



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

William P. Dillon, M.D.
Chair

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

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

May 6, 2002

CERTIFIED MAIL-RETURN RECEIPT REQUESTED

James L. Duffy, M.D.
108 Village Square, #325
Somers, NY 10589

RE: License No. 175375

Dear Dr. Duffy:

Enclosed please find Order #BPMC 02-129 of the New York State Board for Professional Medical Conduct. This Order and any penalty provided therein goes into effect May 6, 2002.

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

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

IN THE MATTER
OF
JAMES L. DUFFY, M.D.

SURRENDER
ORDER

BPMC No. 02-129

Upon the application of (Respondent) JAMES L. DUFFY, M.D. to Surrender his license as a physician in the State of New York, which is made a part of this Surrender Order, it is

ORDERED, that the Surrender, and its terms, are adopted and SO ORDERED, and 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, 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: May 6, 2002

William P. Dillon, M.D.

WILLIAM P. DILLON, 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 L. DUFFY, M.D.**

**SURRENDER
of
LICENSE**

JAMES L. DUFFY, M.D., representing that all of the following statements are true, deposes and says:

That on or about July 28, 1988, I was licensed to practice as a physician in the State of New York, and issued License No. 175375 by the New York State Education Department.

My current address is 108 Village Square #325, Somers, New York 10589, 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 Eighteen specifications of professional misconduct.

A copy of the Statement of Charges, marked as Exhibit "A", is attached to and part of this Surrender of License.

I am applying to the 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 admit the factual allegations in paragraphs A.1(c) through (f), A.3, A.5, B, D.1 through D.6, and E.1 through E.6, and thus admit Specifications of Misconduct One [sexual contact with a patient], Seven [revealing personally identifiable facts, data, or information about patients], Eight through Eleven [gross negligence], Sixteen [negligence on more than one occasion], and Eighteen [failing to maintain accurate records], in full satisfaction of the charges against me.

I ask the Board to accept the Surrender of my License.

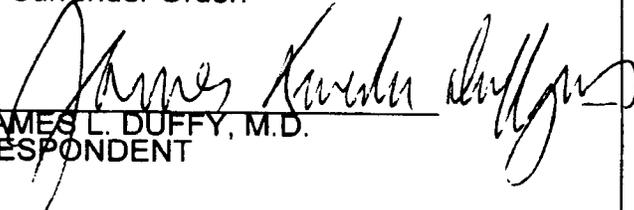
I understand that if the Board does not accept this Surrender, none of its terms shall bind me or constitute an admission of any of the acts of alleged misconduct; this application shall not be used against me in any way and shall be kept in strict confidence; and the Board's denial shall be without prejudice to the pending disciplinary proceeding and the Board's final determination pursuant to the Public Health Law.

I agree that, if the Board accepts the Surrender of my License, the Chair of the Board shall issue a Surrender 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 Surrender Order by first class mail to me at the address in this Surrender of License, or to my attorney by certified mail, OR upon facsimile transmission to me or my attorney, whichever is first.

I ask the Board to accept this Surrender of License of my own free will and not under duress, compulsion or restraint. In consideration of the value to me of the Board's acceptance of this Surrender of License, 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 Surrender Order for which I apply, whether administratively or judicially, and I agree to be bound by the Surrender Order.

DATED

May 8, 2002


JAMES L. DUFFY, M.D.

RESPONDENT

The undersigned agree to Respondent's attached Surrender of License and to its proposed penalty, terms and conditions.

DATE: _____

[NONE], ESQ.
Attorney for Respondent

DATE: 5/3/02


MICHAEL A. HISER
Associate Counsel
Bureau of Professional Medical Conduct

DATE: 5/3/02


DENNIS J. GRAZIANO
Director
Office of Professional Medical Conduct

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

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**IN THE MATTER : STATEMENT
OF : OF
JAMES L. DUFFY, M.D. : CHARGES
(FIRST AMENDED)**

-----X

JAMES L. DUFFY, M.D., the Respondent, was authorized to practice medicine in New York State on July 28, 1988, by the issuance of license number 175375 by the New York State Education Department. Respondent is currently registered with the New York State Education Department to practice medicine with a registration address of Department 279, 2503 Carmel Avenue, Brewster, New York 10509.

