



Department of Health

ANDREW M. CUOMO
Governor

HOWARD A. ZUCKER, M.D., J.D.
Commissioner

SALLY DRESLIN, M.S., R.N.
Executive Deputy Commissioner

January 12, 2017

CERTIFIED MAIL-RETURN RECEIPT REQUESTED

Ahmed Ehab Elemam, M.D.



RE: License No. 199870

Dear Dr. Elemam:

Enclosed is a copy of the New York State Board for Professional Medical Conduct (BPMC) Order No. 17-015. This Order and any penalty provided therein goes into effect January 19, 2017.

If the penalty imposed by the Order is a fine, please write the check payable to the New York State Department of Health. Noting the BPMC Order number on your remittance will assist in proper crediting. Payments should be directed to the following address:

Bureau of Accounts Management
New York State Department of Health
Corning Tower, Room 2784
Empire State Plaza
Albany, New York 12237

Please direct any questions to: Board for Professional Medical Conduct, Riverview Center, 150 Broadway, Suite 355, Albany, New York, 12204, telephone # 518-402-0846.

Sincerely,



Robert A. Catalano, M.D.
Executive Secretary
Board for Professional Medical Conduct

cc: Alfred DiGirolomo, Jr., Esq.
DiGirolomo and Associates, P.C.
666 Old Country Road, Suite 412
Garden City, New York 11530

Enclosure

IN THE MATTER
OF
AHMED EHAB ELEMAM, M.D.

CONSENT
ORDER

Upon the application of (Respondent) AHMED EHAB ELEMAM, 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 Consent 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: 1/10/2017


ARTHUR S. HENGERER, 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
AHMED EHAB ELEMAM, M.D.

CONSENT
AGREEMENT

AHMED EHAB ELEMAM, M.D., represents that all of the following statements are true:

That on or about June 30, 1995, I was licensed to practice as a physician in the State of New York, and issued License No. 199870 by the New York State Education Department.

My current address is [REDACTED] 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 (Board) has charged me with one or more specifications of professional misconduct, as set forth in a Statement of Charges, marked as Exhibit "A", attached to and part of this Consent Agreement.

I assert that I cannot successfully defend against at least one of the acts of misconduct alleged, in full satisfaction of the charges against me, and agree to the following penalty:

Pursuant to N.Y. Pub. Health Law § 230-a (1), I shall be subject to a Censure and Reprimand.

Pursuant to N.Y. Pub. Health Law § 230-a(3), my license to practice medicine in New York State shall be limited to preclude me, either individually or through a professional corporation, from evaluating, treating or billing patients whose medical services are reimbursed through No-fault insurance.

Pursuant to N.Y. Pub. Health Law § 230-a(9), I shall be placed on probation for a period of three years, subject to the terms set forth in attached Exhibit "B."

Pursuant to N.Y. Pub. Health Law §§ 230-a(7) and (9), I shall be subject to a fine in the amount of \$10,000, to be paid in 10 monthly installments of \$1,000. The initial payment is due on the first day of the month after the effective date of this Order. Payments must be submitted to:

Bureau of Accounts Management
New York State Department of Health
Corning Tower, Room 2784
Empire State Plaza
Albany, New York 12237

In making such payment, Respondent shall indicate the order number of this Order both on the payment check submitted and on the cover letter accompanying payment. Additionally, Respondent shall simultaneously mail a photocopy of the check and cover letter to:

Physician Monitoring Program
Office of Professional Medical Conduct
Riverview Center
150 Broadway, Suite 355
Albany, New York 12204-2719.

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

That Respondent shall form, own or control no more than one professional medical corporation or other professional practice entity at any time. Respondent may own, or control any such single professional practice entity ("SPPE"), if and only if his own medical practice is performed at the practice site of that SPPE. Neither the SPPE, nor any physician or other practitioner employed by the Respondent or the SPPE, may evaluate, treat or bill patients whose services are reimbursed through No-Fault Insurance.

That Respondent shall maintain a log in a form acceptable to the Office of Professional Medical Conduct identifying each patient who he treats whose medical service would be reimbursed through Workers' Compensation insurance. In this "Workers' Compensation log" the Respondent shall document:

- The name of the patient, dates of service and any medical procedure billed to a Worker's Compensation insurance provider.
- The log shall be separate and apart from the medical record maintained for each patient. The log and medical records shall at all

times be made available to the Office of Professional Medical Conduct upon request, and during the period of probation shall be provided to the Practice Monitor

That Respondent shall comply with each and every penalty imposed by this Order pursuant to N.Y. Pub. Health Law § 230-a; and

