



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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NYS Department of Health

Dennis P. Whalen
Executive Deputy Commissioner
NYS Department of Health

Dennis J. Graziano, Director
Office of Professional Medical Conduct

Kendrick A. Sears, M.D.
Chairman

Michael A. Gonzalez, R.P.A.
Vice Chair

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

Public

November 1, 2005

CERTIFIED MAIL-RETURN RECEIPT REQUESTED

Mark G. Greenbaum, M.D.
25 Rosehill Avenue
New Rochelle, NY 10804

Re: License No. 152004

Dear Dr. Greenbaum:

Enclosed is a copy of Order #BPMC 05-246 of the New York State Board for Professional Medical Conduct. This order and any penalty provided therein goes into effect November 8, 2005.

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 the 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: Mark L. Furman, Esq.
Hoffman, Einiger & Pollard, PLLC
220 East 42nd Street, Suite 435
New York, NY 10017

**IN THE MATTER
OF
MARK GREENBAUM, M.D.**

**SURRENDER
ORDER**

BPMC No. #05-246

Upon the application of (Respondent) Mark Greenbaum, 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 it is further

ORDERED, that Respondent's name 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 Surrender Order, either by first class mail to Respondent at the address in the attached Surrender Application or by certified mail to Respondent's attorney, OR
- upon facsimile transmission to Respondent or Respondent's attorney,

Whichever is first.

SO ORDERED.

DATED: 10-28-05


KENDRICK A. 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
MARK GREENBAUM, M.D.**

**SURRENDER
of
LICENSE**

Mark Greenbaum, M.D., representing that all of the following statements are true, deposes and says:

That on or about October 29, 1982, I was licensed to practice as a physician in the State of New York, and issued License No. 152004 by the New York State Education Department.

My current address is 25 Rosehill Avenue, New Rochelle, NY 10804, and I will advise the Director of the Office of Professional Medical Conduct ("OPMC") of any change of address.

I understand that the New York State Board for Professional Medical Conduct has charged me with 21 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 First Specification, in full satisfaction of the charges against me.

I ask the Board to accept the Surrender of my License, and I agree to be bound by all of the terms set forth in Exhibit "B," captioned, "Guidelines for Closing a Medical Practice ...", which is attached to and part of this Surrender of License.

With specific reference to paragraph 4 of Exhibit "B", concerning proper maintenance of medical records and patient access to medical records pursuant to Section 17 of the Public Health Law, I additionally agree to include in the specified maintenance and access arrangements all medical records that were previously seized by the FBI and that have been, or in the near future will be, returned to me by the FBI.

With specific reference to paragraph 9 of Exhibit "B", concerning proper dissolution or divestiture of professional medical entities, I acknowledge that I have in the past either established or acquired an ownership interest in the following 16 professional medical entities: (1) N.Y. Physician Multi-Care, P.L.L.C.; (2) South Bronx Pain and Medical Services, P.C.; (3) Ramapo Physical Medicine and Rehabilitation, P.C.; (4) Pomona Medical Care and Diagnostics, P.C.; (5) Hartsdale Medical Care & Diagnostic, P.C.; (6) St. Francis Medical, P.C., formerly known as Grand Central Medical Services, P.C.; (7) Chappaqua Physical Medicine and Rehabilitation, P.C.; (8) Massapequa Physical Medicine and Rehabilitation, P.C.; (9) Bellmore Physical Medicine and Rehabilitation, P.C.; (10) Comprehensive Medical Diagnostics, P.C.; (11) Yorktown Physical Medicine and Rehabilitation, P.C.; (12) Disability Evaluation Medical Group, P.C.; (13) Comprehensive Medical Diagnostics, P.C.; (14) Physician Multi-Care P.C.; (15) Plainview Physical Medicine and Rehabilitation, P.C.; (16) Mill Basin Physical Medicine and Rehabilitation, P.C. I agree that I shall, within 90 days of the effective date of this Surrender Order: (1) notify the Director of OPMC of the name of any professional medical entity that I have in the past either established

or acquired an ownership interest in and that is not included in the above list; (2) to the extent I have not done so already, dissolve or divest myself completely from all professional medical entities that I have in the past either established or acquired an ownership interest in, provided that such dissolution or divestiture shall be in accordance with the provisions of Business Corporation Law Article 15 or other applicable law; (3) upon the request of the Director of OPMC, make available within 14 days all underlying documents that substantiate such dissolution or divestiture.

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. The Order, this agreement, and all attached Exhibits shall be public documents, with only patient identities, if any, redacted.

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.

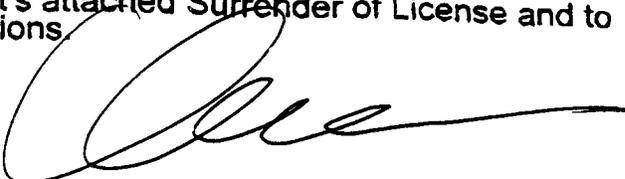
DATED 10/7/05



MARK GREENBAUM, M.D.
RESPONDENT

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

DATE: 10/14/05


MARK L. FURMAN, ESQ.
Attorney for Respondent
Hoffman Einiger & Pollard PLLC
220 East 42nd Street, Suite 435
New York, NY 10017

DATE: Oct. 18, 2005


RICHARD J. ZAHNLEUTER
Associate Counsel
Bureau of Professional Medical Conduct

DATE: October 27, 2005


DENNIS J. GRAZIANO
Director
Office of Professional Medical Conduct

EXHIBIT "A"

IN THE MATTER
OF
MARK GREENBAUM, M.D.

AMENDED
STATEMENT
OF
CHARGES

Mark Greenbaum, M.D., the Respondent, was authorized to practice medicine in New York State on or about October 29, 1982, by the issuance of license number 152004 by the New York State Education Department. Respondent's current address, upon information and belief, is 25 Rosehill Avenue, New Rochelle, New York 10804.

FACTUAL ALLEGATIONS

- A. On or about March 6, 2002, in a Plea Allocution Proceeding in the United States District Court, Southern District of New York, Respondent pled guilty to "Conspiracy to Commit Health Care Fraud, Mail Fraud, and Making False Statements Relating to Health Care Matters" and "Conspiracy to Commit Mail Fraud," both Class D Felonies in violation 18 USC 371.
- B. Under the terms of the Plea Allocution and underlying Plea Agreement, Respondent also agreed to forfeit to the United States pursuant to 18 USC 982 approximately \$1.3 million traceable to the commission of these

offenses. On or about October 16, 2002, the Court filed a "Final Order of Forfeiture" that ordered Respondent to forfeit the approximately \$1.3 million to the United States.

- C. On or about February 9, 2005, the Court filed a "Judgment in a Criminal Case" that accepted the aforementioned guilty pleas, convicted Respondent, and sentenced Respondent to three (3) years probation, eighty (80) hours of community service, and a \$200.00 assessment.
- D. On or about May 26, 2005, Antonia C. Novello, M.D., M.P.H., Dr. Ph., Commissioner of Health of the State of New York, invoked her Summary Suspension powers under Section 230(12)(b) of the Public Health Law, and, based on Respondent's two felony convictions, ordered Respondent not to practice medicine in the State of New York.
- E. On or about May 26, 2005, at approximately 9:30 pm, the Commissioner's Order was served on Respondent, thereby becoming immediately effective.
- F. On or about June 20, 2005, Respondent practiced medicine with respect to Patient A¹.

¹ To preserve privacy throughout this document, patients are referred to by letter designation. An Appendix of Patient Names (Appendix "A") is attached hereto for appropriate recipients.

- G. On two occasions on or about May 31, 2005, Respondent practiced medicine with respect to Patient B.
- H. On or about June 3, 2005, Respondent practiced medicine with respect to Patient B.
- I. On or about June 8, 2005, Respondent practiced medicine with respect to Patient C.
- J. On or about May 31, 2005, Respondent practiced medicine with respect to Patient D.

SPECIFICATIONS OF MISCONDUCT

FIRST SPECIFICATION

(Direct Referral - Conviction of Crimes)

Respondent is charged with professional misconduct by reason of HAVING BEEN CONVICTED OF COMMITTING AN ACT CONSTITUTING A CRIME UNDER FEDERAL LAW, in violation of New York Education Law §6530(9)(a)(ii), in that Petitioner charges:

1. The factual allegations in Paragraphs A, B, and/or C.

SECOND THROUGH SIXTH SPECIFICATIONS

(Violating a Limitation Imposed on the Licensee)

Respondent is charged with professional misconduct by reason of VIOLATING A LIMITATION IMPOSED ON THE LICENSEE PURSUANT TO SECTION 230 OF THE PUBLIC HEALTH LAW, in violation of New York State Education Law §6530(29), in that Petitioner charges:

2. The factual allegations in Paragraphs D, E, and/or F.
3. The factual allegations in Paragraphs D, E, and/or G.
4. The factual allegations in Paragraphs D, E, and/or H.
5. The factual allegations in Paragraphs D, E, and/or I.
6. The factual allegations in Paragraphs D, E, and/or J.

SEVENTH THROUGH ELEVENTH SPECIFICATIONS
(Practicing Beyond the Scope Permitted by Law)

Respondent is charged with professional misconduct by reason of
**PRACTICING OR OFFERING TO PRACTICE BEYOND THE SCOPE
PERMITTED BY LAW**, in violation of New York Education Law §6530(24), in that
Petitioner charges:

7. The factual allegations in Paragraphs D, E, and/or F.
8. The factual allegations in Paragraphs D, E, and/or G.
9. The factual allegations in Paragraphs D, E, and/or H.
10. The factual allegations in Paragraphs D, E, and/or I.
11. The factual allegations in Paragraphs D, E, and/or J.

TWELFTH THROUGH SIXTEENTH SPECIFICATIONS
(Moral Unfitness)

Respondent is charged with professional misconduct by reason of
**CONDUCT IN THE PRACTICE OF MEDICINE WHICH EVIDENCES MORAL
UNFITNESS TO PRACTICE MEDICINE**, in violation of New York Education Law
§6530 (20), in that Petitioner charges:

12. The factual allegations in Paragraphs D, E, and/or F.
13. The factual allegations in Paragraphs D, E, and/or G.
14. The factual allegations in Paragraphs D, E, and/or H.

15. The factual allegations in Paragraphs D, E, and/or I.
16. The factual allegations in Paragraphs D, E, and/or J.

SEVENTEENTH THROUGH TWENTY-FIRST SPECIFICATIONS
(Practicing Fraudulently or Beyond its Authorized Scope)

Respondent is charged with professional misconduct by reason of
PRACTICING THE PROFESSION FRAUDULENTLY OR BEYOND ITS
AUTHORIZED SCOPE, in violation of New York Education Law §6530(2), in that
Petitioner charges:

17. The factual allegations in Paragraphs D, E, and/or F.
18. The factual allegations in Paragraphs D, E, and/or G.
19. The factual allegations in Paragraphs D, E, and/or H.
20. The factual allegations in Paragraphs D, E, and/or I.
21. The factual allegations in Paragraphs D, E, and/or J.

DATED: September 20, 2005
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 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 Surrender 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 Surrender Order's effective date, Respondent shall return any unused New York State official prescription forms to the Bureau of Narcotic Enforcement 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 Respondent's practice location, Respondent shall dispose of all medications.

7. Within fifteen (15) days of the Surrender 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 Surrender 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.