



***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*

William P. Dillon, M.D.  
*Chair*

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

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

July 2, 2001

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

Steven J. Bier, M.D.  
Suite 329  
2488 Grand Concourse  
Bronx, New York 10458

RE: License No. 163102

Dear Dr. Bier:

Enclosed please find Order #BPMC 01-151 of the New York State Board for Professional Medical Conduct. This Order and any penalty provided therein goes into effect July 2, 2001.

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: Barry H. Berke, Esq.  
Kramer, Levin, Naftalis and Frankel LLP  
919 Third Avenue  
New York, NY 10022-3852

Richard J. Zahnleuter, Esq.

**STATE OF NEW YORK : DEPARTMENT OF HEALTH  
STATE BOARD FOR PROFESSIONAL MISCONDUCT**

IN THE MATTER  
OF  
STEVEN J. BIER, M.D.

CONSENT  
AGREEMENT  
AND  
ORDER  
BPMC No. 01-151

Steven J. Bier, M.D. (Respondent), says:

On or about July 8, 1985, I was licensed to practice as a physician in the State of New York, having been duly issued License No. 163102 by the New York State Department of Education.

My current business address is Suite 329, 2488 Grand Concourse, Bronx, NY 10458 and my current residential address is 22 Fairway Drive, Mamaroneck, NY 10543. I will advise the Director of the Office of Professional Medical Conduct (“OPMC”) of any change of either address.

I understand that the New York State Board for Professional Medical Conduct has charged me with professional misconduct.

A copy of the Amended Statement of Charges is annexed hereto, made a part hereof, and marked as Exhibit “A.”

In full satisfaction of all of the charges against me, including the Statement of Charges, dated May 25, 2000, and the Amended Statement of Charges, I do not contest the First Specification of the Amended Statement of Charges insofar as it charges me with failing to maintain a record for certain patients which accurately reflected the evaluation and treatment of the patient in violation of New York Education Law § 6530(32).

I agree that the Consent Agreement and Order for which I hereby apply shall impose, pursuant to New York Public Health Law § 230-a, the following: suspension of my license

commencing retroactively on May 30, 2000 and terminating on May 30, 2001. It is my understanding that this one-year suspension of my license will end as of May 30, 2001.

I acknowledge that, due to the suspension mentioned above, I currently do not meet the qualifications to be an “interpreting physician” as set forth in Sections 900.2(u) and 900.12 of the FDA’s rules and regulations promulgated in 21 CFR Part 900 pursuant to the Federal Mammography Quality Standards Act, and, therefore, I am not allowed to independently interpret mammographic examinations until I “reestablish” my qualifications pursuant to 21 CFR 900.12(a)(1)(iv). Accordingly, I hereby agree that I shall not independently interpret mammographic examinations until I reestablish my qualifications as required by 21 CFR 900.12(a)(1)(iv). Due to the suspension mentioned above, I have been unable to practice either mammography or any other form of radiology for a twelve-month period, and therefore I also hereby agree not to independently interpret mammographic examinations until I also meet the following additional terms: (a) I hereby agree that I shall reestablish my qualifications through the option set forth in 21 CFR 900.12(a)(1)(iv)(A)(1) and not through the option set forth in 21 CFR 900.12(a)(1)(iv)(A)(2); (b) In the context of 21 CFR 900.12(a)(1)(iv)(A)(1), I hereby agree that I shall reestablish my qualifications through the option of “multi-reading” mammographic examinations as defined in 21 CFR 900.2(hh) and not through the option of “interpreting” mammographic examinations; (c) In the context of 21 CFR 900.12(a)(1)(iv)(A)(1), I hereby agree that I shall reestablish my qualifications by multi-reading mammographic examinations under the “direct supervision” option as defined in 21 CFR 900.2(o)(1) and not under the “direct supervision” option as defined in 21 CFR 900.2(o)(2); (d) In the context of the direct supervision option set forth in 21 CFR 900.2(o)(1), I hereby agree that I shall submit to the Director of OPMC for prior written approval the name and curriculum vitae of a proposed “supervising interpreting physician,” who is licensed in New York State, who is board-certified in an appropriate specialty, and who qualifies under 21 CFR 900.12(a)(1) as an interpreting physician, and who shall not be a family member, personal friend, former employee or independent contractor, or person or entity with whom I have or have had a professional relationship, or any

