



**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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Dennis P. Whalen  
*Executive Deputy Commissioner*  
NYS Department of Health  
Anne F. Saile, Director  
Office of Professional Medical Conduct

William P. Dillon, M.D.  
*Chair*

Denise M. Bolan, R.P.A.  
*Vice Chair*

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

July 14, 2000

**CERTIFIED MAIL-RETURN RECEIPT REQUESTED**

Peter DeAgostini, M.D.  
246 E. Camino Real  
Boca Raton, Florida 33432

RE: License No. 153359

Dear Dr. DeAgostini:

Enclosed please find Order #BPMC 00-204 of the New York State Board for Professional Medical Conduct. This Order and any penalty provided therein goes into effect July 14, 2000.

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 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: James Steinberg, Esq.  
27 Garden Street  
Poughkeepsie, New York 12601

Barry C. Plunkett Esq.

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

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|                        |   |              |
|------------------------|---|--------------|
| IN THE MATTER          | : | SURRENDER    |
| OF                     | : | ORDER        |
| PETER DEAGOSTINI, M.D. | : | BPMC #00-204 |

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PETER DEAGOSTINI, M.D., says:

On or about March 11, 1983, I was licensed to practice medicine as a physician in the State of New York having been issued License No. 153359 by the New York State Education Department. My address is 246 E. Camino Real  
Boca Raton FL. 33432

I understand that I have been charged with four (4) specifications 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 State Board for Professional Medical Conduct for an agreement to allow me to surrender my license as a physician in the State of New York and request that the Board issue this Surrender Order.

I do not contest the First Specification, the Second Specification, the Fourth Specification and the facts set forth in Paragraphs A, A.1 and A.2 in the Third Specification in full satisfaction of all the charges against me.

I understand that, in the event that this proposed agreement is not granted by the 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 proposed agreement 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 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 agree that in the event the State Board for Professional Medical Conduct agrees with my proposal, this 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 this Order shall be effective upon issuance by the Board, which may be accomplished by mailing, by first class mail, a copy of the Order to me at the address set forth above, or to my attorney, or upon transmission via facsimile to me or my attorney, whichever is earliest.

I am making this agreement of my own free will and accord and not under duress, compulsion, or restraint of any kind or manner.

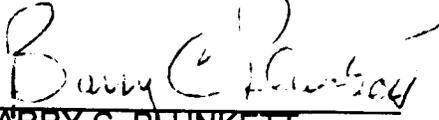
  
PETER DEAGOSTINI, M.D.  
Respondent

AGREED TO:

Date: June 7, 2000

  
\_\_\_\_\_  
JAMES STEINBERG, ESQ.  
Attorney for Respondent

Date: May 31, 2000

  
\_\_\_\_\_  
BARRY C. PLUNKETT  
Associate Counsel  
Bureau of Professional Medical Conduct

Date: June 29, 2000

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

**ORDER**

Upon the proposed agreement of PETER DEAGOSTINI, M.D., 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 proposed agreement 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. It may be accomplished by mailing, by first class mail, a copy of this Order to Respondent at the address set forth in this agreement or to Respondent's attorney, or by transmissions via facsimile to Respondent or Respondent's attorney, whichever is earliest.

