



New York State Board for Professional Medical Conduct

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

Dennis P. Whalen
Executive Deputy Commissioner of Health
Anne F. Saile, Director
Office of Professional Medical Conduct
William J. Comiskey, Chief Counsel
Bureau of Professional Medical Conduct

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

May 11, 1999

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Frank J. Tricarico, MD
8603 Shore Road
Brooklyn, NY 11209

RE: License No. 093365

Dear Dr. Tricarico:

Enclosed please find Order #BPMC 99-94 of the New York State Board for Professional Medical Conduct. This Order and any penalty provided therein goes into effect **May 11, 1999**.

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

If the penalty imposed by the Order is a fine, please write the check payable to the New York State Department of Health. Noting the BPMC Order number on your remittance will assist in proper crediting. Payments should be directed to the following address:

Bureau of Accounts Management
New York State Department of Health
Corning Tower, Room 1315
Empire State Plaza
Albany, New York 12237

Sincerely,



Ansel R. Marks, M.D., J.D.
Executive Secretary
Board for Professional Medical Conduct

Enclosure

cc: Stanley D. Friedman, Esq.
McAloon & Friedman
116 John Street
New York, NY 10038-3498

Kevin C. Roe, Esq.

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

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IN THE MATTER : SURRENDER
OF : ORDER
FRANK J. TRICARICO, M.D. : BPMC #99-94

-----X

FRANK J. TRICARICO, M.D., says:

On or about October 14, 1964, I was licensed to practice medicine as a physician in the State of New York having been issued License No. 093365 by the New York State Education Department.

I understand that I have been charged with one hundred forty five specifications of professional misconduct as set forth in the statement of charges attached hereto, made 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 do not contest the twenty-first specification of the statement of charges as it relates to first and second subparagraphs of paragraphs A, B, C, D, E, F, G, H, I, and J. My plea of no contest to these charges is made for the purpose of this surrender only and shall not be used in any other preceding,

other than a disciplinary action by another state.

In addition to this surrender, I agree to pay a fine of ten thousand dollars (\$10,000.00) payable in four equal installments of two thousand five hundred dollars (\$2,500.00) on or before June 30, 1999, on or before September 30, 1999, on or before December 30, 1999, and on or before March 30, 2000. Failure to pay any installment on or before the due date shall make the entire remaining fine due and payable immediately.

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.

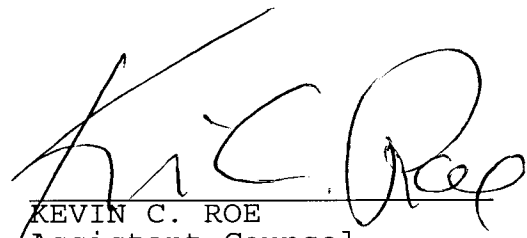
I agree that in the event the State Board for Professional Medical Conduct agrees with my proposal, this Order shall be issued striking my name from the roster of physicians in the State of New York without further notice to me. I further agree to a limitation against the issuance of any further license to me pursuant to N.Y. Public Health Law §230-a(6) and agree not to apply for relicensure in New York state.

I am making this agreement of my own free will and accord and not under duress, compulsion, or restraint of any kind or manner.

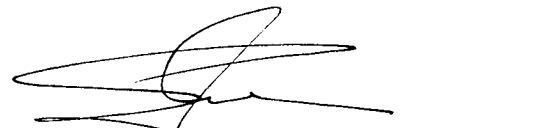

FRANK J. TRICARICO, M.D.
Respondent

AGREED TO:


Date: 4/28, 1999


KEVIN C. ROE
Assistant Counsel
Bureau of Professional
Medical Conduct

Date: 4/28, 1999


STANLEY D. FRIEDMAN, ESQ.
Attorney for Respondent

Date: 4/30, 1999


ANNE F. SAILE
Director Office of
Professional Medical Conduct

ORDER

Upon the proposed agreement of FRANK J. TRICARICO, 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

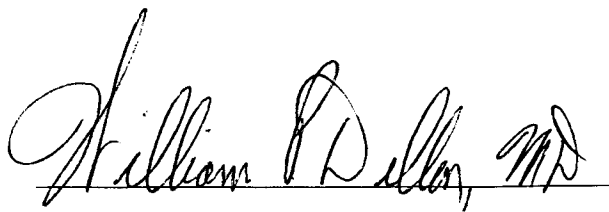
ORDERED, that the name of Respondent be stricken from the roster of physicians in the State of New York; it is further

ORDERED, that the Respondent is limited from any further license pursuant to N.Y. Public Health Law §230-a(6), 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: _____

5/5/99



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

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

-----X

IN THE MATTER : STATEMENT
OF : OF
FRANK JOHN TRICARICO, M.D. : CHARGES

-----X

FRANK JOHN TRICARICO, M.D., the Respondent, was authorized to practice medicine in New York State on October 14, 1964, by the issuance of license number 093365 by the New York State Education Department.

