



New York State Board for Professional Medical Conduct

433 River Street, Suite 303 Troy, New York 12180-2299 • (518) 402-0863

Antonia C. Novello, M.D., M.P.H.
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Dennis P. Whalen
Executive Deputy Commissioner
NYS Department of Health
Anne F. Saile, Director
Office of Professional Medical Conduct

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Denise M. Bolan, R.P.A.
Vice Chair
Ansel R. Marks, M.D., J.D.
Executive Secretary

December 30, 1999

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

David Molina Jr., M.D.
1420 White Plains Road
Bronx, NY 10462

RE: License No. 186627

Dear Dr. Molina:

Enclosed please find Order #BPMC 99-329 of the New York State Board for Professional Medical Conduct. This Order and any penalty provided therein goes into effect **December 30, 1999.**

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

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 1315
Empire State Plaza
Albany, New York 12237

Sincerely,



Ansel R. Marks, M.D., J.D.
Executive Secretary
Board for Professional Medical Conduct

Enclosure

cc: Segal & Tesser, LLP
300 East 42nd Street
Bronx, NY 10462

Susan B. Somers, Esq.

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

**IN THE MATTER
OF
DAVID MOLINA, Jr., M.D.**

**CONSENT
AND
ORDER**
BPMC #99-329

DAVID MOLINA, Jr., M.D., (Respondent) says:

That on or about 08/16/91, I was licensed to practice as a physician in the State of New York, having been issued License No.186627 by the New York State Education Department.

My current practice address is 1420 White Plains Road, Bronx, NY 10462, and I will advise the Director of the Office of Professional Medical Conduct of any change of my address.

I understand that the New York State Board for Professional Medical Conduct has charged me with one (1) specification of professional misconduct.

A copy of the Statement of Charges is annexed hereto, made a part hereof, and marked as Exhibit "A".

I agree not to contest the specification, in full satisfaction of the charges against me. I hereby agree to the following penalty:

1. A three year suspension from the practice of medicine, which suspension is stayed upon Respondent's compliance with the terms as set forth herein.
2. Probation for a period of thirty six (36) months, as described in Exhibit B.
3. A fine of \$28,000 to be paid by December 31, 2000.

4. Completion of One Hundred hours of Community Service.
5. Submission of a written article to OPMC, as described in Exhibit B (10).

I further agree that the Consent Order for which I hereby apply shall impose the following conditions:

I shall comply with all terms, conditions, restrictions, and penalties to which I am 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 proceeding and/or any such other proceeding against me as may be authorized pursuant to the law.

That I shall 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 shall be in effect beginning on the effective date of the Consent Order and continuing 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; and

I shall fully cooperate in every respect with the Office of Professional Medical Conduct (OPMC) in its administration and enforcement of this Order and in its investigation of all matters regarding Respondent. I shall respond in a timely manner to each and every request by OPMC to provide written periodic verification of my compliance with the terms of this Order. I shall meet with a person designated by the Director of OPMC as directed. I shall respond promptly and provide any and all documents and information within my control upon the direction of OPMC.

I hereby stipulate that any failure by me to comply with such condition shall constitute misconduct as defined by NYS Ed. Law §6530(29) (McKinney Supp 1999).

I agree that in the event I am charged with professional misconduct in the future, this agreement and order shall be admitted into evidence in that proceeding.

I hereby make this Application to the State Board for Professional Medical Conduct (the Board) and request that it be granted.

I understand that, in the event that this Application is not granted by the Board, 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 Board grants my Application, as set forth herein, an Order of the Chairperson of the Board shall be issued in accordance with same. I agree that such Order shall be effective upon issuance by the Board, which may be accomplished by mailing, by first class mail, a copy of the Consent Order to me at the address set forth in this agreement, or to my attorney, or upon transmission via facsimile to me or my attorney, whichever is earliest.

I am making this Application of my own free will and accord and not under duress, compulsion or restraint of any kind or manner. In consideration of the value to me of the acceptance by the Board of this Application, allowing me to resolve this matter without the various risks and burdens of a hearing on the merits, I knowingly waive any right I may have to contest the Consent Order for which I hereby apply, whether administratively or judicially, and ask that the Application be granted.

The undersigned agree to the attached application of the Respondent and to the proposed penalty based on the terms and conditions thereof.

