

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

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IN THE MATTER  
OF  
FRANCISCO BRACHE, M.D.

MODIFICATION  
ORDER  
BPMC No. 98-299

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Upon the proposed Application for a Modification Order of **FRANCISCO BRACHE, M.D.**,  
(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, by first class mail, a copy of the Modification Order to Respondent at the  
address in the attached Application or by certified mail to Respondent's attorney or upon  
transmission via facsimile to Respondent or Respondent's attorney, whichever is earliest.

SO ORDERED.

DATED: 7-23-2008

Redacted Signature

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KENDRICK A. SEARS, M.D.  
Chair  
State Board for Professional  
Medical Conduct

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

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IN THE MATTER  
OF  
FRANCISCO BRACHE, M.D.

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APPLICATION FOR  
MODIFICATION ORDER

**FRANCISCO BRACHE, M.D.**, (Respondent) being duly sworn deposes and says:

That on or about November 19, 1975, I was licensed to practice as a physician in the State of New York, having been issued License No. 129343 by the New York State Education Department.

My current address is Redacted Address # 13K New York.

I am currently subject to Consent Order BPMC #98-299, (hereinafter "Original Order"), annexed hereto, made a part, hereof, and marked as Exhibit 1, that was issued on December 8, 1998.

I apply, hereby, to the State Board for Professional Medical Conduct for a Modification Order (hereinafter "Modification Order"), modifying the Original Order, as follows: to delete the paragraphs in the Original Order that state:

" 1. I shall be placed on probation for a period of two (2) years subject to the terms set forth in Exhibit 'B' annexed hereto."

" 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 at all times thereafter; and"

substituting therefore:

" Respondent shall never activate his registration to practice medicine in New York state or seek to reapply for a license to practice medicine in New York state."

The Modification Order to be issued will not constitute a new disciplinary action against me, but will substitute the proposed language for the above described language 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 of the Board of this Application, I knowingly waive the right to contest the Original Order or the Modification Order for which I apply, both administratively and judicially, and ask that the Board grant this Application.

I understand and agree that the attorney for the Bureau of Professional Medical Conduct, the Director of the Office of Professional Medical Conduct, and the Chair of the State Board for Professional Medical Conduct each retain complete discretion to either enter into the proposed Agreement and Modification 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.

AFFIRMED:

DATED: 07-12-08

Redacted Signature

FRANCISCO BRACHE, M.D.  
Respondent

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

DATE: 14 July 2008

Redacted Signature

ROBERT BOGAN  
Associate Counsel  
Bureau of Professional Medical Conduct

DATE: 7/21/2008

Redacted Signature

KEITH W. SERVIS  
Director  
Office of Professional Medical Conduct

# EXHIBIT 1



## **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

December 11, 1998

### **CERTIFIED MAIL-RETURN RECEIPT REQUESTED**

Francisco Brache, M.D.

Redacted Address

RE: License No. 129343

Dear Dr. Brache:

Enclosed please find Order #BPMC 98-299 of the New York State Board for Professional Medical Conduct. This Order and any penalty provided therein goes into effect **December 11, 1998.**

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 Signature)

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

#### Enclosure

cc: Wayne P. Jordan, Esq.  
142 East 39th Street  
Suite 2A  
New York, New York 10016

Barry Kaufman, Esq.

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

IN THE MATTER  
OF  
FRANCISCO BRACHE, M.D.

CONSENT  
AGREEMENT  
AND  
ORDER  
BPMC #98-299

STATE OF NEW YORK )  
COUNTY OF NEW YORK) so.:

FRANCISCO BRACHE, M.D., (Respondent) being duly sworn, deposes and says:

That on or about November 19, 1975, I was licensed to practice as a physician in the State of New York, having been issued License No. 129343 by the New York State Education Department.

My current address is Redacted Address, New York, N. Y., 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 (2) 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 charge in the First Specification to the effect that I have been found guilty of professional misconduct by a duly authorized professional disciplinary agency of another state where the conduct upon which it is based would, if committed in New York state, constitute professional misconduct, in full satisfaction of the charges against me. I hereby agree to the following penalty:

1. I shall be placed on probation for a period of two (2) years subject to the terms set forth in Exhibit "B" annexed hereto.

