

IN THE MATTER
OF
MICHAEL GREGG, M.D.

CONSENT
ORDER

BPMC No. 03-223

Upon the application of Michael Gregg, 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 SO ORDERED, and it is further

ORDERED, that this 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.

DATED: 8/25/03


MICHAEL A. GONZALEZ, R.P.A.C.
Vice Chair
State Board for Professional Medical Conduct

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

**IN THE MATTER
OF
MICHAEL GREGG, M.D.**

**CONSENT
AGREEMENT
AND
ORDER**

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

That I practiced medicine in New York State from on or around February 1, 1997 through on or around August 31, 1998, as a resident, and that on or around September 1, 1998, I was licensed to practice as a physician in the State of New York, and issued License No. 211978 by the New York State Education Department.

My current address is P.O. Box 473, Slingerlands, New York, 12159 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 has charged me with three 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 guilt to the First Specification of Charges to the extent of the factual allegations in Paragraphs A and A.2, and A and A.3, in full satisfaction of the charges against me, and agree to the following penalty:

1. Censure and Reprimand.
2. Participation in a regular course of psychotherapy and in a Behavior Monitor Program the terms of which are specified in

Exhibit B. This penalty is to start thirty days from the effective date of this Order and continue for a period of two years.

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

That Respondent shall maintain current registration of licensure with the New York State Education Department Division of Professional Licensing Services (except during periods of actual suspension), and shall pay all registration fees. This condition shall take effect thirty (30) days after the Consent Order's effective date and will continue so long as Respondent remains licensed 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 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 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 Order shall constitute misconduct as defined by New York State Education 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 Public 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 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.


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 ask that the Board adopt this Consent Agreement.

DATED 8/6/03

Michael Gregg
MICHAEL GREGG, M.D.
RESPONDENT

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

DATE: August 7, 2003


FREDERICK C. RIESTER, ESQ.
Attorney for Respondent

DATE: August 11, 2003


VALERIE B. DONOVAN
Assistant Counsel
Bureau of Professional Medical Conduct

DATE: August 20, 2003


DENNIS J. GRAZIANO
Director
Office of Professional Medical Conduct

Exhibit A

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

IN THE MATTER
OF
MICHAEL GREGG, M.D.

STATEMENT
OF
CHARGES

Michael Gregg, M.D., the Respondent, practiced medicine in New York State from on or about February 1, 1997 through on or about August 31, 1998, as a resident at the Albany Medical Center(AMC), Albany, New York. Respondent, on or about September 1, 1998, was issued license number 211978 by the New York State Education Department.

FACTUAL ALLEGATIONS

- A. Respondent provided psychiatric care to Patient A (patient is identified in the Appendix), from on or around May 15, 1997 through on or about November 13, 1997, at the Albany Medical Center Outpatient Psychiatry Clinic (AMC), Albany, New York. On or around November 29, 1997, Patient A's treatment as a patient at AMC ended. Respondent continued to provide medical care to Patient A after Patient A was no longer a patient at AMC. Respondent's care and treatment of Patient A failed to meet accepted standards of care in that:

1. Respondent from on or around October 10, 1997, through on or around November 13, 1997, recommended that Patient A increase the frequency of her visits to the AMC clinic, without having, and/or without documenting, adequate medical indication for the increase.
2. Respondent from on or about October 10, 1997, through on or around November 13, 1997, changed Patient A's medication to Nardil without having, and/or without documenting, adequate medical indication for the change.
3. Respondent, on multiple occasions after Patient A was discharged from treatment at AMC, continued to treat Patient A. Respondent provided or prescribed medications for Patient A without adequate medical justification, without performing physical exams and/or without documenting such physical exams or medical justification, as follows:
 - a. Respondent, on or around November 20, 1997 and/or November 23, 1997, prescribed Bactrim for Patient A.
 - b. Respondent, on or around November 27, 1997 and/or December 11, 1997, renewed Inderal prescriptions for Patient A.
4. Respondent, at various times from in or around October, 1997, through in or around March, 1998, violated appropriate and therapeutic professional boundaries with Patient A by engaging in

behavior including, but not limited to, the following:

- a. Respondent developed a social relationship with Patient A, and among other things, met with Patient A at various locations including restaurants, a library and/or a shopping mall.
- b. Respondent divulged personally identifiable information about himself to Patient A that was not pertinent to Patient A's therapy.
- c. Respondent frequently telephoned Patient A.
- d. Respondent sent Patient A numerous e-mails of a personal nature.

