



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.
Commissioner
NYS Department of Health
Dennis P. Whalen
Executive Deputy Commissioner
NYS Department of Health
Anne F. Saile, Director
Office of Professional Medical Conduct

PUBLIC

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

March 20, 2000

CERTIFIED MAIL-RETURN RECEIPT REQUESTED

Joseph A. Falzone, M.D.
9225 Jones Road
Holland Patent, NY 13354

RE: License No. 149398

Dear Dr. Falzone:

Enclosed please find Order #BPMC 00-86 of the New York State Board for Professional Medical Conduct. This Order and any penalty provided therein goes into effect **March 20, 2000**.

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: Susan Somers, Esq.

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

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IN THE MATTER : SURRENDER
OF : ORDER
JOSEPH A. FALZONE, M.D. : BPMC # 00-86

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JOSEPH A. FALZONE , M.D., says:

I was licensed to practice medicine as a physician in the State of New York on
march 26, 1982, having been issued License No. ~~149389~~¹⁴⁹³⁹⁸ by the New York State
Education Department. My home address is

I understand that I have been charged with twenty (20) specifications 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 agree not to contest the specifications set forth in the Statement of Charges.

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 agree 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 Order to me at the address set forth above, or to my attorney, or upon transmission via facsimile to me or my attorney, whichever is earliest.

I am making this agreement of my own free will and accord and not under duress, compulsion, or restraint of any kind or manner. I am aware that I am free to retain counsel and do not wish to pursue this option.

3/2/00



JOSEPH A. FALZONE, M.D.
Respondent

AGREED TO:


Date: 3/2, 2000


_____, Esq.
Attorney for Respondent

Date: 3/7, 2000


Susan B. Somers, Esq.
Associate Attorney
Bureau of Professional
Medical Conduct

Date: March 8, 2000


ANNE F. SAILE
Director, Office of
Professional Medical Conduct

ORDER

Upon the proposed agreement of Joseph A. Falzone, 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 be effective upon issuance by the Board, which may be accomplished by mailing, by first class mail, a copy of this Order to Respondent at the address set forth in this agreement or to Respondent's attorney, or upon transmissions via facsimile to Respondent or Respondent's attorney, whichever is earliest.

DATED: 3/13/2000

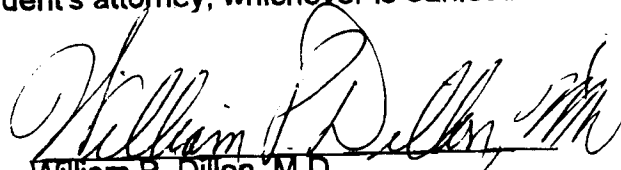

William P. Dillon, M.D.
Chair
State Board for Professional
Medical Conduct

Exhibit "A"

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

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IN THE MATTER : STATEMENT
OF : OF
JOSEPH A. FALZONE, M.D. : CHARGES

-----X

JOSEPH A. FALZONE, M.D., the Respondent, was authorized to practice medicine in New York State on, March 26, 1982, by the issuance of license number 149389 by the New York State Education Department.

FACTUAL ALLEGATIONS

A. On or about July 9, 1981 Respondent was licensed to practice in the State of Colorado.

B. On or about September 18, 1989, Respondent's license to practice in New York State was temporally suspended pursuant to Public Health Law §230 (13).

C. On or about August 13, 1997, the Colorado Board of Medical Examiners, (hereinafter "Colorado Board") issued a Final Board Order, and revoked the Respondent's license, based on Three (3) counts of grossly negligent malpractice pursuant to Section 12-30-117(1)(p), C.S.C. (1991) and one(1) count of failing to respond to a complaint pursuant to Section 12-36-118(4) C.R.S.

