



New York State Board for Professional Medical Conduct

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

Barbara A. DeBuono, M.D., M.P.H.
Commissioner of Health

Patrick F. Carone, M.D., M.P.H.
Chair
Ansel R. Marks, M.D., J.D.
Executive Secretary

October 2, 1998

CERTIFIED MAIL-RETURN RECEIPT REQUESTED

Joseph A. DiChiara, M.D.
475 College Avenue
Niagara Falls, New York 15305

RE: License No. 191915

Dear Dr. DiChiara:

Enclosed please find Order #BPMC 98-229 of the New York State Board for Professional Medical Conduct. This Order and any penalty provided therein goes into effect **October 9, 1998.**

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.

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: Thomas Eoannou, Esq.
484 Delaware Avenue
Buffalo, New York 14202
Kevin Roe, Esq.

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

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IN THE MATTER : SURRENDER
OF : ORDER
JOSEPH A. DICHIARA, M.D. : BPMC # 98-229

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JOSEPH A. DICHIARA, M.D., says:

On or about April 14, 1983, I was licensed to practice medicine as a physician in the State of New York having been issued License No. 191915 by the New York State Education Department.

I understand that I have been charged with nine specifications of professional misconduct as set forth in the Statement of Charges, annexed hereto, made a part hereof, and marked as Exhibit A.

I am applying to the State Board for Professional Medical Conduct for an agreement to allow me to surrender my license as a physician in the State of New York and request that the Board issue this Surrender Order.

I do not contest the allegations and specifications set forth in the Statement of Charges (Exhibit A).

I understand that, in the event that this proposed agreement is not granted by the State Board for Professional Medical Conduct, 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 proposed agreement 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 State Board for Professional Medical Conduct shall be made without prejudice to the continuance of any disciplinary proceeding and the final determination by a Committee on Professional Medical Conduct pursuant to the provisions of the Public Health Law.

I agree that in the event the State Board for Professional Medical Conduct agrees with my proposal, this Order shall be issued striking my name from the roster of physicians in the State of New York without further notice to me.

I am making this agreement of my own free will and accord and not under duress, compulsion, or restraint of any kind or manner.


JOSEPH A. DICHIARA, M.D.
Respondent

Sworn to before me on this
18th day of Sept., 1998.


NOTARY PUBLIC

My commission expires:

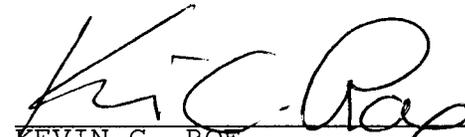
DELWYN MILANDER
Notary Public, State of New York
Qualified in Erie County
My Commission Expires September 3, 2000

AGREED TO:

Date: Sept 17th, 1998


THOMAS IOANNOU, ESQ
Attorney for Respondent

Date: Sept 24, 1998


KEVIN C. ROE
Associate Counsel
Bureau of Professional
Medical Conduct

Date: September 24, 1998


ANNE F. SAILE
Director, Office of
Professional Medical Conduct

ORDER

Upon the proposed agreement of JOSEPH A. DICHIARA, M.D., to surrender his license as a physician in the State of New York, which proposed agreement is made a part hereof, it is AGREED TO and

ORDERED, that the proposed agreement and the provisions thereof are hereby adopted; it is further

ORDERED, that the name of Respondent be stricken from the roster of physicians in the State of New York; and it is further

ORDERED, that this Order shall take effect as of the date of the personal service of this Order upon Respondent, upon receipt by Respondent of this Order via certified mail, or seven days after mailing of this Order via certified mail, whichever is earliest.

DATED: _____

9/29/98

Patrick F. Carone, M.D.

PATRICK F. CARONE, M.D., M.P.H.
Chair
State Board for Professional
Medical Conduct

EXHIBIT A

STATE BOARD FOR PROFESSIONAL MEDICAL CONDUCT

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IN THE MATTER : STATEMENT
OF : OF
JOSEPH A. DICHIARA, M.D. : CHARGES

-----X

JOSEPH A. DICHIARA, M.D., the Respondent, was authorized to practice medicine in New York State on April 14, 1993 by the issuance of license number 191915 by the New York State Education Department.

