



New York State Board for Professional Medical Conduct

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

Richard F. Daines, M.D.
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NYS Department of Health
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Office of Professional Medical Conduct

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

March 6, 2008

CERTIFIED MAIL-RETURN RECEIPT REQUESTED

David C. Plache, M.D.
835 Auburn Avenue
Buffalo, NY 14222

Re: License No. 231885

Dear Dr. Plache:

Enclosed is a copy of Order #BPMC 08-38 of the New York State Board for Professional Medical Conduct. This order and any penalty provided therein goes into effect March 13, 2008.

If the penalty imposed by this Order is a surrender, revocation or suspension, you are required to deliver your license and registration within five (5) days of receipt of this Order. If the document(s) are lost, misplaced or destroyed, you are required to submit to this office an affidavit to that effect. Enclosed for your convenience is an affidavit. Please complete and sign the affidavit before a notary public and return it to: **Office of Professional Medical Conduct, New York State Department of Health, 433 River Street, Suite 303, Troy, NY 12180-2299**

Sincerely,

Ansel R. Marks, M.D., J.D.
Executive Secretary
Board for Professional Medical Conduct

Enclosure

cc: Amy C. Martoche, Esq.
Connors & Vilardo, LLP
1000 Liberty Building
424 Main Street
Buffalo, NY 14202

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

IN THE MATTER
OF
DAVID C. PLACHE, M.D.

SURRENDER
ORDER

BPMC No. #08-38

Upon the application of (Respondent) DAVID C. PLACHE, M.D. to Surrender his license as a physician in the State of New York, which is made a part of this Surrender Order, it is

ORDERED, that the Surrender, and its terms, are adopted and it is further

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

ORDERED, that this Order shall be effective upon issuance by the Board, either

- by mailing of a copy of this Surrender Order, either by first class mail to Respondent at the address in the attached Surrender Application or by certified mail to Respondent's attorney, OR
- upon facsimile transmission to Respondent or Respondent's attorney,

whichever is first.

SO ORDERED.

DATE: 3-5-08


KENDRICK A. SEARS, 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
DAVID C. PLACHE, M.D.**

**SURRENDER
of
LICENSE**

DAVID C. PLACHE, M.D., representing that all of the following statements are true, deposes and says:

That on or about April 5, 2004, I was licensed to practice as a physician in the State of New York and issued License No. 231885 by the New York State Education Department.

My current address is 835 Auburn Avenue, Buffalo, New York 14222, 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 five specifications of professional misconduct.

A copy of the Statement of Charges, marked as Exhibit "A", is attached to and part of this Surrender of License.

I am applying to the State Board for Professional Medical Conduct for permission to surrender my license as a physician in the State of New York on the grounds that I do not contest the first specification in full satisfaction of the charges against me and deny all remaining allegations and specifications. Neither the election not to contest the first specification of the Statement of Charges, nor the Surrender Application and Order, nor the Statement of Charges shall be admissible or be used or be relied upon in any way outside

these proceedings involving the New York State Department of Health except that they may be used by the duly authorized physician disciplinary agency of another state or jurisdiction, depending on the law in such other state or jurisdiction.

I agree that pursuant to Section 230-a (6) of the Public Health Law that I will have a permanent limitation on the issuance of any further license in that I will be prohibited from applying for a re-issuance of my medical license.

I ask the Board to accept my Surrender of License, and I agree to be bound by all of the terms set forth in attached Exhibit "B".

I understand that, if the Board does not accept my Surrender of License, none of its terms shall bind me or constitute an admission of any of the acts of misconduct alleged; this application 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.