That Respondent shall remain in continuous compliance with all requirements of N.Y. Educ Law § 6502 including but not limited to the requirements that a licensee shall register and continue to be registered with the New York State Education Department (except during periods of actual suspension) and that a licensee shall pay all registration fees. Respondent shall not exercise the option provided in N.Y. Educ. Law § 6502(4) to avoid registration and payment of fees. This condition shall take effect 120 days after the Consent Order's effective date and will continue so long as Respondent remains a licensee in New York State; and

That Respondent shall remain in continuous compliance with all requirements of N.Y. Pub. Health Law § 2995-a(4) and 10 NYCRR 1000.5, including but not limited to the requirements that a licensee shall: report to the department all information required by the Department to develop a public physician profile for the licensee; continue to notify the department of any change in profile information within 30 days of any change (or in the

case of optional information, within 365 days of such change); and, in addition to such periodic reports and notification of any changes, update his or her profile information within six months prior to the expiration date of the licensee's registration period. Licensee shall submit changes to his or her physician profile information either electronically using the department's secure web site or on forms prescribed by the department, and licensee shall attest to the truthfulness, completeness and correctness of any changes licensee submits to the department. This condition shall take effect 30 days after the Order's effective date and shall continue so long as Respondent remains a licensee in New York State. Respondent's failure to comply with this condition, if proven and found at a hearing pursuant to N.Y. Pub. Health Law § 230, shall constitute professional misconduct as defined in N.Y. Educ. Law § 6530(21) and N.Y. Educ. Law § 6530(29). Potential penalties for failure to comply with this condition may include all penalties for professional misconduct set forth in N.Y. Pub. Health Law §230-a, including but not limited to: revocation or suspension of license, Censure and Reprimand, probation, public service and/or fines of up to \$10,000 per specification of misconduct found; and

That Respondent shall provide the Director, Office of Professional Medical Conduct (OPMC), Riverview Center, 150 Broadway, Suite 355, Albany, New York 12204-2719, with the following information, in writing, and

ensure that this information is kept current: a full description of Respondent's employment and practice; all professional and residential addresses and telephone numbers within and outside New York State; and all investigations, arrests, charges, convictions or disciplinary actions by any local, state or federal agency, institution or facility. Respondent shall notify OPMC, in writing, within 30 days of any additions to or changes in the required information. This condition shall take effect 30 days after the Order's effective date and shall continue at all times until Respondent receives written notification from the Office of Professional Medical Conduct, Physician Monitoring Program, that OPMC has determined that Respondent has fully complied with and satisfied the requirements of the Order, regardless of tolling; and

That Respondent shall cooperate fully with the Office of Professional Medical Conduct (OPMC) in its administration and enforcement of this Consent 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 Consent 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.

I stipulate that my failure to comply with any conditions of this Consent Order shall constitute misconduct as defined by N.Y. Educ. 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 N.Y. Pub. 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 Consent 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 Consent 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. OPMC shall report this action to the National Practitioner Data Bank and the Federation of State Medical Boards, and any other entities that the Director of OPMC shall deem appropriate.

I stipulate that the proposed sanction and Consent Order are authorized by N.Y. Pub. Health Law §§ 230 and 230-a, and that the Board and OPMC 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 I ask that the Board adopt this Consent Agreement.

I understand and agree that the attorney for the Department, the Director of OPMC and the Chair of the Board each retain complete discretion either to enter into the proposed agreement and Consent 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

1/3/17


AHMÉD EHAB ELEMAM, M.D.
Respondent

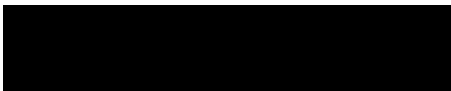
The undersigned agree to Respondent's attached Consent Agreement and to its proposed penalty, terms and conditions.

DATE: 1/3/17



ALFRED DIGIROLOMO, ESQ.
DiGirolomo and Associates, P.C.
Attorney for Respondent

DATE: 1/4/17



DANIEL GUENZBURGER
Associate Counsel
Bureau of Professional Medical Conduct

DATE: 1/9/17



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
AHMED EHAB ELEMAM, M.D.

STATEMENT
OF
CHARGES

AHMED EHAB ELEMAM, M.D., the Respondent, was authorized to practice medicine in New York State on or about June 30, 1995, by the issuance of license number 199870 by the New York State Education Department.

FACTUAL ALLEGATIONS

A. Respondent, a physiatrist, conducted electro-diagnostic testing at multiple locations on patients who had injuries sustained in motor vehicle accidents. Patient A, a 20 year old female, reported having been involved in a motor vehicle accident on June 16, 2010. On or about July 8, 2010, Respondent performed and/or interpreted electromyography ("EMG") and nerve conduction velocity studies on Patient A's upper and lower extremities. Respondent:

1. Inappropriately ordered electro-diagnostic testing for the right upper limb and both lower limbs.
2. Performed electro-diagnostic testing prematurely (less than 4 to 6 weeks from the date of injury).
3. Inappropriately diagnosed a left C6-C7 radiculopathy based on an isolated EMG finding of a 1+positive sharp wave in the left triceps. Patient A had no other abnormal EMG findings on the left side.

4. Inappropriately diagnosed a right L5-S1 radiculopathy based on an isolated EMG abnormality of 1+positive sharp wave in the right medial gastrocnemius. Patient A had no other abnormal EMG findings on the right side.
5. Inappropriately rendered an electro-diagnostic impression upon the NCV study of the lower extremity and/or failed to note limitations of the study.

B. Patient B, a 41 year old female, reported that she had sustained injuries to the neck, lower back, right shoulder and right knee from a motor vehicle accident on July 1, 2011. On or about August 9, 2011, the Respondent performed and/or interpreted bilateral EMG and NCV studies of the upper and lower extremities. Respondent:

1. Inappropriately ordered electro-diagnostic testing for the left upper and lower extremities.

C. Patient C, a 39 year old female, reported that she had sustained injuries to the neck, lower back, and right knee from a motor vehicle accident on June 9, 2011. On or about August 9, 2011, the Respondent performed and/or interpreted bilateral EMG and NCV studies of the upper and lower extremities. Respondent:

1. Inappropriately ordered electro-diagnostic testing for the left upper and lower extremities.

D. The NCV wave forms/tabular data for Patients A through D matched identically the tabular data/wave forms of other patients who had previous NCV testing with other providers. The exact duplication of NCV data/wave forms between two patients is physiologically impossible. Respondent submitted through his professional service corporations, Accurate Medical, P.C. and AEE Medical Diagnostic, P.C., insurance claims for NCV studies for Patient A through E.

1. Respondent knowingly created the false impression, with intent to deceive, that the nerve conduction reports were based on genuine studies reflective of the condition of the respective patients, with regards respectively to:
 - a. Patient A-----NCV study dated July 8, 2010.

- b. Patient B-----NCV study dated August 9, 2010.
 - c. Patient C-----NCV study dated August 9, 2010.
 - d. Patient D---- NCV study of upper extremity dated June 29, 2010.
 - e. Patient D-----NCV study of the lower extremity dated June 29, 2010.
2. Respondent deviated from medically accepted standards in that he based his electro-diagnostic interpretations for Patients A through D on studies that were not, in fact, reflective of the conditions of the respective patients.

E. Respondent contracted with Best Care Testing ("Best Care") and other medical testing companies for purposes of providing the technologist and the medical equipment for conducting the technical component of nerve conduction velocity studies ("NCVs"). With respect to insurance claims Respondent submitted for Patients A through D, Respondent billed no-fault insurance providers for both the technical performance of the NCV as well as for his interpretation of the study. Respondent:

1. Knowingly and/or gross negligently billed no-fault insurance carriers for services performed by independent contractors, specifically medical testing companies with whom he contracted for the performance of NCV testing. Such conduct violates Department of Financial Services Regulation found 11 NYCRR 65-3.11.

SPECIFICATION OF CHARGES
FIRST THROUGH FOURTH SPECIFICATIONS

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:

1. Paragraph D, D1, and D1 (a).
2. Paragraph D, D1 and D1 (b).
3. Paragraph D, D1, and D1 (c).
4. Paragraph D, D1, and D1 (d).

FIFTH THROUGH EIGHTH SPECIFICATIONS

FALSE REPORT

Respondent is charged with committing professional misconduct as defined in N.Y. Educ. Law § 6530(21) by willfully making or filing a false report, or failing to file a report required by law or by the department of health or the education department, as alleged in the facts of:

5. Paragraph D, D1, and D1 (a).
6. Paragraph D, D1 and D1 (b).
7. Paragraph D, D1, and D1(c).
8. Paragraph D, D1, and D1 (d).

NINTH SPECIFICATION

FAILING TO COMPLY WITH A STATE REGULATION

Respondent is charged with committing professional misconduct as defined in N.Y. Educ. Law § 6530(16) by willfully and/or grossly negligently failing to comply with a New

York State regulation, specifically Department of Financial Services Regulation found at 11 NYCRR 65-3.11 , as alleged in the facts:

9. E and E1.

TENTH 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:

10. A, A1, A2, A3, A4, A5, B, B1, C, C1, D and/or D2.

ELEVENTH 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:

