

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

IN THE MATTER
OF
SUKHWINDER SINGH, M.D.

CONSENT
ORDER

BPMC No. #09-37

Upon the application of SUKHWINDER SINGH, M.D. (Respondent), 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: 3-9-2009

Redacted Signature

~~KENDRICK A. SEARS, 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
SUKHWINDER SINGH, M.D.

CONSENT
AGREEMENT
AND
ORDER

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

That on or about April 13, 1994, I was licensed to practice as a physician in the State of New York, and issued License No. 195385 by the New York State Education Department.

My current address is Redacted Address, and I will advise the Director of the Office of Professional Medical Conduct of any change of address.

I am the subject of an Order, BPMC 02-372M, effective November 14, 2006, by which, among other terms and conditions, I was placed on probation for five years.

I understand that the New York State Board for Professional Medical Conduct (Board) has charged me with two 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 admit the First Specification of the Statement of Charges, in full satisfaction of the charges against me, and agree to the following penalties:

1. I shall be Censured and Reprimanded.
2. The period of probation imposed by Order BPMC 02-372M shall be extended for two years under the same terms and conditions.

A copy of BPMC 02-372M, marked as Exhibit B, is attached to and part of this Consent Agreement.

3. I shall pay a \$10,000.00 fine to the New York State Department of Health. Said fine shall be paid as follows:

- a) The first installment of five hundred dollars (\$500.00) shall be paid no later than six months after the effective date of this Order. Thereafter, Respondent shall make payment in installments of five hundred dollars (\$500.00) per month until the entire \$10,000.00 fine is paid in full. Payments must be submitted to:

Bureau of Accounts Management
New York State Department of Health
Empire State Plaza
Corning Tower, Room 1245
Albany, New York 12237

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

Respondent shall enroll, or continue enrollment, in the Committee for Physician Health (CPH) and shall engage in a contract with CPH that defines the terms, conditions and duration of Respondent's recovery program. Respondent shall comply with the contract. Respondent shall give written authorization for CPH to provide the Director of OPMC with all information and documentation requested by OPMC to determine whether

Respondent is in compliance with the contract and with this Order, including full access to all records maintained by CPH with respect to Respondent.

- (a) Respondent shall cause CPH to report to OPMC promptly if Respondent refuses to comply with the contract, refuses to submit to treatment or if Respondent's impairment is not substantially alleviated by treatment.
- (b) Respondent shall cause CPH to report immediately to OPMC if Respondent is regarded at any time to be an imminent danger to the public.

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 30 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 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 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.

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 2.23.09

Redacted Signature

SUKHWINDER SINGH, M.D.
RESPONDENT

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

DATE: 2/23/09

Redacted Signature

PETER J. MILLOCK, ESQ.
NIXON PEABODY, LLP
Attorney for Respondent

DATE: 2/25/09

Redacted Signature

CINDY M. FASCIA
ASSOCIATE COUNSEL
Bureau of Professional Medical Conduct

DATE: 3/5/09

Redacted Signature

KEITH W. SERVIS
Director
Office of Professional Medical Conduct

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

IN THE MATTER
OF
SUKHWINDER SINGH, M.D.

STATEMENT
OF
CHARGES

SUKHWINDER SINGH, M.D., the Respondent, was authorized to practice medicine in New York State on or about April 13, 1994, by the issuance of license number 195385 by the New York State Education Department.

FACTUAL ALLEGATIONS

- A. Respondent entered into a Consent Order, Bureau of Professional Medical Conduct Order No. 02-372, (hereafter BPMC No. 02-372) which Order became effective on or about December 20, 2002. Under the terms of BPMC No. 02-372, Respondent's license to practice medicine in New York State was suspended for an indefinite period of no less than one year. Thereafter, on or about September 25, 2006, Respondent appeared before a Committee of the State Board for Professional Medical Conduct to request modification of BPMC No. 02-372. The Committee issued a Modification Order, BPMC No. 02-372M, effective on or about November 14, 2006, which modified BPMC No. 02-372. Respondent, under the terms of BPMC No. 02-372M, was permitted to return to the practice of medicine subject to certain terms and conditions, and a five year period of probation.

EXHIBIT A

1. Respondent, pursuant to Paragraph/Term 5(f) of BPMC No. 02-372M, was ordered to "avoid all substances that may cause positive results such as poppy seeds/mouthwash/cough medicine/herbal teas. Respondent, while the terms and conditions of BPMC No. 02-372M were in effect, used mouthwash.
2. Respondent, pursuant to Paragraph/Term 4 of BPMC No. 02-372M, was ordered to remain free from alcohol and all other mood altering substances other than those prescribed for his treatment by a licensed physician aware of Respondent's history of alcoholism. Respondent, while the terms and conditions of BPMC No. 02-372M were in effect, did not remain free from alcohol and/or told his Sobriety Monitor and/or his Therapy Monitor that he [Respondent] had consumed alcohol, or words to such effect.