FACTUAL ALLEGATIONS

A. Respondent treated Patient A (patients are identified in the attached appendix) from on or about August 1994 to on or about September 1998 at his office, 8603 Shore Road, Brooklyn, New York. Respondent's care and treatment of Patient A failed to meet acceptable standards of medical care, in that:

1. Respondent failed to perform and/or record adequate physical examinations.
2. Respondent failed to obtain and/or record adequate histories.
3. Respondent ordered and/or performed numerous throat cultures without adequate medical justification.
4. Respondent ordered and performed numerous tympanograms without adequate medical justification.
5. Respondent ordered and/or administered for numerous IM penicillin injections without adequate medical justification.

6. Respondent ordered and/or administered numerous IM Decadron injections without adequate medical justification.
7. Respondent ordered and/or administered numerous IM Lincocin injections without adequate medical justification.
8. Respondent ordered and/or administered numerous IM Tigan injections without adequate medical justification.

B. Respondent treated Patient B from on or about May 1993 to on or about November 1998 at his office. Respondent's care and treatment of Patient B failed to meet acceptable standards of medical care, in that:

1. Respondent failed to perform and/or record adequate physical examinations.
2. Respondent failed to obtain and/or record adequate histories.
3. Respondent ordered and/or performed numerous throat cultures without adequate medical justification.
4. Respondent ordered and performed numerous tympanograms without adequate medical justification.
5. Respondent ordered and/or administered for numerous IM penicillin injections without adequate medical justification.
6. Respondent ordered and/or administered numerous IM Decadron injections without adequate medical justification.
7. Respondent ordered and/or administered numerous IM Lincocin injections without adequate medical justification.
8. Respondent ordered and/or administered numerous IM Tigan injections without adequate medical justification.

D. Respondent treated Patient D from on or about December 1994 to on or about May 1998 at his office. Respondent's care and

treatment of Patient D failed to meet acceptable standards of medical care, in that:

1. Respondent failed to perform and/or record adequate physical examinations.
2. Respondent failed to obtain and/or record adequate histories.
3. Respondent ordered and/or performed numerous throat cultures without adequate medical justification.
4. Respondent ordered and performed numerous tympanograms without adequate medical justification.
5. Respondent ordered and/or administered for numerous IM penicillin injections without adequate medical justification.
6. Respondent ordered and/or administered numerous IM Decadron injections without adequate medical justification.
7. Respondent ordered and/or administered numerous IM Lincocin injections without adequate medical justification.
8. Respondent ordered and/or administered numerous IM Tigan injections without adequate medical justification.

E. Respondent treated Patient E from on or about April 1994 to on or about September 1998 at his office. Respondent's care and treatment of Patient E failed to meet acceptable standards of medical care, in that:

1. Respondent failed to perform and/or record adequate physical examinations.
2. Respondent failed to obtain and/or record adequate histories.
3. Respondent ordered and/or performed, numerous throat cultures without adequate medical justification.
4. Respondent ordered and performed numerous tympanograms without adequate medical justification.
5. Respondent ordered and/or administered for numerous IM penicillin injections without adequate medical

justification.

6. Respondent ordered and/or administered numerous IM Decadron injections without adequate medical justification.
7. Respondent ordered and/or administered numerous IM Lincocin injections without adequate medical justification.
8. Respondent ordered and/or administered numerous IM Tigan injections without adequate medical justification.

