

Public

NEW YORK
state department of
HEALTH

Howard A. Zucker, M.D., J.D.
Acting Commissioner of Health

Sue Kelly
Executive Deputy Commissioner

August 5, 2014

CERTIFIED MAIL-RETURN RECEIPT REQUESTED

William A. Race, R.P.A.
REDACTED

Re: License No. 005285

Dear Mr. Race:

Enclosed is a copy of the New York State Board for Professional Medical Conduct (BPMC) Modification Order No. 14-196. This order and any penalty provided therein goes into effect August 12, 2014.

If the penalty imposed by this Order is a surrender, revocation or suspension, you are required to deliver your license and registration within five (5) days of receipt of this Order to: c/o Physician Monitoring Unit, NYS DOH - OPMC, Riverview Center, Suite 355, 150 Broadway, Albany, NY 12204-2719.

If your license is framed, please remove it from the frame and only send the parchment paper on which your name is printed. Our office is unable to store framed licenses.

If the document(s) are lost, misplaced or destroyed, you are required to submit to this office an affidavit to that effect. Please complete and sign the affidavit before a notary public and return it to the Office of Professional Medical Conduct.

Please direct any questions to: NYS DOH - OPMC, Riverview Center, Suite 355, 150 Broadway, Albany, NY 12204-2719, telephone # (518)402-0855.

Sincerely,

REDACTED
Katherine A. Hawkins, M.D., J.D.
Executive Secretary
Board for Professional Medical Conduct

Enclosure

IN THE MATTER
OF
WILLIAM RACE, R.P.A.

MODIFICATION
ORDER

Upon the proposed Application for a Modification Order of, **WILLIAM RACE, R.P.A.**
(Respondent), that is made a part of this Modification Order, it is agreed and

ORDERED, that the attached Application and its terms, are adopted and it is further

ORDERED, that this Modification 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 or email transmission to Respondent or Respondent's attorney, whichever is first.

SO ORDERED.

DATE: 8/4/2014

REDACTED

Arthur S. Hengerer, 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
WILLIAM RACE, R.P.A.**

**CONSENT
AGREEMENT
AND
ORDER**

WILLIAM RACE, R.P.A., represents that all of the following statements are true:

That on or about January 17, 1996, I was licensed to practice as a physician assistant in the State of New York, and issued License No. 005285 by the New York State Education Department.

My current address is REDACTED and I will advise the Director of the Office of Professional Medical Conduct of any change of address.

I am currently subject to BPMC Order # BPMC 02-221 (Attachment I) (henceforth "Original Order"), which was issued upon an Application For Consent Order signed by me on June 26, 2002, (henceforth "Original Application"), adopted by the Original Order. I apply to the State Board for Professional Medical Conduct for an Order (henceforth "Modification Order"), modifying the Original Order, as follows: to delete the paragraphs in the Original Order that state:

- Pursuant to § 230-a(2) of the Public Health Law, my license to practice as a physician assistant in the State of New York shall be suspended for a period of 12 months, with the first 3 months to be served as a period of actual suspension and with the last 9 months of said suspension to be stayed.
- Pursuant to § 230-a(9) of the Public Health Law, I shall be placed on probation for a period of three years, commencing with a period of stayed suspension above, subject to the terms set forth in attached Exhibit B.

- During the period of probation, I shall in the course of practicing as a physician assistant in New York State, examine and treat any female patient only in the presence of a chaperone, subject to the terms set forth in attached Exhibit "B".

Substituting for the above paragraphs:

I ask the Board to accept my Surrender of License, and I agree to be bound by all of the terms set forth in attached Exhibit "B".

I understand that, if the Board does not accept my Surrender of License, none of its terms shall bind me or constitute an admission of any of the acts of misconduct alleged; 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 my Surrender of 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 Surrender Order, this agreement, and all attached exhibits shall be public documents, with only patient identities, if any, redacted. As public documents, they may be posted on the Department's website(s). OPMC shall report this action to the National Practitioner Data Bank, the Federation of State Medical Boards, and any other entities that the Director of OPMC shall deem appropriate.

I ask the Board to accept this Surrender of License, which I submit 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.

All remaining Terms and Conditions will continue as written in the Original Order.

I make this Application of my own free will and accord and not under duress, compulsion or restraint, and seek the anticipated benefit of the requested Modification. In consideration of the value to me of the acceptance by the Board of this Application, I knowingly waive my right to contest the Original Order or the Modification Order for which I apply, whether administratively or judicially, and ask that the Board grant this Application.

