



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

William P. Dillon, M.D.
Chair

Denise M. Bolan, R.P.A.
Vice Chair

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

August 30, 2002

CERTIFIED MAIL-RETURN RECEIPT REQUESTED

Pieter Kark, M.D.
170 Intrepid Lane
Syracuse, NY 13205

RE: License No. 169991

Dear Dr. Kark:

Enclosed please find Order #BPMC 02-275 of the New York State Board for Professional Medical Conduct. This Order and any penalty provided therein goes into effect August 30, 2002.

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: Catherine A. Gale, Esq.
Gale & Dancks, LLC
P.O. Box 97
Fayetteville, NY 13066-0097

**IN THE MATTER
OF
PIETER KARK, M.D.**

**CONSENT
AGREEMENT
AND
ORDER**

Pieter Kark (Respondent), M.D., representing that all of the following statements are true, deposes and says:

That on or about May 5, 1987, I was licensed to practice as a physician in the State of New York, and issued License No. 169991 by the New York State Education Department.

My current address is 170 Intrepid Lane, Syracuse, New York 13205, 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 eighteen 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 do not contest the first and fourth specifications, in full satisfaction of the charges against me, and agree to the following penalty:

1. A Censure and Reprimand,
2. Five years of probation, the terms of which are appended hereto in Exhibit "B", including continued psychotherapy and behavior monitoring.

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.

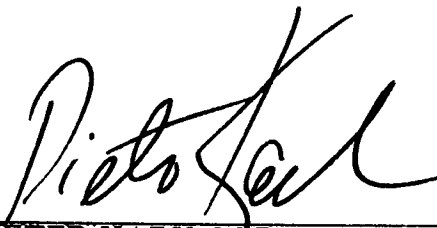
I ask the Board to adopt this Consent Agreement.

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 8/15/02



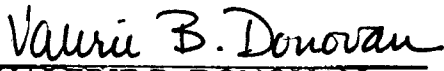
PIETER KARK, M.D.
RESPONDENT

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

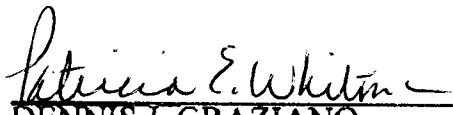
DATE: 8/15/02


CATHERINE A. GALE, ESQ.
Attorney for Respondent

DATE: 8/16/02


VALERIE B. DONOVAN
Assistant Counsel
Bureau of Professional Medical Conduct

DATE: 8/27/02


DENNIS J. GRAZIANO
Director
Office of Professional Medical Conduct

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

IN THE MATTER
OF
PIETER KARK, M.D.

STATEMENT
OF
CHARGES

PIETER KARK, M.D., the Respondent, was authorized to practice medicine in New York State on or about May 5, 1987, by the issuance of license number 169991 by the New York State Education Department.

FACTUAL ALLEGATIONS

- A. On or about December 29, 1999, Patient A (patients are identified in Appendix A), a twelve year old male with complaints of headaches, presented to Respondent's office for medical care by Respondent. Respondent's treatment and/or care of Patient A did not meet acceptable standards in that:
1. Respondent stated to Patient A "get the hell out of my office" or words to similar effect.
 2. Respondent stated to Patient A that he would kick Patient A "out on your ass" or words to similar effect.
 3. Respondent grabbed the shoeless Patient A by his clothing and took him out of the office building.
 4. While outside of the office building, Respondent spanked Patient A multiple times on the buttocks.
 5. While outside of the office building, Respondent pushed Patient A up against a windowed area while his hand was around Patient A's neck and/or shoulder.

- B. By Order #BPMC 98-24 of the New York State Board of Professional Medical Conduct, dated February 2, 1998, Respondent was placed on probation for a period of two years. One of the conditions and/or terms of this probation was that Respondent was to conduct himself in all ways in a manner befitting his professional status and conform fully to the moral and professional standards of conduct imposed by his profession. Respondent violated this term of probation on December 29, 1999, as set forth by the facts in Paragraph A, above.
- C. On or about March 21, 2000, Respondent provided medical care to Patient B, a forty year old female, who presented to Respondent's office for a physical evaluation. Respondent's treatment and/or medical care of Patient B did not meet acceptable standards of care in that as Patient B was attempting to leave a room in Respondent's office, Respondent grabbed Patient B and/or blocked her exit.

