



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., Dr. P.H.
*Commissioner
NYS Department of Health*

Dennis P. Whalen
*Executive Deputy Commissioner
NYS Department of Health*

Dennis J. Graziano, Director
Office of Professional Medical Conduct

Kendrick A. Sears, M.D.
Chairman

Michael A. Gonzalez, R.P.A.
Vice Chair

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

Public

June 7, 2005

CERTIFIED MAIL-RETURN RECEIPT REQUESTED

Manuel Orlando Garcia, M.D.
219 Grasmere Drive
Staten Island, NY 10305

RE: License No. 118765

Dear Dr. Garcia:

Enclosed is a copy of Order #BPMC 05-110 of the New York State Board for Professional Medical Conduct. This Order and any penalty provided therein goes into effect June 14, 2005.

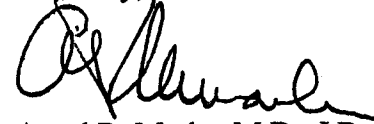
If the penalty imposed by the Order is a surrender, revocation or suspension of this license, you are required to deliver to the Board the license and registration within five (5) days or receipt of the of the Order to:

Board for Professional Medical Conduct
New York State Department of Health
Hedley Park Place, Suite 303
433 River Street
Troy, New York 12180

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 1258
Empire State Plaza
Albany, New York 12237

Sincerely,

A handwritten signature in black ink, appearing to read "A. Marks", written over the word "Sincerely,".

Ansel R. Marks, M.D., J.D.

Executive Secretary

Board for Professional Medical Conduct

cc: Dino J. Lombardi, Esq.
52 Duane Street, 7th Floor
New York, NY 10007

**IN THE MATTER
OF
Manuel Orlando Garcia**

**CONSENT
ORDER**
BPMC No. 05-110

Upon the application of (Respondent) Manuel Orlando Garcia, M.D. in the attached Consent Agreement and Order, which is made a part of this Consent Order, it is


ORDERED, that the Consent Agreement, and its terms, are adopted and SO ORDERED, and it is further

ORDERED, that this Order shall be effective upon issuance by the Board, either

- by mailing of a copy of this Consent Order, either by first class mail to Respondent at the address in the attached Consent Agreement or by certified mail to Respondent's attorney, OR
- upon facsimile transmission to Respondent or Respondent's attorney, Whichever is first.

SO ORDERED.

DATED: 6-6-2005


KENDRICK A. SEARS, M.D.
Chair
State Board for Professional Medical Conduct

IN THE MATTER
OF
Manuel Orlando Garcia, M.D.

CONSENT
AGREEMENT
AND
ORDER

Manuel Orlando Garcia, M.D., representing that all of the following statements are true, deposes and says:

That on or about January 15, 1974, I was licensed to practice as a physician in the State of New York, and issued License No. 118765 by the New York State Education Department.

My current address is 219 Grasmere Dr., Staten Island, N.Y., and I will advise the Director of the Office of Professional Medical Conduct of any change of address.

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

A copy of the Statement of Charges, marked as Exhibit "A", is attached to and part of this Consent Agreement.

I assert that I cannot successfully defend against at least one of the acts of misconduct alleged, in full satisfaction of the charges against me, and agree to the following penalty:

Pursuant to §230-a(2) of the Public Health law, my license to practice medicine in the State of New York shall be suspended for a period of 36 months, with the entire period of said suspension to be stayed.

Pursuant to §230-a(9) of the Public Health Law, I shall be placed on probation for a period of 36 months, subject to the terms set forth in attached Exhibit "B."