FACTUAL ALLEGATIONS

A. Respondent treated Patient A (patients are identified in the appendix) on or about June 24, 1995, at Lockport Memorial Hospital, Lockport, New York. Respondent's care and treatment of Patient A failed to meet acceptable standards of medical care, in that:

1. Respondent failed to maintain a record which accurately reflects the evaluation and treatment of Patient A.
2. Respondent failed to perform a pelvic examination of Patient A.
3. Respondent failed to palpate Patient A's abdomen to ascertain the status of abdominal wall guarding.
4. Respondent failed to examine for or note the presence or absence of bowel sounds.
5. Respondent failed to perform or order ultrasonography.
6. Respondent failed to order a gynecological consultation.

8. Respondent failed to arrange proper patient follow up for further evaluation.
9. Respondent improperly discharged Patient A.

B. Respondent treated Patient B on December 15, 1995, at Columbus Hospital, Buffalo, New York. Respondent's care and treatment of Patient B failed to meet acceptable standards of medical care, in that:

1. Respondent failed to maintain a record which accurately reflects the evaluation and treatment of Patient B.
2. Respondent improperly recorded Patient B's serum electrolytes "within normal limits" when in fact they were significantly abnormal.
3. Respondent failed to observe, note and act upon Patient B's metabolic acidosis.
4. Respondent failed to observe, note and act upon lab results which indicated a dramatic "left shift" in the white blood cell differential.
5. Respondent failed to order a radiographic abdominal series.
6. Respondent improperly discharged Patient B.

C. Respondent treated Patient C on December 25, 1995 at Mount St. Mary's Hospital, Buffalo, New York. Respondent's care and treatment of Patient C failed to meet acceptable standards of medical care, in that:

1. Respondent failed to maintain a record which accurately reflects the evaluation and treatment of Patient C.
2. Respondent failed to properly and timely intubate Patient C although signs and symptoms warranted such.

3. Respondent failed to make a timely diagnosis of pulmonary embolism.
4. Respondent failed to timely order and/or administer a thrombolytic agent.

D. From on or about January 1, 1996, to the present, Respondent has habitually used codeine, morphine, cocaine, and/or ritalin, as well as other drugs having similar effects.

SPECIFICATIONS OF MISCONDUCT

FIRST THROUGH THIRD SPECIFICATIONS

GROSS NEGLIGENCE

Respondent is charged with gross negligence in violation of N.Y. Educ. Law §6530(4) (McKinney Supp. 1998), in that Petitioner charges:

1. The facts in paragraphs A and A.1, A.2, A.3, A.4, A.5, A.6, A.7, A.8, and/or A.9.
2. The facts in paragraphs B and B.1, B.2, B.3, B.4, B.5, B.6, B.7, and/or B.8.
3. The facts in paragraphs C and C.1, C.2, C.3, and/or C.4.

FOURTH THROUGH SIXTH SPECIFICATIONS

GROSS INCOMPETENCE

Respondent is charged with gross incompetence in violation of N.Y. Educ. Law §6530(6) (McKinney Supp. 1998), in that Petitioner charges:

4. The facts in paragraphs A and A.1, A.2, A.3, A.4, A.5, A.6, A.7, A.8, and/or A.9.
5. The facts in paragraphs B and B.1, B.2, B.3, B.4, B.5, and/or B.6.
6. The facts in paragraphs C and C.1, C.2, C.3, and/or C.4.

SEVENTH SPECIFICATION

NEGLIGENCE ON MORE THAN ONE OCCASION

Respondent is charged with negligence on more than one occasion in violation of N.Y. Educ. Law §6530(3) (McKinney Supp. 1998), in that Petitioner charges two or more of the following:

7. The facts in paragraphs A and A.1, A.2, A.3, A.4, A.5, A.6, A.7, A.8, A.9; B and B.1, B.2, B.3, B.4, B.5, B.6; C and C.1, C.2, C.3, and/or C.4.

EIGHTH SPECIFICATION

INCOMPETENCE ON MORE THAN ONE OCCASION

Respondent is charged with incompetence on more than one occasion in violation of N.Y. Educ. Law §6530(5) (McKinney Supp. 1998), in that Petitioner charges two or more of the following:

8. The facts in paragraphs A and A.1, A.2, A.3, A.4, A.5, A.6, A.7, A.8, A.9; B and B.1, B.2, B.3, B.4, B.5, B.6; C and C.1, C.2, C.3, and/or C.4.

NINETH SPECIFICATION

DRUG ABUSE

Respondent is charged with being dependent on or a habitual user of narcotics, barbiturates, amphetamines, hallucinogens, or other drugs having a similar effect in violation of N.Y. Educ. Law §6530(8) (McKinney Supp. 1998), in that Petitioner charges:

9. The facts in paragraph D.

DATED: _____, 1998

Albany, New York

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