



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., Dr. P.H.
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NYS Department of Health*

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*Executive Deputy Commissioner
NYS Department of Health*

Dennis J. Graziano, Director
Office of Professional Medical Conduct

William P. Dillon, M.D.
Chair

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Vice Chair

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

September 12, 2001

CERTIFIED MAIL-RETURN RECEIPT REQUESTED

Arnold Abramo, M.D.
17 Long Avenue
Hamburg, New York 14075

RE: License No. 080949

Dear Dr. Abramo:

Enclosed please find Order #BPMC 01-207 of the New York State Board for Professional Medical Conduct. This Order and any penalty provided therein goes into effect September 12, 2001.

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 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: Richard Tubiolo, Esq.
Hirsch and Tubiolo, P.C.
1000 Reynolds Arcade Building
16 East Main Street
Rochester, New York 14614-1796

Joseph H. Cahill, Esq.

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

IN THE MATTER
OF
ARNOLD ABRAMO, M.D.

CONSENT
AGREEMENT
AND
ORDER

BPMC No. 01-207

ARNOLD ABRAMO, M.D., (Respondent) says:

That on or about July 23, 1958, I was licensed to practice as a physician in the State of New York, having been issued License No. 080949, by the New York State Education Department.

My current address is 17 Long Avenue, Hamburg, New York 14075, 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 two specifications of professional misconduct.

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

I admit guilt to the two Specifications, in full satisfaction of the charges against me. I hereby agree to the following penalty:

1. I shall fully comply with the terms and conditions of the attached four (4) year monitoring provision (Exhibit B).
2. My license to practice medicine shall be permanently limited to require compliance with the chaperone condition of Exhibit C and the physical examination condition of Exhibit D.

3. Censure and Reprimand.

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

That, except during periods of actual suspension, Respondent shall maintain active registration of Respondent's 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 the licensee possesses his/her license; and

That Respondent 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. Respondent 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. Respondent shall meet with a person designated by the Director of OPMC as directed. Respondent shall respond promptly and provide any and all documents and information within Respondent's 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 the licensee possesses his/her 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.

DATED Aug 24, 2001

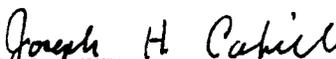

ARNOLD ABRAMO, M.D.
RESPONDENT

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

DATE: 8/27/01


RICHARD TUBIOLO, ESQ.
Attorney for Respondent

DATE: 8/28/01


JOSEPH H. CAHILL, ESQ.
Associate Counsel
Bureau of Professional
Medical Conduct

DATE: 9/6/01

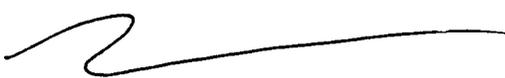

DENNIS J. GRAZIANO
Director
Office of Professional
Medical Conduct

EXHIBIT A

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

-----X

IN THE MATTER : STATEMENT
OF : OF
ARNOLD ABRAMO, M.D. : CHARGES

-----X

Arnold Abramo, M.D., Respondent, was authorized to practice medicine in New York State on July 23, 1958 by the issuance of license number 080949 by the New York State Education Department. Respondent is currently registered with the New York State Education Department to practice medicine for the period through June 30, 2003, with a registration address of 17 Long Avenue, Hamburg, New York 14075.

FACTUAL ALLEGATIONS

- A. Respondent provided medical care to Patient A [patients are identified in appendix] between approximately September 1980 and May 1998.
1. Respondent failed to provide Patient A with a gown or other appropriate draping material when he performed heart/lung examinations on her.
 2. Respondent failed to have a chaperone present in the examination room when he performed heart/lung examinations on Patient A.
 3. Respondent failed to accurately document his care and treatment of Patient A.

B. Respondent provided medical care to Patient B between approximately August 1982 and May 1998.

1. Respondent failed to provide Patient B with a gown or other appropriate draping material when he performed heart/lung examinations on her.
2. Respondent failed to have a chaperone present in the examination room when he performed heart/lung examinations on Patient B.
3. Respondent failed to accurately document his care and treatment of Patient B.

