



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

Board for Professional Medical Conduct

Corning Tower • Empire State Plaza • Albany, NY 12237 • (518) 474-8357

C. Maynard Guest, M.D.
Executive Secretary

September 20, 1995

CERTIFIED MAIL-RETURN RECEIPT REQUESTED

Dominick Scialabba, M.D.
115 Flag Point Road
Toms River, New Jersey 08753

RE: License No. 085744
Effective Date: 09/27/95

Dear Dr. Scialabba:

Enclosed please find Order #BPMC 95-230 of the New York State Board for Professional Medical Conduct. This Order and any penalty provided therein goes into effect upon receipt of this letter or seven (7) days after the date of this letter, whichever is earlier.

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
Empire State Plaza
Tower Building-Room 438
Albany, New York 12237-0756

Sincerely,

Charles Vacanti, M.D.
Chairman
Board for Professional Medical Conduct

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

IN THE MATTER
OF
DOMINICK A. SCIALABBA, M.D.

CONSENT
ORDER
BPMC #95-230

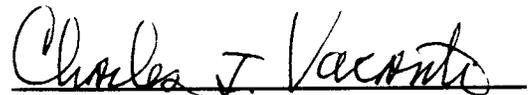
Upon the application of Dominick A. Scialabba, M.D. (Respondent) for Consent Order, which application is made a part hereof, it is

ORDERED, that the application and the provisions thereof are hereby adopted and so ORDERED, and 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 by certified mail, whichever is earliest.

SO ORDERED.

DATED: 18 September 1995



CHARLES J. VACANTI, M.D.
Chairperson
State Board for Professional
Medical Conduct

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

IN THE MATTER
OF
DOMINICK A. SCIALABBA, M.D.

APPLICATION
FOR
CONSENT ORDER

STATE OF NEW JERSEY)
COUNTY OF) ss.:

Dominick A. Scialabba, M.D., being duly sworn, deposes and says:

That on or about March 20, 1961, I was licensed to practice as a physician in the State of New York, having been issued License No. 085744, by the New York State Education Department.

My current address is 115 Flag Point Road, Toms River, New Jersey 08753, 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 admit guilt to the first and second specifications, in full satisfaction of the charges against me. I hereby agree to the penalty of censure and reprimand.

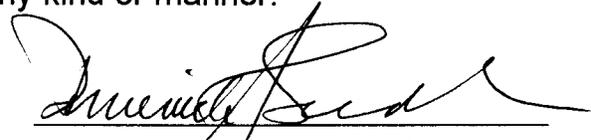
I hereby make this Application to the State Board for Professional Medical Conduct (the Board) and request that it be granted.

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



DOMINICK A. SCIALABBA, M.D.
RESPONDENT

Sworn to before me this

11th day of September, 1995.

Kathleen M Zagorski

NOTARY PUBLIC

KATHLEEN M. ZAGORSKI

A Notary Public of New Jersey

My Commission Expires 1-10-2000

MY 1-10-2000

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

IN THE MATTER
OF
DOMINICK A. SCIALABBA, M.D.

APPLICATION
FOR
CONSENT ORDER

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

DATE: Sept 11, 1995 *Dominick Scialabba*

DOMINICK A. SCIALABBA, M.D.
Respondent

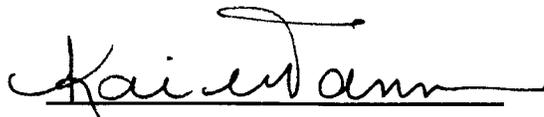
DATE: Sept 11, 1995 *Nicholas F. Monello*

NICHOLAS F. MONELLO, ESQ.
Attorney for Respondent

DATE: September 12, 1995 *Ann Gayle*

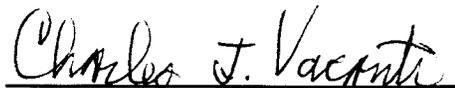
ANN GAYLE, ESQ.
Associate Counsel
Bureau of Professional
Medical Conduct

DATE: Sept. 18, 1995



KATHLEEN M. TANNER
Director
Office of Professional Medical
Conduct

DATE: 18 September 1995



CHARLES J. VACANTI, M.D.
Chairperson
State Board for Professional
Medical Conduct

IN THE MATTER
OF
DOMINICK A. SCIALABBA, M.D.

