



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*

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*Executive Deputy Commissioner
NYS Department of Health*

Dennis J. Graziano, Director
Office of Professional Medical Conduct

PUBLIC

Michael A. Gonzalez, R.P.A.
Vice Chair

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

June 4, 2004

CERTIFIED MAIL-RETURN RECEIPT REQUESTED

James B. McDaniel, M.D.
945 Washington Street
Buffalo, NY 14203

Re: License No. 087594

Dear Dr. McDaniel:

Enclosed please find Order #BPMC 04-121 of the New York State Board for Professional Medical Conduct. This order and any penalty provided therein goes into effect June 11, 2004.

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 the 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: John V. Elmore, Esq.
69 Delaware Avenue, Suite 711
Buffalo, NY 14202

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

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IN THE MATTER : SURRENDER
OF : ORDER
JAMES B. McDANIEL, M.D. : BPMC # 04-121
-----X

JAMES B. McDANIEL, M.D. , says:

On or about May 23, 1962, I was licensed to practice medicine as a physician in the State of New York having been issued License No. 087594 by the New York State Education Department.

I understand that I have been charged with two 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 an agreement to allow me to surrender my license as a physician in the State of New York and request that the Board issue this order.

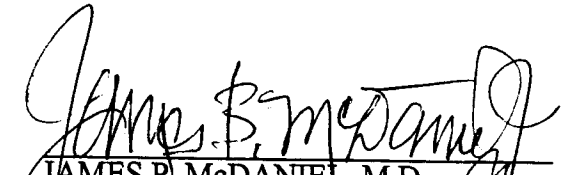
I do not contest the first specification of the Statement of Charges.

I understand that, in the event that this proposed agreement 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 alleged misconduct and shall be kept in strict confidence during the pendency of the professional misconduct disciplinary proceeding. Any 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, this 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 agreement of my own free will and accord and not under duress, compulsion, or restraint of any kind or manner.



JAMES P. McDANIEL, M.D.
Respondent
5/4/04 *md*

AGREED TO:

Date: 5/24, 2004


KEVIN C. ROE
Associate Counsel
Bureau of Professional Medical Conduct

Date: 5/4, 2004


JOHN V. ELMORE, ESQ.
Attorney for Respondent

Date: June 1, 2004


DENNIS J. GRAZIANO
Director, Office of Professional Medical Conduct

ORDER

Upon the proposed agreement of JAMES B. McDANIEL, M.D., to surrender his license as a physician in the State of New York, which is made a part hereof, it is AGREED TO and

ORDERED, that the proposed agreement 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; and it is further

ORDERED, that this order shall be effective upon issuance by the Board, which may be accomplished by mailing copy of the order to Respondent or to Respondent's attorney, or upon transmission via facsimile to Respondent or Respondent's attorney, whichever is earliest.

SO ORDERED.

DATED: *June 3*, 2004



MICHAEL R. GONZALEZ, R.P.A.
Vice Chair
State Board for Professional
Medical Conduct

EXHIBIT A

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

-----X

IN THE MATTER	STATEMENT
OF	OF
JAMES B. McDANIEL, M.D.	CHARGES

-----X

JAMES B. McDANIEL, M.D., the Respondent, was authorized to practice medicine in New York State on May 23, 1962, by the issuance of license 087594 by the New York State Education Department.

FACTUAL ALLEGATIONS

A. Respondent treated Patient A (Patients are identified in the attached appendix.) on or about July 10, 2003, at his office, 945 Washington Street, Buffalo, NY. Respondent's care and treatment of Patient A failed to meet acceptable standards of medical care, in that Respondent touched Patient A inappropriately during a pelvic examination.

B. Respondent treated Patient B on or about January 15, 2003, at his office, 945 Washington Street, Buffalo, NY. Respondent's care and treatment of Patient B failed to meet acceptable standards of medical care, in that Respondent touched Patient B inappropriately during a pelvic examination.

C. Respondent treated Patient C on or about November 7, 2002, at his office, 945 Washington Street, Buffalo, NY. Respondent's care and treatment of Patient C failed to meet acceptable standards of medical care, in that Respondent touched Patient C inappropriately during a pelvic examination.

D. Respondent treated Patient D on or about June 3, 2002 at his office, 945 Washington Street, Buffalo, NY. Respondent's care and treatment of Patient D failed to meet acceptable

standards of medical care, in that Respondent touched Patient D inappropriately during a pelvic examination.

SPECIFICATIONS

FIRST SPECIFICATION

NEGLIGENCE ON MORE THAN ONE OCCASION

Respondent is charged with negligence on more than one occasion in violation of New York Education Law §6530(3) that, Petitioner charges the facts in paragraphs A, B, C, and/or D.

SECOND SPECIFICATION

INCOMPETENCE ON MORE THAN ONE OCCASION

Respondent is charged with incompetence on more than one occasion in violation of New York Education Law §6530(5) that, Petitioner charges the facts in paragraphs A, B, C, and/or D.

DATED: *May 24*, 2004

Albany, New York



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