SPECIFICATION OF CHARGES

FIRST SPECIFICATION

NEGLIGENCE ON MORE THAN ONE OCCASION

Respondent is charged with negligence on more than one occasion in violation of N.Y. Education Law §6530(3), in that Petitioner charges two or more of the following:

1. The facts in Paragraphs A and A.1, A and A.2, B and B.1, B and B.2.

SECOND SPECIFICATION

FAILING TO MAINTAIN AN ACCURATE RECORD

Respondent is charged with failing to maintain a record for each patient which accurately reflects the evaluation and

treatment of the patient in violation of N.Y. Education Law
§6530(32), in that Petitioner charges the following:

2. The facts in Paragraphs A.3 and/or B.3.

DATED: *August 28, 2001*
Albany, New York

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

EXHIBIT B

TERMS OF MONITORING

1. Respondent shall conduct himself/herself in all ways in a manner befitting his/her professional status, and shall conform fully to the moral and professional standards of conduct and obligations imposed by law and by his/her profession. Respondent acknowledges that if s/he commits professional misconduct as enumerated in New York State Education Law §6530 or §6531, those acts shall be deemed to be a violation of monitoring terms and conditions and that an action may be taken against Respondent's license pursuant to New York State Public Health Law §230.
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 monitoring 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 monitoring shall resume and any terms of monitoring 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 information required by State rules and regulations regarding controlled substances.

8. Respondent shall enroll in and complete a continuing education program in the area of patient privacy, and/or patient communication skills to be equivalent to at least 18 hours of Continuing Medical Education over and above the recommended minimum standards for practitioners in Family Practice. Said continuing education program shall be subject to the prior written approval of the Director of OPMC and be completed within two (2) years of the effective date of this Order.

9. Respondent shall comply with all terms, conditions, restrictions, limitations and penalties to which he or she 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 monitoring proceeding and/or any such other proceeding against Respondent as may be authorized pursuant to the law.

EXHIBIT C
CHAPERONE

1. Respondent shall, in the course of practicing medicine in New York State, examine and/treat any female patient ten years of age or older only in the presence of a chaperone. The chaperone shall be a female licensed or registered health care professional or other health care worker, shall not be a family member, personal friend, or be in a professional relationship with Respondent which could pose a conflict with the chaperone's responsibilities. The chaperone shall be proposed by Respondent and subject to the written approval of the Director of OPMC.

2. Prior to the approval of any individual as chaperone, Respondent shall cause the proposed chaperone to execute and submit to the Director of OPMC an acknowledgment of her agreement to undertake all of the responsibilities of the role of chaperone. Said acknowledgment shall be made upon a form provided by and acceptable to the Director. Respondent shall provide the chaperone with a copy of the Order and all of its attachments and shall, without fail, cause the approved chaperone to:

- a. Report quarterly to OPMC regarding her chaperoning of Respondent's practice.
- b. Report within 24 hours any failure of Respondent to comply with the Order, including, but not limited to, any failure by Respondent to have the chaperone present when required, any inappropriate comments by Respondent to any patient, and any inappropriate actions by Respondent in the presence of any patient.
- c. Confirm the chaperone's presence at each and every examination and treatment of a female patient by Respondent, by placing her name, title and date in the patient record for each and every visit, and by maintaining a separate log, kept in her own possession, listing the patient name and date of visit for each and every patient visit chaperoned.
- d. Provide copies of the log described in paragraph c, above, to OPMC at least quarterly and also immediately upon the Director's request.

EXHIBIT D

Respondent shall refer all patients requiring breast examinations to an appropriate physician competent to perform such examinations.

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

IN THE MATTER
OF
ARNOLD ABRAMO, M.D.

CONSENT
ORDER

Upon the proposed agreement of ARNOLD ABRAMO, 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 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: 9/10/01



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