F. Respondent treated Patient F from on or about April 1992 to on or about December 1996 at his office. Respondent's care and treatment of Patient F failed to meet acceptable standards of medical care, in that:

1. Respondent failed to perform and/or record adequate physical examinations.
2. Respondent failed to obtain and/or record adequate histories.
3. Respondent ordered and/or performed numerous throat cultures without adequate medical justification.
4. Respondent ordered and performed numerous tympanograms without adequate medical justification.
5. Respondent ordered and/or administered for numerous IM penicillin injections without adequate medical justification.
6. Respondent ordered and/or administered numerous IM Decadron injections without adequate medical justification.
7. Respondent ordered and/or administered numerous IM Lincocin injections without adequate medical justification.
8. Respondent ordered and/or administered numerous IM Tigan injections without adequate medical justification.

G. Respondent treated Patient G from on or about January

1992 to on or about September 1998 at his office. Respondent's care and treatment of Patient G failed to meet acceptable standards of medical care, in that:

1. Respondent failed to perform and/or record adequate physical examinations.
2. Respondent failed to obtain and/or record adequate histories.
3. Respondent ordered and/or performed numerous throat cultures without adequate medical justification.
4. Respondent ordered and performed numerous tympanograms without adequate medical justification.
5. Respondent ordered and/or administered for numerous IM penicillin injections without adequate medical justification.
6. Respondent ordered and/or administered numerous IM Decadron injections without adequate medical justification.
7. Respondent ordered and/or administered numerous IM Lincocin injections without adequate medical justification.
8. Respondent ordered and/or administered numerous IM Tigan injections without adequate medical justification.

H. Respondent treated Patient H from on or about February 1992 to on or about September 1998 at his office. Respondent's care and treatment of Patient H failed to meet acceptable standards of medical care, in that:

1. Respondent failed to perform and/or record adequate physical examinations.
2. Respondent failed to obtain and/or record adequate histories.
3. Respondent ordered and/or performed numerous throat cultures without adequate medical justification.
4. Respondent ordered and performed numerous tympanograms without adequate medical justification.

5. Respondent ordered and/or administered for numerous IM penicillin injections without adequate medical justification.
6. Respondent ordered and/or administered numerous IM Decadron injections without adequate medical justification.
7. Respondent ordered and/or administered numerous IM Lincocin injections without adequate medical justification.
8. Respondent ordered and/or administered numerous IM Tigan injections without adequate medical justification.

I. Respondent treated Patient I from on or about January 1995 to on or about November 1998 at his office. Respondent's care and treatment of Patient I failed to meet acceptable standards of medical care, in that:

1. Respondent failed to perform and/or record adequate physical examinations.
2. Respondent failed to obtain and/or record adequate histories.
3. Respondent ordered and/or performed numerous throat cultures without adequate medical justification.
4. Respondent ordered and performed numerous tympanograms without adequate medical justification.
5. Respondent ordered and/or administered for numerous IM penicillin injections without adequate medical justification.
6. Respondent ordered and/or administered numerous IM Decadron injections without adequate medical justification.
7. Respondent ordered and/or administered numerous IM Lincocin injections without adequate medical justification.
8. Respondent ordered and/or administered numerous IM Tigan injections without adequate medical justification.

J. Respondent treated Patient J from on or about May 1991 to on or about March 1998 at his office. Respondent's care and treatment of Patient J failed to meet acceptable standards of medical care, in that:

1. Respondent failed to perform and/or record adequate physical examinations.
2. Respondent failed to obtain and/or record adequate histories.
3. Respondent ordered and/or performed numerous throat cultures without adequate medical justification.
4. Respondent ordered and performed numerous tympanograms without adequate medical justification.
5. Respondent ordered and/or administered for numerous IM penicillin injections without adequate medical justification.
6. Respondent ordered and/or administered numerous IM Decadron injections without adequate medical justification.
7. Respondent ordered and/or administered numerous IM Lincocin injections without adequate medical justification.
8. Respondent ordered and/or administered numerous IM Tigan injections without adequate medical justification.

SPECIFICATIONS

FIRST THROUGH TENTH SPECIFICATIONS
GROSS NEGLIGENCE

Respondent is charged with gross negligence in violation of New York Education Law §6530(4) in that, Petitioner charges:

1. The facts in Paragraphs A and A.1, A.2, A.3, A.4., A.5, A.6, A.7, and/or A.8.
2. The facts in Paragraphs B and B.1, B.2, B.3, B.4, B.5, B.6, B.7, and/or B.8.
3. The facts in Paragraphs C and C.1, C.2, C.3, C.4, C.5, C.6, C.7, and/or C.8.
4. The facts in Paragraphs D and D.1, D.2, D.3, D.4, D.5, D.6, D.7, and/or D.8.
5. The facts in Paragraphs E and E.1, E.2, E.3, E.4, E.5, E.6, E.7, and/or E.8.
6. The facts in Paragraphs F and F.1, F.2, F.3, F.4, F.5, F.6, F.7, and/or F.8.
7. The facts in Paragraphs G and G.1, G.2, G.3, G.4, G.5, G.6, G.7, and/or G.8.
8. The facts in Paragraphs H and H.1, H.2, H.3, H.4, H.5, H.6, H.7, and/or H.8.
9. The facts in Paragraphs I and I.1, I.2, I.3, I.4, I.5, I.6, I.7, and/or I.8.
10. The facts in Paragraphs J and J.1, J.2, J.3, J.4, J.5, J.6, J.7, and/or J.8.

ELEVENTH THROUGH TWENTIETH SPECIFICATIONS
GROSS INCOMPETENCE

Respondent is charged with gross incompetence in violation of New York Education Law §6530(6) in that, Petitioner charges:

11. The facts in Paragraphs A and A.1, A.2, A.3, A.4., A.5, A.6, A.7, and/or A.8.
12. The facts in Paragraphs B and B.1, B.2, B.3, B.4, B.5, B.6, B.7, and/or B.8.
13. The facts in Paragraphs C and C.1, C.2, C.3, C.4, C.5, C.6, C.7, and/or C.8.
14. The facts in Paragraphs D and D.1, D.2, D.3, D.4, D.5, D.6, D.7, and/or D.8.
15. The facts in Paragraphs E and E.1, E.2, E.3, E.4, E.5, E.6, E.7, and/or E.8.

16. The facts in Paragraphs F and F.1, F.2, F.3, F.4, F.5, F.6, F.7, and/or F.8.
17. The facts in Paragraphs G and G.1, G.2, G.3, G.4, G.5, G.6, G.7, and/or G.8.
18. The facts in Paragraphs H and H.1, H.2, H.3, H.4, H.5, H.6, H.7, and/or H.8.
19. The facts in Paragraphs I and I.1, I.2, I.3, I.4, I.5, I.6, I.7, and/or I.8.
20. The facts in Paragraphs J and J.1, J.2, J.3, J.4, J.5, J.6, J.7, and/or J.8.

TWENTY-FIRST SPECIFICATION

NEGLIGENCE ON MORE THAN ONE OCCASION

Respondent is charged with negligence on more than one occasion in violation of New York Education Law §6530(3) in that, Petitioner charges two or more of the following:

21. The facts in Paragraphs A and A.1, A.2, A.3, A.4, A.5, A.6, A.7, A.8; B and B.1, B.2, B.3, B.4, B.5, B.6, B.7, B.8; C and C.1, C.2, C.3, C.4, C.5, C.6, C.7, C.8; D and D.1, D.2, D.3, D.4, D.5, D.6, D.7, D.8; E and E.1, E.2, E.3, E.4, E.5, E.6, E.7, E.8; F and F.1, F.2, F.3, F.4, F.5, F.6, F.7, F.8; G and G.1, G.2, G.3, G.4, G.5, G.6, G.7, G.8; H and H.1, H.2, H.3, H.4, H.5, H.6, H.7, H.8; I and I.1, I.2, I.3, I.4, I.5, I.6, I.7, I.8; and/or J and J.1, J.2, J.3, J.4, J.5, J.6, J.7, J.8.

TWENTY SECOND SPECIFICATION

INCOMPETENCE ON MORE THAN ONE OCCASION

Respondent is charged with incompetence on more than one occasion in violation of New York Education Law §6530(5) in that, Petitioner charges two or more of the following:

22. The facts in Paragraphs A and A.1, A.2, A.3, A.4, A.5, A.6, A.7, A.8; B and B.1, B.2, B.3, B.4, B.5, B.6, B.7, B.8; C and C.1, C.2, C.3, C.4, C.5, C.6, C.7, C.8; D and D.1, D.2, D.3, D.4, D.5, D.6, D.7, D.8; E and E.1, E.2, E.3, E.4, E.5, E.6, E.6, E.7, E.8; F and F.1, F.2, F.3, F.4, F.5, F.6, F.7, F.8; G and G.1, G.2, G.3, G.4, G.5, G.6, G.7, G.8; H and H.1, H.2, H.3, H.4, H.5, H.6, H.7, H.8; I and I.1, I.2, I.3, I.4, I.5, I.6, I.7, I.8; and/or J and J.1, J.2, J.3, J.4, J.5, J.6, J.7, J.8.

