



**New York State Board for Professional Medical Conduct**

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

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NYS Department of Health

Dennis P. Whalen  
Executive Deputy Commissioner  
NYS Department of Health

Dennis J. Graziano, Director  
Office of Professional Medical Conduct

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Chairman

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

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

PUBLIC

December 16, 2004

**CERTIFIED MAIL-RETURN RECEIPT REQUESTED**

Yvon Nazaire, M.D.  
28 Stone Drive  
West Orange, NJ 07052

Re: License No. 193734

Dear Dr. Nazaire:

Enclosed please find Order #BPMC 04-287 of the New York State Board for Professional Medical Conduct. This order and any penalty provided therein goes into effect December 23, 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: Joseph L. DeMarzo, Esq.  
Martin, Clearwater & Bell, LLP  
220 East 42nd Street  
New York, NY 10017-5842

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

IN THE MATTER  
OF  
YVON NAZAIRE, M.D.

CONSENT  
ORDER

BPMC No. 04-287

Upon the application of (Respondent) YVON NAZAIRE, 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: 12-15-04

  
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  
YVON NAZAIRE, M.D.**

**CONSENT  
AGREEMENT  
AND  
ORDER**

YVON NAZAIRE, M.D., representing that all of the following statements are true, deposes and says:

That on or about September 23, 1993, I was licensed to practice as a physician in the State of New York, and issued License No. 193734 by the New York State Education Department.

My current address is 28 Stone Drive, West Orange, New Jersey 07052, 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 thirteen (13) 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 agree not to contest the allegations in Specifications First through Fifth and Seventh, in full satisfaction of the charges against me, and agree to the following penalty:

Pursuant to §230-a (1) of the Public Health Law, I shall be subject to a Censure and Reprimand.

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 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.

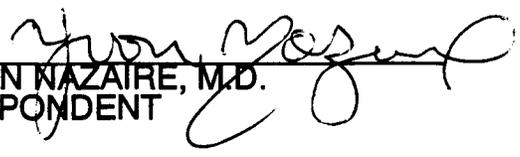
I ask the Board to adopt this Consent Agreement.

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.

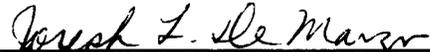
I ask the Board to adopt this Consent Agreement of my own free will and not under duress, compulsion or restraint. In consideration of the value to me of the Board's adoption of this Consent Agreement, allowing me to resolve this matter without the various risks and burdens of a hearing on the merits, 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 12/2/04

  
YVON NAZAIRE, M.D.  
RESPONDENT

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

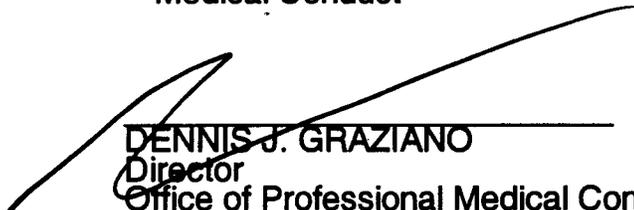
DATE: December 6, 2007

  
\_\_\_\_\_  
JOSEPH D. MARZOCO, ESQ.  
Attorney for Respondent

DATE: 12/8/07

  
\_\_\_\_\_  
DAVID W. SMITH  
Associate Counsel  
Bureau of Professional  
Medical Conduct

DATE: 12/13/07

  
\_\_\_\_\_  
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  
YVON NAZAIRE, M.D.**

**STATEMENT  
OF  
CHARGES**

YVON NAZAIRE, M.D., the Respondent, was authorized to practice medicine in New York State on or about September 23, 1993, by the issuance of license number 193734 by the New York State Education Department.

**FACTUAL ALLEGATIONS**

- A. On or about June 30, 2002, Patient A presented to the Emergency Room ("ER") of Wyckoff Heights Medical Center ("WHMC"), 374 Stockholm Street, Brooklyn, New York 11237, with chest pain and vomiting, where he was treated by Respondent.
1. Respondent inappropriately failed to diagnose, evaluate or treat Patient A's condition or note such diagnosis, evaluation or treatment, if any.

2. Respondent inappropriately treated Patient A with Vistaril and Benadryl and failed to note the reasons for such treatment.
3. Respondent inappropriately discharged Patient A from the ER the same day he first treated him.
4. Respondent inappropriately failed to maintain a legible patient chart for Patient A.

B. On or about March 10, 2000, Patient B presented to the ER at WHMC with lower abdominal pain and vaginal bleeding where she was treated by Respondent. A pregnancy test performed on Patient B was positive.

1. Respondent inappropriately failed to diagnose, evaluate or treat Patient B's condition or note such diagnosis, treatment or evaluation, if any.
2. Respondent inappropriately discharged Patient B from the hospital without appropriately ruling out the diagnosis of ectopic pregnancy.
3. Respondent inappropriately failed to maintain a legible patient chart for Patient B.

- C. On or about August 31, 2000, Patient C, a diabetic, presented to the ER at WHMC with shortness of breath where she was treated by Respondent.
1. Respondent inappropriately failed to diagnose, evaluate or treat Patient C's condition or note such diagnosis, evaluation or treatment, if any.
  2. Respondent inappropriately discharged Patient C from the Hospital the same day he first treated her.
- D. On or about August 29, 1999, Patient D presented to the ER at WHMC where he was treated for by Respondent. Respondent ordered an x-ray of Patient D's chest which showed a large right pneumothorax and large pleural effusion.
1. Respondent failed to appropriately read that x-ray and failed to diagnose, evaluate or treat such condition or note such diagnosis, evaluation or treatment, if any.
  2. Respondent inappropriately discharged Patient D from the Hospital the same day he treated him.
- E. On or about June 16, 2002, Patient E presented to the ER at WHMC where she was treated by Respondent for a lump and tenderness in her right lower quadrant

1. Respondent inappropriately failed to diagnose, evaluate or treat Patient E's condition or note such diagnosis, evaluation or treatment, if any.
  
2. Respondent inappropriately failed to maintain a legible patient chart for Patient E.

## **SPECIFICATION OF CHARGES**

### **FIRST THROUGH FIFTH SPECIFICATIONS** **PRACTICING WITH GROSS NEGLIGENCE ON A PARTICULAR OCCASION**

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:

1. Paragraphs A and A1-4.
2. Paragraphs B and B1-3.
3. Paragraphs C and C1-2.
4. Paragraphs D and D1- 2.
5. Paragraphs E and E1-2.

### **SIXTH SPECIFICATION** **PRACTICING WITH 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:

6. Paragraphs A and A1-4; B and B1-3.; C and C1-2.; D and D1- 2;  
Paragraphs E and E1-2.

## **SEVENTH 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:

7. Paragraphs A and A1-4; B and B1-3; C and C1-2; D and D1- 2;  
and/or E and E1-2.

## **EIGHTH SPECIFICATION**

### **PRACTICING WITH 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:

8. Paragraphs A and A1-4; B and B1-3; C and C1-2; D and D1- 2;  
and/or E and E1-2.

**NINTH THROUGH THIRTEENTH 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 the patient, as alleged in the facts of:

9. Paragraphs A and A1, 2, 4.
10. Paragraphs B and B1, 3.
11. Paragraphs C and C1.
12. Paragraphs D and D1.
13. Paragraphs E and E1, 2.

DATED:

*Dec 8*  
~~October~~, 2004  
New York, New York



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**ROY NEMERSON**  
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.

## PRACTICE MONITOR

9. 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.
10. Respondent shall enroll in and complete a Continuing Medical Education (CME) course in Emergency Medicine proposed by Respondent and approved in advance by the Director of OPMC. Such CME course shall be equivalent to a total of at least 100 hours of CME and shall be completed by the end of the second year at the rate of 50 Category 1 AMA credits annually.
11. Respondent shall comply with this Order and all its terms and shall bear all associated compliance costs. Upon receiving evidence of non-compliance 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.