



New York State Board for Professional Medical Conduct

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

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NYS Department of Health*

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*Executive Deputy Commissioner
NYS Department of Health*

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Office of Professional Medical Conduct

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Ansel R. Marks, M.D., J.D.
Executive Secretary

PUBLIC

January 25, 2005

CERTIFIED MAIL-RETURN RECEIPT REQUESTED

Joseph Francis Ewa, M.D.
99 Elizabeth Street
Staten Island, NY 10310

Re: License No. 180395

Dear Dr. Ewa:

Enclosed please find Order #BPMC 05-16 of the New York State Board for Professional Medical Conduct. This order and any penalty provided therein goes into effect February 1, 2005.

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 to the 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: David E. Ruck, Esq.
120 Broadway, 18th Floor
New York, NY 10271

NEW YORK STATE DEPARTMENT OF HEALTH
STATE BOARD FOR PROFESSIONALMEDICAL CONDUCT

IN THE MATTER
OF
JOSEPH FRANCIS EWA, M.D.
CO-04-05-2484-A

CONSENT AGREEMENT
AND ORDER

BPMC No. 05-16

JOSEPH FRANCIS EWA, M.D., states:

That on or about October 18, 1989, I was licensed to practice as a physician in the State of New York, having been issued License No. 180395 by the New York State Education Department.

My current address is 99 Elizabeth Street, Staten Island, NY 10310, and I will advise the Director of the Office of Professional Medical Conduct of any change of my address thirty (30) days, thereof.

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 do not contest the one (1) Specification, in full satisfaction of the charges against me. I agree, hereby, to the following penalty:

Two (2) year suspension of my New York state license to practice medicine, two (2) months actual, the remainder stayed, the suspension to commence on December 20, 2004, the date of the Commissioner's Order and Notice of Hearing, with three (3) years probation in accordance with Exhibit B attached, hereto.

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

That, except during periods of actual suspension, 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 thirty days after the effective date of the Consent Order and will continue while Respondent possesses his license; and

That 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 Respondent's 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. This condition shall be in effect beginning upon the effective date of the Consent Order and will continue while I possess my license.

I, hereby, stipulate that any failure by me to comply with such conditions shall constitute misconduct as defined by New York State Education Law §6530(29).

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.

AFFIRMED

DATED

1/13/05

~~1/14/05~~



JOSEPH FRANCIS EWA, M.D.
Respondent

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

DATE:

1/13/05



DAVID E. RUCK
Attorney for Respondent

DATE:

14 January 2005



ROBERT BOGAN
Associate Counsel
Bureau of Professional Medical Conduct

DATE:

20 January 2005



DENNIS J. GRAZIANO
Director
Office of Professional Medical Conduct

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

IN THE MATTER
OF
JOSEPH FRANCIS EWA, M.D.

CONSENT ORDER

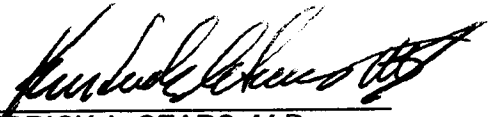
Upon the proposed agreement of **JOSEPH FRANCIS EWA, M.D.** (Respondent) for Consent Order, which application is made a part hereof, it is agreed to and

ORDERED, that the application and the provisions thereof are hereby adopted; and 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: 1-24-05


KENDRICK A. SEARS, M.D.
Chair
State Board for Professional
Medical Conduct

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

IN THE MATTER
OF
JOSEPH FRANCIS EWA, M.D.
CO-04-05-2484-A

STATEMENT
OF
CHARGES

JOSEPH FRANCIS EWA, M.D., the Respondent, was authorized to practice medicine in New York state on October 18, 1989, by the issuance of license number 180395 by the New York State Education Department.

FACTUAL ALLEGATIONS

A. On or about March 24, 2004, in the Supreme Court of the State of New York, County of Kings, Criminal Term, Part 2, Respondent was found guilty, based on a plea of guilty, of Offering a false instrument for filing in the first degree, in violation of New York Penal Law §175.35, a class E felony, and on or about June 8, 2004, was sentenced to five (5) years probation and a \$210.00 surcharge.

SPECIFICATION

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

1. The facts in Paragraph A.

DATED: *Dec. 20*, 2004
Albany, New York



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. 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.
5. 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 staff at practice locations or OPMC offices.
6. 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.
7. Respondent shall enroll in and complete a continuing education program in the area of professional ethics. Said continuing education program shall be subject to the prior written approval of the Director of OPMC and be completed within the first year of probation.
8. Within thirty (30) days of the effective date of the Order and until the completion of the probation period, Respondent shall be required to comply fully with an audit and review program addressed to his billing practices and his recordkeeping related to his billing practices. This audit and review program shall be carried out by an appropriate "auditor" proposed by Respondent and subject to the written approval of the Director of OPMC.
 - a. Respondent shall make available to the auditor any and all records or access to the practice requested by the auditor, including on-site observation. The auditor shall visit Respondent's medical practice at each and every location, on a random unannounced Basis at least quarterly and shall examine a selection (no fewer than 50) of records maintained by Respondent, including patient records, prescribing information, office records and billing records. The review will determine whether Respondent's billing practices and recordkeeping related to billing practices are conducted in accordance with the generally accepted standards of the profession. Any perceived deviation of

accepted standards of billing practices or related recordkeeping, or refusal to cooperate with the auditor, shall be reported within 24 hours to OPMC.

- b. Respondent shall be solely responsible for all expenses associated with auditing, including fees, if any, to the auditor.
 - c. Respondent shall cause the auditor to report quarterly, in writing, to the Director of OPMC.
9. 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.