**TWENTY-THIRD THROUGH
EIGHTY-THIRD SPECIFICATIONS**

EXCESSIVE TESTS OR TREATMENT

Respondent is charged with ordering excessive tests or treatment not warranted by the condition of the patient in violation of N.Y. Education Law §6530(35) in that, Petitioner charges:

23. The facts in Paragraphs A and A.3.
24. The facts in Paragraphs A and A.4.
25. The facts in Paragraphs A and A.5.
26. The facts in Paragraphs A and A.6.
27. The facts in Paragraphs A and A.7.
28. The facts in Paragraphs A and A.8.
29. The facts in Paragraphs B and B.3.
30. The facts in Paragraphs B and B.4.
31. The facts in Paragraphs B and B.5.
32. The facts in Paragraphs B and B.6.
33. The facts in Paragraphs B and B.7.
34. The facts in Paragraphs B and B.8.
35. The facts in Paragraphs C and C.3.
36. The facts in Paragraphs C and C.4.

37. The facts in Paragraphs C and C.5.
38. The facts in Paragraphs C and C.6.
39. The facts in Paragraphs C and C.7.
40. The facts in Paragraphs C and C.8.
41. The facts in Paragraphs D and D.3.
42. The facts in Paragraphs D and D.4.
43. The facts in Paragraphs D and D.5.
44. The facts in Paragraphs D and D.6.
45. The facts in Paragraphs D and D.7.
46. The facts in Paragraphs D and D.8.
47. The facts in Paragraphs E and E.3.
48. The facts in Paragraphs E and E.4.
49. The facts in Paragraphs E and E.5.
50. The facts in Paragraphs E and E.6.
51. The facts in Paragraphs E and E.7.
52. The facts in Paragraphs E and E.8.
53. The facts in Paragraphs F and F.3.
54. The facts in Paragraphs F and F.4.
55. The facts in Paragraphs F and F.5.
56. The facts in Paragraphs F and F.6.
57. The facts in Paragraphs F and F.7.
58. The facts in Paragraphs F and F.8.
59. The facts in Paragraphs G and G.3.
60. The facts in Paragraphs G and G.3.
61. The facts in Paragraphs G and G.4.
62. The facts in Paragraphs G and G.5.
63. The facts in Paragraphs G and G.6.
64. The facts in Paragraphs G and G.7.
65. The facts in Paragraphs G and G.8.
66. The facts in Paragraphs H and H.3

67. The facts in Paragraphs H and H.4.
68. The facts in Paragraphs H and H.5.
69. The facts in Paragraphs H and H.6.
70. The facts in Paragraphs H and H.7.
71. The facts in Paragraphs H and H.8.
72. The facts in Paragraphs I and I.3.
73. The facts in Paragraphs I and I.4.
74. The facts in Paragraphs I and I.5.
75. The facts in Paragraphs I and I.6.
76. The facts in Paragraphs I and I.7.
77. The facts in Paragraphs I and I.8.
78. The facts in Paragraphs J and J.3.
79. The facts in Paragraphs J and J.4.
80. The facts in Paragraphs J and J.5.
81. The facts in Paragraphs J and J.6.
82. The facts in Paragraphs J and J.7.
83. The facts in Paragraphs J and J.8.

**EIGHTY-FOURTH THROUGH ONE HUNDRED
FORTY-FOURTH SPECIFICATIONS**

FRAUD

Respondent is charged with practicing the profession fraudulently in violation of New York Education Law §6530(2) in that, Petitioner charges:

The allegations of the twenty-third through eighty-fourth specifications are repeated as if fully set forth herein.

**ONE HUNDRED FORTY-FIFTH THROUGH
TWO HUNDRED-FIFTH SPECIFICATIONS**

MORAL UNFITNESS

Respondent is charged with conduct in the practice of medicine which evidences moral unfitness to practice medicine in violation of New York Education Law §6530(20) in that, Petitioner charges:

The allegations of the twenty-third through eighty-third specifications are repeated as if fully set forth herein.

DATED: _____, 1999
Albany, New York

PETER D. VANBUREN
Deputy Counsel
Bureau of Professional
Medical Conduct