other person or entity, who could be deemed in the sole discretion of the Director of OPMC to have a potential conflict while carrying out supervision responsibilities, and I shall employ or contract with only that person or entity to function as a “supervising interpreting physician”; (e) In the context of 21 CFR 900.12(a)(1)(iv)(A)(1), I hereby agree that, because I have been unable to practice mammography or any other form of radiology for a twelve month period due to my suspension, I shall reestablish my qualifications by multi-reading, after the suspension of my license expires, at least 800 mammographic examinations under direct supervision, with no more than 8 mammographic examinations being multi-read in any day and no more than 15 mammographic examinations being multi-read in any week; and (f) I hereby agree that the supervising interpreting physician shall submit to the Director of OPMC interim written signed reports after every 200 multi-read mammograms and a final written signed report attesting that I have satisfactorily multi-read at least 800 mammographic examinations under his or her direct supervision.

I acknowledge that, due to the suspension mentioned above, I have been unable to function as a “lead interpreting physician” as defined in 21 CFR 900.2(x) for a twelve-month period. Accordingly, I hereby agree that, to the extent that any professional service corporation practicing medicine, sole proprietorship practicing medicine, physician’s office, professional limited liability corporation practicing medicine, partnership practicing medicine, or registered limited liability partnership practicing medicine in New York State which I have incorporated or will incorporate, have established or will establish, have operated or will operate, have acquired or will acquire, have owned or will own, or of which I have been or will be a shareholder, director, officer or partner constitutes a “facility” within the meaning of 21 CFR 900.2(aa) and 21 CFR 900.2(q) due to the nature of the “mammography” activities conducted therein, such professional service corporation practicing medicine, sole proprietorship practicing medicine, physician’s office, professional limited liability corporation practicing medicine, partnership practicing medicine, or registered limited liability partnership practicing medicine shall submit to the Director of OPMC for prior written approval the name and curriculum vitae of a proposed

physician who is licensed in New York State, who is board-certified in an appropriate specialty, and who qualifies under 21 CFR 900.12(a)(1) as an interpreting physician, and who shall not be a family member, personal friend, former employee or independent contractor, or person or entity with whom I have or have had a professional relationship, or other person or entity, who could be deemed in the sole discretion of the Director of OPMC to have a potential conflict, and I further agree that, for a three-year period after the professional service corporation practicing medicine, sole proprietorship practicing medicine, physician's office, professional limited liability corporation practicing medicine, partnership practicing medicine, or registered limited liability partnership practicing medicine, becomes a "facility" that conducts "mammography" activities within the meaning of 21 CFR 900.2(aa) and 21 CFR 900.2(q), I shall employ or contract with such physician or entity to conduct quarterly reviews of the facility's quality assurance and quality control program in order to ensure that the facility meets all of the requirements of 21 CFR 900.12(c) through (h) and I shall further employ or contract with such physician or entity to submit written signed quarterly reports to the Director of OPMC regarding the results of the reviews. I further agree to ensure that this physician is familiar with this Consent Agreement and Order, is willing to report to OPMC, is in a position to regularly observe and assess my mammography practice, and has access to any mammography practice records he or she deems it necessary to review in order to conduct his or her review. I further agree that the three-year period described above shall not include any time during which the professional service corporation practicing medicine, sole proprietorship practicing medicine, physician's office, professional limited liability corporation practicing medicine, partnership practicing medicine, or registered limited liability partnership practicing medicine is not a "facility" that conducts "mammography" activities within the meaning of 21 CFR 900.2(aa) and 21 CFR 900.2(q).

