



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

July 6, 1998

CERTIFIED MAIL-RETURN RECEIPT REQUESTED

Raymond J. Nisi, M.D.
1525 Blondell Avenue, Suite 103
Bronx, New York 10461

RE: License No. 183813

Dear Dr. Nisi:

Enclosed please find Order #BPMC 98-132 of the New York State Board for Professional Medical Conduct. This Order and any penalty provided therein goes into effect **July 6, 1998.**

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: Daniel Shapiro, Esq.
220 Old Country Road
Mineola, New York 11501

Daniel Guenzburger, Esq.

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

**IN THE MATTER
OF
RAYMOND J. NISI, M.D.**


**CONSENT
ORDER**

Upon the proposed agreement of RAYMOND J. NISI, 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: 6/29/98


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

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

**IN THE MATTER
OF
RAYMOND J. NISI, M.D.**

**CONSENT
AGREEMENT
AND
ORDER**
BPMC #98-132

STATE OF NEW YORK)
COUNTY OF NASSAU) ss.:

RAYMOND J. NISI, M.D., being duly sworn, deposes and says:

That on or about September 6, 1990, I was licensed to practice as a physician in the State of New York, having been issued License No. 183813 by the New York State Education Department.

My current address is 1525 Blondell Avenue, Suite 103, Bronx, NY 10461 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 14 specifications of professional misconduct.

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

I agree not to contest the first, ninth and tenth specifications of the Statement of Charges in full satisfaction of the charges against me. I deny the second, third, fourth, fifth, sixth, seventh, eighth, and thirteenth specifications. I hereby agree to the following penalty:

Two years stayed suspension with probation pursuant to the terms annexed hereto as Exhibit B.

I further agree that the Consent Order for which I hereby apply

shall impose a condition that, except during periods of actual suspension, I maintain current 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 Order and continuing until the full term of the Order has run, and until any associated period of probation and all probation terms have been completed and satisfied. I hereby stipulate that any failure by me to comply with such condition shall constitute misconduct as defined by New York State Education Law §6530(29)(McKinney Supp 1997).

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.

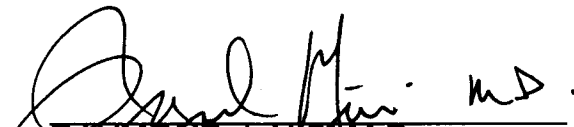
I agree that, in the event the Board grants my Application, as set forth

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.

AFFIRMED:

DATED 6/10/98


RAYMOND J. NISI M.D.
RESPONDENT


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

DATE: June 10, 1998




DANIEL SHAPIRO, ESQ.
Attorney for Respondent

DATE: June 17, 1998



DANIEL GUENZBURGER
Assistant Counsel
Bureau of Professional
Medical Conduct

DATE: June 25, 1998



ANNE F. SAILE
Director
Office of Professional
Medical Conduct

"EXHIBIT A"

**IN THE MATTER
OF
RAYMOND J. NISI, M.D.**

**STATEMENT
OF
CHARGES**

RAYMOND J. NISI, M.D., the Respondent, was authorized to practice medicine in New York State on or about September 6, 1990, by the issuance of license number 183813 by the New York State Education Department.

FACTUAL ALLEGATIONS

- A. On or about and between December 21, 1994 and March 12, 1996 the Respondent treated Patient A, a 60 year old male, at his office located at 1525 Blondell Avenue, Bronx, New York. On or about February 27, 1996 the Respondent recommended cataract surgery for the right eye and in preparation for surgery ordered the performance of an A-scan. (Patient A and the other patient in the Statement of Charges is identified in the attached appendix.) During the period of treatment regarding Patient A, Respondent:
1. Failed to perform adequate eye examinations, including but not limited to failing to perform tests for proper refraction and visual acuity.
 2. Inaccurately measured the degree of nuclear sclerosis.
 3. Inappropriately recommended cataract surgery of the right eye without first attempting to improve the Patient's vision with refraction.
 4. Failed to maintain a record that adequately reflects the evaluation

and treatment of the patient.

5. Knowingly and falsely represented that cataract surgery was the appropriate medical procedure for the correction of Patient A's vision, when in fact, he knew that the ordering of cataract surgery was inappropriate and without adequate medical indication.

B. On or about and between June 8, 1995 and January 29, 1996 the Respondent treated Patient B at his office. On or about January 15, 1996, the Respondent recommended cataract surgery for the right eye and in preparation for surgery ordered an A-scan. During the period of treatment regarding Patient B , Respondent:

1. Failed to take an adequate history.
2. Failed to perform adequate eye examinations, including but not limited to failing to perform tests for refraction.
3. Inappropriately diagnosed that Patient B had significant cataracts.
4. Inappropriately recommended cataract surgery of the right eye without first attempting to improve the Patient's vision with refraction.
5. Failed to maintain a record that adequately reflects the evaluation and treatment of the patient.
6. Knowingly and falsely represented that cataract surgery was the appropriate medical procedure for the correction of Patient B's vision, when in fact, he knew that the ordering of cataract surgery was inappropriate and without adequate medical indication.

