



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

December 24, 2003

CERTIFIED MAIL-RETURN RECEIPT REQUESTED

Maria Lily Dela Cruz, M.D.
4767 Wilshire Drive
Copley, Ohio 44321

Re: License No. 205315

Dear Dr. Dela Cruz:

Enclosed please find Order #BPMC 03-350 of the New York State Board for Professional Medical Conduct. This order and any penalty provided therein goes into effect December 31, 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

cc: Eric Johnson, Esq.
Smith, Sovik, Kendrick & Sugnet, P.C.
250 Clinton Street, Suite 600
Syracuse, NY 13202-1252

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

IN THE MATTER
OF
MARIA DELA CRUZ, M.D.

CONSENT
ORDER

BPMC No. 03-350

Upon the application of MARIA DELA CRUZ, M.D. in the attached Consent Agreement and Order, which is made a part of this Consent Order, it is


ORDERED, that the Consent Agreement, and its terms, are adopted and SO ORDERED, and it is further

ORDERED, that this Order shall be effective upon issuance by the Board, either

- by mailing of a copy of this Consent Order, either by first class mail to Respondent at the address in the attached Consent Agreement or by certified mail to Respondent's attorney, OR
- upon facsimile transmission to Respondent or Respondent's attorney, Whichever is first.

SO ORDERED.

DATED: 12/24/03


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

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

IN THE MATTER
OF
MARIA DELA CRUZ, M.D.

CONSENT
AGREEMENT
AND
ORDER

MARIA DELA CRUZ, M.D., representing that all of the following statements are true, deposes and says:

That on or about December 20, 1996, I was licensed to practice as a physician in the State of New York, and issued License No. 205315 by the New York State Education Department.

My current address is ^{4767 Wilshire Drive Copely, Ohio 44321} ~~8584 Elmer Hill Road, Rome, New York 13440~~, and I will advise the Director of the Office of Professional Medical Conduct of any change of address.

I understand that the New York State Board for Professional Medical Conduct has charged me with 1 specification of professional misconduct.

A copy of the Statement of Charges, marked as Exhibit "A", is attached to and part of this Consent Agreement.

I Agree Not to Contest the First Specification, in full satisfaction of the charges against me, and agree to the following penalty:

1. Censure and Reprimand.

I further agree that the Consent Order shall impose the following conditions:

That Respondent shall maintain current registration of licensure with the New York State Education Department Division of Professional Licensing Services (except during periods of actual suspension), and shall pay all registration fees. This condition shall take effect thirty (30) days after the Consent Order's effective date and will continue so long as Respondent remains licensed in New York State; and

That Respondent shall cooperate fully with the Office of Professional Medical Conduct (OPMC) in its administration and enforcement of this Order and in its investigations of matters concerning Respondent. Respondent shall respond in a timely manner to all OPMC requests for written periodic verification of Respondent's compliance with this Order. Respondent shall meet with a person designated by the Director of OPMC, as directed. Respondent shall respond promptly and provide all documents and information within Respondent's control, as directed. This condition shall take effect upon the Board's issuance of the Consent Order and will continue so long as Respondent remains licensed in New York State.

I stipulate that my failure to comply with any conditions of this Order shall constitute misconduct as defined by New York State Education Law §6530(29).

I agree that if I am charged with professional misconduct in future, this Consent Agreement and Order **shall** be admitted into evidence in that proceeding.

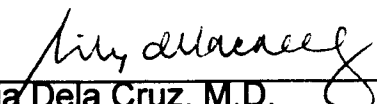
I ask the Board to adopt this Consent Agreement.

I understand that if the Board does not adopt this Consent Agreement, none of its terms shall bind me or constitute an admission of any of the acts of alleged misconduct; this Consent Agreement shall not be used against me in any way and shall be kept in strict confidence; and the Board's denial shall be without prejudice to the pending disciplinary proceeding and the Board's final determination pursuant to the Public Health Law.

