



**New York State Board for Professional Medical Conduct**

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

Barbara A. DeBuono, M.D., M.P.H.  
Commissioner of Health

Patrick F. Carone, M.D., M.P.H.  
Chair  
Ansel R. Marks, M.D., J.D.  
Executive Secretary

July 1, 1997

**CERTIFIED MAIL-RETURN RECEIPT REQUESTED**

Daniel Cheng, M.D.  
46 Third Street  
Waterford, New York 12188

RE: License No. 126436

Dear Dr. Cheng:

Enclosed please find Order #BPMC 97-158 of the New York State Board for Professional Medical Conduct. This Order and any penalty provided therein goes into effect upon receipt of this letter or seven (7) days after the date of this letter, whichever is earlier.

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.

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: Jude Brearton Mulvey, Esq.

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

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IN THE MATTER : CONSENT  
 OF : AGREEMENT  
 DANIEL CHENG, M.D. : AND ORDER  
 : BPMC # 97-158

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DANIEL CHENG, M.D., being duly sworn, deposes and says:

On or about March 5, 1976, I was licensed to practice as a physician in the State of New York, having been issued license number 126436 by the New York State Education Department.

My current address is 46 Third Street, Waterford, New York 12188 and I will advise the Director of the Office of Professional Medical Conduct of any change of my address.

I understand that I have been charged with thirty specifications of professional misconduct as set forth in the Statement of Charges, annexed hereto, made a part hereof, and marked as Exhibit A.

I admit guilt to the thirteenth, fourteenth, fifteenth, nineteenth, twentieth and twenty-first specifications.

I agree to the following penalty:

Two years suspension, stayed to become a two year period of probation under the terms and conditions attached hereto, made part hereof, and marked as Exhibit B.

I agree that in the event that I am charged with professional misconduct in the future, this agreement and order

shall be admitted into evidence in that proceeding.

I agree that, as a condition of this Order, I will maintain current registration of my license with the New York State Education Department, Division of Professional Licensing Services, and pay all registration fees. This condition will remain in effect except during periods of actual suspension, if any, imposed by this Order. This condition shall be in effect beginning thirty days after the effective date of this Order and will continue until the full term of the Order has run, and until any associated period of probation and all probation terms have been completed and satisfied. I understand that any failure by me to comply with this condition shall constitute misconduct as defined by New York State Education Law §6530(29).

I understand that, in the event that the Board does not grant this application, nothing contained herein shall be binding upon me or construed to be an admission of any act of misconduct alleged or charged against me; such application shall not be used against me in any way and shall be kept in strict confidence during the pendency of the professional misconduct disciplinary proceeding; and such denial by the Board shall be made without prejudice to the continuance of any disciplinary proceeding and the final determination by the Board pursuant to the provisions of the Public Health Law.

I agree that, in the event the State Board for Professional Medical Conduct grants my application, an order of the Chairperson of the Board shall be issued in accordance with same.

I make this application of my own free will and accord and not under duress, compulsion or restraint of any kind or manner.

Daniel Cheng  
DANIEL CHENG, M.D.  
RESPONDENT

Subscribed before me this

12 day of June

, 1997.

Suzanne Morine  
NOTARY PUBLIC

**Suzanne Morine**  
Notary Public, State of New York  
Qualified in Rensselaer County  
Reg No 01MO5059088  
Commission Expires April 22, 1998

AGREED TO:

DATE: June 10, 1997

Jude Brearton Mulvey  
JUDE BREARTON MULVEY  
ASSISTANT COUNSEL  
Bureau of Professional  
Medical Conduct

DATE: June 23, 1997

Anne F. Saile  
ANNE F. SAILE  
DIRECTOR  
Office of Professional  
Medical Conduct

ORDER

Upon the application of DANIEL CHENG, M.D. (Respondent) for consent order, which application is made a part hereof, it is AGREED TO and

ORDERED, that the proposed agreement and the provisions thereof are hereby adopted; and it is further

ORDERED, that this order shall take effect as of the date of the personal service of this order upon Respondent, upon receipt by Respondent of this order via certified mail, or seven days after mailing of this order by certified mail, whichever is earliest.

DATED:

June 24, 1997

Patrick F. Carone, M.D.

PATRICK F. CARONE, M.D., M.P.H.  
Chair  
State Board for Professional  
Medical Conduct

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

-----X

IN THE MATTER : STATEMENT  
OF : OF  
DANIEL CHENG, M.D. : CHARGES

-----X

DANIEL CHENG, M.D., the Respondent, was authorized to practice medicine in New York State on March 5, 1976, by the issuance of license number 126436 by the New York State Education Department.