FACTUAL ALLEGATIONS

A. Respondent, a psychiatrist, provided medical care to Patient A [identified in the Appendix] at various times from approximately February 1992 through May 2001, at various locations including Respondent's office at Stoneleigh Avenue, R.D. #13, Carmel, New York, 10512 (hereafter, "the office"). Respondent's treatment of Patient A failed to meet accepted standards of medical practice in that:

1. Respondent, at various times between approximately August 1992 and May 2001, engaged in an inappropriate personal, social, and/or sexual relationship with Patient A in that:
 - a. Respondent, on numerous occasions, divulged personal information about himself to Patient A that was not pertinent to therapy, including information regarding Respondent's own marital difficulties and sexual practices.
 - b. Respondent, beginning in approximately February 1993, urged Patient A, who was then married, to leave her husband and to become romantically and sexually involved with Respondent.

- c. Respondent engaged in physical contact of a sexual nature with Patient A, including sexual intercourse, on numerous occasions at Respondent's residence, at Patient A's residence, and later at their [REDACTED]
 - d. Respondent invited and/or arranged for Patient A to live in and/or visit Respondent's residence at various times from approximately June, 1993 through approximately the spring of 1995.
 - e. Respondent [REDACTED] Patient A from approximately the spring of 1995 through May 2001.
 - f. Respondent engaged in multiple personal financial transactions with Patient A. [REDACTED]
2. Respondent, between at least March 1993 and May 2001, provided medication from samples and/or prescribed drugs for Patient A, including substances such as desipramine, Ambien, perphenazine, clonazepam, Effexor, Paxil, Wellbutrin, Serzone, and Celexa. During this time:
 - a. Respondent failed to perform and/or record the performance of an adequate evaluation of Patient A's medical condition before providing or prescribing such drugs.
 - b. Respondent failed to perform and/or record the performance of an adequate evaluation of Patient A's medical condition while providing or prescribing such drugs.
 - c. Respondent failed to maintain adequate medical records of such treatment and/or his provision/prescription of such drugs.
 3. Respondent, during the course [REDACTED] Patient A, repeatedly divulged to Patient A patient identifying information about other psychiatric patients he was then treating, including Patients B, C, D and/or G.
 4. Respondent, on or about November 17, 1998, prescribed 180 clonazepam to Patient G to be taken in the amount of 0.5 mg, twice a day. The patient returned some of the medication to the Respondent in the prescription container that included the patient's name. Respondent provided the returned medication and container to Patient A for her use.
 5. Respondent failed to maintain a medical record for Patient A that accurately reflected his evaluation and treatment of the patient.

B. Respondent, between 1993 and 2001, repeatedly engaged in improper social and personal relationships with his psychiatric patients by accepting gifts of more than nominal value, and/ or gifts of personal significance, including food, alcoholic beverages, and jewelry from a variety of patients, and pottery from the wife of Patient C.

C. Respondent provided psychiatric medical care to Patient D at various times from approximately the spring of 1999 through at least June 2001, at various locations including Respondent's office at Supervised Lifestyles/SLS Health, 2502 Carmel Avenue, Brewster, New York 10509 (the "Brewster office"). Patient D was diagnosed by Respondent as having a major depressive disorder and obsessive-compulsive disorder. Respondent's treatment of Patient D failed to meet accepted standards of medical practice in that:

1. Respondent, at the same time he was treating Patient D, from approximately January 2001 through May 2001 hired Patient D to [REDACTED] Respondent [REDACTED] [REDACTED]
2. Respondent, in conjunction with hiring Patient D to [REDACTED] arranged for Patient A to pay Patient D's wife for the work, in order to conceal Respondent's extra-therapeutic relationship with Patient D.
3. Respondent, during the course of his treatment of Patient D, and while Patient D was employed by Respondent to [REDACTED], on more than one occasion personally or through recorded messages addressed Patient D with words such as "hey f---head, where the hell are you", or words to that effect.
4. Respondent, on or about August 13, 2001, was interviewed by representatives of the New York State Department of Health regarding medical care Respondent provided to Patient A, and regarding medical care that the Respondent had provided to other patients. In the interview, Respondent denied that he had received any gifts from patients, or that he ever asked or employed patients to do personal things for him. In fact, Respondent had received gifts from patients, and Respondent hired Patient D [REDACTED] [REDACTED] from approximately January 2001 through at least May 2001.
5. Respondent failed to maintain a medical record for Patient D that accurately reflected his evaluation and treatment of Patient D.