I understand and agree that the attorney for the Department, the Director of the Office of Professional Medical Conduct and the Chair of the State Board for Professional Medical Conduct each retain complete discretion either to enter into the proposed agreement and Order, based upon my application, or to decline to do so. I further understand and agree that no prior or separate written or oral communication can limit that discretion.

DATE 7/25/14

REDACTED

WILLIAM RACE, R.P.A.
RESPONDENT

The undersigned agree to Respondent's attached Consent Agreement and to its proposed penalty, terms and conditions.

DATE: 7/28/14

REDACTED

MICHAEL A. HISER
Deputy Counsel
Bureau of Professional Medical Conduct

DATE: 8/4/14

REDACTED

KEITH W. SERVIS
Director
Office of Professional Medical Conduct

EXHIBIT "B"

Requirements for Closing a Physician Assistant Practice Following a Revocation, Surrender, Limitation or Suspension of a Physician Assistant License

1. Licensee shall immediately cease and desist from practicing as a physician assistant in New York State, or under Licensee's New York license, in accordance with the terms of the Order. In addition, Licensee shall refrain from providing an opinion as to professional practice or its application and from representing that Licensee is eligible to practice as a physician assistant.
2. Within 5 days of the Order's effective date, Licensee shall deliver Licensee's original license to practice as a physician assistant in New York State and current biennial registration to the Office of Professional Medical Conduct (OPMC) at Riverview Center, 150 Broadway, Suite 355, Albany, New York 12204-2719.
3. Within 15 days of the Order's effective date, Licensee shall notify all patients of the cessation or limitation of Licensee's physician assistant practice, and shall refer all patients to another licensed practicing physician assistant for continued care, as appropriate. Licensee shall notify, in writing, each health care plan with which the Licensee contracts or is employed, and each hospital where Licensee has privileges, that Licensee has ceased practice as a physician assistant. Within 45 days of the Order's effective date, Licensee shall provide OPMC with written documentation that all patients and hospitals have been notified of the cessation of Licensee's practice as a physician assistant.
4. Licensee shall make arrangements for the transfer and maintenance of all patient medical records. Within 30 days of the Order's effective date, Licensee shall notify OPMC of these arrangements, including the name, address, and telephone number of an appropriate and acceptable contact persons who shall have access to these records. Original records shall be retained for at least 6 years after the last date of service rendered to a patient or, in the case of a minor, for at least 6 years after the last date of service or 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 include provisions to ensure that the information in the record is kept confidential and is available only to authorized persons. When a patient or a patient's 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 forwarded at a reasonable cost to the patient (not to exceed 75 cents per page.) Radiographic, sonographic and similar materials shall be provided at cost. A qualified

person shall not be denied access to patient information solely because of an inability to pay.

5. In the event that Licensee holds a Drug Enforcement Administration (DEA) certificate for New York State, Licensee shall, within fifteen (15) days of the Order's effective date, advise the DEA, in writing, of the licensure action and shall surrender his/her DEA controlled substance privileges for New York State to the DEA. Licensee shall promptly surrender any unused DEA #222 U.S. Official Order Forms Schedules 1 and 2 for New York State to the DEA. All submissions to the DEA shall be addressed to Diversion Program Manager, New York Field Division, U.S. Drug Enforcement Administration, 99 Tenth Avenue, New York, NY 10011.
6. Within 15 days of the Order's effective date, Licensee shall return any unused New York State official prescription forms to the Bureau of Narcotic Enforcement of the New York State Department of Health. Licensee shall destroy all prescription pads bearing Licensee's name. If no other licensee is providing services at Licensee's practice location, Licensee shall properly dispose of all medications.
7. Within 15 days of the Order's effective date, Licensee shall remove from the public domain any representation that Licensee is eligible to practice as a physician assistant, including all related signs, advertisements, professional listings (whether in telephone directories, internet or otherwise), professional stationery or billings. Licensee shall not share, occupy, or use office space in which another licensee provides health care services.
8. Licensee shall not charge, receive or share any fee or distribution of dividends for professional services rendered by Licensee or others while Licensee is barred from engaging in practice as a physician assistant. Licensee may be compensated 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 Licensee is a shareholder in any professional service corporation organized to practice as a physician assistant, Licensee shall divest all financial interest in the professional services corporation, in accordance with New York Business Corporation Law. Such divestiture shall occur within 90 days. If Licensee is the sole shareholder in a professional services corporation, the corporation must be dissolved or sold within 90 days of the Order's effective date.
10. Failure to comply with the above directives may result in a civil penalty or criminal penalties as may be authorized by governing law. Under N.Y. Educ. Law § 6512, it is a Class E Felony, punishable by imprisonment of up to 4

