



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

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

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

PUBLIC

May 4, 2004

CERTIFIED MAIL-RETURN RECEIPT REQUESTED

A. Byron Collins, M.D.
32 Genesee Street
Hornell, NY 14843

Re: License No. 084212

Dear Dr. Collins:

Enclosed please find Order #BPMC 04-91 of the New York State Board for Professional Medical Conduct. This order and any penalty provided therein goes into effect May 11, 2004.

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: Thomas M. Prato, Esq.
Brown & Tarantino, LLP
Times Square Building
43 Exchange Street, Suite 300
Rochester, NY 14614

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

IN THE MATTER
OF
A. BYRON COLLINS, M.D.

CONSENT
ORDER

BPMC No. 04-91

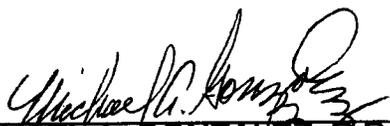
Upon the application of (Respondent) A. BYRON COLLINS, M.D. in the attached Consent Agreement and Order, which is made a part of this Consent Order, it is

ORDERED, that the Consent Agreement, and its terms, are adopted and 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: 4/30/04


MICHAEL A. GONZALEZ, R.P.A.
Vice Chair
State Board for Professional Medical Conduct

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

**IN THE MATTER
OF
A. BYRON COLLINS, M.D.**

**CONSENT
AGREEMENT
AND
ORDER**

A. BYRON COLLINS, M.D., representing that all of the following statements are true, deposes and says:

That on or about July 18, 1960, I was licensed to practice as a physician in the State of New York, and issued License No. 084212 by the New York State Education Department.

My current address is 32 Genesee Street, Hornell, New York 14843, 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 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 allegations contained in the second specification, in full satisfaction of the charges against me, and deny any other specifications, and voluntarily agree to the following penalty:

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

Pursuant to §230-a(3) of the Public Health Law, I will not perform the

surgical procedures specified in Exhibit "C."

I further agree that the Consent Order shall impose the following conditions which conditions will not affect my ability to practice my specialty of general surgery;

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.

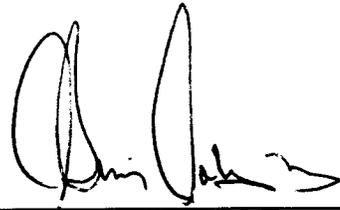
I ask the Board to adopt this Consent Agreement.

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 4/8/04



A. Byron Collins, M.D.
RESPONDENT

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

DATE: 04/15/04


THOMAS M. PRATO, ESQ.
Attorney for Respondent

DATE: 4-19-04


LEE A. DAVIS
Assistant Counsel
Bureau of Professional Medical Conduct

DATE: 4/28/04


DENNIS J. GRAZIANO
Director
Office of Professional Medical Conduct

EXHIBIT "A"

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

**IN THE MATTER
OF
A. BYRON COLLINS, M.D.**

**STATEMENT
OF
CHARGES**

A. BYRON COLLINS, M.D., the Respondent, was authorized to practice medicine in New York State on or about July 18, 1960, by the issuance of license number 084212 by the New York State Education Department. Respondent is currently registered with the New York State Education Department to practice medicine through August 31, 2004, with a practice address of 32 Genesee Street, Hornell, New York 14843.

FACTUAL ALLEGATIONS

- A. Respondent provided medical care and treatment to Patient A, a female patient 87 years old when treated, from on or about March 30, 2001 through on or about April 13, 2001 at St. James Mercy Hospital in Hornell, New York for a non-displaced intertrochanteric fracture of the right hip. Respondent's care and treatment of Patient A deviated from accepted standards of medical care in the following respects:
1. Respondent failed to timely order, and/or record the timely ordering of anticoagulation medication regarding the April 6, 2001 surgery for Patient A, who presented with a history of atrial fibrillation and a femoral artery graft;
 2. Respondent failed to obtain a current international normalized ratio (INR) and/or failed to record the INR at the time Coumadin was ordered to determine the appropriate dosage of medication for Patient A, who was taking Coumadin prior to her hospital admission; and
 3. Respondent failed to order, and/or record the timely ordering of

anticoagulation medication regarding the April 6, 2001 hip surgery to prevent a post-surgical deep-vein thrombosis (DVT).

