



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.
*Commissioner
NYS Department of Health*

Dennis P. Whalen
*Executive Deputy Commissioner
NYS Department of Health*

Dennis J. Graziano, Director
Office of Professional Medical Conduct

William P. Dillon, M.D.
Chair

Michael A. Gonzalez, R.P.A.
Vice Chair

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

July 10, 2003

CERTIFIED MAIL-RETURN RECEIPT REQUESTED

Robert D. Colucci, D.O.



Revised Letter – Effective Date of Order has been changed

Re: License No. 199981

Dear Dr. Colucci:

Enclosed please find Order #BPMC 03-111 of the New York State Board for Professional Medical Conduct. This order and any penalty provided therein goes into effect **May 6, 2003.**

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 the 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: Bruce M. Brady, Esq.
Callan, Koster, Brady and 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
Robert Colucci, D.O.**

**CONSENT
ORDER**

BPMC No. 03-111

Upon the application of (Respondent) Robert Colucci, D.O. in the attached Consent Agreement and Order, which is made a part of this Consent Order, it is

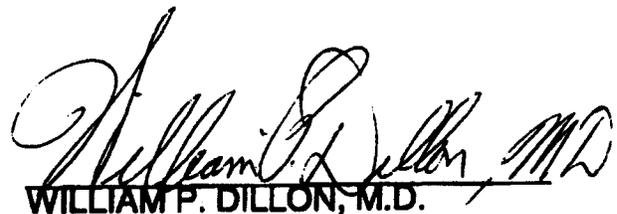
ORDERED, that the Consent Agreement, and its terms, are adopted and **SO ORDERED**, and it is further

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: 5/2/03



WILLIAM P. DILLON, 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
Robert Colucci, D.O.**

**CONSENT
AGREEMENT
AND
ORDER**

Robert Colucci, D.O., representing that all of the following statements are true, deposes and says:

That on or about July 1, 1995, I was licensed to practice as a physician in the State of New York, and issued License No. 199981 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 understand that the New York State Board for Professional Medical Conduct has charged me with seven 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 third, fifth, sixth and seventh specifications, except as to exclude the factual allegations contained in Paragraphs A (1)(d) and (e) and Paragraph A2, in full satisfaction of the charges against me, and agree to the following penalty:

Pursuant to §230-a(2) of the Public Health law, my license to practice medicine in the State of New York shall be suspended for a period of 36 months, with the first 3 months to be served as a period of actual suspension and with the last 33 months of said suspension to be

stayed.

Pursuant to §230-a(9) of the Public Health Law, I shall be placed on probation for a period of 3 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 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 4/8/03


Robert Colucci, D.O.
RESPONDENT

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

DATE: 4/8/03


Bruce Brady, ESQ.
Attorney for Respondent

DATE: 4/9/03


Courtney Berry
Associate Counsel
Bureau of Professional Medical Conduct

DATE: 4/22/03


DENNIS J. GRAZIANO
Director
Office 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 New York State Education Law §6530 or §6531 shall constitute a violation of probation and may subject Respondent to an action pursuant to New York State Public Health Law §230(19).
2. 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 such 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, charges, convictions or disciplinary actions by any local, state or federal agency, institution or facility, within thirty (30) days of each action.
3. 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.
4. 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 section 171(27)]; State Finance Law section 18; CPLR section 5001; Executive Law section 32].
5. The probation period shall toll when Respondent is not engaged in active medical practice in New York State for a period of thirty (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 thirty (30) day period. Respondent shall then notify the Director again at least fourteen (14) days before returning to active practice. Upon Respondent's return to active practice in New York State, the probation period will resume and Respondent shall fulfill any unfulfilled probation terms.
6. 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 and/or hospital charts; and interviews with or periodic visits with Respondent and Respondent's staff at practice locations or OPMC offices.
7. 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.
8. Respondent shall take and complete a course in physician-patient boundaries, or equivalent program proposed by Respondent and subject to the prior written approval of the Director. Respondent shall complete the course or program within ninety (90) days of the effective date of this Order, unless the Director

of OPMC approves an extension in writing.

9. Respondent shall comply with this Order and all its terms, and shall bear all associated compliance costs. Upon receiving evidence of noncompliance with, or 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.

IN THE MATTER
OF
Robert Colucci, D.O.