years, to practice as a physician assistant when a professional license has been suspended, revoked or annulled. Such punishment is in addition to the penalties for professional misconduct set forth in N.Y. Pub. Health Law § 230-a, which include fines of up to \$10,000 for each specification of charges of which the Licensee is found guilty, and may include revocation of a suspended license.

ATTACHMENT I

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

IN THE MATTER
OF
WILLIAM RACE R.P.A.

CONSENT
AGREEMENT
AND
ORDER

BPMC No. 02-221

William Race, R.P.A., representing that all of the following statements are true, deposes and says:

That on or about January 19, 1996 I was licensed to practice as a physician assistant in the State of New York, having been issued License No. 005285 by the New York State Education Department.

My current address is 619 State Street, Hudson, New York 12534, 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 three specifications of professional misconduct.

A copy of the Statement of Charges, marked as Exhibit "A", is attached to an part of this Consent Agreement.

In full satisfaction of the charges against him, I admit to professional misconduct to wit, I violated New York Education Law § 6530 (23) by revealing personally identifiable facts about Patient A obtained in my professional capacity without her prior consent. I agree to the following penalty:

- Pursuant to § 230-a(2) of the Public Health law, my license to practice as a physician assistant in the State of New York shall be suspended for a period of 12 months, with the first 3 months to be served as a period of actual suspension and with the last 9 months of said suspension to be stayed.
- Pursuant to § 230-a(9) of the Public Health Law, I shall be placed on probation for a period of three years, commencing with the period of stayed suspension above, subject to the terms set forth in attached Exhibit B.
- During the period of probation, I shall in the course of practicing as a physician assistant in New York State, examine and treat any female patient only in the presence of a chaperone, subject to the terms set forth in attached Exhibit "B".

I further agree that the Consent Order shall impose the following conditions:

I shall maintain current registration of licensure with the New York State Education Department Division of Professional Licensing Services (except during periods of actual suspension), and shall pay all registration fees. This condition shall take effect thirty (30) days after the Consent Order's effective date and will continue so long as I remain licensed in New York State; and

I shall cooperate fully with the Office of Professional Medical Conduct (OPMC) in its administration and enforcement of this Order and in its

investigations of matters concerning me. I shall respond in a timely manner to all OPMC requests for written periodic verification of my compliance with this Order. I shall meet with a person designated by the Director of OPMC, as directed. I shall respond promptly and provide all documents and information within Respondent's control, as directed. This condition shall take effect upon the Board's issuance of the Consent Order and will continue so long as I remain licensed in New York State.

The foregoing admission made by me in this Agreement and Order is solely for the purpose of resolving the instant administrative matter and is not intended for use in any other forum, tribunal or court outside the Department, including any civil or criminal proceedings in which the issues or burden of proof may differ. Further, any such admission is without prejudice to my rights, defenses and claims in any other matter, proceeding, action, hearing or litigation not involving the Department. It is further agreed that the Department's allegations are not intended to be dispositive of allegations of medical malpractice, negligence or other tort, as might be made in a civil action for monetary damages.

I stipulate that my failure to comply with any conditions of this Order shall constitute misconduct as defined by New York State Education Law § 6530(29).

I agree that if I am charged with professional misconduct in future, this Consent Agreement and Order shall be admitted into evidence in that proceeding.

I ask the board to adopt this Consent Agreement.

I understand that if the board does not adopt this Consent Agreement, none of its terms shall bind him or constitute an admission of any of the acts of alleged misconduct; this Consent Agreement 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 proceedings and Board's final determination pursuant to the Public Health Law.

I agree that, if the board adopts this Consent Agreement, the Chair of the Board shall issue a Consent 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 Consent Order by first class mail to him at the address in this Consent Agreement, or to his attorney by certified mail, OR upon facsimile transmission to me or my attorney, which ever is first.