SPECIFICATION OF CHARGES

FIRST AND SECOND SPECIFICATIONS

VIOLATING ANY TERM OF PROBATION OR CONDITION OR LIMITATION

Respondent is charged with professional misconduct by reason of having violated a term of probation or condition or limitation imposed on him pursuant to section two hundred thirty of the public health law, in violation of New York Education Law §6530(29), in that Petitioner charges:

1. The facts in Paragraphs A and A.1.
2. The facts in Paragraphs A and A.2.

DATE: *February 25*, 2009
Albany, New York

Redacted Signature

~~Peter Van Buren~~
Deputy Counsel
Bureau of Professional Medical Conduct

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

IN THE MATTER

OF

SUKHWINDER SINGH, MD

MODIFICATION

OF

CONSENT ORDER

This matter was brought to the New York State Board for Professional Medical Conduct (Board) for decision at the request of Sukhwinder Singh, MD, (Petitioner), New York State medical license No. 195385. Petitioner entered into Consent Order BPMC No. 02-372, effective December 20, 2002, which suspended Petitioner's license to practice medicine for an indefinite period of no less than one year. The purpose of the proceeding was to determine whether this suspension was to be stayed upon the satisfaction of a Committee of the Board for Professional Medical Conduct that Petitioner, among other things, has successfully completed a course of therapy prescribed by the Board which includes a determination that Petitioner is no longer incapacitated for active practice and that he is both fit and competent to practice medicine.

A meeting of the Committee was held in the above-entitled proceeding on September 25, 2006. Petitioner appeared with his attorney, Peter Millock, Esq. before a Committee of the Board consisting of Walter M. Farkas, MD, Chair, Alexander Yvars, MD and Sister Mary Theresa Murphy. The Committee determined, by unanimous decision, after careful consideration of all evidence submitted to them prior to the meeting and the testimony provided, that the suspension of Petitioner's license shall be stayed and he shall be allowed to practice medicine subject to the following conditions.

THEREFORE, IT IS HEREBY ORDERED THAT:

The Petitioner's return to practice is subject to the following conditions. Unless otherwise indicated, these conditions shall remain in effect for a period of probation lasting five (5) years from the effective date of this Order.

1. Petitioner shall provide the Director of the Office of Professional Medical Conduct (OPMC) with the following information and shall ensure that such information is kept current: a full description of Petitioner's employment and practice; all professional and residential addresses and telephone numbers within and outside New York State; all professional licenses held and applied for, and all investigations, arrests, charges, convictions or disciplinary actions by any local, state or federal agency, institution or facility, within thirty (30) days of each action.

2. Petitioner shall fully cooperate with and respond in a timely manner to requests from OPMC to provide written periodic verification of Petitioner's compliance with the terms of this Order. Petitioner shall personally meet with a person designated by the Director of OPMC as requested by the Director.

3. **Petitioner's period of probation, including some or all of the terms and conditions described herein, may be tolled, at the discretion of the Director of OPMC, during periods in which the Petitioner is not engaged in the active practice of medicine in New York State.**

Petitioner shall notify the Director of OPMC, in writing, if he 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. Petitioner shall submit written notification to the Director prior to any change in that status. Petitioner shall not resume the practice of medicine in New York State without the approval of the Director and shall comply with any requests from the Director necessary for such approval. Upon the Director's approval, the period of probation shall resume and any terms of probation, which were not fulfilled, shall be fulfilled.

Petitioner may not commence the practice of medicine in New York State until all proposed monitors have been approved in writing by the Director of the Office of Professional Medical Conduct.

4. Petitioner shall remain free from alcohol and all other mood altering substances other than those prescribed for Petitioner's treatment by a licensed physician aware of Petitioner's history of alcoholism. **Petitioner shall not self-prescribe any medications or prescribe any medications for any family member.**

5. Petitioner shall be monitored by a qualified health care professional (Sobriety Monitor) proposed by Petitioner and approved in writing by the Director of OPMC. The Sobriety Monitor is to be familiar with Petitioner's history of alcoholism and with the terms of this Order. Petitioner shall submit the name of a proposed successor within seven (7) days of learning that the approved Sobriety Monitor is no longer willing or able to serve.

a. The Sobriety Monitor shall oversee Petitioner's compliance with the terms and conditions imposed herein and shall cause to be performed forensically valid, random, directly observed, unannounced hair, blood, breath, oral fluid and/or urine tests for the presence of alcohol and other drugs in Petitioner. **Petitioner shall be screened no less than six (6) times per month for the first year of practice. The Petitioner shall be called on a seven day a week basis.** After the first year of practice, if Petitioner has been fully compliant with this Order, specimens shall be collected at the discretion of the Sobriety Monitor at a frequency to be approved by the Director of OPMC.

b. The Sobriety Monitor shall notify OPMC immediately if Petitioner refuses such a test.

c. The Sobriety Monitor shall notify OPMC immediately if such a test reveals, or if the monitor otherwise learns, the Petitioner is not alcohol/drug free.

d. Every three (3) months, the Sobriety Monitor shall submit to OPMC a report certifying compliance with each of the terms of this Order or describing in detail any failure to comply. The quarterly reports shall include forensically valid results of all tests for the presence of alcohol and other drugs performed during that quarter.

e. Petitioner shall report to the Sobriety Monitor within four (4) hours of being contacted to submit a hair, blood, breath, oral fluid and/or urine test.

f. Petitioner shall avoid all substances that may cause positive results such as poppy seeds/mouthwash/cough medication/herbal teas. **Any positive result will be considered a violation of this Order.**

g. If Petitioner is to be unavailable for sobriety monitoring for a period of 15 days or more, Petitioner shall notify his Sobriety Monitor and seek and receive prior written permission from the Director of OPMC subject to any additional terms and conditions required by OPMC.

