



**New York State Board for Professional Medical Conduct**

433 River Street, Suite 303 Troy, New York 12180-2299 • (518) 402-0863

Dennis P. Whalen  
*Executive Deputy Commissioner of Health*  
Anne F. Salle, Director  
*Office of Professional Medical Conduct*  
William J. Comiskey, Chief Counsel  
*Bureau of Professional Medical Conduct*

William P. Dillon, M.D.  
*Chair*  
Denise M. Bolan, R.P.A.  
*Vice Chair*  
Ansel R. Marks, M.D., J.D.  
*Executive Secretary*

January 29, 1999

**CERTIFIED MAIL-RETURN RECEIPT REQUESTED**

James LoDolce, M.D.  
2125 Pompey Center Road  
Fabius, NY 13603

RE: License No. 120383

Dear Dr. LoDolce:

Enclosed please find Order #BPMC 99-19 of the New York State Board for Professional Medical Conduct. This Order and any penalty provided therein goes into effect **January 29, 1999**.

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,

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

Enclosure

cc: James Sonneborn, Esq.  
241 West Fayette Street  
Syracuse, New York 13202

William Lynch, Esq.

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

IN THE MATTER  
OF  
JAMES GABRIEL LODOLCE, M.D.

CONSENT  
AGREEMENT  
AND  
ORDER  
BPMC #99-19

JAMES GABRIEL LODOLCE, M.D., (Respondent) says:

That on or about July 1, 1974, I was licensed to practice as a physician in the State of New York, having been issued License No. 120383 by the New York State Education Department.

My current address is 2125 Pompey Center Road, Fabius, New York 13603, 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 second specification in full satisfaction of the charges against me. I hereby agree to the following penalty:

My license to practice medicine shall be suspended for a period of five years with the suspension stayed in its entirety provided that I comply with this agreement and the Terms of Probation annexed hereto as Exhibit "B" for a five year period of probation to run concurrently with the period of stayed suspension.

I further agree that the Consent Order for which I hereby apply shall impose the following conditions:

That, except during periods of actual suspension, Respondent shall maintain current registration of Respondent's license with the New

York State Education Department Division of Professional Licensing Services, and pay all registration fees. This condition shall be in effect beginning thirty days after the effective date of the Consent Order and continuing until the full term of the Order has run, and until any associated period of probation and all probation terms have been completed and satisfied; and

That Respondent shall fully cooperate in every respect with the Office of Professional Medical Conduct (OPMC) in its administration and enforcement of this Order and in its investigation of all matters regarding Respondent. Respondent shall respond in a timely manner to each and every request by OPMC to provide written periodic verification of Respondent's compliance with the terms of this Order. Respondent shall meet with a person designated by the Director of OPMC as directed. Respondent shall respond promptly and provide any and all documents and information within Respondent's control upon the direction of OPMC.

I hereby stipulate that any failure by me to comply with such condition shall constitute misconduct as defined by New York State Education Law §6530(29).

I agree that in the event I am charged with professional misconduct in the future, this agreement and order shall be admitted into evidence in that proceeding.

Upon Respondent's compliance with the terms of probation for a period of three years and the recommendation of Respondent's behavior practice monitor, the Board may eliminate the remaining two years of suspension and probation if Respondent provides evidence to the satisfaction of the Board that the period of suspension and probation should be terminated.

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 agree that such 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 me at the address set forth in this agreement, or to my attorney, or upon transmission via facsimile to me or my attorney, whichever is earliest.

I am making this Application of my own free will and accord and not under duress, compulsion or restraint of any kind or manner. In consideration of the value to me of the acceptance by the Board of this Application, allowing me to resolve this matter without the various risks and burdens of a hearing on the merits, I knowingly waive any right I may have to contest the Consent Order for which I hereby apply, whether administratively or judicially, and ask that the Application be granted.

AFFIRMED:

DATED 12/18/98

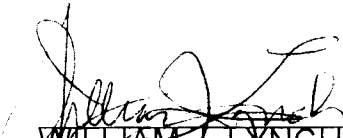
  
JAMES GABRIEL LODOLCE, M.D.  
RESPONDENT

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

DATE: 12/18/98

  
JAMES L. SONNEBORN, ESQ.  
Attorney for Respondent

DATE: 1/13/99

  
WILLIAM J. LYNCH, ESQ.  
Senior Attorney  
Bureau of Professional  
Medical Conduct

DATE: 1/19/99

  
ANNE F. SAILE  
Director  
Office of Professional  
Medical Conduct

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

IN THE MATTER  
OF  
JAMES GABRIEL LODOLCE, M.D.

CONSENT  
ORDER

Upon the proposed agreement of JAMES GABRIEL LODOLCE, M.D. (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: 1/23/99

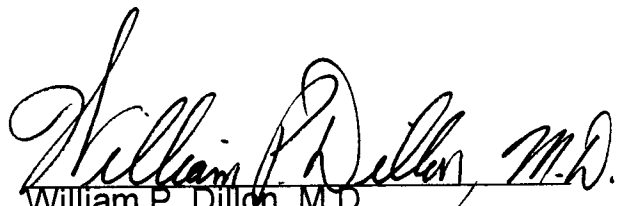
  
William P. Dillon, M.D.  
Chair  
Board for Professional Medical Conduct

EXHIBIT A

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

-----X

IN THE MATTER : STATEMENT  
OF : OF  
JAMES GABRIEL LODOLCE : CHARGES

-----X

JAMES GABRIEL LODOLCE, M.D., the Respondent, was authorized to practice medicine in New York State on July 1, 1974 by the issuance of license number 120383 by the New York State Education Department. The Respondent is currently registered with the New York State Education Department to practice medicine for the period August 1, 1998, through July 31, 2000, with a registration address of 2125 Pompey Center Road, Fabius, New York 13063.