SPECIFICATION OF CHARGES

FIRST THROUGH SIXTH SPECIFICATIONS

WILLFUL ABUSE OR HARASSMENT OF A PATIENT

Respondent is charged with committing professional misconduct as defined in New York Education Law § 6530(31) by reason of his willfully harassing, abusing or intimidating a patient either physically or verbally in that Petitioner charges:

1. The facts in paragraphs A and A.1.
2. The facts in paragraphs A and A.2.
3. The facts in paragraphs A and A.3.
4. The facts in paragraphs A and A.4.

5. The facts in paragraphs A and A.5.
6. The facts in paragraph C.

SEVENTH THROUGH TWELFTH SPECIFICATIONS

MORAL UNFITNESS

Respondent is charged with committing professional misconduct as defined in New York Education 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:

7. The facts in paragraphs A and A.1.
8. The facts in paragraphs A and A.2.
9. The facts in paragraphs A and A.3.
10. The facts in paragraphs A and A.4.
11. The facts in paragraphs A and A.5.
12. The facts in paragraph C.

THIRTEENTH SPECIFICATION

NEGLIGENCE ON MORE THAN ONE OCCASION

Respondent is charged with committing professional misconduct as defined in New York Education Law §6530(3) 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:

13. The facts in Paragraphs A and A.1, A and A.2, A and A.3, A and A.4, A and A.5 and/or C.

FOURTEENTH SPECIFICATION

INCOMPETENCE ON MORE THAN ONE OCCASION

Respondent is charged with committing professional misconduct as defined in New York Education Law §6530(5) 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:

14. The facts in Paragraphs A and A.1, A and A.2, A and A.3, A and A.4, A and A.5 and/or C.

FIFTEENTH AND SIXTEENTH SPECIFICATIONS

GROSS NEGLIGENCE

Respondent is charged with committing professional misconduct as defined in New York Education Law §6530(4) by practicing the profession of medicine with gross negligence on a particular occasion as alleged in the facts of the following:

15. The facts in Paragraph A and A.1, A and A.2, A and A.3, A and A.4 and/or A and A.5.
16. The facts in Paragraph C.

SEVENTEENTH SPECIFICATION

GROSS INCOMPETENCE

Respondent is charged with committing professional misconduct as defined in New York Education Law §6530(6) by practicing the profession of medicine with gross incompetence as alleged in the facts of the following:

17. The facts in Paragraph A and A.1, A and A.2, A and A.3, A and A.4, A and A.5 and/or C.

EIGHTEENTH SPECIFICATION
VIOLATION OF A CONDITION IMPOSED ON LICENSEE
PURSUANT TO PUBLIC HEALTH LAW § 230

Respondent is charged with committing professional misconduct as defined in New York Education Law § 6530(29) by reason of his having violated a term of probation or a condition imposed upon him pursuant to Section 230 of New York Public Health Law, in that Petitioner charges:

18. The facts in Paragraphs A and B.

DATED: May 6, 2002
Albany, New York



PETER D. VAN BUREN
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 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.
3. 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.
4. 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].
5. 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.
6. 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 Respondent's staff at practice locations or OPMC offices.
7. 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.
8. During the period of probation, Respondent shall be accompanied by a third party monitor/chaperone, preferably a licensed or certified health care professional, approved in advance by the Director of OPMC, during examination and treatment of any minor under the age of 18 who does not have a parent or legal guardian present during the examination and treatment. Chaperones shall be required to provide OPMC with verification of compliance as may be requested by OPMC.