I ask the board to adopt this Consent Agreement of my own free will and not under duress, compulsion or restraint. In consideration of the value to him of the Board's adoption of this Consent Agreement, allowing him to resolve this matter without the various risks and burdens of a hearing on the merits, I knowingly waive my right to contest the Consent Order for which I apply, whether administratively or judicially, I agree to be bound by the Consent Order and ask that the Board adopt the Consent Agreement.

DATED

6/26/02

REDACTED

WILLIAM RACE, 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: 6/26/02

(REDACTED

PATRICK BROWN, Esq.
Attorney for Respondent

DATE: 7/1/02

REDACTED

JUDE BREARTON MULVEY, Esq.
Assistant Counsel
Bureau of Professional
Medical Conduct

DATE: 7/10/02

REDACTED

DM DENNIS GRAZIANO
Director
Office of Professional
Medical Conduct

EXHIBIT "B"

Terms of Probation

1. Respondent's conduct shall conform to moral and professional standards of conduct and governing law. Any act of professional misconduct by Respondent as defined by New York State Education Law §6530 or §6531 shall constitute a violation of probation and may subject Respondent to an action pursuant to New York State Public Health Law §230(19).
2. Respondent shall provide the Director, Office of Professional Medical Conduct (OPMC), Hedley Park Place, 433 River Street Suite 303, Troy, New York 12180-2299 with the following information, in writing, and ensure that such information is kept current: a full description of Respondent's employment and practice; all professional and residential addresses and telephone numbers within and outside New York State; and all investigations, charges, convictions or disciplinary actions by any local, state or federal agency, institution or facility, within thirty (30) days of each action.
3. Respondent shall cooperate fully with, and respond in a timely manner to, OPMC requests to provide written periodic verification of Respondent's compliance with the terms of this Consent Order. Upon the Director of OPMC's request, Respondent shall meet in person with the Director's designee.
4. Respondent's failure to pay any monetary penalty by the prescribed date shall subject Respondent to all provisions of law relating to debt collection by New York State, including but not limited to: the imposition of interest, late payment charges and collection fees; referral to the New York State Department of Taxation and Finance for collection; and non-renewal of permits or licenses [Tax Law section 171(27)]; State Finance Law section 18; CPLR section 5001; Executive Law section 32].
5. The probation period shall toll when Respondent is not engaged in active medical practice in New York State for a period of thirty (30) consecutive days or more. Respondent shall notify the Director of OPMC, in writing, if Respondent is not currently engaged in, or intends to leave, active medical practice in New York State for a consecutive thirty (30) day period. Respondent shall then notify the Director again at least fourteen (14) days before returning to active practice. Upon Respondent's return to active practice in New York State, the probation period will resume and Respondent shall fulfill any unfulfilled probation terms.

6. The Director of OPMC may review Respondent's professional performance. This review may include but shall not be limited to: a review of office records, patient records and/or hospital charts; and interviews with or periodic visits with Respondent and Respondent's staff at practice locations or OPMC offices.
7. Respondent shall maintain complete and legible medical records that accurately reflect the evaluation and treatment of patients and contain all information required by State rules and regulations concerning controlled substances.

CHAPERONE

8. Respondent shall, in the course of practicing medicine in New York State, examine and/ treat any female patient only in the presence of a chaperone. The chaperone shall be a female licensed or registered health care professional or other health care worker, shall not be a family member, personal friend, or be in a professional relationship with Respondent which could pose a conflict with the chaperone's responsibilities. The chaperone shall be proposed by Respondent and subject to the written the approval of the Director of OPMC.
9. Prior to the approval of any individual as chaperone, Respondent shall cause the proposed chaperone to execute and submit to the Director of OPMC an acknowledgment of her agreement to undertake all of the responsibilities of the role of chaperone. Said acknowledgment shall be made upon a form provided by and acceptable to the Director. Respondent shall provide the chaperone with a copy of the Order and all of its attachments and shall, without fail, cause the approved chaperone to:
 - a. Report quarterly to OPMC regarding her chaperoning of Respondent's practice.
 - b. Report within 24 hours any failure of Respondent to comply with the Order, including, but not limited to, any failure by Respondent to have the chaperone present when required, any sexually suggestive or otherwise inappropriate comments by Respondent to any patient, and any actions of a sexual nature by Respondent in the presence of any patient.
 - c. Confirm the chaperone's presence at each and every examination and treatment of a female patient by Respondent, by placing her name, title and date in the patient record for each and every visit, and by maintaining a separate log, kept in her own possession, listing the patient name and date of visit for each and every patient visit chaperoned.
 - d. Provide copies of the log described in paragraph c, above, to OPMC at least quarterly and also immediately upon the Director's request.