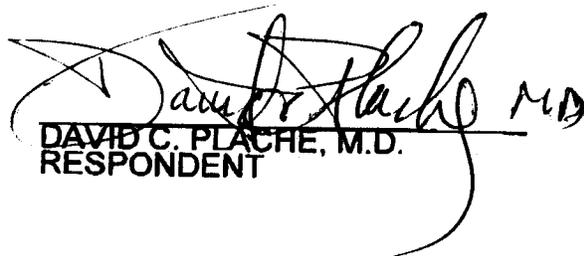
I agree that, if the Board accepts my Surrender of License, the Chair of the Board shall issue a Surrender Order in accordance with its terms. I agree that this Order shall take effect upon its issuance by the Board, either by mailing of a copy of the Surrender Order by first class mail to me at the address in this Surrender of License, or to my attorney by certified mail, or upon facsimile transmission to me or my attorney, whichever is first. The Surrender Order, this agreement, and all attached exhibits shall be public documents, with only patient identities, if any, redacted. As public documents, they may be posted on the Department's website.

I ask the Board to accept this Surrender of License, which I submit of my own free will and not under duress, compulsion or restraint. In consideration of

the value to me of the Board's acceptance of this Surrender of License, 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 Surrender Order for which I apply, whether administratively or judicially, and I agree to be bound by the Surrender Order.

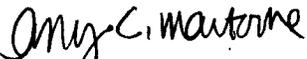
I understand and agree that the attorney for the Department, the Director of the Office of Professional Medical Conduct and the Chair of the State Board for Professional Medical Conduct each retain complete discretion either to enter into the proposed agreement and Order, based upon my application, or to decline to do so. I further understand and agree that no prior or separate written or oral communication can limit that discretion.

DATE 2-26-2008


DAVID C. PLACHE, M.D.
RESPONDENT

The undersigned agree to Respondent's attached Surrender of License and to its proposed penalty, terms and conditions.

DATE: February 24, 2008



AMY MARTOCHE, ESQ.
Attorney for Respondent

DATE: 2-28-08



LEE A. DAVIS
Assistant Counsel
Bureau of Professional Medical Conduct

DATE: 3/4/08



KEITH W. SERVIS
Director
Office of Professional Medical Conduct

EXHIBIT "A"

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

IN THE MATTER
OF
DAVID C. PLACHE, M.D.

STATEMENT
OF
CHARGES

DAVID C. PLACHE, M.D., the Respondent, was authorized to practice medicine in New York State on or about April 5, 2004, by the issuance of license number 231885 by the New York State Education Department.

FACTUAL ALLEGATIONS

- A. Respondent provided medical care to Patient A [patients are identified in the attached Appendix], a male patient who was 14 years old when first treated, at various times between September 19, 2005 and September 19, 2006 at the Pediatric Diabetes & Endocrinology Center of Niagara, 621 Tenth Street, Niagara Falls, New York (hereinafter "Pediatric Center"), for enuresis, hematuria, abdominal pains and a sore throat. Respondent's treatment of Patient A deviated from accepted standards of medical care in the following respects:
1. Respondent, on one or more occasions, inappropriately touched Patient A's genitals.
- B. Respondent provided medical care to Patient B, a male patient who was 10 years old, between October 5, 2005 and December 14, 2005 at the Pediatric Center for issues related to obesity and gynecomastia. Respondent's treatment of Patient B deviated from accepted standards of medical care in the following respects:

1. Respondent, on one or more occasions, inappropriately touched Patient B's genitals.
- C. Respondent provided medical care to Patient C, male patient who was 18 years old when first treated, between September 12, 2005 and August 16, 2006 at the Pediatric Center. Patient C had been referred for hormone therapy to transition Patient C from male to female. Respondent's treatment of Patient C deviated from accepted standards of medical care in the following respects:
1. Respondent performed an excessive number of genital examinations on Patient C, given Patient C's presenting condition.
 2. Respondent performed unnecessarily long genital examinations of Patient C given Patient C's presenting condition.