I shall be subject to a fine in the amount of \$2500, pursuant to §230-a(7) and (9) of the Public Health Law, to be paid in full within 30 days of the effective date of this order. Payments must be submitted to:

Bureau of Accounts Management
New York State Department of Health
Empire State Plaza
Corning Tower, Room 1245
Albany, New York 12237

I further agree that the Consent Order shall impose the following conditions:

That Respondent shall maintain current registration of licensure with the New York State Education Department Division of Professional Licensing Services (except during periods of actual suspension), and shall pay all registration fees. This condition shall take effect thirty (30) days after the Consent Order's effective date and will continue so long as Respondent remains licensed in New York State; and

That Respondent shall cooperate fully with the Office of

Professional Medical Conduct (OPMC) in its administration and enforcement of this Order and in its investigations of matters concerning Respondent. Respondent shall respond in a timely manner to all OPMC requests for written periodic verification of Respondent's compliance with this Order. Respondent shall meet with a person designated by the Director of OPMC, as directed. Respondent shall respond promptly and provide all documents and information within Respondent's control, as directed. This condition shall take effect upon the Board's issuance of the Consent Order and will continue so long as Respondent remains licensed in New York State.

I stipulate that my failure to comply with any conditions of this Order shall constitute misconduct as defined by New York State Education Law §6530(29).

I agree that if I am charged with professional misconduct in future, this Consent Agreement and Order **shall** be admitted into evidence in that proceeding.

I ask the Board to adopt this Consent Agreement.

I understand that if the Board does not adopt this Consent Agreement, none of its terms shall bind me or constitute an admission of any of the acts of alleged misconduct; this Consent Agreement shall not be used against me in any way and shall be kept in strict confidence; and the Board's denial shall be without prejudice to the pending disciplinary proceeding and the Board's final determination pursuant to the Public Health Law.

I agree that, if the Board adopts this Consent Agreement, the Chair of the Board shall issue a Consent Order in accordance with its terms. I agree that this

Order shall take effect upon its issuance by the Board, either by mailing of a copy of the Consent Order by first class mail to me at the address in this Consent Agreement, or to my attorney by certified mail, OR upon facsimile transmission to me or my attorney, whichever is first.

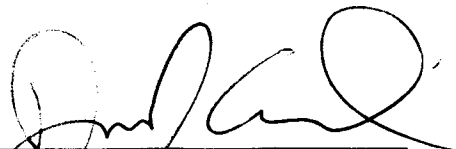
I ask the Board to adopt this Consent Agreement of my own free will and not under duress, compulsion or restraint. In consideration of the value to me of the Board's adoption of this Consent Agreement, allowing me to resolve this matter without the various risks and burdens of a hearing on the merits, I knowingly waive my right to contest the Consent Order for which I apply, whether administratively or judicially, I agree to be bound by the Consent Order, and ask that the Board adopt this Consent Agreement.

DATED 4/22/05


Manuel Orlando Garcia, M.D.
RESPONDENT

The undersigned agree to Respondent's attached Consent Agreement and to its proposed penalty, terms and conditions.

DATE: April 28, 2005



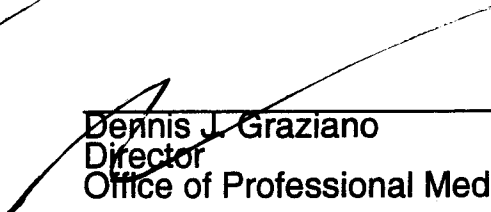
Dino J. Lombardi, Esq.
Attorney for Respondent

DATE: May 2, 2005



Courtney Berry
Associate Counsel
Bureau of Professional Medical Conduct

DATE: June 2, 2005



Dennis J. Graziano
Director
Office of Professional Medical Conduct

IN THE MATTER
OF
Manuel Orlando Garcia, M.D.

STATEMENT
OF
CHARGES

Manuel Orlando Garcia, M.D., the Respondent, was authorized to practice medicine in New York State on or about January 15, 1974, by the issuance of license number 118765 by the New York State Education Department.

FACTUAL ALLEGATIONS

- A. Respondent, a psychiatrist, treated Patient A in his Staten Island office from in or about January 1986 through in or about April 1988.
1. Respondent engaged in sexual contact and sexual conversations with Patient A.
 2. Respondent failed to maintain an adequate record for Patient A.
- B. Respondent, a psychiatrist, treated Patient B in his Queens office from in or about March 1999, through in or about June 1999.
1. Respondent engaged in sexual contact and sexual conversations with Patient B.
- C. Respondent, a psychiatrist, treated Patient C in his Queens office, from in or about the winter of 1997 through in or about July, 2000.
1. Respondent engaged in sexual contact and sexual conversations with Patient C.

