



Barbara A. DeBuono, M.D., M.P.H.
Commissioner of Health

Patrick F. Carone, M.D., M.P.H.
Chair
Ansel R. Marks, M.D., J.D.
Executive Secretary

August 31, 1998

CERTIFIED MAIL-RETURN RECEIPT REQUESTED

Joseph A. Zito, M.D.
25 Central Park West, Apt. 14Q
New York, New York 10023

RE: License No. 105778

Dear Dr. Zito:

Enclosed please find Order #BPMC 98-194 of the New York State Board for Professional Medical Conduct. This Order and any penalty provided therein goes into effect **September 7, 1998.**

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.

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: Patrick Dwyer, Esq.
Polstein, Ferrara & Dwyer, PC
2 Park Avenue
New York, New York 10016

Kathleen S. Wasson, Esq.

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

IN THE MATTER
OF
JOSEPH ANTHONY ZITO, M.D.

SURRENDER
OF
LICENSE

BPMC #98-194

STATE OF NEW YORK)
COUNTY OF NEW YORK) ss.:

JOSEPH ANTHONY ZITO, M.D., being duly sworn, deposes and says:

On or about April 8, 1970, I was licensed to practice medicine as a physician in the State of New York having been issued License No. 105778 by the New York State Education Department.

My current address is 25 Central Park West, Apartment 14Q, New York, NY 10023 , and I will advise the Director of the Office of Professional Medical Conduct of any change of my address.

I understand that I have been charged with five 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 permission to surrender my license as a physician in the State of New York on the grounds that I do not contest the Second Specification as it relates to Factual Allegations A, A(1) and A(1)(a) in full satisfaction of the Statement of Charges.

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

I understand that, in the event that the application 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 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 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 grants my application, an order shall be issued striking my name from the roster of physicians in the State of New York without further notice to me.

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 Surrender Order for which I hereby apply, whether administratively or judicially, and ask that the Application be granted.


JOSEPH ANTHONY ZITO, M.D.
RESPONDENT

Sworn to before me this

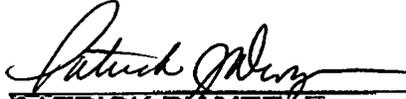
11th day of August, 1998


NOTARY PUBLIC

MARK D. SPEED
Notary Public, State of New York
No. 31-4762377
Qualified in New York County
Commission Expires April 30, 2000

The undersigned agree to the attached application of the Respondent to surrender his license.

Date: Aug 11, 1998


PATRICK DWYER, Esq.
Attorney for Respondent

Date: Aug. 13, 1998


KATHLEEN S. WASSON
Senior Attorney
Bureau of Professional
Medical Conduct

Date: Aug 18, 1998


ANNE F. SAILE
Director
Office of Professional Medical Conduct

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

IN THE MATTER
OF
JOSEPH ANTHONY ZITO, M.D.

SURRENDER
ORDER

Upon the proposed agreement of JOSEPH ANTHONY ZITO, M.D.
(Respondent) 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 application 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 take effect as of the date of the personal
service of this order upon Respondent, upon receipt by Respondent of this order via
certified mail, or seven days after mailing of this order via certified mail, whichever is
earliest.

SO ORDERED.

DATED: 8/26/98



PATRICK F. CARONE, M.D., M.P.H.
Chairperson
State Board for Professional
Medical Conduct

**IN THE MATTER
OF
JOSEPH ANTHONY ZITO, M.D.**

**AMENDED
STATEMENT
OF
CHARGES**

JOSEPH ANTHONY ZITO, M.D., the Respondent, was authorized to practice medicine in New York State on or about April 8, 1970, by the issuance of license number 105778 by the New York State Education Department.

FACTUAL ALLEGATIONS

- A. Respondent, a psychiatrist, treated Patient A from approximately May, 1976 to September, 1980 and from approximately October, 1983 to at least April, 1989. Patient A suffered from severe anxiety and major depression and was experiencing marital problems. (The identity of Patient A is disclosed in the annexed Appendix.)
1. Respondent engaged in inappropriate conduct as follows:
 - a. In approximately July, 1986, Respondent and Patient A met for drinks and engaged in sexual intercourse. Thereafter, Respondent engaged in an ongoing sexual relationship with Patient A which continued until approximately September, 1991. During the course of his sexual relationship with Patient A, Respondent prescribed and/or administered medications for Patient A.
 - b. On several occasions between approximately July, 1986 and September, 1991, Respondent and Patient A used illegal drugs together,

EXHIBIT "A"

including marijuana and "ecstasy".

- c. Between approximately July, 1986 and September, 1991, Respondent provided Patient A with, and/or encouraged Patient A to use, alcohol and illegal drugs in order to induce her to engage in acts of sadomasochism, sexual bondage, multi-party sexual acts, and/or acts of sexual degradation.

SPECIFICATION OF CHARGES

FIRST SPECIFICATION

GROSS NEGLIGENCE

Respondent is charged with committing professional misconduct as defined in N.Y. Educ. Law §6530(4)(McKinney Supp. 1998) by practicing the profession of medicine with gross negligence as alleged in the facts of the following:

1. Paragraphs A, A(1), A(1)(a), (b) and/or (c).

SECOND SPECIFICATION

NEGLIGENCE ON MORE THAN ONE OCCASION

Respondent is charged with committing professional misconduct as defined in N.Y. Educ. Law §6530(3)(McKinney Supp. 1998) by practicing the profession of medicine with negligence on more than one occasion as alleged in the facts of two or more of the following:

2. Paragraphs A, A(1), A(1)(a), (b) and/or (c).

THIRD SPECIFICATION

MORAL UNFITNESS

Respondent is charged with committing professional misconduct as defined in N.Y. Educ. Law §6530(20)(McKinney Supp. 1998) by engaging in conduct in the practice of the profession of medicine that evidences moral unfitness to practice as alleged in the facts of the following:

3. Paragraphs A, A(1), A(1)(a), (b) and/or (c).

FOURTH SPECIFICATION

WILLFULLY HARASSING, ABUSING OR INTIMIDATING A PATIENT

Respondent is charged with committing professional misconduct as defined in N.Y. Educ. Law §6530(31)(McKinney Supp. 1998) by willfully harassing, abusing or intimidating a patient either physically or verbally, as alleged in the facts of:

4. Paragraphs A and A(1), A(1)(a) and/or (c).

FIFTH SPECIFICATION

SEXUAL CONTACT BETWEEN PSYCHIATRIST AND PATIENT

Respondent is charged with committing professional misconduct as defined in N.Y. Educ. Law §6530(44)(McKinney Supp. 1998) by engaging in physical contact of a sexual nature with a patient, as alleged in the facts of:

5. Paragraphs A and A(1), A(1)(a) and/or (c).

DATED: August 1998
New York, New York

ROY NEMERSON
Deputy Counsel
Bureau of Professional
Medical Conduct