



New York State Board for Professional Medical Conduct

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

Nirav R. Shah, M.D., M.P.H.
Commissioner
NYS Department of Health
Sue Kelly
Executive Deputy Commissioner
Keith W. Servis, Director
Office of Professional Medical Conduct

Public

Kendrick A. Sears, M.D.
Chair
Carmela Torrelli
Vice Chair
Katherine A. Hawkins, M.D., J.D.
Executive Secretary

March 21, 2011

CERTIFIED MAIL-RETURN RECEIPT REQUESTED

Shyam T. Patil, M.D.

REDACTED

Re: License No. 153502

Dear Dr. Patil:

Enclosed is a copy of Modification BPMC #09-203 of the New York State Board for Professional Medical Conduct. This order and any penalty provided therein goes into effect March 28, 2011.

Sincerely,

REDACTED

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

Enclosure

cc: Bruce M. Brady, Esq.
Callan, Koster, Brady & Brennan, LLP
One Whitehall Street, 10th Floor
New York, NY 10004

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

IN THE MATTER
OF
SHYAM PATIL, M.D.

MODIFICATION
ORDER

BPMC No. #09-203

Upon the proposed Application for a Modification Order of SHYAM PATIL, M.D. (Respondent), which is made a part of this Modification Order, it is agreed to and ORDERED, that the attached Application, and its terms, are adopted and SO ORDERED, and it is further

ORDERED, that this Modification Order shall be effective upon issuance by the Board, either

- by mailing of a copy of this Modification Order, either by first class to Respondent at the address in the attached Application or by certified mail to Respondent's attorney, OR
- upon facsimile transmission to Respondent or Respondent's attorney, whichever is first.

SO ORDERED.

DATE: 3/19/11

REDACTED

~~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
SHYAM PATIL, M.D.

APPLICATION FOR
MODIFICATION
ORDER

STATE OF NEW YORK)
COUNTY OF NEW YORK) ss.:

SHYAM PATIL, M.D., (Respondent) being duly sworn, deposes and says:

That on or about March 11, 1983, I was licensed to practice as a physician in the State of New York, and issued License Number 153502 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 am currently subject to Order # BPMC 09-203 (Attachment I) (henceforth "Original Order"), which was issued upon a Consent Agreement and Order signed by me on October 22, 2009, (henceforth "Original Application"), adopted by the Original Order. I hereby apply to the State Board for Professional Medical Conduct ("the Board") for an Order (henceforth "Modification Order"), modifying the Original Order; the Modification Order for which I apply shall remain in effect indefinitely, setting the following Conditions upon my practice:

• **THE CONDITIONS SET FORTH IN THE ORIGINAL ORDER INCLUDE:**

That Respondent shall remain in continuous compliance with all requirements of N.Y. Educ. Law § 6502 including but not limited to

requirements of 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

- **THIS CONDITION SHALL BE MODIFIED TO READ AS FOLLOWS:**

That Respondent shall, within 30 days of the issuance of this Modification Order, notify the New York State Education Department, Division of Professional Licensing Services, that his license status is "inactive," and shall provide proof of such notification to the Director of OPMC within 30 days thereafter. Respondent shall not reactivate his license.

That during all periods in which Respondent's license is "inactive," Respondent shall be subject to a Condition precluding him from practicing medicine in New York State. Respondent shall also be precluded from practicing in any setting where his practice is based solely on his New York license, and Respondent shall be precluded from reliance upon his license to practice medicine in New York to exempt him from the license, certification or other requirements set forth in statute or regulation for the practice of any other profession licensed, regulated, or certified by the Board of Regents, Department of Education, Department of Health or the Department of State. Respondent shall comply with all conditions set forth in attached Attachment II ("Guidelines for Closing a Medical Practice").

- All remaining Terms and Conditions will continue as written in the Original Order.

I make this Application of my own free will and accord and not under duress, compulsion or restraint, and seek the anticipated benefit of the requested Modification. In consideration of the value to me of the acceptance by the Board of this Application, I knowingly waive my right to contest the Original Order or the Modification Order for which I apply, whether administratively or judicially, and ask that the Board grant this Application.

DATE: 2-22-11

REDACTED

SHYAM PATIL, M.D.
RESPONDENT

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

DATE: 2/22/11

REDACTED

Attorney for Respondent ESQ.
BRUCE M. BRADY
CALLAN, KOSTER, BRADY & BRENNAN,
LLP

DATE: March 1, 2011

REDACTED

MARCIA E. KAPLAN
Associate Counsel
Bureau of Professional Medical Conduct

DATE: 3/18/11

REDACTED

KEITH W. SERVIS
Director
Office of Professional Medical Conduct

ATTACHMENT I



Public
New York State Board for Professional Medical Conduct
433 River Street, Suite 303 • Troy, New York 12180-2299 • (518) 402-0863

Richard F. Duines, M.D.
Commissioner
NYS Department of Health
James W. Clyne, Jr.
Executive Deputy Commissioner
Keith W. Servis, Director
Office of Professional Medical Conduct

Kendrick A. Sears, M.D.
Chair
Carmela Torrelli
Vice Chair
Katherine A. Hawkins, M.D., J.D.
Executive Secretary

November 10, 2009

CERTIFIED MAIL-RETURN RECEIPT REQUESTED

Shyam T. Patil, M.D.