**FACTUAL ALLEGATIONS**

1. Between approximately September, 1994 and February, 1997 while employed at the Lafayette Family Health Center, Respondent engaged in inappropriate speech and behavior that sexually harassed various employees and used inappropriate speech while examining various patients.

2. Between approximately January and March 1997, Health Services Medical Corporation of Central New York conducted an investigation regarding Respondent's conduct as stated in paragraph one during which Respondent was placed on administrative leave.

3. On an application to North Medical Center dated April 9, 1997, Respondent answered "no" to a question that asked whether he had ever been subject to any investigation by any health care facility.

4. On an application to the New Hampshire Board of Medicine dated May 27, 1997, Respondent answered "no" to a question that asked whether any investigation had been taken against him in the last ten years by any health care facility, and Respondent answered "no" to a question that asked whether he had ever had employment in a health care institution limited or suspended.

#### **FIRST SPECIFICATION**

##### **MORAL UNFITNESS**

Respondent is charged with professional misconduct within the meaning of N.Y. Educ. Law § 6530(20) [McKinney Supp. 1998] by having engaged in conduct in the practice of medicine which evidences moral unfitness to practice medicine, in that  
Petitioner charges:

1. The facts in Paragraphs 1 and/or 2 and/or 3 and/or 4.

#### **SECOND SPECIFICATION**

##### **FRAUDULENT PRACTICE**

Respondent is charged with professional misconduct within the meaning of N.Y. Educ. Law § 6530(2) [McKinney Supp. 1998] by reason of having practiced the profession fraudulently, in that  
Petitioner charges:



2. The facts in Paragraphs 1 and/or 2 and/or 3 and/or 4.

DATED: *January 13*, 1999  
Albany, New York

*Peter D. Van Buren*  
PETER D. VAN BUREN  
Deputy Counsel  
Bureau of Professional  
Medical Conduct

## EXHIBIT "B"

### Terms of Probation

1. Respondent shall conduct himself/herself in all ways in a manner befitting his/her professional status, and shall conform fully to the moral and professional standards of conduct and obligations imposed by law and by his profession.
2. Respondent shall submit written notification to the New York State Department of Health addressed to the Director of the Office of Professional Medical Conduct, New York State Department of Health, 433 River Street, Suite 303, Troy, NY 12180-2299; said notice is to include a full description of any employment and practice, professional and residential addresses and telephone numbers within or without New York State, and any and all investigations, charges, convictions or disciplinary actions by any local, state or federal agency, institution or facility, within thirty days of each action.
3. Any civil penalty not paid by the date prescribed herein shall be subject to all provisions of law relating to debt collection by New York State. This includes but is 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].
4. The period of probation shall be tolled during periods in which Respondent is not engaged in the active practice of medicine in New York State. Respondent shall notify the Director of OPMC, in writing, if Respondent is not currently engaged in or intends to leave the active practice of medicine in New York State for a period of thirty (30) consecutive days or more. Respondent shall then notify the Director again prior to any change in that status. The period of probation shall resume and any terms of probation which were not fulfilled shall be fulfilled upon Respondent's return to practice in New York State.
5. Respondent's professional performance may be reviewed by the Director of OPMC. This review may include, but shall not be limited to, a review of office records, patient records and/or hospital charts, interviews with or periodic visits with Respondent and his/her staff at practice locations or OPMC offices.
6. Respondent shall maintain legible and complete medical records which accurately reflect the evaluation and treatment of patients. The medical records shall contain all information required by State rules and regulations regarding controlled substances.
7. Respondent, at his own expense and within 45 days of the effective date of the Order, shall provide the Director of OPMC with an evaluation and proposed treatment plan from Gene G. Abel, M.D. of the Behavioral Medicine Institute of Atlanta, Inc., or such other practitioner as shall be approved in writing by the Director of OPMC. At a minimum, the treatment plan shall include ongoing therapy and a practice behavior monitoring

program to prevent sexual harassment of staff and physician sexual misconduct.

8. Upon notification of approval by the Director of OPMC, Respondent shall implement the treatment plan. In the event that the Director of OPMC does not approve the proposed treatment plan, this matter shall be returned to the Board for further consideration.
9. Respondent shall engage in ongoing therapy for a period of five years. The therapist shall be proposed by the Respondent and approved, in writing, by the Director of OPMC. The therapist shall be fully aware of the nature of the charges against Respondent and shall not be a personal friend.
10. Respondent shall obtain and fully cooperate with a practice behavior monitor for a period of five years. Richard B. Krueger, M.D. or such other practice behavior monitor proposed by the Respondent and approved, in writing, by OPMC shall be fully aware of the nature of the charges against Respondent. The Director of OPMC and the behavior practice monitor shall have full access to the information collected in the practice behavior monitoring program referred to in paragraph seven.
11. Respondent agrees that the behavior practice monitor and all treatment providers must be willing to cooperate in making reports as requested by OPMC for five years. The behavior practice monitor shall submit to OPMC quarterly progress reports detailing either compliance or noncompliance with treatment recommendations. Additionally, the behavior practice monitor and all treatment providers shall complete a comprehensive annual evaluation. All reports shall be submitted to OPMC within 30 days of the completion of the relevant time period.
12. Respondent shall comply with all terms, conditions, restrictions, limitations and penalties to which he or she is subject pursuant to the Order and shall assume and bear all costs related to compliance. Upon receipt of evidence of noncompliance with, or any violation of these terms, the Director of OPMC and/or the Board may initiate a violation of probation proceeding and/or any such other proceeding against Respondent as may be authorized pursuant to the law.