I acknowledge that, due to the suspension mentioned above, I have been unable to practice medicine in any form for a twelve-month period. Accordingly, unless I first resume the practice of medicine for one continuous year exclusively through association, employment,

privileges, or practice on a full time basis of 37.5 hours or more per week with a “hospital” as defined by section 2801(1) of the New York Public Health Law and as regulated by Article 28 of the New York Public Health Law, I hereby agree that I shall enroll in, and, within three months of my resumption of the practice of medicine, submit to the Director of OPMC test scores evidencing successful completion of, the following volumes from the American College of Radiology’s Professional Self-Evaluation Series, Group A: Genitourinary Tract Disease V, Chest Disease V, Gastrointestinal Disease V, Body MRI, and Musculoskeletal Disease. Because, due to the suspension mentioned above, I have been unable to practice medicine in any form for a twelve-month period, if I were to resume the practice of medicine other than exclusively through association, employment, privileges, or practice for one continuous year on a full time basis of 37.5 hours or more per week with a “hospital” as defined by section 2801(1) of the New York Public Health Law and as regulated by Article 28 of the New York Public Health Law, I also hereby agree to enroll in, and to submit to the Director of OPMC within 18 months of my resumption of the practice of medicine, evidence of completion of 50 Category 1 hours of Continuing Medical Education provided by the American College of Radiology, as well as test scores evidencing successful completion of the Pediatric Disease V volume of the American College of Radiology’s Professional Self-Evaluation Series.

I hereby agree that I, personally, shall remain in compliance with, and not violate, any of the provisions of the Federal Mammography Quality Standards Act and 21 CFR Part 900.

I shall maintain active registration of my 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 Agreement and Order and will continue while the licensee possesses his/her license; and

I shall fully cooperate in every respect with OPMC in its administration and enforcement of this Consent Agreement and Order. I shall respond in a timely manner to each and every request by OPMC to provide written periodic verification of my compliance with the terms of this Consent Agreement and Order. I shall meet with a person designated by the Director of

OPMC as directed to discuss my compliance with the terms of this Consent Agreement and Order. In connection with my compliance with the terms of this Consent Agreement and Order, I shall respond promptly and provide any and all documents and information within my control upon the direction of OPMC. This condition shall be in effect beginning upon the effective date of the Consent Agreement and Order and will continue while I possess my license.

I hereby stipulate that any failure by me to comply with the terms and conditions of this Consent Agreement and Order 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 by the New York State Department of Health in the future, this Consent Agreement and Order may be admitted into evidence in that proceeding only for the purpose of assessing penalty except to the extent that the proceeding relates to a violation of this Consent Agreement and Order, in which case it may be admitted into evidence for the purpose of assessing guilt. Otherwise, this Consent Agreement and Order is made pursuant to a settlement and compromise and is not to be perceived as an admission of a breach of standard of care as to any particular patient or be binding on me or any associated parties as an admission or concession on any factual dispute in any other proceeding or on any other person or entity in this or any other proceeding.

I hereby make this Application to the Board and request that it be granted.

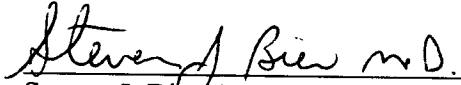
I understand that, in the event that this Application is not granted by the Board, nothing contained herein shall be binding upon me or construed to be an admission of any act of misconduct alleged or charged against me, such Application shall not be used against me in any way and shall be kept in strict 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 Agreement and 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.

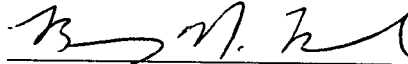
I am making this Application of my own free will and accord and not under duress, compulsion or restraint of any kind or manner. In consideration of the value to me of the acceptance by the Board of this Application, allowing me to resolve this matter without the various risks and burdens of a hearing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

DATED: 6/20/01

  
Steven J. Bier, M.D.

DATED: 6/20/01

KRAMER LEVIN NAFTALIS & FRANKEL LLP



By: Barry H. Berke, Esq.  
919 Third Avenue  
New York, New York 10019

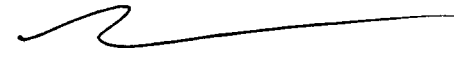
DATED: 6/21/01

Attorneys for Steven J. Bier, M.D.



Richard J. Zahnleuter, Esq.  
Associate Counsel  
Bureau of Professional  
Medical Conduct

Date: 6/28/01, 2001

  
Dennis J. Graziano  
Director, Office of  
Professional Medical Conduct



STATE OF NEW YORK : DEPARTMENT OF HEALTH  
STATE BOARD FOR PROFESSIONAL MISCONDUCT

IN THE MATTER	CONSENT
OF	ORDER
STEVEN J. BIER, M.D.	