STATEMENT
OF
CHARGES

Robert Colucci, D.O., the Respondent, was authorized to practice medicine in New York State on or about July 1, 1995, by the issuance of license number 199981 by the New York State Education Department.

FACTUAL ALLEGATIONS

- A. Respondent treated Patient A (identified in the attached appendix) from on or about January 30, 1998 until or about the end of May 1999. Respondent treated Patient A for psychiatric conditions at the Pederson-Krag Clinic, located in Huntington, New York, from on or about January 30, 1998 until on or about July 13, 1998. Respondent prescribed medication to Patient A, including Paxil and Prozac. Respondent prescribed Prozac to Patient A, long- distance, until or about the end of May 1999.
1. In March 1999, Respondent engaged in the following inappropriate behavior with Patient A:
 - a. Respondent took Patient A to dinner
 - b. Respondent took Patient A to a bar
 - c. Respondent consumed alcohol with Patient A
 - d. Respondent kissed Patient A
 - e. Respondent engaged in sexual intercourse with Patient A while in Respondent's car.

2. Respondent, with intent to deceive by withholding information, telephoned Patient A on or about November 4, 2000, asking that Patient A not pursue the complaint against Respondent with the Department of Health.

B. Respondent was terminated from Pederson-Krag Clinic on or about August 1, 2000. On or about August 4, 2000, Respondent completed an application for employment at Nassau University Medical Center.

1. Respondent answered "No" to questions concerning staff membership, employment in any institution, clinical privileges, prerogatives/rights on any medical staff or health care organization being voluntarily or involuntarily denied, revoked, suspended, relinquished, withdrawn, reduced, limited, placed on probation, not renewed or currently pending or under investigation.

a. Respondent did so knowingly and with intent to deceive.

2. In response to the question: List each hospital or institution in which you have had any association, employment, practice or privilege during the past ten years, Respondent failed to list Pederson-Krag Clinic and the reason for his termination.

a. Respondent did so knowingly and with intent to deceive.

SPECIFICATION OF CHARGES

FIRST SPECIFICATION

SEXUAL CONTACT BETWEEN PSYCHIATRIST AND PATIENT

Respondent is charged with committing professional misconduct as defined in N.Y. Educ. Law §6530(44)(a) by engaging in physical contact of a sexual nature with a patient, as alleged in the facts of:

1. Paragraph A and its subparagraphs.

SECOND SPECIFICATION

MORAL UNFITNESS

Respondent is charged with committing professional misconduct as defined in N.Y. Educ. Law §6530(20) by engaging in conduct in the practice of the profession of medicine that evidences moral unfitness to practice as alleged in the facts of the following:

2. Paragraph A and its subparagraphs; Paragraph B and its subparagraphs.

THIRD SPECIFICATION

GROSS NEGLIGENCE

Respondent is charged with committing professional misconduct as defined in N.Y. Educ. Law §6530(4) by practicing the profession of medicine with gross negligence on a particular occasion as alleged in the facts of the following:

3. Paragraph A and A1(a through e).

FOURTH SPECIFICATION
GROSS INCOMPETENCE

Respondent is charged with committing professional misconduct as defined in N.Y. Educ. Law §6530(6) by practicing the profession of medicine with gross incompetence as alleged in the facts of the following:

4. Paragraph A and A1(a through e)

FIFTH SPECIFICATION
FRAUDULENT PRACTICE

Respondent is charged with committing professional misconduct as defined by N.Y. Educ. Law §6530(2) by practicing the profession of medicine fraudulently as alleged in the facts of the following:

5. Paragraph A and A2; Paragraph B and its subparagraphs.

SIXTH SPECIFICATION
FALSE REPORT

Respondent is charged with committing professional misconduct as defined in N.Y. Educ. Law §6530(21) by wilfully making or filing a false report, or failing to file a report required by law or by the department of health or the education department, as alleged in the facts of:

6. Paragraph B and its subparagraphs.

SEVENTH SPECIFICATION
VIOLATION OF PUBLIC HEALTH LAW §2805(k)

Respondent is charged with committing professional misconduct as defined in N.Y. Educ. Law §6530(14) by violating Public Health Law §2805-k(a) and (b), as

alleged in the facts of:

7. Paragraph B and its subparagraphs.

DATED:

April 9
January 9, 2003
New York, New York



Roy Nemerson
Deputy Counsel
Bureau of Professional
Medical Conduct