



***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.  
*Commissioner*  
*NYS Department of Health*  
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*

June 2, 2000

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

Mark Novak, R.P.A.  
4688 Fairbank Drive  
Syracuse, New York 13215

RE: License No. 003852

Dear Mr. Novak:

Enclosed please find Order #BPMC 00-168 of the New York State Board for Professional Medical Conduct. This Order and any penalty provided therein goes into effect June 2, 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: Catherine A. Gale, Esq.  
Gale and Dancks, LLC  
7136 E. Genesee Street  
P.O.Box 97  
Fayetteville New York 13066-0097

Valarie B. Donovan, Esq.

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

IN THE MATTER

OF

MARK H. NOVAK, R.P.A.

CONSENT  
AGREEMENT  
AND  
ORDER

BPMC No. 00-168

MARK H. NOVAK, R.P.A., (Respondent) says:

That on or about September 22, 1989, I was licensed to practice as a Registered Physician Assistant in the State of New York, having been issued License No. 003852 by the New York State Education Department.

My current address is 4688 Fairbank Drive, Syracuse, New York 13215, and I will advise the Director of the Office of Professional Medical Conduct of any change of my 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 is annexed hereto, made a part hereof, and marked as Exhibit "A".

I do not contest the Third Specification, in full satisfaction of the charges against me. I hereby agree to the following penalty:

Five year suspension of my registration, the entirety of which shall be stayed conditioned on my full compliance with the terms of probation attached as exhibit B, for a period of five years.

I further agree that the Consent Order for which I hereby apply shall impose the following conditions:

That, except during periods of actual suspension, Respondent shall maintain current registration of Respondent's license with the New York State Education Department Division of Professional Licensing Services, and pay all registration fees. This condition shall be in effect beginning thirty days after the effective date of the Consent Order and will continue while the licensee possesses his license; and

That Respondent shall fully cooperate in every respect with the Office of Professional Medical Conduct (OPMC) in its administration and enforcement of this Order and in its investigation of all matters regarding Respondent. Respondent shall respond in a timely manner to each and every request by OPMC to provide written periodic verification of Respondent's compliance with the terms of this Order. Respondent shall meet with a person designated by the Director of OPMC as directed. Respondent shall respond promptly and provide any and all documents and information within Respondent's control upon the direction of OPMC. This condition shall be in effect beginning upon the effective date of the Consent Order and will continue while the licensee possesses his license.

I hereby stipulate that any failure by me to comply with such conditions shall constitute misconduct as defined by New York State Education Law §6530(29)(McKinney Supp 2000).

I agree that in the event I am charged with professional misconduct in the

future, this agreement and order shall be admitted into evidence in that proceeding.

I hereby make this Application to the State Board for Professional Medical Conduct (the Board) and request that it be granted.

I understand that, in the event that this Application is not granted by the Board 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 Application 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 Board shall be made without prejudice to the continuance of any disciplinary proceeding and the final determination by the Board 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. I agree that such order shall be effective upon issuance by the Board, which may be accomplished by mailing, by first class mail, a copy of the Consent Order to me at the address set forth in this agreement, or to my attorney, or upon transmission via facsimile to me or my attorney, whichever is earliest.

I am making this Application of my own free will and accord and not under duress, compulsion or restraint of any kind or manner. In consideration of the value to me of the acceptance by the Board of this Application, allowing me to resolve this matter without the various risks and burdens of a hearing on the merits, I knowingly waive any right I may have to contest the Consent Order for which I hereby apply, whether administratively or judicially, and ask that the Application be granted.

AFFIRMED:

DATED 5/19/2000

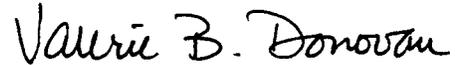
  
\_\_\_\_\_  
MARK H. NOVAK, R.P.A.  
Respondent

The undersigned agree to the attached application of the Respondent and to the proposed penalty based on the terms and conditions thereof.

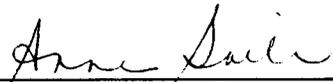
DATE: 5/19/00

  
\_\_\_\_\_  
CATHERINE A. GALE  
Attorney for Respondent

DATE: 5/23/00

  
\_\_\_\_\_  
VALERIE B. DONOVAN  
Assistant Counsel  
Bureau of Professional  
Medical Conduct

DATE: May 25, 2000

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

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

-----X

IN THE MATTER : STATEMENT  
OF : OF  
MARK H. NOVAK, R.P.A. : CHARGES

-----X

MARK H. NOVAK, R.P.A., the Respondent, was authorized to practice as a Registered Physician Assistant in New York State on September 22, 1989, by the issuance of license number 003852 by the New York State Education Department. Respondent is currently registered with the New York State Education Department. His current address is 4688 Fairbank Drive, Syracuse, New York 13215.

**FACTUAL ALLEGATIONS**

A. During the period from on or about April, 1999, through on or about July, 1999, Respondent's work supervisor and co-workers questioned Respondent's use of alcohol during work hours.

B. On or about July 15, 1999, Respondent was observed imbibing an alcoholic beverage while on duty at the health center at which he was employed.

C. Respondent was evaluated by a certified Alcohol Screening Clinic in September, 1999 and was diagnosed as suffering from alcohol abuse.