Upon the proposed Agreement of Steven J. Bier, M.D. (Respondent) for a 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: 6/28/01

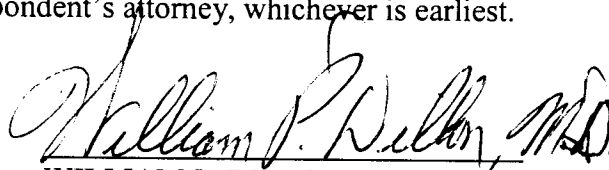
  
WILLIAM P. DILLON, M.D.  
Chair  
State Board for Professional  
Medical Conduct

EXHIBIT "A"

**STATE OF NEW YORK : DEPARTMENT OF HEALTH  
STATE BOARD FOR PROFESSIONAL MISCONDUCT**

:	IN THE MATTER	:	AMENDED
:	OF	:	STATEMENT
:	STEVEN J. BIER, M.D.	:	OF
:		:	CHARGES

Pursuant to an Order of the Administrative Officer, dated June 1, 2000, the Respondent was severed from the initial Statement of Charges, dated May 25, 2000, and this Amended Statement of Charges implements that Order as follows:

STEVEN J. BIER, M.D., the Respondent, was authorized to practice medicine in New York State on July 8, 1985 by the issuance of license number 163102 by the New York State Education Department.

STEVEN J. BIER, M.D., is subject to the jurisdiction of the State Board for Professional Medical Conduct, pursuant to the prehearing and hearing procedures of Title II-A of Article 2 of the New York Public Health Law.

**ALLEGATIONS**

A. On or about September 24, 1987, a certificate of incorporation for Steven Bier, M.D., P.C., a professional service corporation organized to practice medicine in compliance with Sections 1503(a) and 1504(a) of the New York Business Corporation Law, was filed with the New York State Department of State.

B. Respondent was the physician who, in compliance with Sections 1503(a) and 1504(a) of the New York Business Corporation Law, was the original shareholder, director and officer of Steven Bier, M.D., P.C.

C. On or about September 20, 1995, Respondent and Steven Bier, M.D., P.C., began providing breast cancer screening services under the auspices of the Bronx Ambulatory Care Network, a community based coalition coordinating the services of the National and New York State Breast and Cervical Cancer Early Detection Program.

D. The Bronx Ambulatory Care Network later became the Bronx Breast Health Partnership, and was also known as the Bronx Healthy Women Partnership.

E. On or about June 18, 1996, Respondent and Steven Bier, M.D., P.C., signed a "Provider's Memo of Understanding" with the Bronx Breast Health Partnership.

F. Respondent and Steven Bier, M.D., P.C., agreed, pursuant to paragraph 2 of the Provider's Memo of Understanding, to provide the following services to eligible women:

1. "Clinical Breast Exam";
2. "Self Breast Exam Education"
3. "Screening Mammogram";
4. "Diagnostic Mammogram"

G. Upon information and belief, Steven Bier, M.D., P.C., has been and is a certified mammography facility accredited by the American College of Radiology, has been and is authorized to perform mammography examinations under the Federal Mammography Quality Standards Act, and must comply with the requirements of the Federal Mammography Quality Standards Act as set forth in 21 CFR Part 900 and elsewhere.

H. On or about March 18, 1998, Respondent and Steven Bier, M.D., P.C., reiterated their commitment to participate in the Bronx Breast Health Partnership.

I. On or about June 18, 1999, the New York State Department of Health entered into a renewal agreement with J.L.J. Consulting Group, Ltd., to facilitate the reimbursement process during the period April 1, 1999 through March 31, 2000.