SPECIFICATION OF CHARGES

FIRST SPECIFICATION

NEGLIGENCE ON MORE THAN ONE OCCASION

Respondent is charged with committing professional misconduct as defined in N.Y. Educ. Law §6530(3)(McKinney Supp. 1998) by practicing the profession of medicine with negligence on more than one occasion as alleged in the facts of two or more of the following:

1. A, A1, A2, A3, A4; B, B1, B2, B3, B4, and/or B5.

SECOND SPECIFICATION

INCOMPETENCE ON MORE THAN ONE OCCASION

Respondent is charged with committing professional misconduct as defined in N.Y. Educ. Law §6530(5)(McKinney Supp. 1998) by practicing the profession of medicine with incompetence on more than one occasion as alleged in the facts of two or more of the following:

2. A, A1, A2, A3, A4 ; B, B1, B2, B3, B4, and/or B5.

THIRD AND FOURTH SPECIFICATIONS

GROSS NEGLIGENCE

Respondent is charged with committing professional misconduct as defined in N.Y. Educ. Law §6530(4)(McKinney Supp. 1998) by practicing the profession of

medicine with gross negligence as alleged in the facts of the following:

3. A A1, A2, A3, and A4.
4. B, B1, B2, B3, B4, and B5.

FIFTH AND SIXTH SPECIFICATIONS

GROSS INCOMPETENCE

Respondent is charged with committing professional misconduct as defined in N.Y. Educ. Law §6530(6)(McKinney Supp. 1998) by practicing the profession of medicine with gross incompetence as alleged in the facts of the following:

5. A, A1, A2, A3, and A4.
6. B, B1, B2, B3, B4, and B5.

SEVENTH AND EIGHTH SPECIFICATIONS

UNWARRANTED TREATMENT

Respondent is charged with committing professional misconduct as defined in N.Y. Educ. Law §6530(35)(McKinney Supp. 1998) by ordering excessive treatment unwarranted by the conditions of the patient, as alleged in the facts of:

7. A and A3.
8. B and B4.

NINTH AND TENTH SPECIFICATIONS
RECORDKEEPING

Respondent is charged with committing professional misconduct as defined in N.Y. Educ. Law §6530(32)(McKinney Supp. 1998) by failing to maintain a record for each patient which accurately reflects the evaluation and treatment, as alleged in the facts of:

9. A and A4.
10. B and B5.

ELEVENTH AND TWELFTH SPECIFICATIONS
FRAUDULENT PRACTICE

Respondent is charged with committing professional misconduct as defined by N.Y. Educ. Law §6530(2)(McKinney Supp. 1998) by practicing the profession of medicine fraudulently as alleged in the facts of the following:

11. A and A5.
12. B and B6.

THIRTEENTH AND FOURTEENTH SPECIFICATIONS
MORAL UNFITNESS

Respondent is charged with committing professional misconduct as defined in N.Y. Educ. Law §6530(20)(McKinney Supp. 1998) by engaging in conduct in the

practice of the profession of medicine that evidences moral unfitness to practice as alleged in the facts of the following:

13. A and A5.
14. B and B6.

DATED: May , 1998
New York, New York

Roy Nemerson

ROY NEMERSON
Deputy Counsel
Bureau of Professional
Medical Conduct

EXHIBIT "B"

Terms of Probation

1. Respondent shall conduct himself/herself in all ways in a manner befitting his/her professional status, and shall conform fully to the moral and professional standards of conduct and obligations imposed by law and by his/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.
3. Respondent shall fully cooperate with and respond in a timely manner to requests from OPMC to provide written periodic verification of Respondent's compliance with the terms of this Order. Respondent shall personally meet with a person designated by the Director of OPMC as requested by the Director.
4. 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].
5. 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 which were not fulfilled shall be fulfilled upon Respondent's return to practice in New York State.
6. 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 his/her staff at practice locations or OPMC offices.
7. Respondent shall maintain legible and complete medical records which accurately reflect the evaluation and treatment of patients.

PRACTICE MONITOR

8. 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. During the period of probation, the Respondent shall not perform a surgical procedure unless the practice monitor has approved, in advance, the performance of the procedure
 - b. Respondent shall make available to the practice monitor any and all records requested by the practice monitor. Prior to the performance of any surgical procedure, the Respondent shall make available to the practice monitor the complete medical record for the each patient scheduled for surgery.
 - c. At the discretion of the monitor, and no less than ten times for each year of the term of probation, the monitor may order Respondent to recommend to the patient scheduled for surgery that he be evaluated by the practice monitor, which evaluation may include any medically appropriate procedure, including but not limited to the taking of a complete patient history and the performance of a physical examination and/or diagnostic tests.
 - d. Respondent agrees to cooperate with any request from the practice monitor to recommend a second opinion evaluation prior to the performance of the surgical procedure. In the event the patient refuses to submit to the proposed examination referred to in paragraph 8c, the Respondent should obtain a statement signed by the patient indicating that the patient has declined Respondent's recommendation.
 - e. Respondent shall be solely responsible for all expenses associated with monitoring, including fees and costs connected with the rendering of second surgical opinions by the monitoring physician.
 - f. The practice monitor may visit Respondent's medical practice at each and every location, on a random unannounced basis.
 - g. Any perceived deviation of accepted standards of medical care or refusal to cooperate with the monitor shall be reported within 24 hours to OPMC.
 - h.
 - i. Respondent shall cause the practice monitor to report quarterly, in writing, to the Director of OPMC.
 - j. 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.

9. Respondent shall comply with all terms, conditions, restrictions, limitations and penalties to which he or 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.