B. Respondent provided medical care and treatment to Patient B, a female patient 73 years old when treated, from on or about December 15, 1998 through on or about December 31, 1998 at St. James Mercy Hospital in Hornell, New York, for a subtrochanteric fracture of her left hip.

Respondent's care and treatment of Patient B deviated from accepted standards of medical care in the following respects:

1. Respondent failed to order, and/or record the timely ordering of anticoagulation medication regarding the December 16, 1998 hip surgery to prevent a post-surgical deep-vein thrombosis (DVT).

C. Respondent provided medical care and treatment to Patient C, a female patient 35 years old when treated, from on or about July 14, 1999 through on or about July 15, 1999 at St. James Mercy Hospital in Hornell, New York, for cholecystitis, incidental tubal ligation and incidental appendectomy.

Respondent's care and treatment of Patient C deviated from accepted standards of medical care in the following respects:

1. Respondent inappropriately used surgical clips to occlude the fallopian tubes when performing the tubal ligation; and
2. Respondent inappropriately failed to remove a section of the fallopian tubes when performing the tubal ligation.

D. Respondent provided medical care and treatment to Patient D, a female patient 42 years old when treated, from on or about June 9, 1999 through on or about June 10, 1999 at St. James Mercy Hospital in Hornell, New York, for cholecystitis, cyst removal, incidental tubal ligation and incidental appendectomy. Respondent's care and treatment of Patient D deviated from

accepted standards of medical care in the following respects:

1. Respondent inappropriately used surgical clips to occlude the fallopian tubes when performing the tubal ligation; and
2. Respondent inappropriately failed to remove a section of the fallopian tubes when performing the tubal ligation.

SPECIFICATION OF CHARGES

FIRST SPECIFICATION

NEGLIGENCE 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. A. and A.1, A. and A.2, A. and A.3, B. and B.1, C. and C.1, C. and C.2, D. and D.1 and D. and D.2.

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. A. and A.1, A. and A.2, A. and A.3 and B. and B.1.

DATED: April 19, 2004
Albany, New York


Peter D. Van Buren
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 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 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.
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 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.
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 section 171(27)]; State Finance Law section 18; CPLR section 5001; Executive Law section 32].
6. 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.
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 and/or hospital charts; 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.

9. Respondent shall enroll in and complete a continuing education program in the area of intraoperative and post operative anticoagulation to be completed during the first year of probation. This continuing education program is subject to the Director of OPMC's prior written approval.

PRACTICE MONITOR

10. 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.
11. 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.

EXHIBIT "C"

GYNECOLOGY PRIVILEGES

GYN006	Conization of Cervix - Cold Knife ✓
GYN007	Conization of Cervix - Hot Knife ✓
GYN008	Perineotomy
GYN009	Perineorrhaphy
GYN012	Repair of Cysto-Urethrocele
GYN015	Vulvectomy - Simple
GYN016	Vulvectomy - Radical With Groin Dissection
GYN018	Hysterectomy - Vaginal
GYN022	Pre-Sacral Neurectomy
GYN035	Hymenotomy
GYN064	Perineoplasty
GYN076	Removal Foreign Body From Uterus

OUTPATIENT GYNECOLOGICAL SURGERY PRIVILEGES

OPGS02 Endometrial Biopsy

OUTPATIENT ORTHOPEDIC PRIVILEGES

OPORT9 De Quervain's Disease

ORTHOPEDIC PRIVILEGES

ORTH08	ORIF of Fractured Hip ✓
ORTH09	Prosthetic Replacement/Fractured Hip
ORTH10	ORIF - Long Bones
ORTH11	ORIF - Ankle
ORTH12	ORIF - Patella
ORTH13	ORIF - Radial Head
ORTH14	ORIF - Olecranon
ORTH18	ORIF of Fractured Elbow
ORTH19	ORIF of Fractured Wrist
ORTH20	ORIF - Articular Cartilage of Shoulder
ORTH25	Septic Joints
ORTH27	Exostosis
ORTH29	Bone Replacement/Substitute/Graft
ORTH31	Ligament Repair of Reconstruction
ORTH39	Ligament Release, Transfer, Replacement.