



**Department
of Health**

ANDREW M. CUOMO
Governor

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

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

March 22, 2016

CERTIFIED MAIL-RETURN RECEIPT REQUESTED

Qutubuddin Dar, M.D.



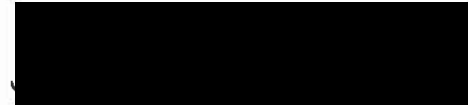
Re: License No. 200734

Dear Dr. Dar:

Enclosed is a copy of the New York State Board for Professional Medical Conduct (BPMC) Order No. 16-100. This order and any penalty provided therein goes into effect March 29, 2016.

Please direct any questions to: Board for Professional Medical Conduct, 90 Church Street, 4th Floor, New York, NY 10007-2919, telephone # 212-417-4445.

Sincerely,



Katherine A. Hawkins, M.D., J.D.
Executive Secretary
Board for Professional Medical Conduct

Enclosure

cc: Richard S. Tubiolo, Esq.
Hirsch & Tubiolo, P.C.
1000 Reynolds Arcade Building
16 Main Street
Rochester, New York 14614-1796

IN THE MATTER
OF
QUTUBUDDIN DAR, M.D.

CONSENT
ORDER

Upon the application of QUTUBUDDIN DAR, 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: 3/18/2016


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
QUTUBUDDIN DAR, M.D.

CONSENT
AGREEMENT

QUTUBUDDIN DAR, M.D., represents that all of the following statements are true:

That on or about September 15, 1995, I was licensed to practice as a physician in the State of New York, and issued License No. 200734 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 do not contest the charges against me, and agree to the following penalty:

Pursuant to New York Pub. Health Law § 230-a(2), my license to practice medicine in New York State shall be suspended for 12 months from the

effective date of the Order herein. Such suspension shall be stayed provided I comply with the Terms of Probation set forth in Exhibit "B."

Pursuant to New York Pub. Health Law § 230-a(9), I shall be placed on probation for 36 months, subject to the terms set forth in attached Exhibit "B," which Terms include that my practice of medicine be monitored for a period of three (3) years after the effective date of the Order.

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

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

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 03/11/16



QUTUBUDDIN DAR, M.D.
RESPONDENT

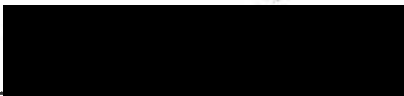
The undersigned agree to Respondent's attached Consent Agreement and to its proposed penalty, terms and conditions.

DATE: 3-14-16



RICHARD S. TUBIOLO, ESQ.
Attorney for Respondent

DATE: 3/14/16



PAUL TSUI
Associate Counsel
Bureau of Professional Medical Conduct

DATE: 3/15/16



KEITH W. SERVIS
Director
Office of Professional Medical Conduct

EXHIBIT "A"

IN THE MATTER
OF
QUTUBUDDIN DAR, M.D.
RO-13-04-1882A

STATEMENT
OF
CHARGES

QUTUBUDDIN DAR, M.D., Respondent, was authorized to practice medicine in New York State on September 15, 1995, by the issuance of license number 200734 by the New York State Education Department.

FACTUAL ALLEGATIONS

A. Respondent provided medical treatment to Patient A (all patients are identified in the Appendix), a 71 year old female with a history of COPD, diabetes, hypertension, high blood lipids, chronic back pain, and a history of smoking over fifty years, at his office at Dar Medical Associates (hereinafter, "Office"), 400 North Main Street, Warsaw, New York, and Wyoming County Community Hospital (hereinafter, "Hospital"), 400 North Main Street, Warsaw, New York, at various times between July 14, 2010, and February 26, 2013. Respondent's care and treatment of Patient A failed to meet accepted standards of medical practice, in that:

1. Respondent failed to adequately evaluate a chest x-ray taken on or about September 6, 2012, which showed a right middle lobe consolidation. Respondent failed to consider it to be cancer given Patient A's lengthy history of smoking.
2. Respondent failed to document in office and hospital notes that the right middle lobe consolidation might be cancer.
3. Patient A was admitted to the Hospital on or about October 8, 2012, with a diagnosis of acute exacerbation of lung disease and chest infection. A chest x-ray taken that date indicated persistent consolidation. Respondent discharged Patient A and failed to issue a discharge summary with follow-up plans for the persistent right middle lobe consolidation
4. Respondent failed to document any discussion with Patient A or Patient A's family of the possibility that the abnormality might be cancer and Respondent failed to suggest any additional evaluations.

