-07

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

DATE: 4/26/07


GEORGE WEINBAUM, ESQ.
Attorney for Respondent

DATE: 4/26/2007


CHRISTINE M. RADMAN
Associate Counsel
Bureau of Professional Medical Conduct

DATE: 5/7/07


KEITH W. SERVIS
Director
Office of Professional Medical Conduct

EXHIBIT "A"

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

IN THE MATTER

OF Fakhery *FN*
STEVEN FAKHERI, M.D.

STATEMENT
OF
CHARGES

Fakhery *FN*

STEVEN FAKHERI, M.D., the Respondent, was authorized to practice medicine in New York State on or about September 16, 1974, by the issuance of license number 121471 by the New York State Education Department.

FACTUAL ALLEGATIONS

- A. During the month of January in 2005, Patient A sought medical treatment on more than one occasion from Respondent at his office at 95 Church Street in Ronkonkoma, New York, after sustaining injuries in a December 10, 2004 motor vehicle accident. Respondent deviated from acceptable medical standards in that he:
1. Inappropriately touched Patient A for no medical purpose.
 2. Made inappropriate sexual comments to Patient A.
 3. Exposed his penis to Patient A.
- B. On or about February 7, 2005, Patient B sought medical treatment from Respondent at his Ronkonkoma office. Respondent deviated from acceptable medical standards in that he:
1. Inappropriately touched Patient B for no medical purpose.
 2. Made inappropriate sexual comments to Patient B.

C. On or about January 13, 2005, Patient C sought medical treatment from Respondent at his Ronkonkoma office. Respondent deviated from acceptable medical standards in that he:

1. Inappropriately touched Patient C for no medical purpose.

D. On or about June 20, 1994, Patient D sought medical treatment from Respondent at his Ronkonkoma office. Respondent deviated from acceptable medical standards in that he:

1. Inappropriately touched Patient D for no medical purpose.

SPECIFICATION OF CHARGES

FIRST THROUGH FOURTH SPECIFICATIONS

HARASS, ABUSE OR INTIMIDATE PATIENT

Respondent is charged with committing professional misconduct as defined in N.Y. Educ. Law § 6530(31) by willfully harassing, abusing or intimidating a patient either physically or verbally, as alleged in the facts of:

1. Paragraph A and each of its subparagraphs.
2. Paragraph B and each of its subparagraphs.
3. Paragraph C and each of its subparagraphs.
4. Paragraph D and each of its subparagraphs.

FIFTH 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

facts of the following:

5. Paragraph A and each of its subparagraphs.
6. Paragraph B and each of its subparagraphs.
7. Paragraph C and each of its subparagraphs.
8. Paragraph D and each of its subparagraphs.

DATE: March 6, 2007
New York, New York



**Roy Narnerson
Deputy Counsel
Bureau of Professional Medical Conduct**

EXHIBIT "B"

GUIDELINES FOR CLOSING A MEDICAL PRACTICE

1. Respondent shall immediately cease the practice of medicine in compliance with the terms of the Consent Order. Respondent shall not represent himself or herself as eligible to practice medicine and shall refrain from providing an opinion as to professional practice or its application.
2. Within 15 days of June 15, 2007, Respondent shall notify all patients that he or she has ceased the practice of medicine, and shall refer all patients to another licensed practicing physician for their continued care, as appropriate.
3. Respondent shall arrange for the transfer and maintenance of all patient medical records. Within thirty days of June 15, 2007, 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, 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.
4. Within 15 days of June 15, 2007, if Respondent holds a Drug Enforcement Agency (DEA) certificate, Respondent shall advise the DEA in writing of the licensure action and shall surrender his or her DEA controlled substance certificate, privileges, and any used DEA #222 U.S. Official Order Forms Schedules 1 and 2, to the DEA.
5. Within 15 days June 15, 2007, 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.
6. Within 15 days of June 15, 2007, 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.
7. Respondent shall not charge, receive or share any fee or distribution of

dividends for professional services rendered (by himself 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 June 15, 2007.

8. 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 Consent Order, Respondent shall, within ninety days of June 15, 2007, divest himself/herself 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 June 15, 2007.
9. 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.

EXHIBIT "C"

Chaperone Required

1. Beginning immediately upon the effective date of this Order and continuing through close of business, June 14, 2007, Respondent Steven Fakheri shall, in the course of practicing medicine in New York State, consult with, examine and/or treat any female patient only in the presence of a chaperone.
2. The chaperone shall be a licensed or registered health care professional or other health care worker, shall not be a family member, personal friend, or be in a professional relationship with Respondent which could pose a conflict with the chaperone's responsibilities. The chaperone shall be proposed by Respondent and subject to the written approval of the Director of OPMC.
3. Prior to the approval of any individual as chaperone, Respondent shall cause the proposed chaperone to execute and submit to the Director of OPMC an acknowledgment of the chaperone's agreement to undertake all of the responsibilities of the role of chaperone. Said acknowledgment shall be made upon a form provided by and acceptable to the Director. Respondent shall provide the chaperone with a copy of the Order and all of its attachments and shall, without fail, cause the approved chaperone to:
 - a. Report weekly to OPMC regarding the chaperoning of Respondent's practice.
 - b. Report within 24 hours any failure of Respondent to comply with the Order, including, but not limited to, any failure by Respondent to have the chaperone present when required, any sexually suggestive or otherwise inappropriate comments by Respondent to any patient, and any actions of a sexual nature by Respondent in the presence of any patient.
 - c. Confirm the chaperone's presence at each and every examination and treatment of a female patient by Respondent, by placing the chaperone's name, title and date in the patient record for each and every visit, and by maintaining a separate log, kept in the chaperone's own possession, listing the patient name and date of visit for each and every patient visit chaperoned.
 - d. Provide copies of the log described in paragraph c, above, to OPMC at least weekly and also immediately upon the Director's request.
4. Respondent shall post a legible copy of this Exhibit in a prominent location, visible to all patient who visit, in every medical office maintained by Respondent, or at which he practices.