**FACTUAL ALLEGATIONS**

A. Respondent treated Patient A (patients are identified in the Appendix) from on or about December 7, 1988 through on or about June 23, 1995 at his office, 46 Third Street, Cohoes, New York (hereinafter "the office"). Respondent's care and treatment of Patient A failed to meet acceptable standards of medical care, in that:

1. Respondent failed to obtain an adequate history.
2. Respondent failed to perform and/or record an adequate initial physical examination.
3. Respondent failed to perform an adequate evaluation of Patient A before initiating anorexiant therapy.
4. Respondent failed to provide diet advice, counselling and/or referrals for such before prescribing anorexiant to Patient A.
5. Respondent inappropriately prescribed anorexiant as the primary manner of weight reduction.

6. Respondent failed to appropriately monitor and/or control Patient A's blood pressure.
7. Respondent failed to discontinue anorexiant therapy within a timely manner.
8. Respondent failed to maintain a record which accurately reflects the evaluation and treatment of Patient A.

B. Respondent treated Patient B from on or about January 9, 1990 to on or about September 1, 1995 at his office.

Respondent's care and treatment of Patient B failed to meet acceptable standards of medical care, in that:

1. Respondent failed to obtain an adequate history.
2. Respondent failed to perform and/or document an adequate initial examination.
3. Respondent prescribed Voltaren without documenting adequate medical justification?
4. Respondent failed to perform an adequate evaluation of Patient B before initiating anorexiant therapy.
5. Respondent failed to provide diet advice, counselling and/or referrals for such before prescribing anorexiants to Patient B.
6. Respondent inappropriately prescribed anorexiants as the primary manner of weight reduction.
7. Respondent failed to discontinue anorexiant therapy within a timely manner.
8. Respondent failed to appropriately monitor and/or control Patient B's blood pressure.
9. Respondent failed to appropriately adjust hypertension medication prescribed to Patient B.
10. Respondent failed to adequately evaluate Patient B's hypertension.
11. Respondent failed to adequately monitor PT and INR during coumadin therapy.

12. Respondent failed to maintain a record which accurately reflects the evaluation and treatment of Patient B.

C. Respondent treated Patient C from on or about August 11, 1986 to on or about September 7, 1995 at his office.

Respondent's care and treatment of Patient C failed to meet acceptable standards of medical care, in that.

1. Respondent failed to obtain an adequate history.
2. Respondent failed to perform and/or record an adequate initial physical examination.
3. Respondent failed to order 24 hour urine test prior to prescribing Zylopim.
4. Respondent failed to appropriately adjust hypertension medication.
5. Respondent failed to adequately evaluate Patient C's hypertension.
6. Respondent failed to appropriately monitor and/or document Patient C's high blood pressure.
7. Respondent failed to adequately evaluate Patient C's elevated lipid profile.
8. Respondent prescribed Xanax without documenting adequate medical documentation.
9. Respondent failed to maintain a record which accurately reflects the evaluation and treatment of Patient C.

D. Respondent treated Patient D from on or about November 8, 1988 to on or about September 6, 1995 at his office.

Respondent's care and treatment of Patient D failed to meet acceptable standards of medical care, in that:

1. Respondent failed to obtain an adequate history.
2. Respondent failed to perform and/or record an adequate initial physical examination.



3. Respondent failed to perform an adequate evaluation of Patient D before initiating anorexiatic therapy.
4. Respondent failed to provide diet advice, counselling and/or referrals for such before prescribing anorexiatics.
5. Respondent inappropriately prescribed anorexiatics as the primary manner of weight reduction.
6. Respondent failed to discontinue anorexiatic therapy within a timely manner.
7. Respondent failed to maintain a record which accurately reflects the evaluation and treatment of Patient D.

E. Respondent treated Patient E from on or about July 9, 1985 to on or about June 1993 in his office. Respondent's care and treatment of Patient E failed to meet acceptable standards of medical care, in that:

1. Respondent failed to obtain an adequate history.
2. Respondent failed to perform an adequate evaluation of Patient E prior to initiating anorexiatic therapy.
3. Respondent failed to provide diet advice, counselling and/or referrals for such before prescribing anorexiatics to Patient E.
4. Respondent inappropriately prescribed anorexiatics as the primary manner of weight reduction.
5. Respondent failed to discontinue anorexiatic therapy within a timely manner.
6. Respondent failed to conduct appropriate laboratory tests before treating Patient E's urinary tract infection and vaginal moniliasis.
7. Respondent failed to order and/or perform periodic pap smears and/or mammograms.
8. Respondent failed to maintain a record which accurately reflects the evaluation and treatment of Patient E.