D. The conduct resulting in the Colorado Board's discipline action against Respondent, would if committed in New York State, constitute professional misconduct under the laws of New York State, pursuant to the following Sections of New York state law:

- 1) New York Education law §6530(2) [practicing the profession fraudulently]; and/or
- 2) New York Education law §6530(3) [Negligence on more than one occasion]; and/or
- 3) New York Education law §6530(4) [Gross Negligence]; and/or
- 4) New York Education law §6530(5) [incompetence on more than one occasion]; and/or
- 5) New York Education law §6530(6) [gross incompetence]; and/or
- 6) New York Education law §6530(16) [failure to comply with laws governing practice of medicine]; and/or
- 7) New York Education law §6530(20) [moral unfitness]

E. Respondent did, on or about **1999**, wrongfully and/or fraudulently write prescriptions for Hydrocodone 7.5 mg., a controlled substance allegedly prescribed by "J.F., M.D.", when in fact the prescriptions for Hydrocodone 7.5 mg., were written by the Respondent, himself.

F. Respondent, on or 1999, in New York State wrote prescriptions for Hydrocodone 7.5 mg., a controlled substance allegedly prescribed by "B.C., N.P.", when in fact the prescriptions for Hydrocodone 7.5 mg., were written by the Respondent, himself.

G. Respondent, on or about 1999, in New York State, wrote prescriptions for Vicodin 60mg., a controlled substance allegedly prescribed by "B.C., N.P.", when in fact the prescriptions for Vicodin 60mg., were written by the Respondent, himself.

H. Respondent, on or about 1999, in New York State, wrote prescriptions for OxyContin 20mg., a controlled substance allegedly prescribed by "M.N., M.D.", when in fact the prescriptions for OxyContin 20mg., were written by the Respondent, himself.

I. Respondent, on or about 1999, wrote prescriptions for Xanax 20mg., a controlled substance allegedly prescribed by "M.N., M.D.", when in fact the prescriptions for Xanax 20mg., were written by the Respondent, himself.

SPECIFICATIONS

FIRST THROUGH SIXTH SPECIFICATION
PRACTICING THE PROFESSION FRAUDULENTLY

Respondent is charged with professional misconduct under N.Y. Education Law §6530(2) by reason of his practicing the profession of medicine fraudulently in that Petitioner charges:

1. The facts in paragraph C.
2. The facts in paragraph D.
3. The facts in paragraph E.
4. The facts in paragraph F.
5. The facts in paragraph G.
6. The facts in paragraph I.

SEVENTH SPECIFICATION
MISCONDUCT IN ANOTHER STATE

Respondent violated New York State Education Law §6530(9)(b) by reason of being found guilty of improper professional practice or professional misconduct by 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:

7. The facts in paragraphs C and/or D.

EIGHTH SPECIFICATION

LICENSE REVOKED IN ANOTHER STATE

Respondent violated New York State Education Law §6530(9)(d) by reason of having disciplinary action taken against him by a duly authorized professional disciplinary agency of another state, where the conduct resulting in the revocation of his license would, if committed in New York State, constitute professional misconduct under the laws of New York State, in that Petitioner charges:

8. The facts in paragraph C and/or D.

NINTH THROUGH FOURTEENTH SPECIFICATION

PRACTICING BEYOND THE AUTHORIZED SCOPE

Respondent is charged with professional misconduct under N.Y. Education Law §6530(20) by reason of his conduct the practice of medicine beyond his authorized scope, in that Petitioner charges:

9. The facts in paragraph B.
10. The facts in paragraph D.
11. The facts in paragraph F.
12. The facts in paragraph G.
13. The facts in paragraph H.
14. The facts in paragraph I.

FIFTEENTH THROUGH TWENTIETH SPECIFICATION

MORAL UNFITNESS

Respondent is charged with professional misconduct under N.Y. Education Law §6530(20) by reason of his conduct in the practice of medicine which evidences moral unfitness to practice medicine in that Petitioner charges:

15. The facts in paragraph B.
16. The facts in paragraph E.
17. The facts in paragraph F.
18. The facts in paragraph G.
19. The facts in paragraph H.
20. The facts in paragraph I.