Redacted Address

Re: License No. 153502

Dear Dr. Patil:

Enclosed is a copy of BPMC #09-203 of the New York State Board for Professional Medical Conduct. This order and any penalty provided therein goes into effect November 17, 2009.

If the penalty imposed by this Order is a surrender, revocation or suspension, you are required to deliver your license and registration within five (5) days of receipt of this Order and return it to the Office of Professional Medical Conduct, New York State Department of Health, 433 River Street, Suite 303, Troy, NY 12180-2299

Sincerely,

Redacted Signature

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

Enclosure

cc: Bruce Brady, Esq.
Callan, Koster, Brady & Brennan, LLP
One Whitehall Street
New York, NY 10004

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

IN THE MATTER
OF
SHYAM PATIL, M.D.

CONSENT
ORDER

BPMC No. #09-203

Upon the application of (Respondent) SHYAM PATIL, 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: 11-9-2009

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
SHYAM PATIL, M.D.

CONSENT
AGREEMENT
AND
ORDER

SHYAM PATIL, M.D., Respondent, representing that all of the following statements are true, deposes and says:

That on or about March 11, 1983, I was licensed to practice as a physician in the State of New York, and issued License No. 153502 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 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 do not contest the Statement of Charges, in full satisfaction of the charges against me, and agree to the following penalty:

Pursuant to N.Y. Pub. Health Law § 230-a(3), my license to practice medicine in New York State shall be limited to practice medicine only in a supervised setting, approved in advance and in writing by the Director of the Office of Professional Medical Conduct, including a facility licensed by New York State, or a similar setting where close practice oversight is

available on a daily basis and where quality assurance and risk management protocols are in effect. The terms of this practice limitation are further set forth in the attached Exhibit "C."

Pursuant to Pursuant to N.Y. Pub. Health Law § 230-a(9), I shall be placed on probation for a period of three years subject to the terms set forth in attached Exhibit "B."

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

That Respondent shall attest to compliance with the prescribed practice limitation by signing and submitting to the Director of OPMC a Practice Limitation Declaration, as may be periodically directed by the Director.

That Respondent shall cause the administrator(s) of all hospitals and other health care facilities or practices with which Respondent is affiliated to annually submit a letter to the Director of OPMC attesting to Respondent's compliance with the specified limitation at each location.

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 10-22-09

Redacted Signature

SHYAM PATIL, M.D.
RESPONDENT

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

DATE: 10/28/09

Redacted Signature

BRUCE BRADY, ESQ.
Attorney for Respondent

DATE: 11/3/09

Redacted Signature

NANCY SYROHMEYER
Assistant Counsel
Bureau of Professional Medical Conduct

DATE: 11/9/09

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
SHYAM PATIL, M.D.

STATEMENT
OF
CHARGES

SHYAM PATIL, M.D., the Respondent, was authorized to practice medicine in New York State on or about March 11, 1983, by the issuance of license number 153502 by the New York State Education Department.

FACTUAL ALLEGATIONS

- A. On or about October 23, 2005, Respondent, a psychiatrist, treated Patient A (who is identified in the attached appendix) who was a forty four year-old male at the outset of treatment. Respondent's treatment of Patient A deviated from minimum accepted standards of medical care in that:
1. Respondent failed to adequately evaluate and/or treat Patient A's symptoms.
 2. Respondent failed to maintain a record which adequately reflected the care and treatment rendered to Patient A.

SPECIFICATION OF CHARGES

FIRST SPECIFICATION

NEGLECT 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 alleged in the facts of two or more of the following:

1. Paragraph A and its subparagraph.

SECOND 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 each patient which accurately reflects the care and treatment of the patient, as alleged in the facts of:

2. Paragraph A and its subparagraph.

DATE:

OCT 29
~~May~~ 2009
New York, New York

Redacted Signature

Roy Nemerson
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 maintain active registration of Respondent's license (except during periods of actual suspension) with the New York State Education Department Division of Professional Licensing Services, and shall pay all registration fees.
3. Respondent shall provide the Director, Office of Professional Medical Conduct (OPMC), Hedley Park Place, 433 River Street Suite 303, Troy, New York 12180-2299 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.
4. 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.
5. 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].
6. 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.

7. 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.
8. 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.

PRACTICE MONITOR

9. Within thirty days of the effective date of the order, 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.
 - 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 enroll in and complete a continuing education program in an area specified by the Director of OPMC. This continuing education program is subject to the Director's prior written approval and shall be completed within the first year of the probation period.
11. 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.