STATEMENT
OF
CHARGES

Dominick A. Scialabba, M.D., the Respondent, was authorized to practice medicine in New York State on or about March 20, 1961, by the issuance of license number 085744, by the New York State Education Department.

FACTUAL ALLEGATIONS

- A. On or about March 22, 1982, the State of New Jersey Department of Law and Public Safety, Division of Consumer Affairs, Board of Medical Examiners (the Board) found Respondent guilty of gross malpractice and/or gross neglect, with regard to three patients, in violation of N.J.S.A. 45:9-16(h), based on the following: With regard to the patient, J.B., despite blatant and other findings which contraindicated surgery, Respondent, rushed to surgery without any concern for the well-being of the patient. With regard to the patient, A.R., Respondent performed unnecessary and unconscionable surgery upon this patient. With regard to the patient, J.R., Respondent performed surgery, the risks of which the Board determined far outweighed the benefits, of which there were none, for this patient.
- B. On or about April 22, 1982, the Board, in its Final Decision and Order, suspended Respondent's license to practice medicine in New Jersey for five years but stayed the suspension and deemed the stayed suspension a period of probation with conditions, including, but not limited to, the following: (1) all

EXHIBIT A

surgical procedures (other than emergency procedures) required, as a precondition, a written second opinion confirming the need for surgery by a Board certified neurosurgeon or neurologist, pre-approved by the New Jersey Board (the cost of said second opinion was to be borne by Respondent, (2) Respondent was to take fifty hours (per year for the five year probationary period) of Category I, Continuing Medical Education, and (3) Respondent was to pay a six hundred dollar civil penalty.

- C. On or about June 30, 1993, the State of Florida, Department of Professional Regulation, denied Respondent's application for licensure as a physician. The aforesaid denial was based on the Board's findings that Respondent, *inter alia*, (1) had failed to respond to questions regarding the (aforesaid) disciplinary action taken against his New Jersey medical license, (2) had his staff privileges limited by two New Jersey hospitals, and (3) had not demonstrated that he could practice with skill and safety.

SPECIFICATION OF CHARGES

FIRST SPECIFICATION

HAVING BEEN FOUND GUILTY OF PROFESSIONAL MISCONDUCT

Respondent is charged with committing professional misconduct as defined in N.Y. Educ. Law §6530(9)(b)(McKinney Supp. 1995) 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 (namely N.Y. Educ. Law § 6530 (3) and/or (4)) as alleged in the facts of the following:

1. Paragraphs A and B.

SECOND SPECIFICATION
HAVING HAD DISCIPLINARY ACTION TAKEN

Respondent is charged with committing professional misconduct as defined in N.Y. Educ. Law §6530(9)(d)(McKinney Supp. 1995) by having his or her license to practice medicine revoked, suspended or having other disciplinary action taken, or having his or her application for a license refused, revoked or suspended or having voluntarily or otherwise surrendered his or her license after a disciplinary action was instituted by a duly authorized professional disciplinary agency of another state, where the conduct resulting in the revocation, suspension or other disciplinary action involving the license or refusal, revocation or suspension of an application for a license or the surrender of the license would, if committed in New York state, constitute professional misconduct under the laws of New York state (namely N.Y. Educ. Law §6530(3), and/or (4)) as alleged in the facts of the following:

2. Paragraph C.

DATED: September , 1995
 New York, New York

ROY NEMERSON
Deputy Counsel
Bureau of Professional
Medical Conduct