D. Respondent, at various times during the period from approximately October 1998 through December 1999, prescribed medication (Methylphenidate, i.e. Ritalin) for [REDACTED], Patient E, to treat a psychiatric condition that included Attention Deficit Hyperactivity Disorder. Patient E was at the same time being treated by other physicians or healthcare providers for these conditions. Respondent's treatment of Patient E failed to meet accepted standards of medical practice in that:

1. Respondent provided medical care for a psychiatric condition to Patient E, which was inappropriate [REDACTED]
2. Respondent on various occasions from October 1998 through December 1999 prescribed or provided Ritalin for Patient E, without the knowledge or consent of the patient's treating physician.
3. Respondent failed to perform and/or record the performance of an adequate evaluation of Patient E's medical condition before prescribing or providing such drugs.
4. Respondent failed to perform and/or record the performance of an adequate evaluation of Patient E's medical condition while prescribing or providing such drugs.
5. Respondent failed to maintain adequate medical records of such treatment and/or his provision/prescription of such drugs to Patient E.
6. Respondent failed to maintain a medical record for Patient E that accurately reflected his evaluation and treatment of the patient.

E. Respondent, at various times during the period from approximately September 1998 through December 1999, prescribed medication (including Methylphenidate, i.e. Ritalin and Paxil) for [REDACTED], Patient F, to treat a psychiatric condition that included depression. Patient F was at the same time being treated by other physicians or healthcare providers for these conditions. Respondent's treatment of Patient F failed to meet accepted standards of medical practice in that:

1. Respondent provided medical care for a psychiatric condition to Patient F, which was inappropriate [REDACTED]

2. Respondent on various occasions from September 1998 through December 1999 prescribed or provided Paxil to Patient F, without the knowledge or consent of the patient's treating physician.
3. Respondent failed to perform and/or record the performance of an adequate evaluation of Patient F's medical condition before prescribing or providing such drugs.
4. Respondent failed to perform and/or record the performance of an adequate evaluation of Patient F's medical condition while prescribing or providing such drugs.
5. Respondent failed to maintain adequate medical records of such treatment and/or his provision/prescription of such drugs to Patient F.
6. Respondent failed to maintain a medical record for Patient F that accurately reflected his evaluation and treatment of Patient F.

FIRST SPECIFICATION

SEXUAL CONTACT

Respondent is charged with professional misconduct in the practice of medicine, specifically in the practice of psychiatry, by engaging in physical contact of a sexual nature with a patient in violation of New York Education Law section 6530(44), in that Petitioner charges:

1. The facts in Paragraphs A and A.1(c).

SECOND AND THIRD SPECIFICATIONS

MORAL UNFITNESS

Respondent is charged with conduct in the practice of medicine which evidences moral unfitness to practice medicine in violation of New York Education Law section 6530(20), in that Petitioner charges:

2. The facts in Paragraphs A and A.1(a), A and A.1(b), A and A.1(c), A and A.1(d), A and A.1(e), A and A.1(f), A and A.3, and/or A and A.4.
3. The facts in Paragraphs C and C.1, C and C.2, C and C.3, and/or C and C.4.

