



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

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

Barbara A. DeBuono, M.D., M.P.H.  
*Commissioner of Health*

Patrick F. Carone, M.D., M.P.H.  
*Chair*  
Ansel R. Marks, M.D., J.D.  
*Executive Secretary*

May 13, 1998

**CERTIFIED MAIL-RETURN RECEIPT REQUESTED**

Rosario A. Fisichella, M.D.  
1502 Olive Street  
Ramona, California 92065

RE: License No. 041629

Dear Dr. Fisichella:

Enclosed please find Order #BPMC 98-91 of the New York State Board for Professional Medical Conduct. This Order and any penalty provided therein goes into effect **May 13, 1998**.

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.

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: Steve Fondulis, Esq.

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

IN THE MATTER  
OF  
ROSARIO A. FISICHELLA, M.D.

SURRENDER  
OF  
LICENSE

BPMC #98-91

STATE OF CALIFORNIA )

ss.:

COUNTY OF San Diego )

Rosario A. Fisichella, M.D., being duly sworn, deposes and says:

On or about August 17, 1943, I was licensed to practice medicine as a physician in the State of New York having been issued License No. 041629 by the New York State Education Department.

My current address is 1502 Olive St., Ramona, California 92065 , and I will advise the Director of the Office of Professional Medical Conduct of any change of my address.

I understand that I have been charged with one specification of professional misconduct as set forth in the Statement of Charges, annexed hereto, made a part hereof, and marked as Exhibit "A".

I am applying to the New York 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 validity of the factual allegations and specification of charges contained in the above mentioned Statement of Charges.

I hereby make this application to the New York State Board for Professional Medical Conduct and request that it be granted.

I understand that, in the event that the application is not granted by the New York State Board for Professional Medical Conduct, 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 New York State Board for Professional Medical Conduct shall be made without prejudice to the continuance of any disciplinary proceeding and the final determination by a Committee on Professional Medical Conduct pursuant to the provisions of the Public Health Law.

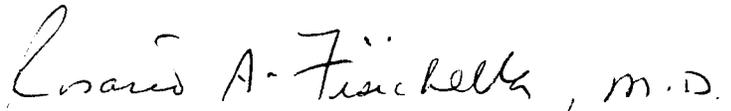
I also understand and am aware that there is an adjudicatory proceeding concerning the allegations set forth in the attached Statement of Charges which is currently scheduled for May 12, 1998, at 10:00 a.m. , at the offices of the New York State Department of Health, 5 Penn Plaza, Sixth Floor, New York 10001. I further understand and agree that, in the event that the application is not granted by the New York State Board for Professional Medical Conduct, said proceeding shall continue as scheduled.

I agree that, in the event the New York State Board for Professional Medical Conduct grants my application, an order shall be issued striking my name from the roster of physicians in the State of New York without further notice to me. 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 Surrender 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 Surrender Order for which I hereby apply, whether administratively or judicially, and ask that the Application be granted.

AFFIRMED:

DATED 4-24-98

Handwritten signature of Rosario A. Fisichella, M.D.

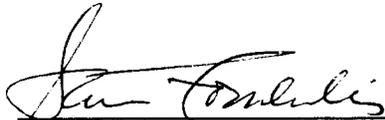
ROSARIO A. FISICHELLA, M.D.  
RESPONDENT

The undersigned agree to the attached application of the Respondent to surrender his license.

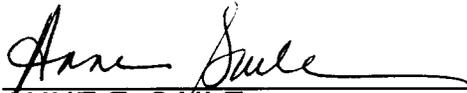
Date: \_\_\_\_\_

\_\_\_\_\_  
Attorney for Respondent

Date: 4/28/98

  
\_\_\_\_\_  
STEVE FONDULIS, ESQ.  
Associate Counsel  
Bureau of Professional  
Medical Conduct

Date: May 5, 1998

  
\_\_\_\_\_  
ANNE F. SAILE  
Director  
Office of Professional Medical Conduct

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

IN THE MATTER  
OF  
ROSARIO A. FISICHELLA, M.D.