DATED: 7/10/00

  
William P. Dillon, M.D.  
Chair  
State Board for Professional  
Medical Conduct

## APPENDIX A

1. Respondent shall immediately cease and desist from engaging in the practice of medicine in accordance with the terms of the Order. In addition, Respondent shall refrain from providing an opinion as to professional practice or its application and from representing himself as being eligible to practice medicine.
2. Respondent shall have delivered to OPMC at Hedley Park Place, 433 River Street 4th Floor, Troy, NY 12180-2299 his original license to practice medicine in New York State and current biennial registration within thirty (30) days of the effective date of the Order.
3. Respondent shall within fifteen (15) days of the Order notify his patients of the cessation of his medical practice and will refer all patients to another licensed practicing physician for their continued care, as appropriate.
4. Respondent shall make arrangements for the transfer and maintenance of the medical records of his patients. Within thirty days of the effective date of the Order, Respondent shall notify OPMC of these arrangements including the appropriate and acceptable contact person's name, address, and telephone number who shall have access to these records. Original records shall be retained for at least six years after the last date of service rendered to a patient or, in the case of a minor, for at least six years after the last date of service or three years after the patient reaches the age of majority whichever time period is longer. Records shall be maintained in a safe and secure place which is reasonably accessible to former patients. The arrangements shall include provisions to ensure that the information on the record is kept confidential and made available only to authorized persons. When a patient or and/or his or her representative requests a copy of the patient's medical record or requests that the original medical record be forwarded to another health care provider, a copy of the record shall be promptly provided or forwarded at a reasonable cost to the patient (not to exceed seventy-five 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 their inability to pay.
5. In the event that Respondent holds a Drug Enforcement Agency (DEA) certificate, Respondent shall within fifteen (15) days advise the DEA in writing of the licensure action and shall surrender his DEA controlled substance privileges to the DEA. Respondent shall promptly surrender any unused DEA #222 U.S. Official Order Forms Schedules 1 and 2 to the DEA.
6. Respondent shall within fifteen (15) days return any unused New York State official prescription forms to the Bureau of Controlled Substances of the New York State Department of Health. Respondent shall cause all prescription pads bearing his name to be destroyed. If no other licensee is providing services at his practice location, all medications shall be properly disposed.
7. Respondent shall not share, occupy or use office space in which another licensee provides health care services. Respondent shall cause all signs to be removed within fifteen (15) days and stop all advertisements, professional listings whether in telephone directories or otherwise, professional stationery or billings by which his eligibility to practice is represented.
8. Respondent shall not charge, receive or share any fee or distribution of dividends for professional services rendered by himself or others while barred from engaging in the

practice of medicine. Respondent may be compensated for the reasonable value of services lawfully rendered and disbursements incurred on a patient's behalf prior to the effective date of this Order.

9. If Respondent is a shareholder in any professional service corporation organized to engage in the practice of medicine and if his license is revoked, surrendered or suspended for a term of six months or more under the terms of this Order, Respondent shall divest himself of all financial interest in the professional services corporation in accordance with New York Business Corporation Law. Such divestiture shall occur within 180 days. If Respondent is the sole shareholder in a professional services corporation, the corporation must be dissolved or sold within one-hundred-eighty (180) days of the effective date of this Order.

10. Failure to comply with the above directives may result in a civil penalty or further criminal penalties as may be authorized pursuant to the law. Under Section 6512 of the Education Law it is a Class E Felony, punishable by imprisonment of up to 4 years, to practice the profession of medicine when such professional license has been suspended, revoked or annulled. Such punishment is in addition to the penalties for professional misconduct set forth in section 230 a1. of the Public Health Law, which includes fines of up to \$10,000 for each specification of charges of which the Respondent is found guilty and may include revocation of a suspended license.

**EXHIBIT A**

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

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IN THE MATTER : STATEMENT  
OF : OF  
PETER DEAGOSTINI, M.D. : CHARGES

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PETER DEAGOSTINI, M.D., the Respondent, was authorized to practice medicine in New York State on March 11, 1983 by the issuance of license number 153359 by the New York State Education Department. Respondent is currently registered with the New York State Education Department to practice medicine.

**FACTUAL ALLEGATIONS**

A. Respondent treated Patient A (a list of patients' names is included as Appendix B), a two week old infant female. She was admitted to Northern Dutchess Hospital, Rhinebeck, N.Y., on or about January 21, 1996 with a diagnosis of bronchopneumonia. Respondent's care and treatment of Patient A failed to meet accepted standards of medical care in the following respects:

1. Respondent failed to appropriately evaluate and/or treat Patient A for respiratory distress on the morning of January 25, 1996.
2. Respondent failed to maintain timely and/or complete and/or accurate records concerning the medical care and treatment of Patient A on January 25, 1996.

3. Respondent's written record of medical care for Patient A dated January 25, 1996, stated that it was entered into the patient's chart on January 25, 1996, when in fact, it was entered into the chart at a later date.