6. **Petitioner shall practice only in a hospital or institutional setting for at least one year.** After the first year of practice, if the Petitioner has been fully compliant with this Order, he may submit to the Director of OPMC a proposal for a modification of this term. Petitioner's medical practice shall be supervised by a licensed physician (Practice Supervisor), board certified in the appropriate specialty, proposed by Petitioner and approved in writing by the Director of OPMC. The Practice Supervisor shall be on-site at all practice locations and must be in a position to regularly observe and assess the Petitioner's medical practice and patient record documentation. The Practice Supervisor is to be familiar with Petitioner's history of alcoholism and with the terms of this Order.

- a. The Practice Supervisor shall establish the capability of doing a "stat" toxicological screen on Petitioner in response to any complaint or observation that indicates Petitioner may not be drug or alcohol free.
- b. The Practice Supervisor shall oversee the Petitioner's prescribing, ordering, and wasting of controlled substances.
- c. The Practice Supervisor shall immediately report any suspected impairment, inappropriate behavior, questionable medical practice or possible misconduct to OPMC.
- d. The Practice Supervisor shall notify OPMC immediately if Petitioner violates any term(s) of this Order.
- e. The Practice Supervisor shall submit reports to OPMC every three (3) months certifying compliance with each of the terms of this Order or describing in detail and failure to comply.

7. Petitioner shall enroll in and complete a minimum of 50 hours of Category I Continuing Medical Education (CME) in his specialty each year. Each year Petitioner shall provide written documentation to OPMC that he has successfully complied with this term.

8. Petitioner shall continue in treatment with qualified health care professionals (Therapy Monitors) proposed by Petitioner and approved, in writing, by the Director of OPMC. These Therapy Monitors are to be familiar with the Petitioner's history of alcoholism and the terms of this Order. Petitioner will continue in treatment with a psychiatrist and participate in both group and individual therapy for as long as deemed necessary by the Therapy Monitors, in accordance with a treatment plan

approved by the Director of OPMC. Petitioner shall submit the name of a proposed successor within seven (7) days of becoming aware that any of the approved Therapy Monitors are no longer willing or able to serve in that capacity.

a. The Therapy Monitors shall submit reports to OPMC every three (3) months certifying compliance with treatment by Petitioner and describing in detail any failure to comply.

b. The Therapy Monitors shall report immediately to OPMC any significant pattern of absences or failure to comply with recommended treatment by Petitioner.

9. The Director of OPMC shall reserve the authority to direct the Petitioner to undergo an independent evaluation by a practitioner approved by the Director of OPMC who specializes in alcohol/chemical dependency issues and/or mental illness. The Petitioner shall provide the evaluator with copies of previous treatment records and a copy of this Order. The Petitioner shall execute authorizations, and keep said authorizations active, allowing the evaluator to obtain collateral information and communicate with OPMC. Reports of such evaluations shall be submitted directly to the Director of OPMC. Petitioner shall follow treatment recommendations made by the evaluator. If the evaluator determines that the Petitioner is not fit to practice, the Petitioner shall immediately cease practice until it is determined he is fit to resume practice. Failure to comply with treatment recommendations will be considered a violation of this Order.

10. Petitioner shall continue participation in self-help fellowship (e.g., AA, Caduceus, other). Petitioner shall maintain an ongoing relationship with a sponsor.

11. Petitioner shall inform all physicians or other health care practitioners from whom Petitioner seeks treatment of Petitioner's history of alcoholism. Should Petitioner be prescribed any

controlled or mood-altering substances, Petitioner shall notify the Sobriety Monitor and the Director of OPMC before such medications are administered.

12. The Director of OPMC shall reserve the right to conduct on-site review of Petitioner's office, office records, hospital practice and hospital records, inclusive of electronic records.

13. Petitioner shall maintain legible and complete medical records that accurately reflect the evaluation and treatment of patients. The medical records shall contain all information required by State rules and regulations regarding controlled substances.

14. Petitioner 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 profession.

15. Petitioner shall comply with all terms, conditions, restrictions and limitations to which he is subject pursuant to the Order and shall assume and bear all costs related to compliance of the Order. 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 Petitioner as may be authorized pursuant to the law.

As Petitioner agreed in the Consent Order, failure to comply with any of the conditions described above may result in disciplinary action. This Order shall be effective upon issuance.

Dated: October 28, 2006

Redacted Signature

Walter M. Farkas, M.D.
Committee Chair
State Board for Professional Medical Conduct