



*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*

October 17, 1997

**CERTIFIED MAIL-RETURN RECEIPT REQUESTED**

Dale L. Deahn, M.D.  
401 Main Street  
Arcade, New York 14009

RE: License No. 150120

Dear Dr. Deahn:

Enclosed please find Order #BPMC 97-249 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: Amy T. Kulb, Esq.  
Jacobson and Goldberg, LLP  
585 Stewart Avenue  
Garden City, New York 11530

Robert Bogan, Esq.

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

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IN THE MATTER	:	CONSENT
OF	:	AGREEMENT
DALE L. DEAHN, M.D.	:	AND ORDER
	:	BPMC # 97-249

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Dale L. Deahn, M.D., says:

On or about May 28, 1982, I was licensed to practice as a physician in the State of New York, having been issued license number 150120 by the New York State Education Department.

My current address is 401 Main Street, Arcade, New York 14009 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 Twenty 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 Twentieth Specification.

I hereby agree to the following penalty: To be placed on Probation for two years under the terms and conditions of Exhibit B, hereto attached and that I be issued a Censure and Reprimand.

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.

DALE L. DEAHN, M.D.  
DALE L. DEAHN, M.D.  
RESPONDENT

Subscribed before me this

16 day of September, 1997.

David J. Miller  
NOTARY PUBLIC

DAVID J. MILLER  
Notary Public in the State of New York  
WYOMING COUNTY  
Commission Expires March 31, 1999

AGREED TO:

DATE: 9/18/97

Amy T. Bolb  
AMY T. BOLB, ESQ.  
Attorney for Respondent

DATE: 29 September 1997

Robert Bogan  
ROBERT BOGAN  
ASSOCIATE COUNSEL  
Bureau of Professional  
Medical Conduct

DATE: October 8 1997

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

ORDER

Upon the proposed agreement of DALE L. DEAHN, M.D. (Respondent) for Consent Order, which proposed agreement 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: 10/9/97

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

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IN THE MATTER : STATEMENT  
OF : OF  
DALE L. DEAHN, M.D. : CHARGES

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DALE L. DEAHN, M.D., the Respondent, was authorized to practice medicine in New York State on May 28, 1982, by the issuance of license number 150120 by the New York State Education Department.

**FACTUAL ALLEGATIONS**

A. Respondent treated Patient A (patients are identified in the Appendix) from on or about April 9, 1987 to on or about December 12, 1995 at his office, 401 Main Street, Arcade, New York, hereinafter "his office". Respondent's care and treatment of Patient A failed to meet acceptable standards of medical care, in that:

1. Respondent failed to maintain a record which accurately reflects the evaluation and treatment of Patient A.
2. Respondent prescribed Tylenol with Codeine, Cylert, Soma, Darvocet-N 100, Meproamate, Pamelor, Statobex, Valium, Lortab, and/or Bontril, without justification.
3. Despite Patient A's admission to Olean General Hospital for a drug overdose, and his receipt of the discharge summary, Respondent continued to prescribe Tylenol with Codeine, Valium, Darvocet-N 100 and/or diet pills.

B. Respondent treated Patient B from on or about May 1987 to on or about June 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 maintain a record which accurately reflects the evaluation and treatment of Patient B.
2. Respondent prescribed Hydrocodone, Lortab, Valium and/or Darvocet without adequate medical justification.
3. Respondent prescribed Statobex, Adipex and/or Bontril without adequate medical justification.
4. Respondent prescribed Statobex, Adipex, and/or Bontril to Patient B, for weight loss purposes despite this patient's failure to respond to them and despite her failure to be compliant with appointments.

C. Respondent treated Patient C from on or about 1986 until on or about November 9, 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 maintain a record which accurately reflects the evaluation and care of Patient C.
2. Respondent prescribed Soma without adequate medical justification.
3. Respondent prescribed Hydrocodone without adequate medical justification.
4. Respondent prescribed Tylenol with Codeine without adequate medical justification.
5. Respondent failed to attempt a course of non-steroidal anti-inflammatory drugs for Patient C's complaint of a sore toe.

D. Respondent treated Patient D from on or about 1986 to on or about December 12, 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 maintain a record which accurately reflects the evaluation and care of Patient D.
2. Respondent continued to prescribe diet pills over a prolonged period of time without appropriate consideration and/or trial of other treatment modalities.

**SPECIFICATIONS OF MISCONDUCT**

**FIRST THROUGH FOURTH SPECIFICATIONS**  
**GROSS NEGLIGENCE**

Respondent is charged with gross negligence in violation of N.Y. Educ. Law §6530(4) (McKinney Supp. 1997) in that Petitioner charges:

1. The facts in Paragraphs A and A.1, A.2, and/or A.3.
2. The facts in paragraphs B and B.1, B.2, B.3, and/or B.4.
3. The facts in paragraphs C and C.1, C.2, C.3, C.4, and/or C.5.
4. The facts in paragraphs D and D.1, and/or D.2.

**FIFTH THROUGH EIGHTH SPECIFICATIONS**  
**GROSS INCOMPETENCE**

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

5. The facts in paragraphs A and A.1, A.2, and/or A.3.



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

**NINTH THROUGH TWELFTH 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:

9. The facts in Paragraphs A and A.1, A.2, and/or A.3.
10. The facts in paragraphs B and B.1, B.2, B.3, and/or B.4.
11. The facts in paragraphs C and C.1, C.2, C.3, C.4, and/or C.5.
12. The facts in paragraphs D and D.1, and/or D.2.

**THIRTEENTH THROUGH SIXTEENTH 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:

13. The facts in Paragraphs A and A.1, A.2, and/or A.3.
14. The facts in paragraphs B and B.1, B.2, B.3, and/or B.4.
15. The facts in paragraphs C and C.1, C.2, C.3, C.4, and/or C.5.
16. The facts in paragraphs D and D.1, and/or D.2.

SEVENTEENTH THROUGH TWENTIETH SPECIFICATIONS  
RECORD KEEPING

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

17. The facts in Paragraphs A and A.1.
18. The facts in paragraphs B and B.1.
19. The facts in paragraphs C and C.1.
20. The facts in paragraphs D and D.1.

DATED: *September 29*, 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/herself in all ways in a manner befitting his/her 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), New York State Department of Health, 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. Any civil penalty not paid by the date prescribed herein shall be subject to all provisions of law relating to debt collection by New York State. This includes but is not limited to the imposition of interest, late payment charges and collection fees; referral to the New York State Department of Taxation and Finance for collection; and non-renewal of permits or licenses [Tax Law section 171(27); State Finance Law section 18; CPLR section 5001; Executive Law section 32].
5. 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.

6. 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.
7. Respondent shall maintain legible and complete medical records which accurately reflect the evaluation and treatment of patients. The medical records shall contain all information required by State rules and regulations regarding controlled substances.
8. Respondent will personally meet with a member of the Office of Professional Medical Conduct staff on a quarterly basis at the discretion of the Director of the Office or designee.
9. Respondent will conform fully:
  - a. to the professional standards of conduct imposed by law and by his or her profession
  - b. with all civil and criminal laws, rules and regulations.
10. Respondent will notify the Office of Professional Medical Conduct of:
  - a. any and all investigations, charges, convictions or disciplinary actions taken by any local, state or federal agency, institution or facility, within thirty days of each action;
  - b. any and all changes in personal and professional addresses and telephone numbers and facility affiliations, within 30 days of such changes. This will including any change in practice location, within or outside of the State of New York. The date of departure from the State of New York, and the date of return, if any, must be reported in writing.

Failure to notify the Office of Professional Medical Conduct of any of the above will be considered a violation of probation.

11. So long as there is full compliance with every term herein set forth, Respondent may continue to practice his or her profession in accordance with the terms of probation. Upon receipt of evidence of non compliance with, or any violation of these terms, the Director of the Office of Professional Medical Conduct and/or the Board may initiate a violation of probation proceeding and/or any such other proceeding against Respondent as may be authorized by law.

- a. Respondent shall assume and bear all costs related to compliance with the terms of probation.
12. Respondent shall comply with all terms, conditions, restrictions, and penalties to which he/she 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.

#### **CONTINUING MEDICAL EDUCATION**

13. Respondent shall enroll in and complete a program of education in the area of Pain Management and Prescribing in a Small Community to be equivalent to at least 25 credit hours of Continuing Medical Education. Said program of continuing education shall be subject to the prior approval of the Director of the Office of Professional Medical Conduct and be completed within the period of probation or as otherwise specified in the Order. If the program of education is not completed within the time period specified, and a waiver or time extension is not granted by the Director of the Office of Professional Medical Conduct, Respondent will be in violation of this term of probation proceeding.
14. Respondent shall arrange, at his own expense, to take a tutorial in prescribing controlled substances from a professional individual who is to be approved in advance by the Office of Professional Medical Conduct. The individual shall submit to the Director or designee, the format and content of the tutorial, which shall be subject to the Director's approval. The tutorial shall be taken within ninety (90) days of the effective date of this Order, unless the Director of the Office of Professional Medical Conduct approves an extension.

#### **REVIEW OF PRESCRIBING PRACTICES**

15. The Respondent will comply with 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.
16. Upon request, the Respondent will 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. (Also see MEDICAL RECORD REVIEW section).

17. Respondent will maintain legible and complete medical records which accurately reflect evaluation and treatment of patients. 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 will contain all information required by state rules and regulations regarding controlled substances. Any pattern of substandard care identified during the probation period may result in an independent medical review and could lead to a probation violation and/or additional investigation or charges.

#### **MEDICAL RECORD REVIEW**

18. During the period of probation, the Director of the Office of Professional Medical Conduct or designee, may review the professional performance of the Respondent. This review may include but not be limited to a random selection of office records, patients records or hospital charts, interviews with or periodic visits with the Respondent and his/her staff at the practice location(s) or one of the offices of the Office of Professional Medical Conduct.
19. The Respondent will make available for review by the Office of Professional Medical Conduct, or a physician selected by the Respondent and approved by the Office of Professional Medical Conduct, complete copies of any and all medical and office records selected by the Office of Professional Medical Conduct.
20. Any deviation from accepted medical practice identified during any of the review will be discussed with the Respondent. Any pattern of substandard care identified during the probation period may result in an independent medical review and could lead to a probation violation and/or additional investigation or charges.