



***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*

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

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

**PUBLIC**

November 27, 2002

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

Kenneth C. Wu, M.D.  
9 Upland Terrace  
Allegany, NY 14746

RE: License No. 127255

Dear Dr. Wu:

Enclosed please find Order #BPMC 02-357 of the New York State Board for Professional Medical Conduct. This Order and any penalty provided therein goes into effect November 27, 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:

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

**IN THE MATTER  
OF  
KENNETH C. WU, M.D.**

**SURRENDER  
ORDER**

02-357

Upon the application of (Respondent) Kenneth C. Wu, M.D. to Surrender his license as a physician in the State of New York, which is made a part of this Surrender Order, it is

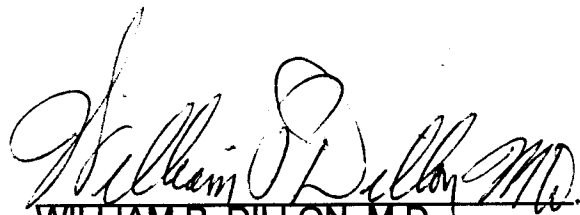
ORDERED, that the Surrender, and its terms, are adopted and SO ORDERED, and it is further

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, 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: 11/26/02



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  
KENNETH C. WU, M.D.**

**SURRENDER  
of  
LICENSE**

Kenneth C. Wu, M.D., representing that all of the following statements are true deposes and says:

That on or about June 18, 1976, I was licensed to practice as a physician in the State of New York, and issued License No. 127255 by the New York State Education Department.

My current address is 9 Upland Terrace, Allegany, NY 14746, 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 one specification of professional misconduct.

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

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 admit guilt to the specification, in full satisfaction of the charges against me.

I ask the Board to accept the Surrender of my License.

I understand that if the Board does not accept this Surrender, none of its terms shall bind me or constitute an admission of any of the acts of alleged misconduct; this application 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 accepts the Surrender of my License, the Chair of the Board shall issue a Surrender 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 Surrender Order by first class mail to me at the address in this Surrender of License, or to my attorney by certified mail, OR upon facsimile transmission to me or my attorney, whichever is first.

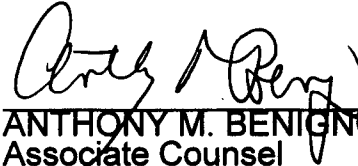
I ask the Board to accept this Surrender of License of my own free will and not under duress, compulsion or restraint. In consideration of the value to me of the Board's acceptance of this Surrender of License, allowing me to resolve this matter without the various risks and burdens of a hearing on the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

DATED 11-13-2012

  
\_\_\_\_\_  
KENNETH C. WU, M.D.  
RESPONDENT

The undersigned agree to Respondent's attached Surrender of License and to its proposed penalty, terms and conditions.

DATE: 11/18/02



ANTHONY M. BENIGNO  
Associate Counsel  
Bureau of Professional Medical Conduct

DATE: 11/21/02



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  
KENNETH C. WU, M.D.

STATEMENT  
OF  
CHARGES

Kenneth C. Wu, M.D., the Respondent, was authorized to practice medicine in New York State on or about June 18, 1976, by the issuance of license number 127255 by the New York State Education Department.

**FACTUAL ALLEGATIONS**


- A. On or about November 10, 1999, the New York State Board for Professional Medical Conduct issued Consent Order #BPMC 99-276 hereto attached as Exhibit 1, wherein KENNETH C. WU, M.D., Respondent, admitted guilt to practicing medicine with negligence on more than one occasion. The Order imposed a condition requiring Respondent to maintain current registration of his license as long as he possesses a medical license. Respondent's registration to practice medicine expired on November 30, 2001. Respondent has not re-registered to practice medicine.

**FIRST SPECIFICATION**

Respondent is charged with professional misconduct under N.Y. Education Law § 6530(29) by reason of his having violated a condition imposed upon him pursuant to Section 230 of the Public Health Law, by BPMC Order #99-276, in that Petitioner charges:

1. The facts in paragraph A.

DATED: *November 18*, 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

IN THE MATTER  
OF  
KENNETH C. WU, M.D.

CONSENT  
AGREEMENT

AND

ORDER

BPMC #99-276

STATE OF NEW YORK )  
COUNTY OF CATTARAUGUS) <sup>SO.:</sup>

KENNETH C. WU, M.D., (Respondent) being duly sworn, deposes and says:

That on or about June 18, 1976, I was licensed to practice as a physician in the State of New York, having been issued License No. 127255 by the New York State Education Department.

My current address is 112 Main Street, <sup>Allegany Co.</sup> ~~Clear~~, New York, 14706, and I will advise the Director of the Office of Professional Medical Conduct of any change of my address.

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

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

I admit guilt to the Third Specification, insofar as it relates to Factual Allegations C.1, D.1, and E.1, in full satisfaction of the charges against me. I hereby agree to the following penalty: First, my license to practice medicine in New York State shall be suspended for a period of two years, with the suspension being stayed pending my compliance with the Terms of Probation attached hereto as Exhibit "B", and made a part hereof; and second, my license to practice medicine in New York State shall be permanently limited to preclude



me from practicing obstetrics.