DATED: *March 7* , 2000

Albany, New York

Peter D. Van Buren

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

**APPENDIX B
ALL ORDERS FOR NULLIFICATION, REVOCATION, SURRENDER OR
SUSPENSION (of 6 months or more) OF A MEDICAL LICENSE**

1. Respondent shall immediately cease and desist from engaging in the practice of medicine in accordance with the terms of the Order. In addition, Respondent shall refrain from providing an opinion as to professional practice or its application and from representing himself as being eligible to practice medicine.
2. Respondent shall have delivered to OPMC at Hedley Park Place, 433 River Street 4th Floor, Troy, NY 12180-2299 his original license to practice medicine in New York State and current biennial registration within thirty (30) days of the effective date of the Order.
3. Respondent shall within fifteen (15) days of the Order notify his patients of the cessation of his medical practice and will refer all patients to another licensed practicing physician for their continued care, as appropriate.
4. Respondent shall make arrangements for the transfer and maintenance of the medical records of his patients. Within thirty days of the effective date of the Order, Respondent shall notify OPMC of these arrangements including the appropriate and acceptable contact person's name, address, and telephone number who shall have access to these records. Original records shall be retained for at least six years after the last date of service rendered to a patient or, in the case of a minor, for at least six years after the last date of service or three years after the patient reaches the age of majority whichever time period is longer. Records shall be maintained in a safe and secure place which is reasonably accessible to former patients. The arrangements shall include provisions to ensure that the information on the record is kept confidential and made available only to authorized persons. When a patient or and/or his or her representative requests a copy of the patient's medical record or requests that the original medical record be forwarded to another health care provider, a copy of the record shall be promptly provided or forwarded at a reasonable cost to the patient (not to exceed seventy-five cents per page.) Radiographic, sonographic and like materials shall be provided at cost. A qualified person shall not be denied access to patient information solely because of their inability to pay.
5. In the event that Respondent holds a Drug Enforcement Agency (DEA) certificate, Respondent shall within fifteen (15) days advise the DEA in writing of the licensure action and shall surrender his DEA controlled substance privileges to the DEA. Respondent shall promptly surrender any unused DEA #222 U.S. Official Order Forms Schedules 1 and 2 to the DEA.
6. Respondent shall within fifteen (15) days return any unused New York State official prescription forms to the Bureau of Controlled Substances of the New York State Department of Health. Respondent shall cause all prescription pads bearing his name to be destroyed. If no other licensee is providing services at his practice location, all medications shall be properly disposed.

7. Respondent shall not share, occupy or use office space in which another licensee provides health care services. Respondent shall cause all signs to be removed within fifteen (15) days and stop all advertisements, professional listings whether in telephone directories or otherwise, professional stationery or billings by which his eligibility to practice is represented.

8. Respondent shall not charge, receive or share any fee or distribution of dividends for professional services rendered by himself or others while barred from engaging in the practice of medicine. Respondent may be compensated for the reasonable value of services lawfully rendered and disbursements incurred on a patient's behalf prior to the effective date of this Order.

9. If Respondent is a shareholder in any professional service corporation organized to engage in the practice of medicine and if his license is revoked, surrendered or suspended for a term of six months or more under the terms of this Order, Respondent shall divest himself of all financial interest in the professional services corporation in accordance with New York Business Corporation Law. Such divestiture shall occur within 90 days. If Respondent is the sole shareholder in a professional services corporation, the corporation must be dissolved or sold within ninety (90) days of the effective date of this Order.

10. Failure to comply with the above directives may result in a civil penalty or further criminal penalties as may be authorized pursuant to the law. Under Section 6512 of the Education Law it is a Class E Felony, punishable by imprisonment of up to 4 years, to practice the profession of medicine when such professional license has been suspended, revoked or annulled. Such punishment is in addition to the penalties for professional misconduct set forth in section 230 a (1). of the Public Health Law, which includes fines of up to \$10,000 for each specification of charges of which the Respondent is found guilty and may include revocation of a suspended license.