## **SPECIFICATION OF CHARGES**

### **FIRST SPECIFICATION**

Respondent is charged with professional misconduct by reason of failing, in connection with the practice of mammography during the period beginning on or about September 20, 1995 and ending May 30, 2000, to maintain a record for certain patients which accurately reflected the evaluation and treatment of the patient, in violation of one or more of the provisions set forth in New York's Education Law § 6530, including New York Education Law § 6530(32), in that Petitioner charges:

1. The allegations in Paragraphs A, B, C, D, E, F, G, H and I.

DATED: June ~~22~~ 2001  
Albany, New York

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

**STATE OF NEW YORK : DEPARTMENT OF HEALTH  
STATE BOARD FOR PROFESSIONAL MISCONDUCT**

:	:	
:	:	CONSENT
:	:	
:	:	AGREEMENT
:	:	
:	:	AND
:	:	
:	:	ORDER
:	:	

Steven Bier, M.D., P.C. (Professional Corporation Respondent), says:

On or about September 24, 1987, Professional Corporation Respondent was authorized to practice medicine as a professional service corporation in New York State, having had its certificate of incorporation duly filed by the New York State Department of State.

Professional Corporation Respondent is subject to the jurisdiction of the State Board for Professional Medical Conduct, and the prehearing and hearing procedures of Title II-A of Article 2 of the New York Public Health Law, pursuant to Section 1503(d) of the New York Business Corporation Law.

Professional Corporation Respondent acknowledges that it has been charged with professional misconduct as set forth in the Amended Statement of Charges, annexed hereto, made a part hereof, and marked as "Exhibit A."

In full satisfaction of all of the Charges against Professional Corporation Respondent, including the Statement of Charges dated May 25, 2000, and the Amended Statement of Charges, Professional Corporation Respondent does not contest the First Specification of the Amended Statement of Charges, insofar as it charges Professional Corporation Respondent with failing to maintain a record for certain patients which accurately reflected the evaluation and treatment of the patient in violation of New York Education Law § 6530(32).

Professional Corporation Respondent agrees that the Consent Agreement and Order for which it hereby applies shall impose, pursuant to New York Public Health Law § 230-a, the

following: suspension of its authorization to practice medicine commencing retroactively on May 30, 2000 and continuing through May 30, 2003. The suspension will end on May 30, 2003.

Professional Corporation Respondent shall fully cooperate in every respect with the Office of Professional Medical Conduct in its administration and enforcement of this Consent Agreement and Order by providing written responses, attending meetings or providing documentation concerning verification of its compliance with the terms of this Consent Agreement and Order.

Professional Corporation Respondent hereby stipulates that any failure by it to comply with the terms and conditions of this Consent Agreement and Order shall constitute misconduct as defined by New York State Education Law §6530(29).

Professional Corporation Respondent agrees that in the event it is charged with professional misconduct by the New York State Department of Health in the future, this Consent Agreement and Order may be admitted into evidence in that proceeding only for the purpose of assessing penalty except to the extent that the proceeding relates to a violation of this Consent Agreement and Order, in which case it may be admitted into evidence for the purpose of assessing guilt. Otherwise, this Consent Agreement and Order is made pursuant to a settlement and compromise and is not to be perceived as an admission of a breach of standard of care as to any particular patient or be binding on Professional Corporation Respondent or any associated parties as an admission or concession on any factual dispute in any other proceeding or on any other person or entity in this or any other proceeding.

Professional Corporation Respondent hereby makes this Application to the Board and requests that it be granted.

Professional Corporation Respondent understands that, in the event that this Application is not granted by the Board, nothing contained herein shall be binding upon it or construed to be an admission of any act of misconduct alleged or charged against it, such Application shall not be used against it 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.

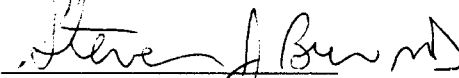
Professional Corporation Respondent agrees that, in the event the Board grants its Application, as set forth herein, an Order of the Chairperson of the Board shall be issued in accordance with same. Professional Corporation Respondent agrees that such Order shall be effective upon issuance by the Board, which may be accomplished by mailing, by first class mail, a copy of the Consent Agreement and Order to Professional Corporation Respondent at the address set forth in this agreement, or to Professional Corporation Respondent's attorney, or upon transmission via facsimile to Professional Corporation Respondent or Professional Corporation Respondent's attorney, whichever is earliest.

