



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

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

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

PUBLIC

June 19, 2003

CERTIFIED MAIL-RETURN RECEIPT REQUESTED

Gene Brignoni, M.D.
107 Northern Blvd. STE 306
Great Neck, NY 11554-1555

RE: License No. 156598

Dear Dr. Brignoni:

Enclosed please find Order #BPMC 03-160 of the New York State Board for Professional Medical Conduct. This Order and any penalty provided therein goes into effect June 26, 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 or receipt of the 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

If the penalty imposed by the Order is a fine, please write the check payable to the New York State Department of Health. Noting the BPMC Order number on your remittance will assist in proper crediting. Payments should be directed to the following address:

Bureau of Accounts Management
New York State Department of Health
Corning Tower, Room 1258
Empire State Plaza
Albany, New York 12237

Sincerely,

A handwritten signature in black ink, appearing to read "Ansel R. Marks". The signature is stylized and cursive.

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

Executive Secretary

Board for Professional Medical Conduct

cc: Joseph A. Hanshe, Esq.
Messrs. Fager & Amsler
90 Merrick Avenue
East Meadow, NY 11554-1555

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

IN THE MATTER
OF
GENE BRIGNONI, M.D.

CONSENT
ORDER

BPMC No. 03-160

Upon the application of (Respondent) GENE BRIGNONI, 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: 6/18/03

William P. Dillon, M.D.

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
GENE BRIGNONI, M.D.

CONSENT
AGREEMENT
AND
ORDER

GENE BRIGNONI, M.D., representing all statements herein made to be true, deposes and says:

That on or about November 7, 1983, I was licensed to practice as a physician in the State of New York, having been issued License No. 156598 by the New York State Education Department.

My current address is ~~East Meadow Medical Group, 350 S. Broadway,~~ ^{107 NORTHERN BLVD. STE. 306, GREAT} ^{NECK} ¹¹⁰²¹ Hicksville, New York, 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 nine (9) specifications of professional misconduct.

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

I cannot successfully defend against the First Specification, in full satisfaction of the charges against me. I hereby agree to the following penalty:

- Pursuant to §230-a(3) of the Public Health Law, my license to practice medicine in the State of New York shall be limited to a non-surgical practice.
- 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 three (3) years, such suspension shall be entirely stayed.

- Pursuant to §230-a(9) of the Public Health Law, I shall be placed on probation for a period of three (3) years, subject to the terms set forth in Exhibit "B".
- I shall be subjected to a fine in the amount of \$2,000, pursuant to §230-a(7) and (9) of the Public Health law, to be paid within one (1) year from the date of the Order issued herein.

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.


GENE BRIGNONI, M.D.
RESPONDENT

DATED 1/25/2003

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

DATE: 1/22/2003



JOSEPH HANSHE, ESQ.
Attorney for Respondent

DATE: 6/11/03



DAVID W. SMITH
Associate Counsel
Bureau of Professional
Medical Conduct

DATE: 16 June 2003



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
GENE BRIGNONI, M.D.

STATEMENT
OF
CHARGES

GENE BRIGNONI, M.D., the Respondent, was authorized to practice medicine in New York State on or about November 7, 1983, by the issuance of license number 156598 by the New York State Education Department.

FACTUAL ALLEGATIONS

- A. On or about September 15, 1999, Respondent treated Patient A at North Shore University Hospital at Glen Cove (NSUHGC) for injuries sustained in a motor vehicle accident. Patient A evidenced signs of trauma including but not limited to right hemopneumothorax, right rib fractures and fluid near the liver, right gutter and pelvis.
1. Respondent failed to adequately evaluate Patient A or note such evaluation, if any.
 2. Respondent failed to adequately monitor or evaluate the ongoing condition of Patient A or note such monitoring or evaluation, if any
 3. Respondent failed to adequately treat Patient A or note such treatment, if any.

- B. In or about January, 1999, Respondent treated Patient B at NSUHGC for abdominal tenderness with distension. Patient B evidenced symptoms including but not limited to nausea, vomiting and diarrhea.
1. Respondent failed to adequately evaluate Patient B or note such evaluation, if any.
 2. Respondent failed to adequately monitor or evaluate the ongoing condition of Patient B or note such evaluation or monitoring, if any.
 3. Respondent failed to adequately treat Patient B or note such treatment, if any.
- C. Beginning in or about October, 1991, Respondent falsely represented on his employment application with NSUHGC, deliberately and with intent to deceive, that: (i) he was Board certified in General Surgery and Emergency Medicine; (ii) he had terminated his affiliation with Syosset Community Hospital.
- D. In or about February, 2001, Respondent, on his employment application with St. John's Episcopal Hospital, South Shore, deliberately and with intent to deceive, failed to disclose: (i) his affiliation with Syosset Community Hospital; and (ii) that his privileges had been reduced at such hospital.

SPECIFICATION OF CHARGES

FIRST SPECIFICATION

PRACTICING WITH 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. Paragraphs A and A1-3; and/or Paragraphs B and B1-3.

SECOND SPECIFICATION

INCOMPETENCE ON MORE THAN ONE OCCASION

Respondent is charged with committing professional misconduct as defined in N.Y. Educ. Law §6530(5) by practicing the profession of medicine with incompetence on more than one occasion as alleged in the facts of two or more of the following:

2. Paragraphs A and A1-3; and/or Paragraphs B and B1-3.

THIRD AND FOURTH SPECIFICATIONS

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 each patient, as alleged in the facts of the following:

3. Paragraphs A and A1-3.
4. Paragraphs B and B1-3.

FIFTH AND SIXTH SPECIFICATIONS

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 C.
6. Paragraph D.

SEVENTH SPECIFICATION

FAILING TO PROVIDE INFORMATION REGARDING AFFILIATIONS AND/OR REASONS FOR DISCONTINUATION

Respondent is charged with committing professional misconduct as defined in N.Y. Educ. Law §6530(14) by violating the requirements of N.Y. Public Health Law §2805-k(1)(a) and/or (b) as alleged in the facts of the following:

7. Paragraph D.

EIGHTH AND NINTH SPECIFICATIONS

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:

- 8. Paragraph C.
- 9. Paragraph D.

DATED: September , 2002
New York, New York

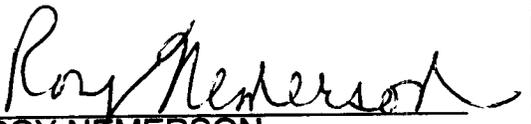

ROY NEMERSON
Deputy Counsel
Bureau of Professional
Medical Conduct

EXHIBIT "B"

Terms of Probation

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 probation and that an action may be taken against Respondent's license pursuant to New York State Public Health Law §230(19).
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 probation 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 probation shall resume and any terms of probation 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. 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 in 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.