C13-236

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS

RHODE ISLAND DEPARTMENT OF HEALTH,
BOARD OF MEDICAL LICENSURE AND DISCIPLINE
AND BOARD OF EXAMINERS IN DENTISTRY

In the matter of:
Mohammad Banki, M.D., D.M.D.
Physician License Number MD11581
Dentist License Number DEN02806
Controlled Substances Registration
Number CDEN02806
Anesthesia Permit DAGD02806

Complaint Number C13-DEN019

AMENDED IMMEDIATE COMPLIANCE ORDER

Mohammed Banki, M.D., D.M.D. (hereinafter "Respondent") is licensed as a physician and as a dentist in Rhode Island and is licensed to prescribe controlled substances under Rhode Island General Laws chapter 21-28, having both a state Controlled Substances Registration and a Federal Drug Enforcement Administration Registration to prescribe controlled substances. After a review of the complaint, records, and information obtained from inspectors, the Director of the Department of Health makes the following:

FINDINGS OF FACT

1. Mohammed Banki, M.D., D.M.D. (herineafter "Respondent") has been a licensed physician since August 11, 2004, and has been licensed as a dentist since June 18, 2003. His practice is located at 243 Jefferson Boulevard, Warwick, Rhode Island.

He is a graduate of the University of Connecticut School of Medicine, and the University of Connecticut School of Dental Medicine, and he has privileges at Miriam, Rhode Island and South County Hospitals.

2. On April 5, 2013, in response to a complaint filed with the Department of Health, inspectors for the Rhode Island Board of Dental Examiners visited Respondent's office; and the office was revisited on April 9, 2013.

3. On April 5, 2013, Department dental inspectors learned that Respondent uses medications that are drawn by an assistant from ten milliliter vials into separate syringes for use in surgery with different patients either that day or within "a couple of days," and the vials are then labeled with the name of the medication but not the name of the patient to whom it shall be administered. As such, the medications are misbranded. The assistant told Department inspectors that the medications in the syringes are not always checked by Respondent. The assistant stated that he administers drugs to patients intravenously.

4. During the April 5, 2013, inspection, the cabinet in Respondent's office that contains controlled substances was observed to have a lock on the door, but the unlocked side of the cabinet allows any person to have access to the medications, and the back door to the office was left ajar, allowing access by any person to those medications. Inside the cabinet, inspectors found vials of multiple filled syringes for use in later surgery. A lock box in the cabinet contained Schedule II substances, but the lock box could have been removed from the cabinet and taken

from the office from an unauthorized individual.

5. During the April 9, 2013, visit, inspectors observed an IV bag containing clear liquid that was marked as containing Brevital, a controlled substance used for anesthesia. The mixture was not labeled properly and listed no expiration date. It was compounded in the office without sterile hood by a person who was not licensed to do so. The manufacturer of Brevital requires immediate use of the drug upon opening, and then destruction of the drug within 24 hours. This IV bag was dated April 8, 2013, indicating failure to destroy in a timely manner or intent to reuse.

6. Respondent was in civil violation of Rhode Island General Laws §§ 21-28-3.04 and 21-31-3; 5-37-5.1(19) and (26); and 5-31.1-10(19) and (26) for failure to adhere to minimum standards of acceptable practice and for civil violation of state laws concerning standards of practice and administration of controlled substances.

7. Nothing herein shall be construed as an admission by Respondent as to the facts contained herein.

ORDER

1. The Immediate Compliance Order issued to Respondent on April 12, 2013, is hereby vacated.

2. Because the Department of Health has re-inspected Respondent's office since April 12, 2013, and has determined that the violations hereinbefore mentioned have been corrected in accordance with controlled substances statutes and regulations, Respondent's office may re-open and continue to remain open.

3. Respondent may continue to practice medicine and dentistry, and to prescribe and administer controlled substances.

4. Respondent has instituted and shall continue to maintain improved security and recordkeeping protocols with regard to his maintenance of controlled substances in his practice; and Respondent has created a single inventory log for each controlled substance that describes the precise quantity of each drug obtained by the practice and administered to any patient, which is also contained in each patient's individual medical or dental record.