F. Respondent treated Patient F from on or about January 12, 1990 to on or about March 31, 1995 at his office.

Respondent's care and treatment of Patient F failed to meet acceptable standards of medical care, in that:

1. Respondent failed to obtain an adequate history.
2. Respondent failed to perform an adequate evaluation of Patient F before initiating anorexiatic therapy.
3. Respondent failed to provide diet advice, counselling and/or referrals for such before prescribing anorexiatics to Patient F.
4. Respondent inappropriately prescribed anorexiatics as the primary manner of weight reduction.
5. Respondent failed to discontinue anorexiatic therapy within a timely manner.
6. Respondent failed to adequately monitor pulmonary function.
7. Respondent failed to provide education regarding upper respiratory attacks and/or develop an individualized asthma control plan.
8. Respondent failed to order and/or perform periodic pap smears and/or mammograms.
9. Respondent failed to maintain a record which accurately reflects the evaluation and treatment of Patient F.

#### **SPECIFICATIONS OF MISCONDUCT**

##### FIRST THROUGH SIXTH SPECIFICATIONS

##### **PRACTICING THE PROFESSION WITH GROSS NEGLIGENCE ON A PARTICULAR OCCASION**

Respondent is charged with gross negligence on a particular occasion in violation of N.Y. Educ. Law §6530 (4) (McKinney Supp. 1997) in that Petitioner charges two or more of the following.

1. The facts in Paragraphs A and A.1, A.2, A.3, A.4, A.5, A.6 and A.7.
2. The facts in Paragraphs B and B.1, B.2, B.3, B.4, B.5, B.6, B.7, B.8, B.9 and B.10.
3. The facts in Paragraphs C and C.1, C.2, C.3, and C.4.
4. The facts in Paragraphs D and D.1, D.2, D.3, D.4, D.5 and D.6.
5. The facts in Paragraphs E and E.1, E.2, E.3, E.4, E.5 and E.6.
6. The facts in Paragraphs F and F.1, F.2, F.3, F.4, F.5, F.6, F.7 and F.8.

SEVENTH THROUGH TWELFTH SPECIFICATIONS

PRACTICING THE PROFESSION WITH GROSS INCOMPETENCE

Respondent is charged with gross incompetence in violation of N.Y. Educ. Law §6530(6) (McKinney Supp. 1997) in that Petitioner charges two or more of the following:

7. The facts in Paragraphs A and A.1, A.2, A.3, A.4, A.5, A.6 and A.7.
8. The facts in Paragraphs B and B.1, B.2, B.3, B.4, B.5, B.6, B.7, B.8, B.9 and B.10.
9. The facts in Paragraphs C and C.1, C.2, C.3, and C.4.
10. The facts in Paragraphs D and D.1, D.2, D.3, D.4, D.5 and D.6.
11. The facts in Paragraphs E and E.1, E.2, E.3, E.4, E.5 and E.6.
12. The facts in Paragraphs F and F.1, F.2, F.3, F.4, F.5, F.6, F.7 and F.8.

THIRTEENTH THROUGH EIGHTEENTH SPECIFICATIONS

NEGLIGENCE ON MORE THAN ONE OCCASION

Respondent is charged with negligence on more than one occasion in violation of N.Y. Educ. Law §6530(3) (McKinney Supp. 1997) in that Petitioner charges two or more of the following:

13. The facts in paragraphs A and A.1, A.2, A.3, A.4, A.5, A.6 and A.7.
14. The facts in paragraphs B and B.1, B.2, B.3, B.4, B.5, B.6, B.7, B.8, B.9, B.10 and B.11.
15. The facts in paragraphs C and C.1, C.2, C.3, C.4, C.5, C.6, C.7 and C.8.
16. The facts in paragraphs D and D.1, D.2, D.3, D.4, D.5, D.6 and D.7.
17. The facts in paragraphs E and E.1, E.2, E.3, E.4, E.5, E.6 and E.7.
18. The facts in paragraphs F and F.1, F.2, F.3, F.4, F.5, F.6, F.7, F.8 and F.9.