SPECIFICATION OF CHARGES

FIRST 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 set forth in of two or more of the following:

1. The facts in paragraphs A and A.1, A and A.2, A and A.3(a), A and A.3(b), A and A.4(a), A and A.4(b), A and A.4(c) and/or A and A.4(d).

SECOND 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 set forth in two or more of the following:

2. The facts in paragraphs A and A.1, A and A.2, A and A.3(a), A and A.3(b), A and A.4(a), A and A.4(b), A and A.4(c) and/or A and A.4(d).

THIRD SPECIFICATION

FAILURE TO MAINTAIN RECORDS

Respondent is charged with committing professional misconduct as defined in N.Y. Educ. Law §6530(32) by failing to maintain a record for Patient A which accurately reflects the care and treatment of the patient, as set forth in the following:

3. The facts in paragraphs A and A.1, A and A.2, A and A.3(a) and/or A and A.3(b).

DATED:

~~July~~ ^{Aug.} 11, 2003
Albany, New York



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

EXHIBIT B

1. Respondent shall initiate and continue in counseling or other therapy with a therapist knowledgeable about boundary problems for as long as the therapist determines is necessary, or for the period of time dictated in this Order.
2. Respondent shall cause the therapist to submit a proposed treatment plan and quarterly reports to OPMC certifying whether Respondent is in compliance with the treatment plan. Respondent shall cause the therapist to report to OPMC within 24 hours if Respondent leaves treatment against medical advice. Respondent acknowledges that OPMC will forward to the therapist documents regarding the allegations in this matter.
3. Respondent shall be subject to a Behavior Monitoring Program in his medical practice for a period of two (2) years. A behavior monitor shall be proposed by Respondent and subject to the written approval of the Director of OPMC. The behavior monitor shall not be a family member or personal friend, or be in a professional relationship which could pose a conflict with supervision responsibilities. The behavior monitor should be a licensed or certified health care professional with experience dealing with professional behavior issues. The Behavior Monitor Program shall include, but not be limited to, completion of the Patient Satisfaction Questionnaire, attached as Exhibit "B.1", by patients being seen in Respondent's medical practice. Respondent shall assure that this form is distributed to all his adult patients. The behavior monitor will collect all survey forms from a designated staff member during site visits to the hospital/clinic/office, and will review the forms and submit quarterly written reports to the Director of OPMC. These narrative reports shall address the information compiled on the forms, Respondent's on-duty conduct, and other matters regarding Respondent's practice as the behavior monitor deems appropriate to report, and as may be requested by OPMC. The Director of OPMC and the behavior monitor shall have full access to the information collected in the Behavior Monitoring Program and access to staff to the extent necessary for monitoring.
4. Respondent shall ensure that the behavior monitor is familiar with the Order and conditions, and is willing to report to OPMC. Respondent shall ensure that the behavior monitor is in a position to regularly observe and assess Respondent's behavior in his medical practice. The behavior monitor shall report within 24 hours any suspected impairment, inappropriate behavior, patient or staff complaints regarding behavior, or possible misconduct to OPMC.
5. Respondent shall comply with this Order and all its terms, and shall bear all associated compliance costs.

EXHIBIT "B.1"

PATIENT SATISFACTION QUESTIONNAIRE

As part of Dr. Michael Gregg's dedication to the provision of high quality care in a professional environment, this questionnaire has been developed to assess his efforts in obtaining this goal. We value your honest opinion and would appreciate your feedback. Please circle the answer which best applies to each question regarding your visit today. Please be honest and include any additional comments that you feel may benefit in improving the delivery of your care. Thank you for taking the extra time to complete this survey prior to leaving the office. You may decline to complete this form. Be assured that any negative statements will not effect the rendering of your care by Dr. Gregg and his staff.

Age _____ Date _____ Time of Visit _____

Please assess Dr. Gregg's performance in the following areas:

- | | | | | |
|----|--|-----|----|------------|
| 1 | He understood the nature of my problems. | Yes | No | Don't Know |
| 2. | He made me feel at ease. | Yes | No | Don't Know |
| 3. | He has a good ability to listen and to hear what I am saying. | Yes | No | Don't Know |
| 4. | He was responsive to my questions and concerns. | Yes | No | Don't Know |
| 5. | He explained the proposed treatment/medication and possible alternatives completely. | Yes | No | Don't Know |
| 6. | All aspects of the office visit were conducted in a professional and appropriate manner. | Yes | No | Don't Know |

Please add any additional comments that you feel would help us to improve your care and make you feel more at ease during the course of your office visit.

Patient's Name or Initials