Professional Corporation Respondent is making this Application of its own free will and accord and not under duress, compulsion or restraint of any kind or manner. In consideration of the value to it of the acceptance by the Board of this Application, allowing it to resolve this matter without the various risks and burdens of a hearing on the merits, Professional Corporation Respondent knowingly waives any right it may have to contest the Consent Agreement and Order for which it hereby applies, whether administratively or judicially, and asks that the Application be granted.

Professional Corporation Respondent is making this application through Steven J. Bier, M.D., and Professional Corporation Respondent and Steven J. Bier, M.D., warrant that Steven J. Bier, M.D., has the necessary corporate authority to enter into this Consent Agreement and Order on behalf of Professional Corporation Respondent.

DATED: 6/20/01

STEVEN BIER, M.D., P.C.


  
By: Steven J. Bier, M.D.

State of New York )

ss.:

County of New York )

On the 20<sup>th</sup> day of June 2001, before me personally came Steven J. Bier, M.D., who being by me duly sworn, did depose and say that he resides in New York; that he is the sole shareholder to the professional service corporation described herein and which executed the above instrument; and that he is authorized to sign his name thereto.

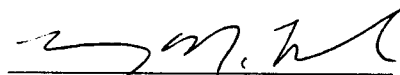
  
\_\_\_\_\_  
Notary Public

JENNIFER ROCHON  
NOTARY PUBLIC, State of New York  
No. 02RO6031992  
Qualified in New York County  
Commission Expires Oct. 12, 2001

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

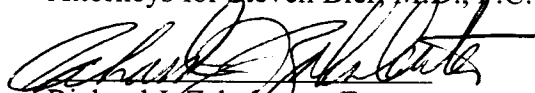
DATED: 6/20/01

KRAMER LEVIN NAFTALIS & FRANKEL LLP

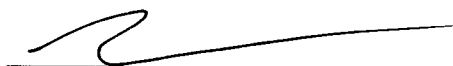
  
\_\_\_\_\_  
By: Barry H. Berke, Esq.  
919 Third Avenue  
New York, New York 10019

Attorneys for Steven Bier, M.D., P.C.

DATED: 6/21/01

  
\_\_\_\_\_  
Richard J. Zahnleuter, Esq.  
Associate Counsel  
Bureau of Professional  
Medical Conduct

Date: 6/29/01, 2001

  
\_\_\_\_\_  
Dennis J. Graziano  
Director, Office of  
Professional Medical Conduct



STATE OF NEW YORK : DEPARTMENT OF HEALTH  
STATE BOARD FOR PROFESSIONAL MISCONDUCT

IN THE MATTER	CONSENT
OF	ORDER
STEVEN BIER, M.D., P.C.	

Upon the proposed Agreement of Steven Bier, M.D., P.C., (Professional Corporation Respondent) for a 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 Professional Corporation Respondent at the address set forth in this agreement or to Professional Corporation Respondent's attorney by certified mail, or upon transmission via facsimile to Professional Corporation Respondent or Professional Corporation Respondent's attorney, whichever is earliest.

SO ORDERED.

DATED: 6/28/01

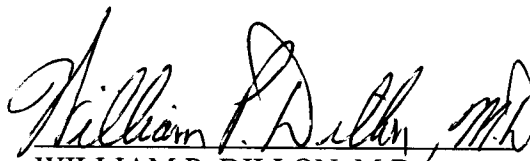
  
WILLIAM P. DILLON, M.D.  
Chair  
State Board for Professional  
Medical Conduct

EXHIBIT "A"

**STATE OF NEW YORK : DEPARTMENT OF HEALTH  
STATE BOARD FOR PROFESSIONAL MISCONDUCT**

:	:	AMENDED
:	:	:
:	:	STATEMENT
:	:	:
:	:	OF
:	:	:
:	:	CHARGES
:	:	:
:	:	:

Pursuant to an Order of the Administrative Officer, dated June 1, 2000, the Professional Corporation Respondent was severed from the initial Statement of Charges, dated May 25, 2000, and this Amended Statement of Charges implements that Order as follows:

STEVEN J. BIER, M.D. was authorized to practice medicine in New York State on July 8, 1985 by the issuance of license number 163102 by the New York State Education Department.

STEVEN BIER, M.D., P.C., the Professional Corporation Respondent, is a professional service corporation that was authorized to practice medicine in New York State on or about September 24, 1987 by the New York State Department of State.