5. Respondent has developed and shall follow a new policy and procedure for the direct administration of medication that does not involve pre-pouring or pre-filling syringes from another source until further order.

6. Respondent has obtained a temperature-sensitive alarm that reveals any excursions in the office refrigerator used to store medication, and shall ensure its continued operation.

7. Respondent shall not, and shall not allow anyone in his practice to:

   a. prescribe or administer any drug that is purchased from any distributor not registered with the State of Rhode Island;

   b. administer any medication intravenously unless the person is licensed to do so;

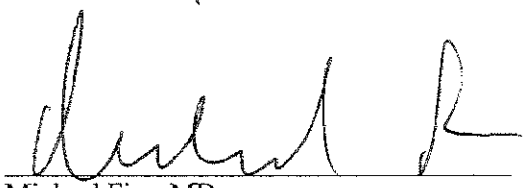
   c. compound any drug unless approved beforehand in writing by the Department of Health. The term "compound" shall not include sterile reconstitution of any drug for immediate single use for one patient, the remainder of which is discarded according to manufacturer guidelines.

   d. use on more than one patient any drug that is listed by its manufacturer as "single use."

   e. keep food or beverages in the same refrigerator as any medications stored for office use; or

   f. use any drug that is expired or that is not labeled with an expiration date.

Signed this 19 day of April, 2013.



Michael Fine, MD
Director of the
Department of Health

CERTIFICATION OF SERVICE

A copy of this Amended Immediate Compliance Order was ~~hand~~ TC 4/19/13 delivered to Mohammed Banki, M.D., D.M.D., 243 Jefferson Boulevard, Warwick, Rhode Island, and was forwarded to his attorney, Christy B. Durant, Esquire, Tate Latham & Durant, 321 South Main Street, Providence, Rhode Island, by the undersigned on April 19, 2013, who herein documents delivery and receipt of this order.

Thomas Corrigan Jr 4/19/13
(Signature) (Date)

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS

RHODE ISLAND DEPARTMENT OF HEALTH,
MICHAEL FINE, M.D., IN HIS CAPACITY
AS DIRECTOR OF THE RHODE ISLAND
DEPARTMENT OF HEALTH

In the matter of:
Mohammad Banki, M.D., D.M.D.
Physician License Number MD11581
Dentist License Number DEN02806
Controlled Substances Registration
Number CDEN02806
Anesthesia Permit DAGD02806

Complaint Number C13-DEN019

IMMEDIATE COMPLIANCE ORDER

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FINDINGS OF FACT

1. Mohammed Banki, M.D., D.M.D. (herineafter "Respondent") has been a licensed physician since August 11, 2004, and has been licensed as a dentist since June 18, 2003. His practice is located at 243 Jefferson Boulevard, Warwick, Rhode Island.

He is a graduate of the University of Connecticut School of Medicine, and the University of Connecticut School of Dental Medicine, and he has privileges at Miriam, Rhode Island and South County Hospitals.

2. On April 5, 2013, in response to a complaint filed with the Department of Health, inspectors for the Rhode Island Board of Dental Examiners visited Respondent's office; and the office was revisited on April 9, 2013.

3. On April 5, 2013, Department dental inspectors learned that Respondent uses medications that are drawn by an assistant from ten milliliter vials into separate syringes for use in surgery with different patients either that day or within "a couple of days," and the vials are then labeled with the name of the medication but not the name of the patient to whom it shall be administered. As such, the medications are misbranded. The assistant told Department inspectors that the medications in the syringes are not always checked by Respondent. The assistant stated that he administers drugs to patients intravenously.

4. During the April 5, 2013, inspection, it was learned that Respondent uses medications that are distributed to his office from three companies that are not licensed to distribute pharmaceuticals in Rhode Island: Drug Valet and Medical Purchasing Solutions, both based in Arizona, and Oral Surgery Supplies, based in Georgia.