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 at all times thereafter; 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. This condition shall be in effect beginning upon the effective date of the Consent Order and at all times thereafter.

I hereby stipulate that any failure by me to comply with such conditions shall constitute misconduct as defined by New York State Education Law

§6530(29)(McKinney Supp 1998).

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.

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 11-30-98

Redacted Signature

FRANCISCO BRACHE, 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: 11-30-98

Redacted Signature

WAYNE P. JORDAN, ESQ.  
Attorney for Respondent

DATE: 12/2/98

Redacted Signature

BARRY KAUFMAN  
Associate Counsel  
Bureau of Professional  
Medical Conduct

DATE: Dec 4, 1998

Redacted Signature

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  
FRANCISCO BRACE, M.D.

CONSENT  
ORDER

Upon the proposed agreement of FRANCISCO BRACHE, 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: 12/8/98

Redacted Signature

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

IN THE MATTER  
OF  
FRANCISCO BRACHE, M.D.

STATEMENT  
OF  
CHARGES

Francisco Brache, M.D., the Respondent, was authorized to practice medicine in New York State on or about November 19, 1975, by the issuance of license number 129343 by the New York State Education Department.

**FACTUAL ALLEGATIONS**

- A. On or about February 27, 1998, the New Jersey Board of Medical Examiners (hereinafter referred to as "Board") issued an Order of Reprimand finding the Respondent guilty of various acts of professional misconduct in violation of N.J.S.A. 45:1-21(d) and (h), and N.J.A.C. 13:35-6.5. In the order the Board found Respondent guilty of the following:
1. Rendering substandard care to two patients;
  2. Failing to maintain proper patient treatment records for eleven patients;
  3. Failing to follow up with treatment of a patient or proper referral and failing to notify the patient of termination of treatment in a responsible manner.
- B. In the February 27, 1998 Order of Reprimand, the Board took disciplinary action against Respondent's license to practice medicine, including, but not limited to, reprimand, practice monitoring and reporting, and retraining.

**SPECIFICATION OF CHARGES**

**FIRST SPECIFICATION**  
**HAVING BEEN FOUND GUILTY OF**  
**PROFESSIONAL MISCONDUCT**

Respondent is charged with committing professional misconduct as defined in N.Y. Educ. Law §6530(9)(b)(McKinney Supp. 1998) 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 [namely N.Y. Educ. Law §§ 6530 (3), (5), (30) & (32)] as alleged in the facts of the following:

1. The facts in paragraphs A, A(1), through A(3).

**SECOND SPECIFICATION**  
**HAVING HAD DISCIPLINARY ACTION TAKEN**

Respondent is charged with committing professional misconduct as defined in N.Y. Educ. Law §6530(9)(d)(McKinney Supp. 1998) by having his or her license to practice medicine revoked, suspended or having other disciplinary action taken, or having his or her application for a license refused, revoked or suspended or having voluntarily or otherwise surrendered his or her license after a disciplinary action was instituted by a duly authorized professional disciplinary agency of another state, where the conduct resulting in the revocation, suspension or other disciplinary action involving the license or refusal, revocation or suspension of an application for a license or the surrender of the license would, if committed in New York state, constitute professional misconduct under the laws of New York state (namely N.Y.

Educ. Law §6530[(3), (5), (30) & (32)] as alleged in the facts of the following:

2. The facts in paragraphs A, A(1), through A(3) and B.

DATED: September 29, 1998  
New York, New York

Redacted Signature

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**ROY NEMERSON**  
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/her 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 shall maintain compliance with the terms of the February 27, 1998 Order of the New Jersey State Board of Medical Examiners. Respondent will provide a written authorization for the New Jersey State Board of Medical Examiners to provide to the Director of OPMC with any and all information or documentation as requested by OPMC to enable OPMC to determine whether Respondent is in compliance with the New Jersey State Board of Medical Examiners' Order. Respondent shall submit

semi-annually a signed Compliance Declaration to the Director of OPMC, which truthfully attests whether Respondent has been in compliance with the New Jersey State Board of Medical Examiners' Order during the declaration period specified.

8. Respondent shall take and successfully complete, within six (6) months of the effective date of the Consent Order, an approved course on medical record keeping.
9. 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.