I further agree that the Consent Order for which I hereby apply shall impose the following conditions: my practice of medicine shall be monitored in accordance with the Terms of Probation.

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 possesses 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)(McKinney Supp 1999).

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

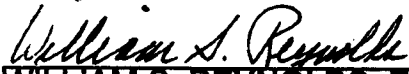
AFFIRMED:

DATED 10/6/99


Kenneth C. Wu  
KENNETH C. WU, 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.

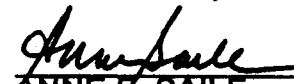
DATE: 10/08/99

  
WILLIAM S. REYNOLDS, ESQ.  
Attorney for Respondent

DATE: 10/12/99

  
MICHAEL A. HISER  
ASSOCIATE COUNSEL  
Bureau of Professional  
Medical Conduct

DATE: October 14, 1999

  
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  
KENNETH C. WU, M.D.

CONSENT  
ORDER

Upon the proposed agreement of KENNETH C. WU, M.D. (Respondent) for Consent Order, which application is made a part hereof, it is agreed to 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: 10/15/99.

*Denise M. Bolan, R.P.A.-C*  
DENISE M. BOLAN, R.P.A.  
Vice Chair  
State Board for Professional  
Medical Conduct

## EXHIBIT "B"

### Terms of Probation

1. Respondent shall conduct himself/herself in all ways in a manner befitting his/her professional status, and shall conform fully to the moral and professional standards of conduct and obligations imposed by law and by his/her profession.
2. Respondent shall submit written notification to the New York State Department of Health addressed to the Director of the Office of Professional Medical Conduct, New York State Department of Health, 433 River Street, Suite 303, Troy, NY 12180-2299; said notice is to include a full description of any employment and practice, professional and residential addresses and telephone numbers within or without New York State, and any and all investigations, charges, convictions or disciplinary actions by any local, state or federal agency, institution or facility, within thirty days of each action.
3. Any civil penalty not paid by the date prescribed herein shall be subject to all provisions of law relating to debt collection by New York State. This includes but is 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].
4. The period of probation shall be tolled during periods in which Respondent is not engaged in the active practice of medicine in New York State. Respondent shall notify the Director of OPMC, in writing, if Respondent is not currently engaged in or intends to leave the active practice of medicine in New York State for a period of thirty (30) consecutive days or more. Respondent shall then notify the Director again prior to any change in that status. The period of probation shall resume and any terms of probation which were not fulfilled shall be fulfilled upon Respondent's return to practice in New York State.
5. Respondent's professional performance may be reviewed by the Director of OPMC. This review may include, but shall not be limited to, a review of office records, patient records and/or hospital charts, interviews with or periodic visits with Respondent and his/her staff at practice locations or OPMC offices.
6. Respondent shall maintain legible and complete medical records which accurately reflect the evaluation and treatment of patients. The medical records shall contain all information required by State rules and regulations regarding controlled substances.

### PRACTICE MONITOR

7. Respondent shall practice medicine only when monitored by a licensed physician, board certified in an appropriate specialty, ("practice monitor") proposed by Respondent and subject to the written approval of the Director of OPMC. Approval of a monitor or supervisor is a condition precedent to

**the Respondent's further practice of medicine and any practice of medicine without a pre-approved monitor is unauthorized within the meaning of N.Y. Educ. Law §6512, and may lead to criminal prosecution.**

- a. Respondent shall make available to the monitor any and all records or access to the practice requested by the monitor, including on-site observation. The practice monitor shall visit Respondent's medical practice at each and every location, on a random unannounced basis at least monthly and shall examine a selection (no less than 20) of records maintained by Respondent, including patient records, prescribing information and office records. The review will determine whether the Respondent's medical practice is conducted in accordance with the generally accepted standards of professional medical care. Any perceived deviation of accepted standards of medical care or refusal to cooperate with the monitor shall be reported within 24 hours to OPMC.
  - b. Respondent shall be solely responsible for all expenses associated with monitoring, including fees, if any, to the monitoring physician.
  - c. Respondent shall cause the practice monitor to report quarterly, in writing, to the Director of OPMC.
  - d. Respondent shall maintain medical malpractice insurance coverage with limits no less than \$2 million per occurrence and \$6 million per policy year, in accordance with Section 230(18)(b) of the Public Health Law. Proof of coverage shall be submitted to the Director of OPMC prior to Respondent's practice after the effective date of this Order.
8. Respondent shall comply with all terms, conditions, restrictions, limitations and penalties to which he or she is subject pursuant to the Order and shall assume and bear all costs related to compliance. Upon receipt of evidence of noncompliance with, or any violation of these terms, the Director of OPMC and/or the Board may initiate a violation of probation proceeding and/or any such other proceeding against Respondent as may be authorized pursuant to the law.

