



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.
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NYS Department of Health
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Office 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

February 3, 2000

CERTIFIED MAIL-RETURN RECEIPT REQUESTED

Allan Zarkin, M.D.
60 Sutton Place South, Apt. 12E
New York, NY 10022

RE: License No. 095976

Dear Dr. Zarkin:

Enclosed please find Order #BPMC 00-32 of the New York State Board for Professional Medical Conduct. This Order and any penalty provided therein goes into effect **February 3, 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: Barry Fallick, Esq.
Rochman, Platzer, Fallick & Sternheim, LLP
666 Third Avenue
New York, NY 10017

Dianne Abeloff, Esq.

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

**IN THE MATTER
OF
ALLAN ZARKIN, M.D.**

**SURRENDER
OF
LICENSE**

BPMC #00-32

**STATE OF NEW YORK)
COUNTY OF NEW YORK)**

ss.:

ALLAN ZARKIN, M.D., being duly sworn, deposes and says:

On or about January 6, 1966, I was licensed to practice medicine as a physician in the State of New York having been issued License No. 095976 by the New York State Education Department.

My current address is 60 Sutton Place South, Apt. 12 E, N.Y., N.Y. 10022, and I will advise the Director of the Office of Professional Medical Conduct of any change of my address.

I understand that I have been charged with 10 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 permission to surrender my license as a physician in the State of New York on the grounds that I cannot successfully defend against at least one of the acts of misconduct alleged in the Statement of Charges.

I hereby make this application to the State Board for Professional Medical Conduct and request that it be granted.

I understand that, in the event that the application 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 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 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 grants my application, an 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 such order shall be effective upon issuance by the Board, which may be accomplished by mailing, by first class mail, a copy of the Surrender 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 Surrender Order for which I hereby apply, whether administratively or judicially, and ask that the Application be granted.

Allan Zarkin
ALLAN ZARKIN, M.D.
RESPONDENT

DATED _____
Sworn to before me
on this 15 day of
February, 2000

Cory E. Campoli
NOTARY

CORYE CAMPOLI
Notary Public, State of New York
No. 01CAS057347
Qualified in Queens County
Commission Expires March 14, 2008

The undersigned agree to the attached application of the Respondent to surrender his license.

Date: _____


BARRY FALLICK, Esq.
Attorney for Respondent

Date: 2/2/00


DIANNE ABELOFF
Associate Counsel
Bureau of Professional
Medical Conduct

Date: 2/2/00


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
ALLAN ZARKIN, M.D.

SURRENDER
ORDER

Upon the proposed agreement of ALLAN ZARKIN, M.D. (Respondent) 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 application 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 the Surrender 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.

William P. Dillon, M.D.

DATED: 2/3/00

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

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

IN THE MATTER
OF
ALLAN ZARKIN, M.D.

STATEMENT
OF
CHARGES

ALLAN ZARKIN, M.D., the Respondent, was authorized to practice medicine in New York State on or about January 6, 1966, by the issuance of license number 095976 by the New York State Education Department.

FACTUAL ALLEGATIONS

- A. On or about September 7, 1999, at Beth Israel Hospital, New York, New York, Respondent performed a caesarian section on Patient A (the identity of the patients is contained in the attached appendix). Respondent's conduct deviated from accepted medical standards, in that:
1. During the course of the caesarian section, when Patient A asked Respondent if he had removed all of the fat, he responded that he had done so and that he "was going to add it to his penis."
 2. At the conclusion of the caesarian section, Respondent, for no medical purpose and without the Patient's consent, made incisions in Patient A's abdomen and caused scarring in the shape of his initials, A.Z.
- B. On or about September 7, 1999, immediately after Baby A's birth she was

EXHIBIT "A"

transferred to the neonatal intensive care unit (NICU). While in the NICU a nurse placed Baby A on nasal CPAP. On or about September 7, 1999, Respondent went to the NICU to see Baby A.

1. Respondent inappropriately attempted to remove the CPAP from the baby's face against the instructions of the NICU nurses, and continued to do so until physically restrained by a NICU nurse.
2. On another visit to the NICU on September 7, 1999, Respondent inappropriately picked up Baby A and vigorously spanked her buttocks because she was not crying.
3. On or about September 8, 1999, Respondent inappropriately uncovered Baby A's face without first washing his hands.

C. On or about February 2, 1998, while in the operating room in Beth Israel Hospital, Respondent engaged in inappropriate and abusive verbal conduct including but not limited to the following:

1. He shouted, to a Labor and Delivery room nurse, that she should do her job of getting the NICU doctors over to labor and delivery.
2. When the nurse advised him that the doctors had been called as requested, Respondent replied, "Shut up, don't say another word. Fuck You."
3. A few minutes later, when the nurse repeated that she had done her job, Respondent turned to the nurse and said "just kiss my ass lady."

D. From in or about 1993 through in or about 1997, Patient B had been treated by

Respondent at his office, 145 East 32nd Street, N.Y.,N.Y. His conduct deviated from accepted medical standards, in that Respondent engaged in inappropriate and/or abusive verbal conduct including but not limited to the following:

1. In or about late 1996 during Patient B's visits to Respondent, he commented to her that she was a special patient and that she was beautiful. He also told Patient B that he talked about her with his friends.
2. In or about February 1997, Respondent called Patient B at home and invited her to attend a wedding with him.
3. On or about May 27, 1997, during Patient B's annual visit, Respondent told Patient B that he had an eye lift the prior year. He then commented, "Between the eye job and Viagra, I'm a sex stud. Can you believe that I did it three times in one night?"
4. During the course of a prior visit, Respondent commented regarding Patient B's pubic hair, "like your Mohawk."

E. On or about April 1, 1998, Patient C was admitted to Beth Israel Hospital to the antepartum floor. Respondent's conduct deviated from accepted medical standards, in that:

1. At or about 7:30 p.m. on April 1, 1998, Patient C was placed on the monitor for a non-stress test. The tracing revealed a

deceleration to 70 for 2 minutes. At or about 7:40 p.m. the monitoring was discontinued by the third year resident.

Respondent failed to appropriately supervise the resident caring for his patient.

2. Respondent failed to arrange for Patient C's transfer to the labor and delivery unit where she would have been under closer surveillance and monitoring.

- F. Since on or before September 21, 1999, Respondent has suffered from a condition that incapacitates him for the practice of medicine. Respondent was, on or about that date, diagnosed as suffering from a significant organic brain disorder.

SPECIFICATION OF CHARGES

FIRST SPECIFICATION

GROSS NEGLIGENCE

Respondent is charged with committing professional misconduct as defined in N.Y. Educ. Law §6530(4)(McKinney Supp. 2000) by practicing the profession of medicine with gross negligence as alleged in the facts of the following:

1. Paragraph A, A2

SECOND SPECIFICATION

NEGLECT ON MORE THAN ONE OCCASION

Respondent is charged with committing professional misconduct as defined in

N.Y. Educ. Law §6530(3)(McKinney Supp. 2000) 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:

2. Paragraph A and its subparagraphs, B and its subparagraphs, D and its subparagraphs and/or Paragraph E and its subparagraphs.

THIRD THROUGH FOURTH SPECIFICATIONS

VERBAL AND/OR PHYSICAL ABUSE

Respondent is charged with committing professional misconduct as defined in N.Y. Educ. Law §6530(31)(McKinney Supp. 2000) by willfully harassing, abusing, or intimidating a patient either physically or verbally as alleged in the facts of:

3. Paragraph A and A2.
4. Paragraph D and its subparagraphs.

FIFTH THROUGH EIGHTH SPECIFICATIONS

MORAL UNFITNESS

Respondent is charged with committing professional misconduct as defined in N.Y. Educ. Law §6530(20)(McKinney Supp. 2000) 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:

5. Paragraph A and its subparagraphs.
6. Paragraph B and its subparagraphs.
7. Paragraph C and its subparagraphs.
8. Paragraph D and its subparagraphs.

NINTH SPECIFICATION
PRACTICING WHILE IMPAIRED

Respondent is charged with committing professional misconduct as defined in N.Y. Educ. Law §6530(7)(McKinney Supp. 2000) by practicing the profession while impaired by a mental disability as alleged in the facts of the following:

9. Paragraph A and its subparagraphs, Paragraph B and its subparagraphs, Paragraph C and its subparagraphs, Paragraph D and its subparagraphs, and Paragraph F.

TENTH SPECIFICATION
HAVING A
PSYCHIATRIC CONDITION WHICH IMPAIRS
THE ABILITY TO PRACTICE

Respondent is charged with committing professional misconduct as defined in N.Y. Educ. Law §6530(8)(McKinney Supp. 2000) by having a psychiatric condition which impairs the licensee's ability to practice as alleged in the facts of the following:

10. Paragraph F

DATED: February , 2000

New York, New York

ROY NEMERSON
Deputy Counsel
Bureau of Professional
Medical Conduct

**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 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 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.