STEVEN BIER, M.D., P.C., is subject to the jurisdiction of the State Board for Professional Medical Conduct, and the prehearing and hearing procedures of Title II-A of Article 2 of the New York Public Health Law, pursuant to Section 1503(d) of the New York Business Corporation Law.

**ALLEGATIONS**

A. A professional service corporation may be organized by one or more individuals who are authorized by law to render the same professional service, pursuant to Section 1503(a) of the New York Business Corporation Law.

B. No professional service corporation may render professional services except through individuals authorized by law to render such professional services, pursuant to Section 1504(a) of the New York Business Corporation Law.

C. No individual may be a shareholder, director or officer of a professional service corporation unless that individual is authorized by law to practice the same profession as the professional service corporation, pursuant to Sections 1507 and 1508 of the New York Business Corporation Law.

D. The individuals who are the original shareholders, directors and officers of a professional service corporation must be identified by name and address on the certification of incorporation of the professional service corporation, and the certificate of incorporation must identify the profession to be practiced by the professional service corporation, pursuant to Section 1503(b)(i) of the New York Business Corporation Law.

E. Each “report, diagnosis, prognosis, and prescription made or issued” by a corporation practicing medicine “shall bear the signature of one or more physicians . . . who are in responsible charge of such report, diagnosis, prognosis or prescription,” pursuant to Section 1504(c) of the Business Corporation Law.

F. On or about September 24, 1987, a certificate of incorporation for Steven Bier, M.D., P.C., a professional service corporation organized to practice medicine in compliance with Sections 1503(a) and 1504(a) of the New York Business Corporation Law, was filed with the New York State Department of State.

G. Steven J. Bier, M.D. was the physician who, in compliance with Sections 1503(a) and 1504(a) of the New York Business Corporation Law, was the original shareholder, director and officer of Steven Bier, M.D., P.C.

H. On or about September 20, 1995, Steven J. Bier, M.D. and Professional Corporation Respondent began providing breast cancer screening services under the auspices of the Bronx Ambulatory Care Network, a community based coalition coordinating the services of the National and New York State Breast and Cervical Cancer Early Detection Program.

I. The Bronx Ambulatory Care Network later became the Bronx Breast Health Partnership, and was also known as the Bronx Healthy Women Partnership.

J. On or about June 18, 1996, Steven J. Bier, M.D. and Professional Corporation Respondent signed a "Provider's Memo of Understanding" with the Bronx Breast Health Partnership.

K. Steven J. Bier, M.D. and Professional Corporation Respondent agreed, pursuant to paragraph 2 of the Provider's Memo of Understanding, to provide the following services to eligible women:

1. "Clinical Breast Exam";
2. "Self Breast Exam Education";
3. "Screening Mammogram";
4. "Diagnostic Mammogram"

L. Upon information and belief, Professional Corporation Respondent has been and is a certified mammography facility accredited by the American College of Radiology, has been and is authorized to perform mammography examinations under the Federal Mammography Quality Standards Act, and must comply with the requirements of the Federal Mammography Quality Standards Act as set forth in 21 CFR Part 900 and elsewhere.

M. On or about March 18, 1998, Steven J. Bier, M.D. and Professional Corporation Respondent reiterated their commitment to participate in the Bronx Breast Health Partnership.

N. On or about June 18, 1999, the New York State Department of Health entered into a renewal agreement with J.L.J. Consulting Group, Ltd., to facilitate the reimbursement process during the period April 1, 1999 through March 31, 2000.


### **SPECIFICATION OF CHARGES**

#### **FIRST SPECIFICATION**

Professional Corporation Respondent is charged with professional misconduct by reason of failing, in connection with the practice of mammography during the period beginning on or about September 20, 1995 and ending May 30, 2000, to maintain a record for certain patients which accurately reflected the evaluation and treatment of the patient, in violation of one or more of the provisions set forth in New York's Education Law § 6530, including New York Education Law § 6530(32), in that Petitioner charges:

1. The allegations in Paragraphs A, B, C, D, E, F, G, H, I, J, K, L, M and N.

DATED: June ~~21~~ 22, 2001  
Albany, New York

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