



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

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Chair

Denise M. Bolan, R.P.A.
Vice Chair

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

July 18, 2002

CERTIFIED MAIL-RETURN RECEIPT REQUESTED

William Anthony Race, R.P.A.
REDACTED

RE: License No. 005285

Dear Mr. Race:

Enclosed please find Order #BPMC 02-221 of the New York State Board for Professional Medical Conduct. This Order and any penalty provided therein goes into effect July 18, 2002.

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,

REDACTED

Ansel R. Marks, M.D., J.D.
Executive Secretary
Board for Professional Medical Conduct

Enclosure

cc: Patrick Brown, Esq.
Brown, Weintraub, LLC
12 Sheridan Avenue
Albany, NY 12207

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 REDACTED 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

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