5. During the April 5, 2013, inspection, the cabinet in Respondent's office that contains controlled substances was observed to have a lock on the door, but the

unlocked side of the cabinet allows any person to have access to the medications, and the back door to the office was left ajar, allowing access by any person to those medications. Inside the cabinet, inspectors found vials of multiple filled syringes for use in later surgery. A lock box in the cabinet contained Schedule II substances, but the lock box could have been removed from the cabinet and taken from the office from an unauthorized individual.

6. During the April 9, 2013, visit, inspectors observed an IV bag containing clear liquid that was marked as containing Brevital, a controlled substance used for anesthesia. The mixture was not labeled properly and listed no expiration date. It was compounded in the office without sterile hood by a person who was not licensed to do so. The manufacturer of Brevital requires immediate use of the drug upon opening, and then destruction of the drug within 24 hours. This IV bag was dated April 8, 2013, indicating failure to destroy in a timely manner or intent to reuse.

7. Respondent is in civil violation of Rhode Island General Laws §§ 21-28-3.04 and 21-31-3; 5-37-5.1(19) and (26); and 5-31.1-10(19) and (26) for failure to adhere to minimum standards of acceptable practice and for civil violation of state laws concerning standards of practice and administration of controlled substances.

8. The public health, safety, or welfare imperatively requires emergency action, and the continuation of the Respondent's practice without remediation and re-inspection would constitute an immediate danger to the public, pursuant to R.I.

Gen. Laws § 42-35-14(c), §§ 5-37-8 and 5-31.1-19, and §§ 21-28-3.04 and 21-31-3.

ORDER

1. Based on the foregoing, the Director of the Department of Health has determined that the continuation of the practice of Mohammad Banki, M.D., D.M.D., without remediation and re-inspection constitutes an immediate threat to the health, welfare and safety of the public.

2. Accordingly, Respondent shall close his office in Rhode Island until such time that the Department of Health re-inspects the office to ensure compliance with controlled substances laws, and then approves the re-opening of Respondent's Rhode Island office.

3. Respondent may continue to practice medicine and dentistry, and to prescribe controlled substances, but prior to and upon the Department of Health allowing the re-opening of his Rhode Island office, Respondent shall institute and maintain improved security and recordkeeping protocols with regard to his maintenance of controlled substances in his practice.

4. Respondent shall develop new policies and procedures for the direct administration of medication that do not involve pre-pouring or pre-filling syringes.

5. Respondent shall ensure continued operation of a temperature-sensitive alarm that reveals any excursions in the office refrigerator used to store medication.

6. Respondent shall not, and shall not allow anyone in his practice to:

    a. prescribe or administer any drug that is purchased from an unlicensed distributor;

    b. administer any medication intravenously unless the person is licensed to do so, which thus excludes any dental hygienist, dental assistant or emergency medical technician from administering medications intravenously;

    c. purchase any drug from an unlicensed distributor;

    d. compound any drugs unless approved in writing by the Department of Health;

    e. use any misbranded drug;

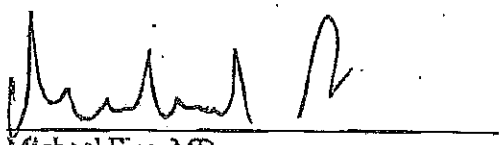
    f. keep food or beverages in the same refrigerator as any medications stored for office use;

g. use any drug that is expired or that is not labeled with an expiration date;

h. pre-pour or prefill any syringes;

i. reuse any drug that is listed by its manufacturer as "single use."

Signed this 12 day of April, 2013.



Michael Fine, MD
Director of the
Department of Health

CERTIFICATION OF SERVICE

A copy of this Immediate Compliance Order was hand-delivered to Mohammed Banki, M.D., D.M.D., 243 Jefferson Boulevard, Warwick, Rhode Island, and was forwarded to his attorney, Christy B. Durant, Esquire, Tate Latham & Durant, 321 South Main Street, Providence, Rhode Island, by the undersigned on April 12, 2013, who herein documents delivery and receipt of this order. TC 4-12-13

(Signature) (Date)