5. On or about January 9, 2013, Patient A was hospitalized again for exacerbation of lung disease and a chest x-ray showed persistent increased density in the lower right zone. A CT scan on or about January 10, 2013, indicated chest lymph nodes and consolidation of the right middle lobe and right lower lobe. Respondent failed to document the persistent increased density in the discharge summary and Respondent's summary of the CT scan of fluid trapped in the right major fissure was not consistent with the CT scan report.
6. On or about February 11, 2013, Patient A was admitted to Wyoming County Community Hospital and a chest x-ray indicated opacity in the right middle and lower lobes that was better seen in an accompanying CT scan. Respondent noted pancreatic and ovarian masses but failed to document the persistent pulmonary consolidation and abnormalities in the discharge summary.
7. On or about February 21, 2013, Patient A was readmitted for exacerbation of lung disease with generalized weakness, fatigue, and mental status change marked by increased forgetfulness. A chest x-ray report indicated dense middle lobe consolidation with a right hilar mass suspicious for malignancy. Respondent included the report in the discharge summary and discharged Patient A to a SNF. The discharge summary indicated Patient A requested DNR/DNI status but a DNR form was not included with the medical record.
8. On or about February 25, 2013, Patient A was readmitted with shortness of breath, fatigue and weakness. Respondent attributed Patient A's symptoms to use of sedatives and hypoxia. Respondent failed to properly manage Patient A's condition and discharged her to a SNF for rehabilitation.
9. On or about March 28, 2013, Patient A arrived at the ER of Wyoming County Community Hospital with new neurological symptoms. A chest x-ray showed right lung consolidation and a brain CT showed a frontal lobe infarct. Patient A was transferred to Strong Memorial Hospital where Patient A was diagnosed with metastatic small cell carcinoma originating from the lung which Respondent failed to diagnose. Patient A underwent brain radiation and chemotherapy. Patient A died on June 30, 2013.

B. Respondent treated Patient B, a 55 year old female with a history of COPD, heart failure and Parkinson's Disease, from on or about November 7, 2007, when Patient B was admitted to Wyoming County Community Hospital in Warsaw, New York for cellulitis of the left arm, to on or about November 10, 2007. At the time of admission, Patient B was on four diuretics, spironolactone, amiloride (both potassium sparing), metolazone and furosemide, potassium, and medications for Parkinson's Disease, diabetes, COPD, and high blood pressure. A physical exam and blood tests were performed, which showed Patient B had a mildly reduced potassium level and low kidney function. Respondent's care and treatment of Patient B failed to meet accepted standards of medical practice, in that:

1. On or about November 9, 2007, Respondent failed to properly manage Patient B's condition. Respondent added Lisinopril, which can elevate potassium in patients with renal insufficiency, and changed her antibiotics from Zosyn to Augmentin. Respondent ordered a potassium replacement, Aldactone, in a quantity that was excessive given that Patient B had renal insufficiency and was taking two potassium sparing diuretics.
2. On or about November 10, 2007, Respondent documented that Patient B's potassium was corrected but Respondent failed to change Patient B's therapy to reduce the amount of potassium being given. Patient B's condition worsened. Respondent considered pulmonary embolus or heart failure. Respondent failed to consider high potassium levels. Repeated tests showed Patient B had a dangerously elevated potassium level. Patient B's potassium levels rose from 4.1 to 9. An EKG was performed and the results were consistent with high potassium.

C. Respondent treated Patient C, an 87 year old female who was admitted to Wyoming County Community Hospital on or about July 31, 2012, with lethargy and low oxygen saturations. An initial chest x-ray showed a right lower lobe infiltrate. Respondent recommended a CT scan of the chest which indicated bilateral effusions with right greater than left. Respondent planned to perform a thoracentesis on Patient C's right side for evaluation of fluid. On or about August 6, 2012, Respondent ordered an ultrasound, marked Patient C's right side, and covered Patient C's right side in gauze. Respondent's care and treatment of Patient C deviated from accepted standards of medical care in that:

1. Respondent failed to perform the thoracentesis on the right side and instead performed the thoracentesis on Patient C's left side.
2. Respondent failed to document that a "time out" process was performed to ensure that the thoracentesis was performed on the correct side.
3. Respondent failed to properly manage Patient C's condition and put Patient C at risk for complications such as lung collapse and/or hemorrhage.
4. Respondent failed to inform Patient C's primary care physician that the thoracentesis was performed on the left side and failed to consult with Patient C's primary care physician whether to perform the procedure on the right side.
5. Respondent failed to perform the thoracentesis on the right side after having performed the procedure on the left side and discharged Patient C without performing the thoracentesis on the right side.
6. Respondent failed to properly document the thoracentesis. Respondent noted in a procedure note that the thoracentesis was performed on the right side. That

note was changed from right to left and initialed by Respondent and a nurse. On or about August 8, 2012, Respondent noted in the discharge summary that the thoracentesis was performed on the right side.

SPECIFICATIONS

FIRST SPECIFICATION

NEGLIGENCE ON MORE THAN ONE OCCASION

Respondent violated New York Education Law §6530(3) (practicing the profession with negligence on more than one occasion), in that Petitioner charges:

1. The facts in Paragraphs A and A1, A and A2, A and A3, A and A4, A and A5, A and A6, A and A7, A and A8, A and A9, B and B1, B and B2, C and C1, C and C2, C and C3, C and C4, C and C5, and/or C and C6.

SECOND AND THIRD SPECIFICATIONS

FAILING TO MAINTAIN RECORDS

Respondent violated New York Education Law §6530(32) (failing to maintain a record for each patient which accurately reflects the evaluation and treatment of the patient), in that Petitioner charges:

2. The facts in Paragraphs A and A2, A and A3, A and A4, A and A5, A and A6 and/or A and A7.

3. The facts in Paragraphs C and C2 and/or C and C6.

DATED: *MARCH 15*, 2016
Albany, New York


MICHAEL A. HISER
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 the area of Medical Record Keeping and any other areas which the Director deems applicable. 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 be solely responsible for all expenses associated with monitoring, including fees, if any, to the monitoring physician.
 - c) Respondent shall cause the practice monitor to report quarterly, in writing, to the Director of OPMC.
 - d) 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.