EXH A

2. Respondent failed to maintain an adequate separate record for Patient C.
- D. Respondent, a psychiatrist, treated Patient D in his Queens office from in or about July 1999 through in or about June 2001. Patient D is Patient C's husband.
1. Respondent engaged in inappropriate sexual conversations with Patient D.
 2. Respondent failed to maintain an adequate separate record for Patient D.
- E. Respondent, a psychiatrist, treated Patient E. in his Queens office from on or about January 20, 2000 through on or about March 6, 2000. Patient E is Patient C's daughter.
1. Respondent failed to maintain an adequate separate record for Patient E.

SPECIFICATION OF CHARGES

FIRST THROUGH THIRD SPECIFICATIONS

SEXUAL CONTACT BETWEEN PSYCHIATRIST AND PATIENT

Respondent is charged with committing professional misconduct as defined in N.Y. Educ. Law §6530(44)(a) by engaging in physical contact of a sexual nature with a patient, as alleged in the facts of:

1. Paragraphs A and A1.
2. Paragraphs B and B1.
3. Paragraphs C and C1.

FOURTH THROUGH SEVENTH SPECIFICATIONS

MORAL UNFITNESS

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

4. Paragraphs A and A1
5. Paragraphs B and B1,
6. Paragraphs C and C1,
7. Paragraphs D and D1.

EIGHTH THROUGH ELEVENTH SPECIFICATIONS

FAILURE TO MAINTAIN RECORDS

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

8. Paragraphs A and A2
9. Paragraphs C and C2
10. Paragraphs D and D2
11. Paragraphs E and E1

DATED:  April 2, 2005

New York, New York

A handwritten signature in black ink, appearing to read 'Roy Nemerson', written over a horizontal line.

Roy Nemerson
Deputy Counsel
Bureau of Professional
Medical Conduct

EXHIBIT "B"

Terms of Probation

1. Respondent's conduct shall conform to moral and professional standards of conduct and governing law. Any act of professional misconduct by Respondent as defined by New York State Education Law §6530 or §6531 shall constitute a violation of probation and may subject Respondent to an action pursuant to New York State Public Health Law §230(19).
2. Respondent shall maintain current registration of licensure with the New York State Education Department Division of Professional Licensing Services (except during periods of actual suspension), and shall pay all registration fees.
3. Respondent shall provide the Director, Office of Professional Medical Conduct (OPMC), Hedley Park Place, 433 River Street Suite 303, Troy, New York 12180-2299 with the following information, in writing, and ensure that such information is kept current: a full description of Respondent's employment and practice; all professional and residential addresses and telephone numbers within and outside New York State; and all investigations, charges, convictions or disciplinary actions by any local, state or federal agency, institution or facility, within thirty (30) days of each action.
4. Respondent shall cooperate fully with, and respond in a timely manner to, OPMC requests to provide written periodic verification of Respondent's compliance with the terms of this Consent Order. Upon the Director of OPMC's request, Respondent shall meet in person with the Director's designee.
5. Respondent's failure to pay any monetary penalty by the prescribed date shall subject Respondent to all provisions of law relating to debt collection by New York State, including but 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].
6. The probation period shall toll when Respondent is not engaged in active medical practice in New York State for a period of thirty (30) consecutive days or more. Respondent shall notify the Director of OPMC, in writing, if Respondent is not currently engaged in, or intends to leave, active medical practice in New York State for a consecutive thirty (30) day period. Respondent shall then notify the Director again at least fourteen (14) days before returning to active practice. Upon Respondent's return to active practice in New York State, the probation period will resume and Respondent shall fulfill any unfulfilled probation terms. After the satisfactory completion of two (2) years, Respondent may apply for a modification of the terms of probation, at the reasonable discretion of the Director.
7. The Director of OPMC may review Respondent's professional performance. This review may include but shall not be limited to: a review of office records, patient records and/or hospital charts; and interviews with or periodic visits with Respondent and staff at practice locations or OPMC offices.