11. A, A1, A2, A3, A4, A5, B, B1, C, C1, D and/or D2.

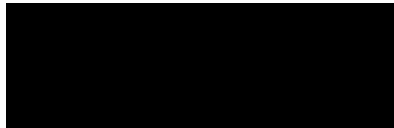
TWELFTH SPECIFICATION

UNWARRANTED TESTS/TREATMENT

Respondent is charged with committing professional misconduct as defined in N.Y. Educ. Law § 6530(35) by ordering of excessive tests, treatment, or use of treatment facilities not warranted by the condition of the patient, as alleged in the facts of:

12. A, A1, A2, B, B1, C and/or C1.

DATE: November 9, 2016
New York, New York



Roy Nemerson
Deputy Counsel
Bureau of Professional Medical Conduct

EXHIBIT "B"

Terms of Probation

- 1) Respondent's conduct shall conform to moral and professional standards of conduct and governing law. Any act of professional misconduct by Respondent as defined by N.Y. Educ. Law §§ 6530 or 6531 shall constitute a violation of probation and may subject Respondent to an action pursuant to N.Y. Pub. Health Law § 230(19).
- 2) Respondent shall 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 this Consent Order. Upon the Director of OPMC's request, Respondent shall meet in person with the Director's designee.
- 3) Respondent's failure to pay any monetary penalty by the prescribed date shall subject Respondent to all provisions of law relating to debt collection by New York State, including but 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 § 171(27); State Finance Law § 18; CPLR § 5001; Executive Law § 32].
- 4) The probation period shall toll when Respondent is not engaged in active medical practice in New York State for a period of 30 consecutive days or more. Respondent shall notify the Director of OPMC, in writing, if Respondent is not currently engaged in, or intends to leave, active medical practice in New York State for a consecutive 30 day period. Respondent shall then notify the Director again at least 14 days before returning to active practice. Upon Respondent's return to active practice in New York State, the probation period shall resume and Respondent shall fulfill any unfulfilled probation terms and such additional requirements as the Director may impose as reasonably relate to the matters set forth in Exhibit "A" or as are necessary to protect the public health.
- 5) The Director of OPMC may review Respondent's professional performance. This review may include but shall not be limited to: a review of office records, patient records, hospital charts, and/or electronic records; and interviews with or periodic visits with Respondent and staff at practice locations or OPMC offices.
- 6) Respondent shall adhere to federal and state guidelines and professional standards of care with respect to infection control practices. Respondent shall ensure education, training and oversight of all office personnel involved in medical care, with respect to these practices.

- 7) Respondent shall maintain complete and legible medical records that accurately reflect the evaluation and treatment of patients and contain all information required by State rules and regulations concerning controlled substances.
- 8) Respondent shall enroll in and successfully complete a continuing education program in an area to be specified by the Physician Monitoring Program of the Office of Professional Medical Conduct. This continuing education program is subject to the Director of OPMC's prior written approval and shall be successfully completed within the first 90 days of the probation period.
- 9) Within thirty days of the Consent Order's effective date, Respondent shall practice medicine only when monitored by a licensed physician, board certified in an appropriate specialty, ("practice monitor") proposed by Respondent and subject to the written approval of the Director of OPMC. Any medical practice in violation of this term shall constitute the unauthorized practice of medicine.
 - a) Respondent shall make available to the monitor any and all records or access to the practice requested by the monitor, including on-site observation. The practice monitor shall visit Respondent's medical practice at each and every location, on a random unannounced basis at least monthly and shall examine a selection (no fewer than 20) of records maintained by Respondent, including patient records, prescribing information and office records. The review will determine whether the Respondent's medical practice is conducted in accordance with the generally accepted standards of professional medical care. Any perceived deviation of accepted standards of medical care or refusal to cooperate with the monitor shall be reported within 24 hours to OPMC.
 - b) Respondent shall cause the Practice Monitor to examine the Workers' Compensation log required by the conditions of the Order, and include, as part of the Practice Monitor's review of the medical records of patients treated by Respondent, an examination of a sample of medical records per month obtained through examination of the log entries.
 - c) Respondent shall be solely responsible for all expenses associated with monitoring, including fees, if any, to the monitoring physician.
 - d) Respondent shall cause the practice monitor to report quarterly, in writing, to the Director of OPMC.
 - e) Respondent shall maintain medical malpractice insurance coverage with limits no less than \$2 million per occurrence and \$6 million per policy year, in accordance with Section 230(18)(b) of the Public Health Law.

Proof of coverage shall be submitted to the Director of OPMC prior to Respondent's practice after the effective date of this Order.

- 10) Respondent shall comply with this Consent Order and all its terms, and shall bear all associated compliance costs. Upon receiving evidence of noncompliance with, or a violation of, these terms, the Director of OPMC and/or the Board may initiate a violation of probation proceeding, and/or any other such proceeding authorized by law, against Respondent.