

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

IN THE MATTER
OF
KAIZER KAMBLE, M.D.

CONSENT
ORDER

BPMC No. #08-232

Upon the application of (Respondent) KAIZER KAMBLE, 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: 12-4-2008

Redacted Signature

KENDRICK A. SEARS, M.D.
Chair
State Board for Professional Medical Conduct

**IN THE MATTER
OF
KAIZER KAMBLE, M.D.**

**CONSENT
AGREEMENT
AND
ORDER**

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

That on or about September 14, 1970, I was licensed to practice as a physician in the State of New York, and issued License No. 107286 by the New York State Education Department.

My current address is [business address], 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 fifteen specifications of professional misconduct.

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

I do not contest the Eleventh Specification [negligence on more than one occasion], to the extent of factual allegations A.3, B.1, B.2, and C. 1 in full satisfaction of the charges against me, and agree to the following penalty:

My 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. I 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 issuance of the Consent Order, 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 the effective date of this Order. 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.

Redacted Signature

DATE 11/15/08

KAIZER KAMBLE, M.D.
RESPONDENT

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

DATE: 11-15-08

Redacted Signature

~~JOSEPH V. MCCARTHY, ESQ.~~
Attorney for Respondent

DATE: 11/24/08

Redacted Signature

~~MICHAEL A. HISER, ESQ.~~
Associate Counsel
Bureau of Professional Medical Conduct

DATE: 12/3/08

Redacted Signature

~~KEITH W. SERVIS~~
Director
Office of Professional Medical Conduct

IN THE MATTER
OF
KAIZER KAMBLE, M.D.

STATEMENT
OF
CHARGES

KAIZER KAMBLE, M.D., the Respondent, was authorized to practice medicine in New York State on or about September 14, 1970, by the issuance of license number 107286 by the New York State Education Department.

FACTUAL ALLEGATIONS

- A. Respondent provided medical care to Patient A (patients are identified in the attached Appendix), a 74 year old male, at the Lakeshore Health Center, 12644 Seneca Road, Irving, New York 14081 [hereafter called "Lakeshore Hospital"] beginning on or about February 4, 2005. Respondent performed a laparoscopic cholecystectomy on the patient on February 11, 2005. Respondent thereafter provided post operative care until February 21, 2005, when the patient died. Respondent's care and treatment of Patient A failed to meet accepted standards of medical practice, in that:
1. Respondent, despite ordering lab studies on the patient on February 19, 2005, failed to evaluate the results of the lab studies and/or document his evaluation of the lab studies.
 2. Respondent failed to appropriately manage the patient's post operative bleeding noted on or about post operative day 7 (February 18, 2005).
 3. Respondent, despite the patient's decreasing hematocrit and hemoglobin from February 16, 2005 through February 21, 2005, failed to appropriately investigate and determine the source of the patient's bleeding, and/or document such investigation.

4. Respondent failed to obtain necessary consults for the patient post operatively, including an internal medicine consult.
5. Respondent failed to evaluate or treat the patient, and/or document his evaluation or treatment of the patient, on post operative days three and five (February 14 and 16, 2005).

B. Respondent provided medical care to Patient B, a 21 year old female patient, from on or about September 13, 2005 through September 16, 2005 at the Lakeshore Hospital. Patient B presented to the Emergency Room on September 13, 2005 with abdominal pain at approximately 2300. Respondent performed surgery in the form of an appendectomy on the patient at approximately 1500 on September 14, 2005. Respondent's care and treatment of Patient B failed to meet accepted standards of medical practice, in that:

1. Respondent, despite being informed of the patient's condition and diagnosis of acute appendicitis at the Emergency Department at approximately 0300 on September 14, 2005, failed to see and evaluate the patient in timely fashion.
2. Respondent, after being informed of the patient's condition and diagnosis at the Emergency Department at approximately 0300 on September 14, 2005, delayed performing surgery on the patient until approximately 1500 on that day, without adequate medical indication and/or without documenting such medical indication.
3. Respondent documented in his admitting history and physical that his impression was that the patient had "acute appendicitis" and that "the patient was immediately taken to surgery." In fact, Respondent did not take the patient to surgery until approximately 12 hours after admission.