AFFIRMED:

DATE: 12/14/99



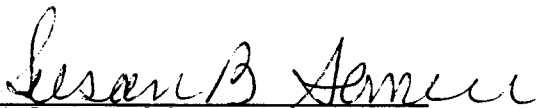
DAVID MOLINA, Jr., M.D.
Respondent

DATE: 12/16/99



LEWIS TESSER, ESQ.
Attorney for Respondent

DATE: 12/17/99



SUSAN B. SOMERS, ESQ.
Associate Counsel
Bureau of Professional
Medical Conduct

DATE: 12/21/99



ANNE F. SAILE
Director
Office of Professional
Medical Conduct

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

**IN THE MATTER
OF
DAVID MOLINA, Jr., M.D.**

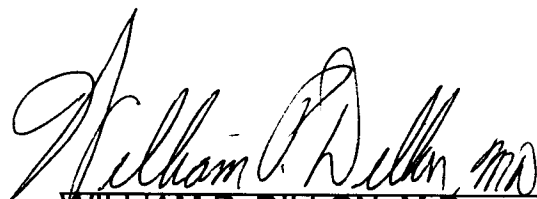
CONSENT
ORDER

Upon the proposed agreement of **DAVID MOLINA, Jr., M.D.** (Respondent) for a Consent Order, which application is made a part hereof, it is agreed to and
ORDERED, that the application and the provisions thereof are hereby adopted and so **ORDERED**, and it is further

ORDERED, that this order shall be effective upon issuance by the Board, which may be accomplished by mailing, by first class mail, a copy of the Consent Order to Respondent at the address set forth in this agreement or to Respondent's attorney by certified mail, or upon transmission via facsimile to Respondent or Respondent's attorney, whichever is earliest.

SO ORDERED.

DATED: 12/23/99


WILLIAM P. DILLON, M.D.
Chairperson
State Board for Professional
Medical Conduct

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

-----X

IN THE MATTER : STATEMENT
OF : OF
DAVID MOLINA, M.D. : CHARGES

-----X

DAVID MOLINA, M.D., the Respondent, was authorized to practice medicine in New York State on 08/16/91 by the issuance of license number 186627 by the New York State Education Department. The Respondent is currently registered with the New York State Education Department to practice medicine, with a registration address of, 1420 White Plains Road, Bronx, New York 10462.

FACTUAL ALLEGATIONS

A. Respondent, on December 14, 1998 pled guilty to the crime of Offering a false instrument for filing in the first degree, in violation of Section 175.35 of the New York State Penal law, a class E. Felony, and was sentenced, on February 25, 1999, to a conditional discharge, with the condition that he pay full restitution of \$210,000.

Exhibit "A"

SPECIFICATIONS

FIRST SPECIFICATION

Respondent violated New York State Education Law §6530(9)(a)(i), by reason of having been convicted of committing an act constituting a crime under New York state Penal Law, in that Petitioner charges:

1. The facts in Paragraphs A.

DATED: ~~September 22~~, 1999
December 17
Albany, New York

Peter D. Van Buren
PETER D. VAN BUREN
Deputy Counsel
Bureau of Professional
Medical Conduct

EXHIBIT "B"

Terms of Probation

1. Respondent 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.
2. Respondent shall submit written notification to the New York State Department of Health addressed to the Director, Office of Professional Medical Conduct (OPMC), Hedley Park Place, 433 River Street Suite 303, 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

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. Fine payments should be paid within 1 year of the date of this order is served upon Respondent, in 12 equal installments. Payments must be submitted to:

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

9. Respondent shall, within the first year of probation, perform one hundred hours (100) of community service. A written proposal shall be submitted to, and is subject to the written approval of the Director of OPMC. Community service performed prior to written approval shall not be credited toward compliance with this Order.

10. Respondent shall prepare a written article suitable for presentation to a Medical Society which shall address the substance of the conduct charged in Exhibit A herewith. Said Article shall be submitted for approval by the Director of OPMC.

11. During the first year of probation Respondent shall submit on a monthly basis a complete and accurate listing of all patients seen in his office practice. Respondent shall be required to send to OPMC a random sample of his patient records to be audited. Said sample will consist of not less than 10% of his office records. The Director of OPMC will determine the patient records to be audited.

Respondent shall submit as part of this review all office records, including laboratory tests, billing records, office notes, prescription records and any and all similar medical documentation. The review will determine whether Respondent's billing practices are in accordance with generally accepted standards.

Respondent shall be solely responsible for all expenses associated with copying and mailing such records.

In the event that OPMC determines that Respondent's billing practices do not meet acceptable standards, Respondent shall be required to submit to a comprehensive audit of all his billing records and shall be solely responsible for all expenses associated for such audit.

During the 2nd and 3rd years of Probation OPMC, in its sole discretion shall have the right to reduce the frequency of review.

12. Respondent shall comply with all terms, conditions, restrictions, limitations and penalties to which he 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.