FOURTH SPECIFICATION

FRAUD IN PRACTICE OF MEDICINE

Respondent is charged with professional misconduct in the practice of medicine by practicing the profession fraudulently, in violation of New York Education Law section 6530(2), in that Petitioner charges:

4. The facts in Paragraphs C and C.2 and/or C and C.4.

FIFTH AND SIXTH SPECIFICATIONS
WILLFUL PHYSICAL OR VERBAL ABUSE

Respondent is charged with committing professional misconduct as defined in N.Y. Educ. Law §6530(31) by willfully harassing, abusing, or intimidating a patient either physically or verbally, as alleged in the facts of:

5. The facts in Paragraphs A and A.1(c).
6. The facts in Paragraphs C and C.3.

SEVENTH SPECIFICATION
**REVEALING PERSONALLY IDENTIFIABLE FACTS,
DATA, OR INFORMATION**

Respondent is charged with committing professional misconduct as defined in N.Y. Educ. Law §6530(23) by revealing personally identifiable facts, data, or information obtained in a professional capacity without the proper consent of the patient, as alleged in the facts of:

7. The facts in Paragraphs A and A.3.

EIGHTH THROUGH ELEVENTH SPECIFICATIONS
GROSS NEGLIGENCE

Respondent is charged with practicing the profession with gross negligence on a particular occasion in violation of New York Education Law section 6530(4), in that Petitioner charges:

8. The facts in Paragraphs A and A.1(a), A and A.1(b), A and A.1(c), A and A.1(d), A and A.1(e), A and A.1(f), A and A.2(a), A and A.2(b), A and A.2(c), A and A.3, A and A.4, and/or A and A.5.
9. The facts in Paragraphs C and C.1, C and C.3, and/or C and C.5.

10. The facts in Paragraphs D and D.1, D and D.2, D and D.3, D and D.4, D and D.5, and/or D and D.6.
11. The facts in Paragraphs E and E.1, E and E.2, E and E.3, E and E.4, E and E.5, and/or E and E.6.

TWELFTH THROUGH FIFTEENTH SPECIFICATIONS

GROSS INCOMPETENCE

Respondent is charged with practicing the profession with gross incompetence in violation of New York Education Law section 6530(6), in that Petitioner charges:

12. The facts in Paragraphs A and A.1(a), A and A.1(b), A and A.1(c), A and A.1(d), A and A.1(e), A and A.1(f), A and A.2(a), A and A.2(b), A and A.2(c), A and A.3, A and A.4, and/or A and A.5.
13. The facts in Paragraphs C and C.1, C and C.3, and/or C and C.5.
14. The facts in Paragraphs D and D.1, D and D.2, D and D.3, D and D.4, D and D.5, and/or D and D.6.
15. The facts in Paragraphs E and E.1, E and E.2, E and E.3, E and E.4, E and E.5, and/or E and E.6.

SIXTEENTH SPECIFICATION

NEGLIGENCE ON MORE THAN ONE OCCASION

Respondent is charged with practicing the profession with negligence on more than one occasion in violation of New York Education Law section 6530(3), in that Petitioner charges that Respondent committed two or more of the following:

16. The facts in Paragraphs A and A.1(a), A and A.1(b), A and A.1(c), A and A.1(d), A and A.1(e), A and A.1(f), A and A.2(a), A and A.2(b), A and A.2(c), A and A.3, A and A.4, A and A.5, B, C and C.1, C and C.3, C and C.5, D and D.1, D and D.2, D and D.3, D and D.4, D and D.5, D and D.6, E and E.1, E and E.2, E and E.3, E and E.4, E and E.5, and/or E and E.6.

SEVENTEENTH SPECIFICATION

INCOMPETENCE ON MORE THAN ONE OCCASION

Respondent is charged with practicing the profession with incompetence on more than one occasion in violation of New York Education Law section 6530(5), in that Petitioner charges that Respondent committed two or more of the following:

17. The facts in Paragraphs A and A.1(a), A and A.1(b), A and A.1(c), A and A.1(d), A and A.1(e), A and A.1(f), A and A.2(a), A and A.2(b), A and A.2(c), A and A.3, A and A.4, A and A.5, B, C and C.1, C and C.3, C and C.5, D and D.1, D and D.2, D and D.3, D and D.4, D and D.5, D and D.6, E and E.1, E and E.2, E and E.3, E and E.4, E and E.5, and/or E and E.6.

