



***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*

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NYS Department of Health*

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*Vice Chair*

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

May 18, 2001

***CERTIFIED MAIL-RETURN RECEIPT REQUESTED***

Joseph Kelly, M.D.  
309 Freemason Street  
Apartment 2  
Norfolk, VA 23510

RE: License No. 168682

Dear Dr. Kelly:

Enclosed please find Order #BPMC 01-121 of the New York State Board for Professional Medical Conduct. This Order and any penalty provided therein goes into effect May 18, 2001 .

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: Robert Bogan, Esq.

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

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**IN THE MATTER**

**SURRENDER**

**OF**

**ORDER**

**JOSEPH KELLY, M.D.  
CO-00-10-4358-A**

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BPMC No. 01-121

**JOSEPH KELLY, M.D.**, says:

On or about November 18, 1986, I was licensed to practice medicine as a physician in the State of New York having been issued License No. 168682 by the New York State Education Department. I currently reside at 309 West Freemason Street, Apt. 2, Norfolk, VA 23510.

I am not currently registered with the New York State Education Department to practice as a physician in the State of New York.

I understand that the New York State Board for Professional Medical Conduct has charged me 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 have not practiced medicine in New York state in over sixteen years and I do not intend to return to practice medicine in New York state in the future. I, am, therefore, hereby, 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, hereby, agree not to contest Factual Allegations A, B, C, and D2, 3, 4, 5, and 7 and the four (4) specifications set forth in the Statement of Charges (Exhibit A).

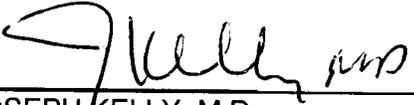
I understand that, in the event that this proposed agreement is not granted by the State Board for Professional Medical Conduct, nothing contained herein shall be binding upon me or

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 Board grants my Application, as set forth herein, an order of the Chairperson of the Board shall be issued in accordance with same 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 first.

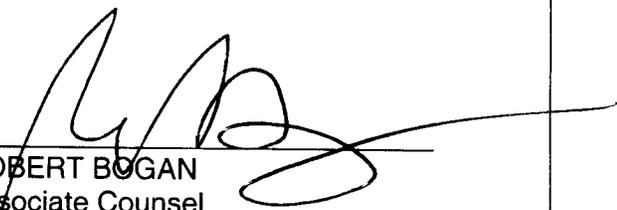
I am making this agreement of my own free will and accord and not under duress, compulsion, or restraint of any kind of manner.

Date: 5/8/01, 2001

  
\_\_\_\_\_  
JOSEPH KELLY, M.D.  
Respondent

AGREED TO:

Date: 10 May, 2001

  
\_\_\_\_\_  
ROBERT BOGAN  
Associate Counsel  
Bureau of Professional Medical Conduct

Date: 14 May, 2001

  
\_\_\_\_\_  
DENNIS J. GRAZIANO  
Director  
Office of Professional Medical Conduct

"Exhibit A"

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

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IN THE MATTER  
OF  
JOSEPH KELLY, M.D.  
CO-00-10-4358-A

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STATEMENT  
OF  
CHARGES

**JOSEPH KELLY, M.D.**, the Respondent, was authorized to practice medicine in New York state on November 18, 1986, by the issuance of license number 168682 by the New York State Education Department.

**FACTUAL ALLEGATIONS**

A. On or about January 20, 1989, in the District Court of Maryland for Montgomery County, the Respondent was found guilty of one (1) count of Unlawful Possession of a Controlled Substance, a misdemeanor, and sentenced to supervised probation for eighteen (18) months.

B. On or about December 8, 1995, in the Circuit Court of Lancaster, Virginia the Respondent was found guilty of Driving While Intoxicated, and was restricted to driving to and from work and ASAP meetings.

C. On or about May 4, 2000, the Commonwealth of Virginia, Department of Health Professions, Board of Medicine (hereinafter "Virginia Board"), by an Order (hereinafter "Virginia Order"), REPRIMAND the Respondent and placed his license on INDEFINITE PROBATION, with terms and conditions, based on the convictions set forth in Paragraphs A and B above, writing and presenting a prescription in the name of another, for a schedule II drug, for his own use, writing fraudulent prescriptions for controlled substances for his own use, consuming alcohol to the point of intoxication when on call and giving orders and treatment

recommendations over the telephone without examining patients, and making false statements on a medical license application.

D. The conduct resulting in the Virginia Board's disciplinary action against Respondent would constitute misconduct under the laws of New York state, pursuant to the following sections of New York state law:

1. New York Education Law §6530(2) (practicing the profession fraudulently);
2. New York Education Law §6530(7) (practicing the profession while impaired by alcohol, drugs, physical disability or mental disability);
3. New York Education Law §6530(8) (being a habitual user of alcohol, or being dependent on or a habitual user of narcotics or other drugs having similar effects);
4. New York Education Law §6530(9)(a)(iii) (being convicted of committing an act constituting a crime under the law of another jurisdiction);
5. New York Education Law §6530(16) (failure to comply with federal, state, or local laws, rules, or regulations governing the practice of medicine);
6. New York Education Law §6530(20) (moral unfitness); and/or
7. New York Education Law §6530(21) (making or filing a false report).

### **SPECIFICATIONS**

#### **FISRT AND SECOND SPECIFICATION**

Respondent violated New York Education Law §6530(9)(a)(iii) by being convicted of committing an act constituting a crime under the law of another jurisdiction and which, if committed within this state, would have constituted a crime under New York state law, in that Petitioner charges:

1. The facts in Paragraph A.

2. The facts in Paragraph B.

### **THIRD SPECIFICATION**

Respondent violated New York Education Law §6530(9)(b) by having been found guilty of improper professional practice or professional misconduct by a duly authorized professional disciplinary agency of another state where the conduct upon which the finding was based would, if committed in New York state, constitute professional misconduct under the laws of New York state, in that Petitioner charges:

3. The facts in paragraph A, B, C and/or D.

### **FOURTH SPECIFICATION**

Respondent violated New York State Education Law §6530 (9)(d) by having had disciplinary action taken after a disciplinary action was instituted by a duly authorized professional disciplinary agency of another state, where the conduct resulting in the disciplinary action would, if committed in New York state, constitute professional misconduct under the laws of New York state, in that Petitioner charges:

4. The facts in paragraphs A, B, C and/or D.

DATED: *March 16*, 2001  
Albany, New York

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

**ORDER**

Upon the proposed agreement of **JOSEPH KELLY, 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 the 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 to Respondent at the addresses set forth in this agreement, or to Respondent's attorney, or upon transmission via facsimile to Respondent or Respondent's attorney, whichever is earliest.

DATED: 5/17/01 2000



WILLIAM P. DILLON, M.D.  
Chair  
State Board for Professional  
Medical Conduct