SURRENDER  
ORDER

Upon the proposed agreement of Rosario A. Fisichella, M.D. (Respondent) to Surrender his license as a physician in the State of New York, which proposed agreement is made a part hereof, it is agreed to and

ORDERED, that the application and the provisions thereof are hereby adopted; it is further

ORDERED, that the name of Respondent 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, which may be accomplished by mailing, by first class mail, a copy of the Surrender Order to Respondent at the address set forth in this agreement or to Respondent's attorney by certified mail, or upon transmission via facsimile to Respondent or Respondent's attorney, whichever is earliest.

SO ORDERED.

DATED: May 6, 1998

  
PATRICK F. CARONE, M.D., M.P.H.  
Chairperson  
State Board for Professional  
Medical Conduct



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

IN THE MATTER  
OF  
ROSARIO A. FISICHELLA, M.D.

NOTICE OF  
REFERRAL  
PROCEEDING

TO: Rosario A. Fisichella, M.D.  
1502 Olive St.  
Ramona, Ca 92065

PLEASE TAKE NOTICE THAT:

An adjudicatory proceeding will be held pursuant to the provisions of N.Y. Pub. Health Law §§230(10)(p) (McKinney Supp. 1998) and N.Y. State Admin. Proc. Act §§301-307 and 401 (McKinney 1984 and Supp. 1998). The proceeding will be conducted before a committee on professional conduct of the State Board for Professional Medical Conduct (Committee) on May 12, 1998, at 10:00 a.m., at the offices of the New York State Department of Health, 5 Penn Plaza, Sixth Floor, New York, New York 10001.

At the proceeding, evidence will be received concerning the allegations set forth in the Statement of Charges, which is attached. A stenographic record of the proceeding will be made and the witnesses at the proceeding will be sworn and examined.

You may appear in person at the proceeding and may be represented by counsel. You may produce evidence or sworn testimony on your behalf. Such evidence or sworn testimony shall be strictly limited to evidence and testimony relating to the nature and severity of the penalty to be imposed upon the licensee. Where the charges are based on the conviction of state law crimes in other jurisdictions, evidence may be offered which would show that the conviction would not be a crime in New York State. The Committee also may limit the number of witnesses whose testimony will be received, as well as the length of time any

witness will be permitted to testify.

If you intend to present sworn testimony, the number of witnesses and an estimate of the time necessary for their direct examination must be submitted to the New York State Department of Health, Division of Legal Affairs, Bureau of Adjudication, Hedley Park Place, 433 River Street, Fifth Floor South, Troy, NY 12180, ATTENTION: HON. TYRONE BUTLER, DIRECTOR, BUREAU OF ADJUDICATION (Telephone: (518-402-0748), (henceforth "Bureau of Adjudication") as well as the Department of Health attorney indicated below, no later than twenty days prior to the scheduled date of the Referral Proceeding, as indicated above.

Pursuant to the provisions of N.Y. Pub. Health Law §230(10)(c), you shall file a written answer to each of the charges and allegations in the Statement of Charges not less than ten days prior to the date of the hearing. Any charge or allegation not so answered shall be deemed admitted. You may wish to seek the advice of counsel prior to filing such answer. The answer shall be filed with the Bureau of Adjudication, at the address indicated above, and a copy shall be forwarded to the attorney for the Department of Health whose name appears below. You may file a written brief and affidavits with the Committee. Six copies of all papers you submit must be filed with the Bureau of Adjudication at the address indicated above, no later than fourteen days prior to the scheduled date of the Referral Proceeding, and a copy of all papers must be served on the same date on the Department of Health attorney indicated below. Pursuant to §301(5) of the State Administrative Procedure Act, the Department, upon reasonable notice, will provide at no charge a qualified interpreter of the deaf to interpret the proceedings to, and the testimony of, any deaf person. Pursuant to the terms of N.Y. State Admin. Proc. Act §401 (McKinney Supp. 1998) and 10 N.Y.C.R.R. §51.8(b), the Petitioner hereby demands disclosure of the evidence that the Respondent intends to introduce at the hearing, including the names of witnesses, a list of and copies of documentary evidence and a description of physical or other evidence which cannot be photocopied.

