



*New York State Board for Professional Medical Conduct*

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

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*NYS Department of Health*  
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*Office of Professional Medical Conduct*

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

February 28, 2000

**CERTIFIED MAIL-RETURN RECEIPT REQUESTED**

Fidelis Barba, M.D.  
2 Powder Hill  
Saddle River, NJ 07458

RE: License No. 153330

Dear Dr. Barba:

Enclosed please find Order #BPMC 00-56 of the New York State Board for Professional Medical Conduct. This Order and any penalty provided therein goes into effect **February 28, 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: Anthony Z. Scher, Esq.  
Wood & Scher  
The Harwood Building  
Scarsdale, NY 10583

Marcia E. Kaplan, Esq.

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

**IN THE MATTER**  
**OF**  
**FIDELIS A. BARBA, M.D.**

**CONSENT**  
**AGREEMENT**  
**AND**  
**ORDER**

BPMC #00-56

STATE OF NEW YORK )  
COUNTY OF ) ss.:

FIDELIS A. BARBA, M.D., (Respondent) being duly sworn, deposes and says:

That on or about March 11, 1983, I was licensed to practice as a physician in the State of New York, having been issued License No. 153330 by the New York State Education Department.

My current address is 2 Powder Hill, Saddle River, N.J. 07458, 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 one specification 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 First Specification, in full satisfaction of the charges against me. I hereby agree to the following penalty:

A two year actual suspension of license, followed by a three year period of probation with terms and conditions as set forth in attached Exhibit "B."

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 will continue while the licensee possesses her license; 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 will continue while the licensee possesses her license.

That Respondent shall fully comply with the terms and conditions set forth in Exhibit "C."

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 2000).

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.

DATED 2-2-00

Fidelis A. Barba  
FIDELIS A. BARBA, M.D.  
RESPONDENT

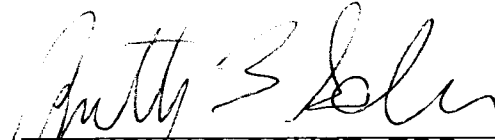
Sworn to before me  
on this 2 day of  
Feb 2000

Karyn L. Muller  
NOTARY

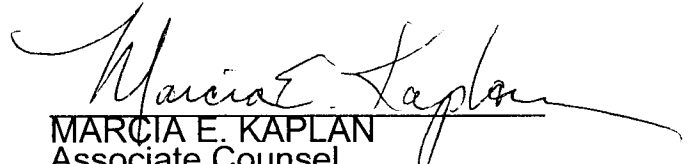
Karyn L. Muller  
Notary Public of New Jersey  
My Commission Expires 09/16/2002

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

DATE: 2/7/00

  
ANTHONY Z. SCHER, ESQ.  
Attorney for Respondent

DATE: Feb. 14, 2000

  
MARCIA E. KAPLAN  
Associate Counsel  
Bureau of Professional  
Medical Conduct

DATE: Feb 22, 2000

  
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  
FIDELIS A. BARBA, M.D.

CONSENT  
ORDER

Upon the proposed agreement of FIDELIS A. BARBA, 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: 2/23/00


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

EXHIBIT "A"

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

IN THE MATTER  
OF  
FIDELIS A. BARBA, M.D.

STATEMENT  
OF  
CHARGES

FIDELIS A. BARBA, M.D., the Respondent, was authorized to practice medicine in New York State on or about March 11, 1983, by the issuance of license number 153330 by the New York State Education Department.

**FACTUAL ALLEGATIONS**

- A. From in or about 1986 through in or about 1997, Respondent repeatedly submitted applications for appointment and reappointment to the medical staff of St. Barnabas Hospital, Third Avenue and 183rd Street, Bronx, N.Y. 10457, in which she stated falsely that she had been certified by the American Board of Pathology, and in connection with those applications Respondent submitted a forged certificate to St. Barnabas Hospital that purported to certify that she had been certified by the American Board of Pathology on May 1, 1985, when she knew that such information and documentation was false and that she was not Board certified.

**SPECIFICATION OF CHARGES**

**FIRST SPECIFICATION**

**FRAUDULENT PRACTICE**

Respondent is charged with committing professional misconduct as defined by N.Y. Educ. Law §6530(2)(McKinney Supp. 2000) by practicing the profession of



medicine fraudulently as alleged in the facts of the following:

1. Paragraph A.

DATED: January , 2000  
New York, New York

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ROY NEMERSON  
Deputy Counsel  
Bureau of Professional  
Medical Conduct

## EXHIBIT "B"

### Terms of Probation

1. Respondent shall conduct herself in all ways in a manner befitting her professional status, and shall conform fully to the moral and professional standards of conduct and obligations imposed by law and by 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. Respondent shall provide the Director of OPMC with a complete and legible copy of any application for medical staff privileges that she submits to any medical facility or entity.
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 that were not fulfilled shall be fulfilled upon Respondent's return to practice in New York State.
5. Prior to, and as a condition of, returning to the active practice of medicine, Respondent shall, at her own expense:
  - a. comply with any request from OPMC to obtain an evaluation of her physical and medical competence to practice medicine by an appropriate health care professional or entity ("evaluator"), proposed by the Respondent and approved, in writing, by the Director of OPMC. The evaluator and the nature of the evaluation shall be subject to the written approval of the Director of OPMC. Respondent shall cause the evaluator to inform the Director of OPMC of the results of the evaluation; and
  - b. comply fully with all of the evaluator's recommendations, based upon the results of the evaluation, including but not limited to retraining, as directed by the Director of OPMC.

6. Respondent shall practice medicine only when monitored by a licensed physician, board certified in an appropriate specialty, ("practice monitor") proposed by Respondent and subject to the written approval of the Director of OPMC.
  - a. Respondent shall make available to the monitor any and all records or access to the practice requested by the monitor, including on-site observation. The practice monitor shall visit Respondent's medical practice at each and every location, on a random unannounced basis at least monthly and shall examine a selection (no less than 20 per month) of records maintained by Respondent, including patient records, prescribing information and office records. The review will determine whether the Respondent's medical practice is conducted in accordance with the generally accepted standards of professional medical care. Any perceived deviation of accepted standards of medical care or refusal to cooperate with the monitor shall be reported within 24 hours to OPMC.
  - b. Respondent shall be solely responsible for all expenses associated with monitoring, including fees, if any, to the monitoring physician.
  - c. Respondent shall cause the practice monitor to report quarterly, in writing, to the Director of OPMC.
  - d. Respondent shall maintain medical malpractice insurance coverage with limits no less than \$2 million per occurrence and \$6 million per policy year, in accordance with Section 230(18)(b) of the Public Health Law. Proof of coverage shall be submitted to the Director of OPMC prior to Respondent's practice after the effective date of this Order.
7. 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 her staff at practice locations or OPMC offices.
8. 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.
9. Respondent shall comply with all terms, conditions, restrictions, limitations and penalties to which 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.

EXHIBIT "C"

**GUIDELINES FOR CLOSING A MEDICAL PRACTICE FOLLOWING A  
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 the Office of Professional Medical Conduct (OPMC) at 433 River Street Suite 303, Troy, NY 12180-2299 her 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 her patients of the cessation of her 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 her 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 her 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 her name to be destroyed. If no other licensee is providing services at

her 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 her 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 her 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 a1. 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.