SPECIFICATIONS OF MISCONDUCT

FIRST THROUGH THIRD SPECIFICATIONS

HABITUAL ALCOHOL ABUSE

Respondent is charged with professional misconduct within the meaning of N.Y. Educ. Law § 6530(8), for being an habitual abuser of alcohol, in that Petitioner charges:

1. The facts in Paragraph A.
2. The facts in Paragraph B.
3. The facts in Paragraph C.

DATED: *May 23*, 2000  
Albany, New York

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

## EXHIBIT "B"

### Terms of Probation

1. Respondent shall conduct himself in all ways in a manner befitting his professional status, and shall conform fully to the moral and professional standards of conduct and obligations imposed by law and by his profession.
2. Respondent shall submit written notification to the New York State Department of Health addressed to the Director of the Office of Professional Medical Conduct, New York State Department of Health, 433 River Street, Suite 303, Troy, NY 12180-2299; said notice is to include a full description of any employment and practice, professional and residential addresses and telephone numbers within or without New York State, and any and all investigations, charges, convictions or disciplinary actions by any local, state or federal agency, institution or facility, within thirty days of each action.
3. The period of probation shall be tolled during periods in which Respondent is not engaged in the active practice as a Registered Physician Assistant in New York State. Respondent shall notify the Director of OPMC, in writing, if Respondent is not currently engaged in or intends to leave active practice in New York State for a period of thirty (30) consecutive days or more. Respondent shall then notify the Director again prior to any change in that status. The period of probation shall resume and any terms of probation which were not fulfilled shall be fulfilled upon Respondent's return to practice in New York State.
4. Respondent's professional performance may be reviewed by the Director of OPMC. This review may include, but shall not be limited to, a review of office records, patient records and/or hospital charts, interviews with or periodic visits with Respondent and his staff at practice locations or OPMC offices.
5. Respondent shall maintain legible and complete medical records which accurately reflect the evaluation and treatment of patients. The medical records shall contain all information required by State rules and regulations regarding controlled substances.
6. Respondent shall remain drug/alcohol free.
7. Respondent shall remain active in a self help group such as, but not limited to, Narcotics Anonymous, Alcoholics Anonymous and Caduceus.
8. Respondent shall notify all treating physicians of his history of alcohol dependency. Respondent shall advise OPMC of any controlled or mood-altering substance given or prescribed by treating physicians.
9. Respondent shall practice only when monitored by qualified health care professionals ("sobriety monitor", "practice supervisor" and "therapist") proposed by Respondent and approved, in writing, by the Director of OPMC. Monitors shall not be family members or personal friends, or be in professional relationships which would pose a conflict with monitoring responsibilities.
10. Respondent shall ensure that the monitors are familiar with Respondent's alcohol dependency and with the terms of this Order. Respondent shall cause the monitors to report any deviation from compliance with the terms of this Order to OPMC.

Respondent shall cause the monitors to submit required reports on a timely basis.

11. Respondent shall submit, at the request of a monitor, to random, unannounced observed blood, breath and/or urine screens for the presence of drugs/alcohol. This monitoring will be on a random, seven-days a week, twenty-four hours a day basis. Respondent shall report for a drug screen within four (4) hours of being contacted by the monitor. Respondent shall cause the monitor to report to OPMC within 24 hours if a test is refused or delayed by Respondent or a test is positive for any unauthorized substance.
12. Respondent shall meet with a sobriety monitor on a regular basis who will submit quarterly reports to OPMC certifying Respondent's sobriety. These reports are to include: a) forensically valid results of all drug/alcohol monitoring tests to be performed at a frequency of no less than six per month for the first 12 months of the period of probation, then at a frequency to be proposed by the sobriety monitor and approved by OPMC; and b) an assessment of self-help group attendance (e.g., AA/NA/Caduceus, etc.), 12 step progress, etc.
13. Respondent shall practice as a Registered Physician Assistant only when supervised in his practice. The practice supervisor shall be on-site at all locations, unless determined otherwise by the Director of OPMC. Respondent shall not practice as a Registered Physician Assistant until a practice supervisor has been approved. Respondent shall ensure that the practice supervisor is in a position to regularly observe and assess Respondent's practice. Respondent shall cause the practice supervisor to report within 24 hours any suspected impairment, inappropriate behavior, questionable medical practice or possible misconduct to OPMC.
14. Respondent shall cause the practice supervisor to review Respondent's practice regarding the prescribing, administering, dispensing, inventorying, and disposal of controlled substances.
15. Respondent shall cause the practice supervisor to submit quarterly reports to OPMC regarding the quality of Respondent's medical practice, including the evaluation and treatment of patients, physical and mental condition, time and attendance or any unexplained absences from work, prescribing practices, and compliance or failure to comply with any term of probation.
16. Respondent shall continue in counseling or other therapy with a therapist as long as the therapist determines is necessary.
17. Respondent shall cause the therapist to submit a proposed treatment plan and quarterly reports to OPMC certifying whether Respondent is in compliance with the treatment plan. Respondent shall cause the therapist to report to OPMC within 24 hours if Respondent leaves treatment against medical advice, or displays any symptoms of a suspected or actual relapse.
18. Respondent shall comply with any request from OPMC to obtain an independent psychiatric/chemical dependency evaluation by a health care professional proposed by the Respondent and approved, in writing, by the Director of OPMC.
19. Respondent shall comply with all terms, conditions, restrictions, limitations and penalties to which he is subject pursuant to the Order and shall assume and bear all costs related to compliance. Upon receipt of evidence of noncompliance with, or any violation of these terms, the Director of OPMC and/or the Board may initiate a violation of probation proceeding and/or any

such other proceeding against Respondent as may be authorized pursuant to the law.

IN THE MATTER  
OF  
MARK H. NOVAK, R.P.A.

CONSENT  
ORDER

Upon the proposed agreement of Mark H. Novak, R.P.A. (Respondent) for Consent Order, which application is made a part hereof, it is agreed to and ORDERED, that the application and the provisions thereof are hereby adopted and so ORDERED, and 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 of the Consent Order to Respondent at the address set forth in this agreement or to Respondent's attorney by certified mail, or upon transmission via facsimile to Respondent or Respondent's attorney, whichever is earliest.

SO ORDERED.

DATED: 5/30/00

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