NINETEENTH THROUGH TWENTY-FOURTH SPECIFICATIONS

INCOMPETENCE ON MORE THAN ONE OCCASION

Respondent is charged with incompetence on more than one occasion in violation of N.Y. Educ. Law §6530(5) (McKinney Supp. 1997) in that Petitioner charges two or more of the following:

19. The facts in Paragraphs A and A.1, A.2, A.3, A.4, A.5, A.6, A.7 and A.8.
20. The facts in paragraphs B and B.1, B.2, B.3, B.4, B.5, B.6, B.7, B.8, B.9, B.10, B.11 and B.12.
21. The facts in paragraphs C and C.1, C.2, C.3, C.4, C.5, C.6, C.7, C.8 and C.9.

22. The facts in paragraphs D and D.1, D.2, D.3, D.4, D.5, D.6 and D.7.
23. The facts in paragraphs E and E.1, E.2, E.3, E.4, E.5, E.6 and E.7.
24. The facts in paragraphs F and F.1, F.2, F.3, F.4, F.5, F.6, F.7, F.8 and F.9.

TWENTY-FIFTH THROUGH THIRTIETH SPECIFICATIONS

RECORD KEEPING

Respondent is charged with failing to maintain a record which accurately reflects the care and treatments of patients in violation of N.Y. Educ. Law §6530 (32) (McKinney Supp. 1997) in that Petitioner charges:

25. The facts in paragraphs A and A.1 and A.9.
26. The facts in paragraphs B and B.1 and B.13.
27. The facts in paragraphs C and C.1 and C.10.
28. The facts in paragraphs D and D.1 and D.7.
29. The facts in paragraphs E and E.1 and E.8.
30. The facts in paragraphs F and F.1 and F.10.

DATED: *June 16*, 1997  
Albany, New York


  
PETER D. VAN BUREN  
Deputy Counsel  
Bureau of Professional  
Medical Conduct

EXHIBIT B

TERMS OF PROBATION

1. Respondent shall conduct himself in all ways in a manner befitting his professional status, and shall conform fully to the moral and professional standards of conduct and obligations imposed by law and by his/her profession;
2. Respondent shall submit written notification to the New York State Department of Health (NYSDOH), addressed to the Director, Office of Professional Medical Conduct (OPMC), Hedley Park Place, 4th Floor, 433 River Street, Troy, New York 12180-2299; said notice is to include a full description of any employment and practice, professional and residential addresses and telephone numbers within or without New York State, and any and all investigations, charges, convictions or disciplinary actions by any local, state or federal agency, institution or facility, within thirty days of each action;
3. Respondent shall fully cooperate with and respond in a timely manner to requests from OPMC to provide written periodic verification of Respondent's compliance with the terms of this Order. Respondent shall personally meet with a person designated by the Director of OPMC as requested by the Director.
4. The period of probation shall be tolled during periods in which Respondent is not engaged in the active practice of medicine in New York State. Respondent shall notify the Director of OPMC, in writing, if Respondent is not currently engaged in or intends to leave the active practice of medicine in New York State for a period of thirty (30) consecutive days or more. Respondent shall then notify the Director again prior to any change in that status. The period of probation shall resume and any terms of probation which were not fulfilled shall be fulfilled upon Respondent's return to practice in New York State.
5. Respondent's professional performance may be reviewed by the Director of OPMC. This review may include, but shall not be limited to, a review of office records, patient records and/or hospital charts, interviews with or periodic visits with Respondent and his/her staff at practice locations or OPMC offices.
6. The Respondent shall comply with all requirements of all sections of Article 33 of the Public Health Law and meet as scheduled with the Office of Professional Medical Conduct to provide proof of compliance.

7. Upon request, the Respondent shall provide the Office of Professional Medical Conduct access to or copies of all patient records, office records, hospital records, records of administration, dispensing, and/or prescribing of controlled substances, records of controlled substances purchases, official New York State triplicate prescription books, and any other records which may be required under the Public Health law.
8. Respondent shall maintain legible and complete medical records which accurately reflect evaluation and treatment of patients. The medical records will contain a comprehensive history, physical examination findings, chief complaint, present illness, diagnosis and treatment. In cases of prescribing, dispensing, or administering of controlled substances, the medical record shall contain all information required by state rules and regulations regarding controlled substances.
9. Respondent shall comply with all terms, conditions, restrictions, and penalties to which he is subject pursuant to the Order and shall assume and bear all costs related to compliance. Upon receipt of evidence of noncompliance with, or any violation of these terms, the Director of OPMC and/or the Board may initiate a violation of probation proceeding and/or any such other proceeding against Respondent as may be authorized pursuant to the law.