EIGHTEENTH SPECIFICATION

FAILURE TO MAINTAIN ACCURATE RECORDS

Respondent is charged with professional misconduct by failing to maintain a records for each patient which accurately reflect the evaluation and treatment of the patient, in violation of New York Education Law section 6530(32), in that Petitioner charges:

18. The facts in Paragraphs A and A.2(a), A and A.2(b), A and A.2(c), A and A.5, C and C.5, D and D.3, D and D.4, D and D.5, D and D.6, E and E.3, E and E.4, E and E.5, and/or E and E.6.

DATED: *May 3*, 2002

Albany, New York



PETER D. VAN BUREN

Deputy Counsel
Bureau of Professional
Medical Conduct

EXHIBIT "B"

**GUIDELINES FOR CLOSING A MEDICAL PRACTICE FOLLOWING A
REVOCATION, SURRENDER OR SUSPENSION (of 6 months or more)
OF A MEDICAL LICENSE**

1. Respondent shall immediately cease and desist the practice of medicine in compliance with the terms of the Surrender Order. Respondent shall not represent himself or herself as eligible to practice medicine and shall refrain from providing an opinion as to professional practice or its application.
2. Within fifteen (15) days of the Surrender Order's effective date, Respondent shall notify all patients that he or she has ceased the practice of medicine, and shall refer all patients to another licensed practicing physician for their continued care, as appropriate.
3. Within thirty (30) days of the Surrender Order's effective date, Respondent shall have his or her original license to practice medicine in New York State and current biennial registration delivered to the Office of Professional Medical Conduct (OPMC) at 433 River Street Suite 303, Troy, NY 12180-2299.
4. Respondent shall arrange for the transfer and maintenance of all patient medical records. Within thirty (30) days of the Surrender Order's effective date, Respondent shall notify OPMC of these arrangements, including the name, address, and telephone number of an appropriate contact person, acceptable to the Director of OPMC, who shall have access to these records. Original records shall be retained for patients for at least six (6) years after the last date of service, and, for minors, at least six (6) years after the last date of service or three (3) years after the patient reaches the age of majority, whichever time period is longer. Records shall be maintained in a safe and secure place that is reasonably accessible to former patients. The arrangements shall ensure that all patient information is kept confidential and is available only to authorized persons. When a patient or authorized representative requests a copy of the patient's medical record, or requests that the original medical record be sent to another health care provider, a copy of the record shall be promptly provided or sent at 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 inability to pay.
5. Within fifteen (15) days of the Order's effective date, if Respondent holds a Drug Enforcement Agency (DEA) certificate, Respondent shall advise the DEA in writing of the licensure action and shall surrender his or her DEA controlled substance certificate, privileges, and any used DEA #222 U.S. Official Order Forms Schedules 1 and 2, to the DEA.
6. Within fifteen (15) days of the Order's effective date, Respondent shall 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 have all prescription pads bearing Respondent's name destroyed. If no other licensee is providing services at his practice location, Respondent shall dispose of all medications.
7. Within fifteen (15) days of the Order's effective date, Respondent shall remove from the public domain any representation that Respondent is eligible to practice medicine, including all related signs, advertisements, professional listings whether in telephone directories or otherwise, professional stationery or billings. Respondent shall not share, occupy or use office space in which another licensee provides health

care services.

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 practicing medicine. Respondent may receive compensation for the reasonable value of services lawfully rendered, and disbursements incurred on a patient's behalf, prior to the Order's effective date.

9. If Respondent is a shareholder in any professional service corporation organized to engage in the practice of medicine and Respondent's license is revoked, surrendered or suspended for six (6) months or more pursuant to this Order, Respondent shall, within ninety (90) days of the Order's effective date, divest himself/herself of all financial interest in such professional services corporation in accordance with New York Business Corporation Law. If Respondent is the sole shareholder in a professional services corporation, the corporation must be dissolved or sold within ninety (90) days of the Order's effective date.

10. Failure to comply with the above directives may result in civil or criminal penalties. Practicing medicine when a medical license has been suspended, revoked or annulled is a Class E Felony, punishable by imprisonment for up to four (4) years, under Section 6512 of the Education Law. Professional misconduct may result in penalties including revocation of the suspended license and/or fines of up to \$10,000 for each specification of misconduct, under Section 230-a of the Public Health Law.