C. Respondent provided medical care to Patient C, a 45 year old male, at the Lakeshore Hospital on or about November 21, 2007, when Respondent performed a PEG tube insertion. Respondent's care and treatment of Patient C failed to meet accepted standards of medical practice, in that:

1. Respondent, during the performance of the PEG tube insertion, dropped a portion of a needle guide and/or stylet to a non-sterile area. Respondent picked up the now non-sterile guide and/or stylet with his now non-sterile gloved hand, and continued to use it in the surgical procedure.
2. Respondent, immediately after the surgical procedure described above, admitted to the Operating Room nurse manager that he had dropped the needle guide and/or stylet to a non-sterile area, that he had picked it up, and that he had re-used it.

D. Respondent provided medical care to Patient D, a 78 year old male patient, beginning on or about March 11, 2005 at Lakeshore Hospital. Respondent performed surgery in the form of an appendectomy on March 12, 2005, and thereafter provided post-operative care. Respondent's care and treatment of Patient D failed to meet accepted standards of medical practice, in that:

1. Respondent, after evaluating the patient at approximately 1500 on March 11, 2005, delayed performing surgery on the patient until 0830 on March 12, 2005 without adequate medical indication for the delay and/or without documenting such adequate medical indication.
2. Respondent falsely stated in the discharge summary that, after the surgical consult was requested and the diagnosis was confirmed, "the patient was taken to surgery immediately." In fact, Respondent waited more than 12 hours to take the patient to surgery.

E. Respondent provided medical care to Patient E, a 77 year old female, at the Lakeshore Hospital at various times from on or about July 27, 2005 through August 11, 2005. On July 27, 2005, Respondent performed a surgical procedure consisting of an exploratory laparotomy, lyses of adhesions, and limited right hemi-colectomy, among others. Respondent thereafter provided post operative care until approximately August 11, 2005, when the patient died. Respondent's care and treatment of Patient E failed to meet accepted standards of medical practice, in that:

1. Respondent, on and after post operative day 5 (August 1, 2005), when the patient experienced sudden onset of right sided pain and leakage of bile, failed to appropriately evaluate and treat the patient by, among others, returning the patient to the operating room for surgery, and/or failed to document that he appropriately evaluated and treated the patient.
2. Respondent, by post operative day 14 (August 10), failed to appropriately address the patient's ongoing respiratory difficulties and hypotension by re-operating on the patient.
3. Respondent failed to document his evaluation and/or treatment of the patient, if any, during post operative days 4 (July 31), 8 (August 4), 13 (August 9) and 15 (August 11, 2005).

SPECIFICATION OF CHARGES

FIRST THROUGH FIFTH 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, A and A.2, A and A.3, A and A.4, and/or A and A.5.
2. The facts in paragraphs B and B.1, B and B.2, and/or B and B.3.
3. The facts in paragraphs C and C.1 and C and C.2.
4. The facts in paragraphs D and D.1, and/or D and D.2.
5. The facts in paragraphs E and E.1, E and E.2, and/or E and E.3.

SIXTH THROUGH TENTH 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:

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

ELEVENTH 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:

11. 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, C and C.1, D and D.1, D and D.2, E and E.1, E and E.2, and/or E and E.3.

TWELFTH 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:

12. 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, C and C.1, D and D.1, D and D.2, E and E.1, E and E.2, and/or E and E.3.

THIRTEENTH 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:

13. The facts in paragraphs A and A.1, A and A.3, A and A.5, B and B.2, B and B.3, D and D.1, D and D.2, E and E.1, E and E.2, and/or E and E.3.

FOURTEENTH 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:

14. The facts in Paragraphs B and B.3 and/or D and D.2.

FIFTEENTH SPECIFICATION

VIOLATION OF INFECTION CONTROL GUIDELINES

Respondent is charged with committing professional misconduct as defined in N.Y. Educ. Law § 6530(47) by failing to use scientifically accepted barrier precautions and infection control practices as established by the department of health, as alleged in the facts of:

15. The facts in paragraphs C and C.1 and C and C.2.

DATE: October *15*, 2008
Albany, New York

Redacted Signature

Peter D. Van Buren
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 the Consent Order's effective date, 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 the Consent 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, 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 the Consent 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 his or her DEA controlled substance certificate, privileges, and any unused DEA #222 U.S. Official Order Forms Schedules 1 and 2, to the DEA.
5. Within 15 days of the Consent 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.
6. Within 15 days of the Consent 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.

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 the Consent Order's effective date.
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 the Order's effective date, 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 the Consent Order's effective date.
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.