I agree that, if the Board adopts this Consent Agreement, the Chair of the Board shall issue a Consent Order in accordance with its terms. I agree that this Order shall take effect upon its issuance by the Board, either by mailing of a copy of the Consent Order by first class mail to me at the address in this Consent Agreement, or to my attorney by certified mail, OR upon facsimile transmission to me or my attorney, whichever is first.

I ask the Board to adopt this Consent Agreement of my own free will and not under duress, compulsion or restraint. In consideration of the value to me of the Board's adoption of this Consent Agreement, allowing me to resolve this matter without the various risks and burdens of a hearing on the merits, I knowingly waive my right to contest the Consent Order for which I apply, whether administratively or judicially, I agree to be bound by the Consent Order, and ask that the Board adopt this Consent Agreement.

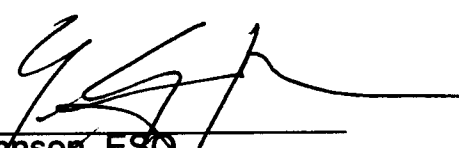
DATED 11/18/03



Maria Dela Cruz, M.D.
RESPONDENT


The undersigned agree to Respondent's attached Consent Agreement and to its proposed penalty, terms and conditions.

DATE: 11/24/03



Eric Johnson, ESQ.
Attorney for Respondent

DATE: 12/10/03



Amy B. Merklen
Assistant Counsel
Bureau of Professional Medical Conduct

DATE: 12/22/03



DENNIS J. GRAZIANO
Director
Office of Professional Medical Conduct

IN THE MATTER
OF
MARIA DELA CRUZ, M.D.

STATEMENT
OF
CHARGES

MARIA DELA CRUZ, M.D., the Respondent, was authorized to practice medicine in New York State on or about December 20, 1996, by the issuance of license number 205315 by the New York State Education Department.

FACTUAL ALLEGATIONS

- A. Respondent, on or about July 6 and/or 7, 2002 at Rome Memorial Hospital provided medical care and treatment to Patient A's baby (hereinafter "Baby Boy A") on July 6, 2002 to Patient A. Respondent's medical care and treatment failed to meet accepted standards of medical care, in that:
1. Respondent was the on-call pediatrician at Rome Memorial Hospital when Patient A, a seventeen (17) year old female, gave birth to Baby Boy A on July 5, 2002. Patient A had a closed adoption arranged through Catholic Charities for Baby Boy A. The adoption plan was clearly indicated in Patient A's medical record.
 2. Respondent, on July 6, 2002, saw Patient A and told her that Baby Boy A was in good health and doing well.
 3. Respondent, on July 7, 2002, returned to Patient A's room. Patient A was very emotional. While in the room, Respondent told Patient A the following:
 - a. Respondent had 3 daughters and 1 son.
 - b. Respondent's only son had died in September of the previous year.
 - c. Respondent knew what it felt like to lose a child.
 - d. Respondent knew there was an adoption plan in place and wanted to adopt Patient A's baby.

- f. Respondent had tried to contact the social worker from Catholic Charities to try to adopt Patient A's baby.
- 4. Respondent was crying and attempted to physically comfort Patient A when she became upset.
- 5. Respondent left her home telephone number for the social worker at Catholic Charities.
- 6. Respondent, on the evening of July 7, 2002, told the social worker from Catholic Charities the following:
 - a. Respondent knew of the adoption plan but that she wanted to adopt Patient A's baby.
 - b. Respondent and her husband would be the best parents out of all the prospective adoptive parents because they were both physicians.
 - c. Respondent had adopted a boy a number of years ago who had died in the Fall 2001.
 - d. Respondent questioned the social worker as to whether or not Patient A had a drug history.

SPECIFICATION OF CHARGES


FIRST SPECIFICATION

Revealing Confidential Information

Respondent is charged with committing professional misconduct as defined in N.Y. Education Law Section 6530 (23) by revealing personally identifiable facts, data or information obtained in a professional capacity without the prior consent of the patient as alleged in the facts of the following:

2. Paragraphs A.6 a -d.

DATED: December 12, 2003
Albany, New York


Peter D. Van Buren
Deputy Counsel
Bureau of Professional
Medical Conduct