CONTINUING MEDICAL EDUCATION

10. Respondent shall enroll in and complete a continuing education program in the area of Physician/Patient Boundary Issues to be equivalent to at least 3 credit hours of Continuing Medical Education. Said continuing education program shall be subject to the prior written approval of the Director of OPMC and be completed within the period of probation or as otherwise specified in the Order.
11. Respondent shall comply with this Order and all its terms, and shall bear all associated compliance costs. Upon receiving evidence of noncompliance with, or violation of, these terms, the Director of OPMC and/or the Board may initiate a violation of probation proceeding, and/or any other such proceeding authorized by law, against Respondent.

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

IN THE MATTER
OF
WILLIAM RACE, R.P.A.

CONSENT
ORDER

Upon the proposed agreement of William Race, 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: 7/16/02

REDACTED

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

EXHIBIT A

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

IN THE MATTER
OF
WILLIAM RACE, R.P.A.

STATEMENT
OF
CHARGES

William Race, R.P.A., Respondent, was authorized to practice as a physician's assistant in New York State on January 19, 1996, by the issuance of registration number 005285 by the New York State Education Department.

FACTUAL ALLEGATIONS

A. Respondent provided medical care to Patient A from on or about October 6, 1999 to on or about February 9, 2001 at his offices at 2414 Fifteenth Street, Troy, New York.

Respondent attempted to initiate a social and/or sexual relationship with Patient A in that:

1. Respondent called Patient A on the telephone on one or more occasions and attempted to make a date with her;
2. Respondent, on or about July 21, 2000, met Patient A at a local restaurant and in the course of the evening, Respondent engaged in the following conduct:
 - a. Respondent attempted to hug Patient A;
 - b. Respondent attempted to kiss Patient A;
 - c. Respondent told Patient A that sexual relations would be good for pain relief, and/or
 - d. Respondent encouraged Patient A to be unfaithful to her husband.

3. Respondent, on or about July 31, 2000, presented himself at Patient A's home and the two went out to dinner. During the course of the evening, Respondent engaged in the following conduct:
 - a. Respondent attempted to kiss Patient A;
 - b. Respondent told Patient A he had a condom with him and that they could go someplace, or words to that effect, and/or
 - c. Respondent encouraged Patient A to be unfaithful to her husband.
4. Respondent, sometime in August 2000, told Patient A that if she did not have sexual relations with him, she would become "a cold bitter bitch" or words to that effect.
5. Respondent, on or about August 20, 2000, sent a letter to Patient A's employer which included details of her treatment and history, without Patient A's knowledge and/or consent.
6. Respondent, on or about October 4, 2000 when Patient A was at his medical offices, grabbed Patient A and/or attempted to kiss her.

SPECIFICATION OF CHARGES

FIRST SPECIFICATION

MORAL UNFITNESS

Respondent is charged with committing conduct in the practice of medicine which evidences moral unfitness to practice medicine in violation of N.Y. Education Law § 6530(20) in that Petitioner charges:

1. The facts in paragraphs A and A.1, A and A.2(a), A and A.2(b), A and A.2(c), A and A.2(d), A and A.3(a), A and A.3(b), A and A.3(c), A and A.4, A and A.5 and/or A and A.6.

SECOND SPECIFICATION

HARASSING, ABUSING OR INTIMIDATING A PATIENT

Respondent is charged with willfully harassing, abusing or intimidating a patient physically and/or verbally in violation of N.Y. Education Law § 6530(31), in that Petitioner charges:

2. The facts in paragraphs A and A.1, A and A.2(a), A and A.2(b), A and A.2(c), A and A.2(d), A and A.3(a), A and A.3(b), A and A.3(c), A and A.4, A and A.5 and/or A and A.6.

THIRD SPECIFICATION

REVEALING OF PERSONALLY IDENTIFIABLE FACTS

Respondent is charged with revealing personally identifiable facts, data or information obtained in a professional capacity without the prior consent of the patient, in violation of Education Law § 6530(23), in that Petitioner charges:

3. The facts in paragraphs A and A.5.

DATED: June , 2002
Albany, New York

REDACTED

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