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

-----X

IN THE MATTER : STATEMENT  
OF : OF  
KENNETH C. WU, M.D. : CHARGES

-----X

KENNETH C. WU, M.D., the Respondent, was authorized to practice medicine in New York State on or about June 18, 1976 by the issuance of license number 127255 by the New York State Education Department. The Respondent is currently registered with the New York State Education Department to practice medicine for the period December 1, 1997 through November 30, 1999, with a registration office address of 112 Main Street, Olean, New York 14706.

**FACTUAL ALLEGATIONS**

A. Respondent, an obstetrician and gynecologist, treated Patient A (Patients are identified in the appendix attached hereto and made a part hereof) from on or about February 12, 1998 through August 18, 1998 at his office at 112 Main Street, Olean, New York 14706 (hereafter, "the office") and at Olean General Hospital, 515 Main Street, Olean, New York 14760 (hereafter, "Olean General"). Respondent provided pre-natal and other obstetric care to Patient A. Respondent's care and treatment of Patient A failed to meet acceptable standards of medical care in that:



1. Respondent failed to adequately evaluate the fetal heart rate monitoring strips of Patient A's fetus from 1:00 a.m. through 4:33 a.m. on August 18, 1998.
2. Respondent ordered the transport of Patient A to Children's Hospital of Buffalo at or about 3:30 a.m., which was inappropriate given the condition of the fetus as revealed in the fetal heart rate tracings.
3. Respondent failed to perform a caesarean section delivery of Patient A's fetus on August 18, 1998, despite medical indications.

B. Respondent treated Patient B at various times from on or about 1977 through July 1992 for gynecologic and obstetric care. Between November 1991 and July 1992, Respondent's care and treatment of Patient B failed to meet acceptable standards of medical care in that:

1. Respondent failed to obtain or order medically indicated diagnostic tests in the second trimester of Patient B's pregnancy, including a serum glucose or glucose tolerance test.

C. Respondent treated Patient C from on or about August 15, 1994 through May 1996 relating to gynecologic and obstetric care, including the delivery of the patient's stillborn twins at 8 1/2 months gestation in or about May 1995. Respondent's care and treatment of Patient C failed to meet acceptable standards of medical care in that:

1. Respondent failed to obtain adequate diagnostic tests during his pre-natal care of Patient C in 1994 through 1995, including obtaining an alpha-feto protein test.

D. Respondent treated Patient D at various times from on or about October 19, 1995 through June 1996 relating to gynecologic and obstetric care, including on or about April 29, 1996.

Respondent's care and treatment of Patient D failed to meet acceptable standards of medical care in that:

1. Respondent failed to obtain adequate diagnostic tests during his pre-natal care of Patient D in 1995 through 1996, including obtaining an alpha-feto protein test.

E. Respondent treated Patient E at various times from on or about April 21, 1994 through October 1998 relating to gynecologic and obstetric care, including through October 19, 1998.

Respondent's care and treatment of Patient E failed to meet acceptable standards of medical care in that:

1. Respondent failed to obtain adequate diagnostic tests during his pre-natal care of Patient E in 1998, including obtaining an alpha-feto protein test.

**SPECIFICATIONS OF MISCONDUCT**

**FIRST SPECIFICATIONS**

**GROSS NEGLIGENCE**

Respondent is charged with professional misconduct under N.Y. Educ. Law §6530(4) by reason of his practicing the profession of medicine with gross negligence on a particular occasion, in that Petitioner charges the following:

1. The facts in paragraphs A and A.1, A and A.2, and/or A and A.3.

**SECOND SPECIFICATIONS**

**GROSS INCOMPETENCE**

Respondent is charged with professional misconduct under N.Y. Educ. Law §6530(6) by reason of his practicing the profession of medicine with gross incompetence on a particular occasion, in that Petitioner charges the following:

2. The facts in paragraphs A and A.1, A and A.2, and/or A and A.3.

**THIRD SPECIFICATION**

**NEGLECT ON MORE THAN ONE OCCASION**

Respondent is charged with professional misconduct under N.Y. Educ. Law §6530(3) by reason of his practicing the profession of medicine with negligence on more than one occasion,

in that Petitioner charges that Respondent committed two or more of the following:

3. The facts set forth in paragraphs A and A.1, A and A.2, A and A.3, B and B.1, C and C.1, D and D.1, and/or E and E.1.

**FOURTH SPECIFICATION**

**INCOMPETENCE ON MORE THAN ONE OCCASION**

Respondent is charged with professional misconduct under N.Y. Educ. Law §6530(5) by reason of his practicing the profession of medicine with incompetence on more than one occasion, in that Petitioner charges that Respondent committed two or more of the following:

4. The facts set forth in paragraphs A and A.1, A and A.2, A and A.3, b and B.1, C and C.1, D and D.1, and/or E and E.1.

DATED: *October 12, 1999*

Albany, New York

*Peter D. Van Buren*  
PETER D. VAN BUREN  
Deputy Counsel  
Bureau of Professional  
Medical Conduct