The proceeding may be held whether or not you appear. Please note that requests for adjournments must be made in writing to the Bureau of Adjudication, at the address indicated above, with a copy of the request to the attorney for the Department of Health, whose name appears below, at least five days prior to the scheduled date of the proceeding. Adjournment requests are not routinely granted. Claims of court engagement will require detailed affidavits of actual engagement. Claims of illness will require medical documentation. Failure to obtain an attorney within a reasonable period of time prior to the proceeding will not be grounds for an adjournment.

The Committee will make a written report of its findings, conclusions as to guilt, and a determination. Such determination may be reviewed by the administrative review board for professional medical conduct.

SINCE THESE PROCEEDINGS MAY RESULT IN A DETERMINATION THAT SUSPENDS OR REVOKES YOUR LICENSE TO PRACTICE MEDICINE IN NEW YORK STATE AND/OR IMPOSES A FINE FOR EACH OFFENSE CHARGED, YOU ARE URGED TO OBTAIN AN ATTORNEY TO REPRESENT YOU IN THIS MATTER.

DATED: New York, New York  
April 1, 1998



ROY NEMERSON  
Deputy Counsel  
Bureau of Professional  
Medical Conduct

Inquiries should be addressed to:

STEVE FONDULIS, ESQ.  
Associate Counsel  
NYS Department of Health  
Division of Legal Affairs  
5 Penn Plaza, Suite 601  
New York, New York 10001  
(212) 613-2615

IN THE MATTER  
OF  
ROSARIO A. FISICHELLA, M.D

STATEMENT  
OF  
CHARGES

Rosario A. Fisichella, M.D., the Respondent, was authorized to practice medicine in New York State on or about August 17, 1943, by the issuance of license number 041629 by the New York State Education Department.

**FACTUAL ALLEGATIONS**

- A. On or about December 2, 1996, the Division of Medical Quality of the Medical Board of California, issued an order, effective January 6, 1997, adopting a Stipulation in Settlement, Decision and Order as its Decision against Respondent, wherein, Respondent admitted to having committed acts of professional misconduct. Pursuant to said Decision, Respondent's California Physician's and Surgeon's Certificate No. C9506 was suspended for one year. The suspension was stayed and Respondent was placed on probation with various terms and conditions. In said ordered Stipulation in Settlement, Decision and Order, the Division of Medical Quality found and determined that the charge and allegation contained in Accusation No. 10-95-52697, at Paragraph 6A. (2) (e) are true and correct, in violation of Business and Professions Code Section 725. In said ordered Stipulation in Settlement, Decision and Order, the Respondent admitted the allegations set forth in Accusation No. 10-95-52697, at Paragraph 6A. (2) (e) which charged him with misconduct in California. In doing so, Respondent admitted that he: "...repeatedly, clearly, and excessively prescribed or administered drugs to ██████████ as determined by the standard of the community of physician

licensees, in that:...(e) Respondent prescribed controlled substances to [REDACTED] or without keeping adequate medical records to include a medical history, physical examination, and diagnosis and assessment."

## **SPECIFICATION OF CHARGES**

### **SPECIFICATION**

#### **HAVING HAD DISCIPLINARY ACTION TAKEN**

Respondent is charged with committing professional misconduct as defined in N.Y. Educ. Law §6530(9)(d)(McKinney Supp. 1998) by having his or her license to practice medicine revoked, suspended or having other disciplinary action taken, or having his or her application for a license refused, revoked or suspended or having voluntarily or otherwise surrendered his or her license after a disciplinary action was instituted by a duly authorized professional disciplinary agency of another state, where the conduct resulting in the revocation, suspension or other disciplinary action involving the license or refusal, revocation or suspension of an application for a license or the surrender of the license would, if committed in New York state, constitute professional misconduct under the laws of New York state (namely N.Y. Educ. Law §6530(32)), as alleged in the facts of the following:

1. The facts in paragraph A.

DATED: April 1, 1998  
New York, New York



ROY NEMERSON  
Deputy Counsel  
Bureau of Professional  
Medical Conduct