



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

PUBLIC

December 3, 2004

CERTIFIED MAIL-RETURN RECEIPT REQUESTED

James H. Barada, M.D.
6 Wedgewood Drive
Delmar, NY 12054

RE: License No. 172973

Dear Dr. Barada:

Enclosed please find Order #BPMC 04-279 of the New York State Board for Professional Medical Conduct. This Order and any penalty provided therein goes into effect December 10, 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 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 written in a cursive style with a large, stylized initial "A".

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

Executive Secretary

Board for Professional Medical Conduct

cc: Jeffrey J. Tymann, Esq.
Thorn, Gershon, Tyman and Bonanni, LLP
P.O. Box 15054
Albany, NY 12212-5054

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

IN THE MATTER
OF
JAMES H. BARADA, M.D.

CONSENT
ORDER

BPMC No. 04-279

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

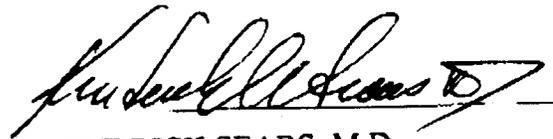
ORDERED, that the Consent Agreement, and its terms, are adopted and SO ORDERED; and it is further

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: 12-2-2004



KENDRICK 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
JAMES H. BARADA, M.D.**

**CONSENT
AGREEMENT
AND
ORDER**

James H. Barada, M.D., representing that all of the following statements are true, deposes and says:

That on or about November 10, 1987, I was licensed to practice as a physician in the State of New York, and issued License No. 172973 by the New York State Education Department.

My current address is 6 Wedgewood Drive, Delmar, New York 12054, 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 made a part of this Consent Agreement.

I plead that I cannot successfully defend one or more of the specifications, in full satisfaction of the charges against me, and agree to the following penalty:

Pursuant to Section 230-a (1) of the Public Health Law of the State of New York, my license to practice medicine shall be subject to a Censure and Reprimand

Pursuant to Section 230-a (7) of the Public Health Law of the State of New York, I agree to pay a fine of five thousand dollars (\$5,000).

I further agree that the Consent Order shall impose the following conditions:

That Respondent shall maintain current registration 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: 11/15/04



James H. Barada, M.D.
RESPONDENT

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

DATED: 11-17-04



Jeffrey J. Tymann, ESQ.
Attorney for Respondent

DATED: 11-18-04



Jeffrey J. Conklin, Esq.
Associate Counsel
Bureau of Professional Medical Conduct

DATED: 121.04



DENNIS J. GRAZIANO
Director
Office of Professional Medical Conduct

IN THE MATTER
OF
JAMES H. BARADA, M.D.

STATEMENT
OF
CHARGES

James H. Barada, M.D., the Respondent, was authorized to practice medicine in New York State on or about November 10, 1987, by the issuance of license number 172973 by the New York State Education Department.

FACTUAL ALLEGATIONS

- A. Respondent, a urologist, evaluated Patient A (hereinafter identified in the attached Appendix A) at his office on November 6, 2002, for complaints of intermittent left flank pain, with occasional radiation to the right lower quadrant, and associated voiding symptoms. Abdominal and pelvic CT scans taken of Patient A revealed ureterolithiasis and several large calcifications in the ureter. Respondent recommended diagnostic and therapeutic intervention, including cystoscopy, retrograde rigid ureteroscopy, and dilation of ureteral stricture with stent placement. Patient A submitted to surgery at Albany Memorial Hospital, Albany, New York, on November 8, 2002. At that time, the Respondent palpated Patient A's left breast while said patient was under anesthesia, which was beyond the scope of the care required for the planned procedure. Respondent's care and treatment of Patient A did not meet minimum standards in that:
1. There were no medical indications for the Respondent to palpate Patient A's left breast at the time of the surgery at Albany Memorial Hospital on November 8, 2002.

SPECIFICATION OF CHARGES

FIRST SPECIFICATION

(Willfully Harassing, Abusing, or Intimidating a Patient Either Physically or Verbally)

Respondent is charged with professional misconduct as defined by New York Education Law Section 6530 (31) by willfully harassing, abusing, or intimidating a patient either physically or verbally as alleged by the facts of the following:

1. The facts set forth in Paragraphs A and A1.

SECOND SPECIFICATION

(Ordering of Excessive Tests, Treatment, or Use of Treatment Facilities Not Warranted by the Condition of the Patient)

Respondent is charged with professional misconduct as defined by New York Education Law Section 6530 (35) by ordering of excessive tests, treatment, or use of treatment facilities not warranted by the condition of the patient as alleged in the facts of the following:

2. The facts set forth in Paragraphs A and A1.

DATED: November 18, 2004
Albany, New York


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