B. Respondent treated Patient B, a female born on July 5, 1995, at Northern Dutchess Hospital in Rhinebeck, N.Y. Patient B was born at 10:00 AM, and at approximately 2:30 P.M. the same day, Patient B developed respiratory distress. Respondent's care and treatment of Patient B failed to meet accepted standards of medical care in the following respects:

1. Respondent failed to perform and/or document an adequate initial physical examination of Patient B within the first 24 hours of the infant's birth despite the onset of indications of respiratory distress.
2. Respondent failed to adequately evaluate and/or treat and/or record the evaluation and treatment of Patient B for respiratory distress for a substantial period following the onset of symptoms.
3. Respondent failed to maintain timely and/or complete and/or accurate records concerning the medical care and treatment of Patient B on July 5, 1995 through July 8, 1995.
4. Respondent's written record of medical care for Patient B dated July 5, 1995, stated that it was entered into the patient's chart on July 5, 1995, when in fact, it was entered into the chart at a later date.

C. Respondent treated Patient C, a fourteen year old female, admitted to Northern Dutchess Hospital Emergency Department, Rhinebeck, New York on September 24, 1995. Patient C was admitted to Northern Dutchess Hospital because of a drug overdose with an unknown medication. Respondent issued admitting orders by telephone, and all but one of Respondent's other orders were given over the telephone.

Respondent's care and treatment of Patient C failed to meet accepted standards of medical care in the following respect:

1. Respondent failed to complete and/or document an admission history, physical examination and/or a discharge summary for Patient C until December 8, 1995, more than 2 months after the patient was discharged.

D. Respondent treated Patient D, a female born on February 1, 1993, at Northern Dutchess Hospital on or about February 2, 1993, and Respondent discharged Patient D with a telephone order on February 3, 1993. Respondent's care and treatment of Patient D failed to meet accepted standards of medical care in the following respect:

1. Respondent's written record of medical care of Patient D dated February 3, 1993, stated that it was entered into the patient's chart on February 3, 1993, when in fact, it was entered into the chart at a later date.

E. Respondent treated Patient E, a female born on November 25, 1993, at Northern Dutchess Hospital, Rhinebeck, N.Y. from her birth until her discharge from the hospital on or about December 1, 1993. Respondent's medical care and treatment of Patient E failed to meet accepted standards of medical care in the following respects:

1. Respondent's written record of medical care of Patient E on November 27, 1993, stated that it was entered into the patient's chart on November 27, 1993, when in fact, it was entered into the chart at a later date.
2. Respondent's written record of medical care for Patient E dated December 1, 1993, stated that it was entered into the patient's chart on December 1, 1993, when in fact, it was entered into the chart at a later date.

F. Respondent treated Patient F, a female born on November 25, 1993, at Northern Dutchess Hospital, Rhinebeck, N.Y., from her birth until her discharge from the hospital on or about of December 1, 1993. Respondent's medical care and treatment of Patient F failed to meet accepted standards of medical care in the following respects:

1. Respondent's written record of medical care of Patient F dated November 27, 1993, stated that it was entered into the patient's chart on November 27, 1993, when in fact, it was entered into the chart at a later date.
2. Respondent's written record of medical care for Patient F dated December 1, 1993, stated that it was entered into the patient's chart on December 1, 1993, when in fact, it was entered into the chart at a later date.

G. Respondent, on or about March 27, 1998, completed and subsequently filed an Affirmation of Professional Status in an application for participation with Wellcare of New York.

1. Respondent on or about March 27, 1998, falsely answered "NO" to the following question on his Affirmation of Professional Status in an application for participation with Wellcare of New York:
  - 2a. "Have your privileges or membership at any hospital or institution ever been denied, suspended, reduced or not renewed?" (Hospital Privileges)

In fact, Respondent's admitting privileges at Northern Dutchess Hospital, Rhinebeck, New York were suspended on two occasions between January 12, 1994 and December 14, 1995, for among other things, failure to comply with the medical staff bylaws, rules and regulations regarding daily visits to patients, appropriate daily documentation in medical records of patients and appropriate coverage in the absence of the physician for continuous care of patients; additionally, Respondent's appointment and admitting privileges at Northern Dutchess Hospital were revoked on or about June 10, 1996.