8. Respondent shall maintain complete and legible medical records that accurately reflect the evaluation and treatment of patients and contain all information required by State rules and regulations concerning controlled substances.
9. Respondent shall be subject to a Behavior Monitoring Program in his medical practice for a period of 36 months. A behavior monitor shall be proposed by Respondent and subject to the written approval of the Director of OPMC. The behavior monitor shall not be a family member or personal friend, or be in a professional relationship which could pose a conflict with supervision responsibilities. The behavior monitor should be a licensed or certified health care professional with experience dealing with professional behavior issues. The Behavior Monitor Program shall include, but not be limited to, completion of the Patient Satisfaction Questionnaire, attached as Exhibit "B.1", by patients being seen in Respondent's medical practice. Respondent shall assure that this form is distributed to all his adult patients. The behavior monitor will collect all survey forms from a designated staff member during site visits to the hospital/clinic/office, and will review the forms and submit quarterly written reports to the Director of OPMC. These narrative reports shall address the information compiled on the forms, Respondent's on-duty conduct, and other matters regarding Respondent's practice as the behavior monitor deems appropriate to report, and as may be requested by OPMC. The Director of OPMC and the behavior monitor shall have full access to the information collected in the Behavior Monitoring Program and access to staff to the extent necessary for monitoring.
10. Respondent shall ensure that the behavior monitor is familiar with the order and conditions, and is willing to report to OPMC. Respondent shall ensure that the behavior monitor is in a position to regularly observe and assess Respondent's behavior in his medical practice. The behavior monitor shall report within 24 hours any inappropriate behavior, patient or staff complaints regarding behavior, or possible misconduct to OPMC.
11. Respondent shall enroll in and complete a continuing education program in the areas of Ethics, Transference and Boundaries. This continuing education program is subject to the Director of OPMC's prior written approval and shall be completed within the probation period, unless the Order specifies otherwise.
12. Respondent shall comply with this Order and all its terms, and shall bear all associated compliance costs. Upon successful completion of 24 months of probation, Respondent may petition the Director for an early termination of probation and the Director shall exercise reasonable discretion in deciding whether to grant the petition. Upon receiving evidence of noncompliance with, or violation of, these terms, the Director of OPMC and/or the Board may initiate a violation of probation proceeding, and/or any other such proceeding authorized by law, against Respondent.

EXHIBIT "B.1"

PATIENT SATISFACTION QUESTIONNAIRE

As part of Dr. Manuel Orlando Garcia's dedication to the provision of high quality care in a professional environment, this questionnaire has been developed to assess his efforts in obtaining this goal. We value your honest opinion and would appreciate your feedback. Please circle the answer which best applies to each question regarding your visit today. Please be honest and include any additional comments that you feel may benefit in improving the delivery of your care. Thank you for taking the extra time to complete this survey prior to leaving the office. You may decline to complete this form. Be assured that any negative statements will not effect the rendering of your care by Dr. Garcia and his staff.

Age _____ Date _____ Time of Visit _____

Please assess Dr. Garcia's performance in the following areas:

- | | | | | |
|----|--|-----|----|------------|
| 1. | He understood the nature of my problems. | Yes | No | Don't Know |
| 2. | He made me feel at ease. | Yes | No | Don't Know |
| 3. | He has a good ability to listen and hear what I am saying. | Yes | No | Don't Know |
| 4. | He was responsive to my questions and concerns. | Yes | No | Don't Know |
| 5. | He explained the proposed treatment/medication and possible alternatives completely. | Yes | No | Don't Know |
| 6. | All aspects of the office visit were conducted in a professional and appropriate manner. | Yes | No | Don't Know |

Please add any additional comments that you feel would help us to improve your care and make you feel more at ease during the course of your office visit.

Patient's Name or Initials