



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.
*Commissioner
NYS Department of Health*

Dennis P. Whalen
*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

October 3, 2003

CERTIFIED MAIL-RETURN RECEIPT REQUESTED

Robert Andrew Berselli, M.D.
02113 SW Military Road
Portland, OR 97219

Re: License No. 095088

Dear Dr. Berselli:

Enclosed please find Order #BPMC 03-261 of the New York State Board for Professional Medical Conduct. This order and any penalty provided therein goes into effect October 10, 2003.

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

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

IN THE MATTER

SURRENDER

OF

ORDER

ROBERT ANDREW BERSELLI, M.D.
CO-03-02-0706-A

BPMC No. 03-261

ROBERT ANDREW BERSELLI, M.D., says:

On or about August 13, 1965, I was licensed to practice medicine as a physician in the State of New York having been issued License No. 095088 by the New York State Education Department. I currently reside at 02113 SW Military Road, Portland, OR 97219.

I am not currently registered with the New York State Education Department to practice as a physician in the State of New York.

I understand that the New York State Board for Professional Medical Conduct has charged me with two (2) 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 Surrender Order.

I, hereby, agree not to contest the two (2) specifications set forth in the Statement of Charges (Exhibit A).

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 misconduct alleged or charged against me, such proposed agreement 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 Board grants my Application, as set forth herein, an order of the Chairperson of the Board shall be issued in accordance with same upon issuance by the Board, which may be accomplished by mailing, by first class mail, a copy of the Order to me at the address set forth above or to my attorney or upon transmission via facsimile to me or my attorney, whichever is first.

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

Date: 9/25, 2003


ROBERT ANDREW BERSELLI, M.D.
Respondent

AGREED TO:

Date: 26 Sep, 2003


ROBERT BOGAN
Associate Counsel
Bureau of Professional Medical Conduct

Date: 30 Sept, 2003


DENNIS J. GRAZIANO
Director, Office of Professional
Medical Conduct

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

IN THE MATTER
OF
ROBERT ANDREW BERSELLI, M.D.
CO-03-02-0706-A

STATEMENT
OF
CHARGES

ROBERT ANDREW BERSELLI, M.D., the Respondent, was authorized to practice medicine in New York state on August 13, 1965, by the issuance of license number 095088 by the New York State Education Department.

FACTUAL ALLEGATIONS

A. On or about November 12, 2002, the Board of Medical Examiners, State of Oregon, (hereinafter "Oregon Board") by a Stipulated Order (hereinafter "Oregon Order"), ordered that Respondent shall not conduct surgery in the capacity of primary surgeon but allowed him to serve as an assistant surgeon, based on unprofessional or dishonorable conduct, gross or repeated acts of negligence, and failure to report to the Oregon Board any adverse action taken against him for acts or conduct that would constitute grounds for disciplinary action by the Board.

B. The conduct resulting in the Oregon Board disciplinary actions against Respondent would constitute misconduct under the laws of New York state, pursuant to the following sections of New York state Law:

1. New York Education Law §6530(3) (negligence on more than one occasion);
2. New York Education Law §6530(4) (gross negligence);
3. New York Education Law §6530(5) (incompetence one more than one occasion);
4. New York Education Law §6530(6) (gross incompetence);
5. New York Education Law §6530(21) (failing to file a report required by law or by the department of health or the education department); and/or

6. New York Education Law §6530(32) (failure to maintain a record for each patient which accurately reflects the evaluation and treatment of the patient).

SPECIFICATIONS
FIRST SPECIFICATION

Respondent violated New York Education Law §6530(9)(b) 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, in that Petitioner charges:

1. The facts in Paragraphs A and/or B.

SECOND SPECIFICATIONS

Respondent violated New York Education Law §6530(9)(d) by having disciplinary action taken by a duly authorized professional disciplinary agency of another state, where the conduct resulting in the disciplinary action would, if committed in New York state, constitute professional misconduct under the laws New York state, in that Petitioner charges:

2. The facts in Paragraphs A and/or B.

DATED: *December 22*, 2003
Albany, New York


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

ORDER

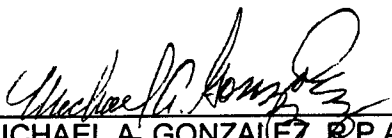
Upon the proposed agreement of **ROBERT ANDREW BERSELLI, M.D.**, to Surrender his license as a physician in the State of New York, which proposed agreement is made a part hereof, it is **AGREED TO** and

ORDERED, that the proposed agreement and the provisions thereof are hereby adopted; it is further

ORDERED, that the name of the Respondent be stricken from the roster of physicians in the State of New York; 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 to Respondent at the addresses set forth in this agreement or to Respondent's attorney or upon transmission via facsimile to Respondent or Respondent's attorney, whichever is earliest.

DATED: 10/2, 2003


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