2. Respondent on or about March 27, 1998, falsely answered "NO" to the following question on his

Affirmation of Professional Status in an application for participation with Wellcare of New York:

- 2b. "Have disciplinary proceedings ever been instituted against you?" (Hospital Privileges)

In fact, on or about June 10, 1996, the Executive Committee of the Medical Staff of Northern Dutchess Hospital, Rhinebeck, New York, reviewed a report of the Ad Hoc Committee of the Hospital concerning a request for corrective action with respect to Respondent's appointment and hospital privileges at that facility. The Executive Committee determined that the appropriate corrective action was revocation of Respondent's appointment and hospital privileges.

The Executive Committee of the Medical Staff, on or about June 20, 1996, initiated the Hearing process as a result of this recommendation. Thereafter, on or about July 12, 1996, Respondent requested a fair hearing with respect to said action. A Hearing was scheduled and conducted on January 23, 1997, and further continued on June 4, 1997. On or about June 3, 1997, a written letter of resignation signed by Respondent was received by Northern Dutchess Hospital. Respondent submitted his resignation from the Medical Staff of Northern Dutchess Hospital, effective immediately, and prior to his scheduled appearance before the hearing panel on June 4, 1997.

3. Respondent on or about March 27, 1998, falsely answered "NO" to the following question on his Affirmation of Professional Status in an application for participation with Wellcare of New York:

11. "Have you ever been terminated, suspended, sanctioned, fined or otherwise restricted from participating in any private, federal or state health insurance program, HMO, PPO, provider

networks or regulatory agency (e.g., Medicare, Medical Board) or have you ever been or are you now under investigation by any such body?"  
(Hospital Privileges)

In fact, Respondent was under investigation and audit by the New York State Department of Social Services Medical Assistance Program and entered into a settlement with this program on or about September 28, 1992.

H. Respondent, on September 2, 1997, completed and subsequently filed an application for membership to the MVP Health Plan.

1. Respondent on or about September 2, 1997, falsely answered "NO" to the following question on his membership application for participation with MVP Health Plan:

23. "Are proceedings currently pending relative to your staff membership at any hospital or have your privileges at any hospital been suspended, diminished, revoked or not renewed for any reason except untimely completion of medical records?"

In fact, Respondent's admitting privileges at Northern Dutchess Hospital, Rhinebeck, New York were suspended on two occasions between January 12, 1994 and December 14, 1995, for among other things, failure to comply with the medical staff bylaws, rules and regulations regarding daily visits to patients, appropriate daily documentation in medical records of patients and appropriate coverage in the absence of the physician for continuous care of patients; additionally, Respondent's appointment and admitting privileges at Northern Dutchess Hospital were revoked on or about June 10, 1996.

## **SPECIFICATIONS**

### **FIRST AND SECOND SPECIFICATIONS**

#### **WILLFULLY FILING A FALSE REPORT**

Respondent is charged with willfully making or filing a false report within the meaning of N.Y. Education Law §6530(21), by reason of having made and filed a false report as alleged in the following allegations:

1. The facts in Paragraphs G and G1, G and G2, and/or G and G3.

2. The facts in Paragraphs H and H1.

**THIRD SPECIFICATION**

**NEGLIGENCE ON MORE THAN ONE OCCASION**

Respondent is charged with professional misconduct as defined in N.Y. Education Law §6530(6) by reason of his practicing the profession of medicine with negligence on more than one occasion as alleged in two or more of the following factual allegations:

3. The facts in paragraphs A and A1, A and A2, B and B1, B and B2, and/or B and B3.

**FOURTH SPECIFICATION**

**FAILURE TO MAINTAIN RECORDS**

Respondent is charged with professional misconduct as defined in N.Y. Education Law §6530(32) by reason of his failing to maintain a record for each patient which accurately reflects the evaluation and treatment of the patient as a alleged in the following factual allegations:

4. The facts in Paragraphs A and A2, A and A3, B and B1, B and B2, B and B3, B and B4, C and C1, D and D1, E and E1, E and E2, F and F1, and/or F and F2.

Dated: *June 1*, 2000  
Albany, New York

*Peter D. Van Buren*

PETER D. VAN BUREN  
Deputy Counsel  
Bureau of Professional  
Medical Conduct