9. Respondent shall be subject to a Behavior Monitoring Program in his medical practice for a period of five (5) years. 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 distribute this form to all patients seen in his medical practice the first week of every month. In addition, the Staff Feedback Survey form, attached as Exhibit "B.2", shall be completed the first of each month by all staff employed in Respondent's medical practice. Such staff surveys will be confidential and will be submitted to a designated staff person for access by the behavior monitor. Staff surveys shall be confidential as noted on the survey form. The behavior monitor will collect all survey forms from a designated staff member during site visits to the 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 and other monitors to the extent necessary for monitoring.
10. Respondent shall ensure that the behavior monitor is familiar with the Order and terms of probation, and 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 office practice. The behavior monitor shall report within 24 hours any suspected impairment, inappropriate behavior, patient or staff complaints regarding behavior, or possible misconduct to OPMC.
11. Respondent shall continue in counseling or other therapy with a therapist as long as the therapist determines is necessary, or for the period of time dictated in the Order, and shall participate in a self help group focusing on anger management and/or other therapy groups as deemed appropriate by the therapist.
12. Respondent shall cause the therapist to submit a proposed treatment plan and quarterly reports to OPMC certifying whether Respondent is in compliance with the treatment plan. Respondent shall cause the therapist to report to OPMC within 24 hours if Respondent leaves treatment against medical advice, or displays any symptoms of a suspected or actual relapse.
13. Respondent shall comply with any request from OPMC to obtain an independent psychiatric/chemical dependency evaluation by a health care professional proposed by the Respondent and approved, in writing, by the Director of OPMC.
14. Respondent shall comply with this Order and all its terms, and shall bear all associated compliance costs. 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 this office's dedication to the provision of high quality care in a comfortable and courteous environment, this questionnaire has been developed to assess the physician and staff's efforts in obtaining this goal. We value your honest opinion about how we are doing and would appreciate your feedback. Please circle the answer which best applies to each question regarding your office visit today. Please be honest and include any additional comments that you feel may benefit us 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, and be assured that any negative statements will not effect the rendering of your care by Dr. Pieter Kark and his office staff. After completing this form please **return it to the receptionist.**

Gender: Male ____ Female ____ Age _____
Date _____ Time of Office Visit _____

Please rate Dr. Kark's performance in the following areas:

- | | | | | |
|----|----------------------------------------------------------------------------------------------------------|-----|----|------------|
| 1. | The physician understands the nature of my problems. | Yes | No | Don't Know |
| 2. | The physician made me and my family members feel at ease. | Yes | No | Don't Know |
| 3. | Good ability to listen and hear what I am saying. | Yes | No | Don't Know |
| 4. | Conducted the questioning of my medical history and the examination in a professional and caring manner. | Yes | No | Don't Know |
| 5. | Showed no evidence of verbal anger or harassment. | Yes | No | Don't Know |
| 6. | Showed no evidence of physical anger or harassment. | Yes | No | Don't Know |
| 7. | Explained the proposed treatment and possible alternatives completely. | Yes | No | Don't Know |

Please rate the OFFICE STAFF in the following areas:

- | | | | | |
|----|--------------------------------------------------------------------------|-----|----|------------|
| 1. | The office staff was helpful with my care. | Yes | No | Don't Know |
| 2. | The office staff protected my confidentiality. | Yes | No | Don't Know |
| 3. | The doctor and staff supported a harassment-free and caring environment. | Yes | No | Don't Know |
| 4. | The office staff made me and my family members feel at ease. | Yes | No | Don't Know |

EXHIBIT "B.2"

STAFF FEEDBACK SURVEY

Staff Member's Name (Please Print) _____

Date _____ Signature _____

In order to monitor and prevent any personal behavior which may contribute to a hostile work environment, this Feedback Survey has been developed. This practice endorses your thoughtful, honest completion of this survey. Influence or input by practice management is not appropriate. These surveys are to be confidential. No individual employee decisions are effected by your response. Your answers should be based on your perception during the previous 30 days. Please evaluate each area honestly, and circle the appropriate answer, and **return the completed survey form directly to the behavior monitor.**

Dr. Kark:

- | | | | | |
|----|---------------------------------------------------------------------|-----|----|------------|
| 1. | Deals with staff and patients in an ethical manner. | Yes | No | Don't Know |
| 2. | Is polite and courteous to all staff and patients. | Yes | No | Don't Know |
| 3. | Has not been physically abusive to patients and/or staff. | Yes | No | Don't Know |
| 4. | Has not been verbally abusive to patients and/or staff. | Yes | No | Don't Know |
| 5. | Seems to be stressed out, secretive or evasive. | Yes | No | Don't Know |
| 6. | Is receptive to all feedback regarding any anger management issues. | Yes | No | Don't Know |

Please include any specific comments below:

Doctor Kark is aware of your completing this survey, and he agrees that your completed form is confidential and that you are to forward this form, irrespective of its content, directly to his behavior monitor, at the following address: