



***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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NYS Department of Health*

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*Vice Chair*

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

**PUBLIC**

April 3, 2003

***CERTIFIED MAIL-RETURN RECEIPT REQUESTED***

Jesus M. Zarate, M.D.  
a.k.a. Jess M. Zarate, M.D.  
4104 Vividell Circle  
West Des Moines, IA 50266

RE: License No. 144321

Dear Dr. Zarate:

Enclosed please find Order #BPMC 03-86 of the New York State Board for Professional Medical Conduct. This Order and any penalty provided therein goes into effect April 3, 2003.

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: Robert H. Holz, Esq.  
Davis, Brown, Koehn, Shors and Robert, P.C.  
666 Walnut Street, Suite 2500  
Des Moines, IL 50309

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

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IN THE MATTER

OF

JESUS M. ZARATE, M.D., aka JESS M. ZARATE, M.D.

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CONSENT

AGREEMENT

AND ORDER

BPMC No. 03-86

**JESUS M. ZARATE, M.D., aka JESS M. ZARATE, M.D., (Respondent) states:**

That on or about October 24, 1980, I was licensed to practice as a physician in the State of New York, having been issued License No. 144321 by the New York State Education Department.

My current address is 4104 Vividell Circle, West Des Moines, IA 50266, and I will advise the Director of the Office of Professional Medical Conduct of any change of my address within thirty (30) days thereof.

I understand that the New York State Board for Professional Medical Conduct has charged me with four (4) specifications of professional misconduct.

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

I have not been registered to practice medicine in New York state since 1982. For purposes of this Consent Agreement and Order, I do not to contest the four (4) specifications as found in the Statement of Charges, Exhibit A. In full satisfaction of the charges against me, I, hereby, agree to the following penalty:

Suspension of my New York state license to practice medicine to run concurrent with the suspension of my Iowa license. After restoration of my Iowa license, my New York license will be subject to the same period of probation and conditions as my Iowa license.

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 possess his/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 his/her license.

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).

I agree that in the event that I am charged with professional misconduct in the future, the 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

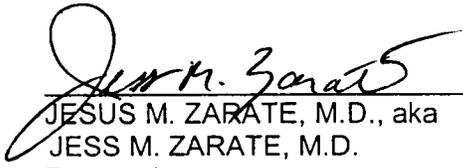
misconduct alleged or charged against me, such Application shall not be used against me in any way and shall be kept in strict confidence during the pendency of the professional misconduct disciplinary proceeding; and such denial by the Board shall be made without prejudice to the continuance of any 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.

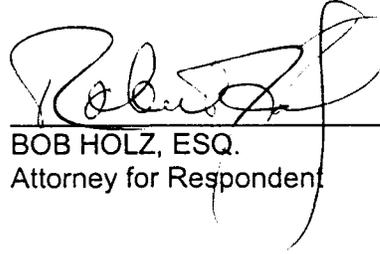
AFFIRMED:

DATED: 03-20-03

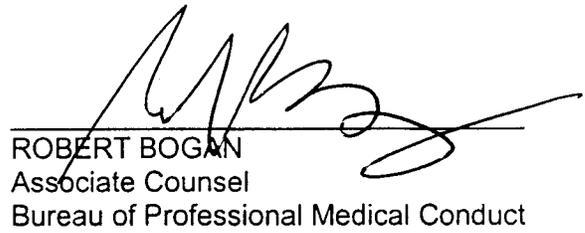
  
\_\_\_\_\_  
JESUS M. ZARATE, M.D., aka  
JESS M. ZARATE, M.D.  
Respondent

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

DATE: 3/20/03

  
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BOB HOLZ, ESQ.  
Attorney for Respondent

DATE: 03/24/03

  
\_\_\_\_\_  
ROBERT BOGAN  
Associate Counsel  
Bureau of Professional Medical Conduct

DATE: 03/30/03

  
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DENNIS J. GRAZIANO  
Director  
Office of Professional Medical Conduct

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

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**IN THE MATTER**  
**OF**  
**JESUS M. ZARATE, M.D., aka JESS M. ZARATE, M.D.**  
**CO-01-12-6212-A**

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**AMENDED**  
**STATEMENT**  
**OF**  
**CHARGES**

**JESUS M. ZARATE, M.D., aka JESS M. ZARATE, M.D.**, the Respondent, was authorized to practice medicine in New York state on October 24, 1980, by the issuance of license number 144321 by the New York State Education Department.

**FACTUAL ALLEGATIONS**

A. On or about October 18, 2001, the Board of Medical Examiners of the State of Iowa (hereinafter "Iowa Board"), by Settlement Agreement and Final Order (hereinafter "Iowa Order I"), CITED Respondent with engaging in unethical conduct or practice harmful or detrimental to the public, WARNED him that engaging in similar conduct may result in further disciplinary action including revocation of his Medical license, fined him \$5,000.00, suspended his license to practice medicine for thirty (30) days, required him to complete a course in billing and a PROBE ethics course, and placed his license to practice medicine on five (5) years probation, based upon selecting billing codes, on numerous occasions, which did not accurately reflect the medical services provided for numerous patients treated between 1997 and 1999.

B. On or about October 31, 2002, the Iowa Board, by Settlement Agreement and Final Order (hereinafter "Iowa Order II"), CITED Respondent for knowingly making misleading, deceptive, untrue or fraudulent representations in the practice of medicine, knowingly aiding, assisting, procuring, or advising a person to unlawfully practice medicine, and engaging in practice harmful or detrimental to the public, WARNED him that engaging in such conduct in the future may result in further disciplinary action including revocation of his Iowa medical license, permanently prohibited him from performing any aspect of billing functions in the practice of medicine, assessed a \$10,000.00 civil penalty, suspended his license to practice medicine for

one (1) year, required him to complete a PROBE ethics course, and at the conclusion of the license suspension placed his license to practice medicine on five (5) years probation under terms and conditions, based upon engaging in unethical conduct and practice harmful or detrimental to the public for engaging in inappropriate billing practices.

C. The conduct resulting in the Iowa Board disciplinary actions against Respondent would constitute 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);
2. New York Education Law §6530(11) (permitting an unlicensed person to perform activities requiring a license);
3. New York Education Law §6530(16) (willful failure to comply with state or local laws, rules, or regulations governing the practice of medicine);
4. New York Education Law §6530(20) (moral unfitness); and/or
5. New York Education Law §6530(21) (willfully making or filing a false report, or failing to file a report required by law or by the department of health or the education department).

### **SPECIFICATIONS**

#### **FIRST AND SECOND SPECIFICATIONS**

Respondent violated New York Education Law §6530(9)(b) by having been found guilty of improper professional practice or professional misconduct by a duly authorized professional disciplinary agency of 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:

1. The facts in Paragraphs A and/or C;
2. The facts in Paragraphs B and/or C.

**THIRD AND FOURTH SPECIFICATIONS**

Respondent violated New York Education Law §6530(9)(d) by having his license to practice medicine suspended or having other disciplinary action taken by a duly authorized professional disciplinary agency of another state, where the conduct resulting in the suspension or other disciplinary action would, if committed in New York state, constitute professional misconduct under the laws of New York state, in that Petitioner charges:

3. The facts in Paragraphs A and/or C;
4. The facts in Paragraphs B and/or C.

DATED: *November 14*, 2002  
Albany, New York

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

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

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IN THE MATTER

CONSENT

OF

ORDER

JESUS M. ZARATE, M.D., aka JESS M. ZARATE, M.D.

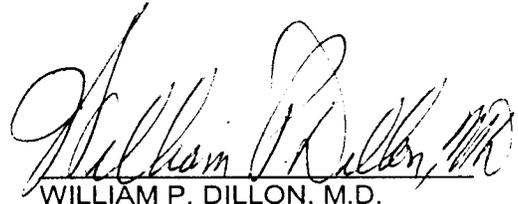
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Upon the proposed agreement of **JESUS M. ZARATE, M.D., aka JESS M. ZARATE, M.D.** (Respondent) for Consent Order, which application is made a part hereof, it is agreed and **ORDERED**, that the application and the provisions thereof are hereby adopted 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: 4/2/03



WILLIAM P. DILLON, M.D.

Chair

State Board for Professional  
Medical Conduct