



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

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

Barbara A. DeBuono, M.D., M.P.H.  
Commissioner of Health

Patrick F. Carone, M.D., M.P.H.  
Chair  
Ansel R. Marks, M.D., J.D.  
Executive Secretary

December 4, 1997

**CERTIFIED MAIL-RETURN RECEIPT REQUESTED**

James H. Wheeler, III, M.D.  
McDowell Orthopedics and Sports Medicine  
900 B Medical Court  
Marion, North Carolina 28752

RE: License No. 168099

Dear Dr. Wheeler:

Enclosed please find Order #BPMC 97-290 of the New York State Board for Professional Medical Conduct. This Order and any penalty provided therein goes into effect upon receipt of this letter or seven (7) days after the date of this letter, whichever is earlier.

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.

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: Bradley Mohr, Esq.

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

-----X  
IN THE MATTER : SURRENDER  
OF : ORDER  
JAMES HASTINGS WHEELER, III, M.D. : BPMC #97-290  
:  
-----X

JAMES HASTINGS WHEELER, III, M.D., says:

On or about October 10, 1986, I was licensed to practice medicine as a physician in the State of New York having been issued License No.168099 by the New York State Education Department.

My current address is McDowell Orthopedics and Sports Medicine, 900 B Medical Court, Marion, N.C. 28752 and I will advise the Director of the Office of Professional Medical Conduct of any change of my address.

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 I have been charged with one specification 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.

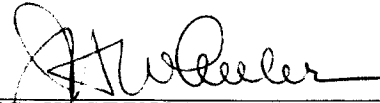
I hereby agree not to contest the allegations and Specifications set forth in the Statement of Charges (Exhibit A).

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 State Board for Professional Medical Conduct agrees with my proposal, 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.



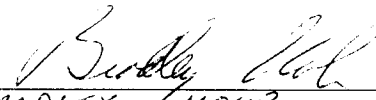
JAMES HASTINGS WHEELER, III, M.D.  
Respondent

Subscribed before me this  
21<sup>st</sup> day of November, 1997

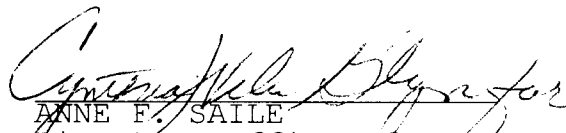
Mary E. Biscardi  
NOTARY PUBLIC

AGREED TO:

Date: November 24, 1997

  
BRADLEY MOHR  
Assistant Counsel  
Bureau of Professional  
Medical Conduct

Date: 11/26, 1997

  
ANNE F. SAILE  
Director, Office of  
Professional Medical Conduct

ORDER

Upon the proposed agreement of JAMES HASTINGS WHEELER, III, 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 Respondent be stricken from the roster of physicians in the State of New York; it is further

ORDERED, that this Order shall take effect as of the date of the personal service of this Order upon Respondent, upon receipt by Respondent of this Order via certified mail, or seven days after mailing of this Order via certified mail, whichever is earliest.

DATED: 12/1/97



PATRICK F. CARONE, M.D., M.P.H.  
Chair  
State Board for Professional  
Medical Conduct

EXHIBIT "A"

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

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IN THE MATTER : STATEMENT  
OF : OF  
JAMES HASTINGS WHEELER, III, M.D. : CHARGES

-----X

JAMES HASTINGS WHEELER, III, M.D., the Respondent, was authorized to practice medicine in New York State on October 10, 1986 by the issuance of license number 168099 by the New York State Education Department. The Respondent is currently registered with the New York State Education Department to practice medicine.

FACTUAL ALLEGATIONS

1. Respondent, on or about March 25, 1997, by Consent Order, was disciplined by the State of North Carolina, Medical Board. The North Carolina Medical Board's Consent Order with Respondent allows him to practice medicine under a temporary license. He had previously surrendered his license on January 27, 1997. In the Consent Order, Respondent admits he is an alcohol impaired physician and admits grounds exist to deny his application for a full license on such grounds. The Consent Order contains impairment monitoring type terms including refraining from the use of alcohol, alcohol monitoring tests, and continuing his enrollment in the North Carolina Physicians Health Program.

2. The conduct resulting in the discipline imposed by the North Carolina Medical Board, would if committed in New York State constitute professional misconduct under New York Education Law, namely §6530(8) (being a habitual user of alcohol).

### SPECIFICATIONS OF MISCONDUCT

#### FIRST SPECIFICATION

##### GUILTY OF MISCONDUCT IN ANOTHER STATE

Respondent is charged with professional misconduct within the meaning of New York Education Law § 6530(9)(b) in that he was 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 of paragraphs 1, and /or 2;

#### SECOND SPECIFICATION

##### DISCIPLINARY ACTION BY ANOTHER STATE

Respondent is charged with professional misconduct within the meaning of New York Education Law § 6530(9)(d) in that disciplinary action taken against his license 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 of New York State, in that Petitioner charges:

2. The facts of paragraphs 1, and /or 2.

DATED: October 8, 1997  
Albany, New York



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