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 the following:

1. Paragraphs C. and C.1, and C. and C.2.

SECOND THROUGH FIFTH SPECIFICATIONS

ABUSE OF PATIENT

Respondent is charged with committing professional misconduct as defined in N.Y. Educ. Law § 6530(31) by willfully harassing, abusing, or intimidating a patient either physically or verbally:

2. Paragraph A. and A. 1.
3. Paragraph B. and B.1.

4. Paragraph C. and C.1. and
5. Paragraph C. and C.2.

DATE: February 28, 2008
Albany, New York



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

EXHIBIT "B"

**GUIDELINES FOR CLOSING A MEDICAL PRACTICE
FOLLOWING MEDICAL LICENSE REVOCATION, SURRENDER
OR SUSPENSION OF SIX MONTHS OR MORE**

1. Respondent shall immediately cease the practice of medicine in compliance with the terms of the Surrender Order. Respondent shall not represent that Respondent is eligible to practice medicine and shall refrain from providing an opinion as to professional practice or its application.
2. Within 30 days of the Surrender Order's effective date, Respondent shall notify all patients that Respondent has ceased the practice of medicine, and shall refer all patients to another licensed practicing physician for continued care, as appropriate.
3. Within 30 days of the Surrender Order's effective date, Respondent shall deliver Respondent's original license to practice medicine in New York State and current biennial registration to the Office of Professional Medical Conduct (OPMC) at 433 River Street Suite 303, Troy, NY 12180-2299.
4. Respondent shall arrange for the transfer and maintenance of all patient medical records. Within 30 days of the Surrender Order's effective date, Respondent shall notify OPMC of these arrangements, including the name, address, and telephone number of an appropriate contact person, acceptable to the Director of OPMC, who shall have access to these records. Original records shall be retained for patients for at least 6 years after the last date of service, and, for minors, for at least 6 years after the last date of service or 3 years after the patient reaches the age of majority, whichever time period is longer. Records shall be maintained in a safe and secure place that is reasonably accessible to former patients. The arrangements shall ensure that all patient information is kept confidential and is available only to authorized persons. When a patient or authorized representative requests a copy of the patient's medical record, or requests that the original medical record be sent to another health care provider, a copy of the record shall be provided promptly or sent to the patient at reasonable cost (not to exceed 75 cents per page). Radiographic, sonographic and like materials shall be provided at cost. A qualified person shall not be denied access to patient information solely because of inability to pay.
5. Within 15 days of the Surrender Order's effective date, if Respondent holds a Drug Enforcement Agency (DEA) certificate, Respondent shall advise the DEA in writing of the licensure action and shall surrender Respondent's DEA controlled substance certificate, privileges, and any unused DEA #222 U.S. Official Order Forms Schedules 1 and 2, to the DEA.
6. Within 15 days of the Surrender Order's effective date, Respondent shall return any unused New York State official prescription forms to the Bureau of Narcotic Enforcement of the New York State Department of Health. Respondent shall have all prescription pads bearing Respondent's name destroyed. If no other licensee is providing services at Respondent's practice location, Respondent shall dispose of all medications.

7. Within 15 days of the Surrender Order's effective date, Respondent shall remove from the public domain any representation that Respondent is eligible to practice medicine, including all related signs, advertisements, professional listings whether in telephone directories or otherwise, professional stationery or billings. Respondent shall not share, occupy or use office space in which another licensee provides health care services.
8. Respondent shall not charge, receive or share any fee or distribution of dividends for professional services rendered (by Respondent or others) while barred from practicing medicine. Respondent may receive compensation for the reasonable value of services lawfully rendered, and disbursements incurred on a patient's behalf, before the Surrender Order's effective date.
9. If Respondent is a shareholder in any professional service corporation organized to engage in the practice of medicine and Respondent's license is revoked, surrendered or suspended for 6 months or more pursuant to this Surrender Order, Respondent shall, within 90 days of the Surrender Order's effective date, divest all financial interest in the professional services corporation in accordance with New York Business Corporation Law. If Respondent is the sole shareholder in a professional services corporation, the corporation must be dissolved or sold within 90 days of the Surrender Order's effective date.
10. Failure to comply with the above directives may result in civil or criminal penalties. Practicing medicine when a medical license has been suspended, revoked or annulled is a Class E Felony, punishable by imprisonment for up to 4 years, under N.Y. Educ. Law § 6512. Professional misconduct may result in penalties including revocation of the suspended license and/or fines of up to \$10,000 for each specification of misconduct, under N.Y. Pub. Health Law § 230-a.