Exhibit "C"

FURTHER TERMS AND CONDITIONS REGARDING LICENSE LIMITATION

Pursuant to N.Y. Pub. Health Law § 230-a(3), Respondent's license to practice medicine in New York State shall be limited to practice medicine only in a supervised setting, approved in advance and in writing by the Director of the Office of Professional Medical Conduct, including a facility licensed by New York State, or a similar setting where close practice oversight is available on a daily basis and where quality assurance and risk management protocols are in effect. Respondent shall not practice medicine until the supervised setting proposed by Respondent is approved, in writing, by the Director of OPMC.

- a. Respondent shall propose an appropriate supervisor or administrator in all practice settings, who shall be subject to the written approval of the Director of OPMC. Respondent shall cause the supervisor or administrator to submit reports, as requested (or quarterly), regarding Respondent's overall quality of medical practice.
- b. Respondent shall provide the supervisor/administrator in all settings with the Order and terms of probation and shall cause the supervisor/administrator, in writing, to comply with OPMC schedules and requests for information.
- c. Respondent shall submit semi-annually a signed Compliance Declaration to the Director of OPMC which truthfully attests whether Respondent has been in compliance with the terms of the license limitation.
- d. Respondent shall not formulate patient treatment plans or make determinations concerning patient hospital admissions without consultation with an appropriate supervisor or practice monitor.

ATTACHMENT II

ATTACHMENT II

GUIDELINES FOR CLOSING A MEDICAL PRACTICE

1. Respondent shall immediately cease the practice of medicine in compliance with the terms of the Modification Order. Respondent shall not represent himself as eligible to practice medicine and shall refrain from providing an opinion as to professional practice or its application.
2. Within 15 days of the Modification Order's effective date, Respondent shall notify all patients that he has ceased the practice of medicine, and shall refer all patients to another licensed practicing physician for their continued care, as appropriate.
3. Respondent shall arrange for the transfer and maintenance of all patient medical records. Within 30 days of the Modification Order's effective date, Respondent shall notify OPMC of these arrangements, including the name, address, and telephone number of an appropriate contact person, acceptable to the Director of OPMC, who shall have access to these records. Original records shall be retained for patients for at least six years after the last date of service, and, for minors, at least six years after the last date of service or three years after the patient reaches the age of majority, whichever time period is longer. Records shall be maintained in a safe and secure place that is reasonably accessible to former patients. The arrangements shall ensure that all patient information is kept confidential and is available only to authorized persons. When a patient or authorized representative requests a copy of the patient's medical record, or requests that the original medical record be sent to another health care provider, a copy of the record shall be promptly provided or sent at reasonable cost to the patient (not to exceed 75 cents per page.) Radiographic, sonographic and like materials shall be provided at cost. A qualified person shall not be denied access to patient information solely because of inability to pay.
4. Within 15 days of the Modification Order's effective date, if Respondent holds a Drug Enforcement Agency (DEA) certificate, Respondent shall advise the DEA in writing of the licensure action and shall surrender his DEA controlled substance certificate, privileges, and any used DEA #222 U.S. Official Order Forms Schedules 1 and 2, to the DEA. Within 30 days of having done so, Respondent shall provide documentary proof of compliance with this requirement to the Director of OPMC.
5. Within 15 days of the Modification Order's effective date, Respondent shall return any unused New York State official prescription forms to the Bureau of Narcotic Enforcement of the New York State Department of Health. Respondent shall have all prescription pads bearing Respondent's name destroyed. If no other licensee is providing services at Respondent's practice location, Respondent shall dispose of all medications. Within 30 days of having done so, Respondent shall provide documentary proof of compliance with this requirement to the Director of OPMC.

6. Within 15 days of the Modification Order's effective date, Respondent shall remove from the public domain any representation that Respondent is eligible to practice medicine, including all related signs, advertisements, professional listings whether in telephone directories or otherwise, professional stationery or billings. Respondent shall not share, occupy or use office space in which another licensee provides health care services.
7. Respondent shall not charge, receive or share any fee or distribution of dividends for professional services rendered (by himself or others) while barred from practicing medicine. Respondent may receive compensation for the reasonable value of services lawfully rendered, and disbursements incurred on a patient's behalf, prior to the Modification Order's effective date.
8. If Respondent is a shareholder in any professional service corporation organized to engage in the practice of medicine and Respondent's license is revoked, surrendered or suspended for six months or more pursuant to this Modification Order, Respondent shall, within 90 days of the Order's effective date, divest himself of all financial interest in such professional services corporation in accordance with New York Business Corporation Law. If Respondent is the sole shareholder in a professional services corporation, the corporation must be dissolved or sold within ninety days of the Modification Order's effective date.
9. Failure to comply with the above directives may result in civil or criminal penalties. Practicing medicine when a medical license has been suspended, revoked or annulled is a Class E Felony, punishable by imprisonment for up to four years, under N.Y. Educ. Law § 6512 of the Education Law. Professional misconduct may result in penalties including revocation of the suspended license and/or fines of up to \$10,000 for each specification of misconduct, under N.Y. Pub. Health Law § 230-a.