



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

PUBLIC

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

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

June 4, 2004

CERTIFIED MAIL-RETURN RECEIPT REQUESTED

Frank J. Nocilla, M.D.
2201 North Shore Road
Hadley, NY 12835

RE: License No. 196889

Dear Dr. Nocilla:

Enclosed please find Order #BPMC 03-274 of the New York State Board for Professional Medical Conduct. This Order and any penalty provided therein goes into effect June 11, 2004.

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 "Ansel R. Marks". The signature is written in a cursive style with a large initial "A".

Ansel R. Marks, M.D., J.D.
Executive Secretary
Board for Professional Medical Conduct

cc: Pamela N. Nichols, Esq.
O'Connell and Aronowitz
54 State Street
Albany, NY 12207-2501

NEW YORK STATE DEPARTMENT OF HEALTH
STATE BOARD FOR PROFESSIONALMEDICAL CONDUCT

**IN THE MATTER
OF
FRANK J. NOCILLA, M.D.
CO-03-10-4480-A**

**CONSENT AGREEMENT
AND ORDER**

BPMC No. 03-274

FRANK J. NOCILLA, M.D., states:

That on or about August 16, 1994, I was licensed to practice as a physician in the State of New York, having been issued License No. 196889 by the New York State Education Department.

My current address is 2201 North Shore Road, Hadley, NY 12835, 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 one (1) specification of professional misconduct.

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

I do not contest the one (1) Specification, in full satisfaction of the charges against me. I agree, hereby, to the following penalty:

Five (5) years suspension of my New York state license to practice medicine, six (6) months actual retroactive to October 29, 2003, the remainder stayed, with five (5) years probation in accordance with Exhibit B attached, hereto; and

a \$10,000.00 fine.

The fine is to be paid within ten (10) months at the rate of \$1,000.00 per month for ten (10) months, the first payment to be made within thirty (30) days of the effective date of this Order to the NYS Department of Health, Bureau of Accounts Management, Revenue Unit, Empire State Plaza, Corning Tower, Room 1258, Albany, NY 12237-0016

I further agree that the Consent Order for which I hereby apply shall impose the following conditions:

That, except during periods of actual suspension, I shall maintain current registration of my 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 Respondent possesses his license; and

That I 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. I 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. I shall meet with a person designated by the Director of OPMC as directed. I shall respond promptly and provide any and all documents and information within my 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 I possess my license.

The above requirement that, "I shall meet with a person designated by the Department of OPMC as directed," is waived for any periods that Respondent is serving as a full time active duty member of the United States Armed Forces stationed outside the continental United States, upon Respondent providing the Director, OPMC, with a copy of Respondent's active duty orders and written

verification from Respondent's commanding officer that Respondent is on full time active duty outside the continental United States and the location and duration of that service. Respondent must, immediately upon returning from such active military service outside the continental United States, notify the Director, OPMC, of such in writing.

I, stipulate, hereby, 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 I am charged with professional misconduct in the future, this agreement and order shall be admitted into evidence in that proceeding.

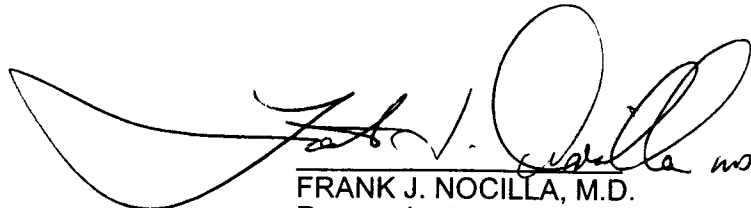
I, hereby, make this application to the State Board for Professional Medical Conduct (the Board) and request that it be granted.

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

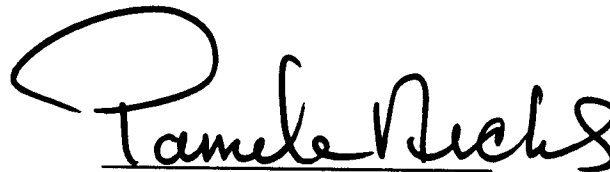


FRANK J. NOCILLA, M.D.
Respondent

DATED 5/11/04

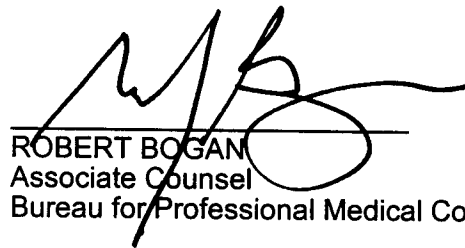
The undersigned agree to the attached application of the Respondent and to the proposed penalty based on the terms and conditions thereof.

DATE: 5/14/04



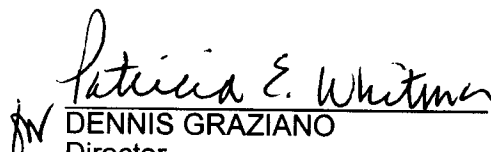
PAMELA A. NICHOLS
Attorney for Respondent

DATE: 19 May 2004



ROBERT BOGAN
Associate Counsel
Bureau for Professional Medical Conduct

DATE: 6/2/2004



DENNIS GRAZIANO
Director
Office of Professional Medical Conduct

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

IN THE MATTER
OF **CONSENT ORDER**
FRANK J. NOCILLA, M.D.


Upon the proposed agreement of **FRANK J. NOCILLA, 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 it is further

ORDERED, that this order shall be effective upon issuance by the Board, that 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: 6/31/04



MICHAEL A. GONZALEZ, R.P.A.
Vice Chair
State Board for Professional
Medical Conduct

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

IN THE MATTER
OF
FRANK J. NOCILLA, M.D.
CO-03-10-4480-A

STATEMENT
OF
CHARGES

FRANK J. NOCILLA, M.D., the Respondent, was authorized to practice medicine in New York state on August 16, 1994, by the issuance of license number 196889 by the New York State Education Department.

FACTUAL ALLEGATIONS

A. On or about March 25, 2004, in the City Court, City of Schenectady, County of Schenectady, New York, Respondent was found guilty, based on a plea of guilty, of a violation of New York Penal Law §178.10, Criminal diversion of prescription medications and prescriptions in the fourth degree, a class A misdemeanor.

SPECIFICATION

Respondent violated New York Education Law §6530(9)(a)(i) by being convicted of committing an act constituting a crime under New York state law, in that Petitioner charges:

1. The facts in Paragraph A.

DATED: *May 14*, 2004
Albany, New York


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

EXHIBIT B

Terms of Probation

1. Respondent shall conduct himself in all ways in a manner befitting his professional status, and shall conform fully to the moral and professional standards of conduct and obligations imposed by law and by his profession.
2. Respondent shall submit written notification to the New York State Department of Health addressed to the Director, Office of Professional Medical Conduct (OPMC), Hedley Park Place, 433 River Street Suite 303, Troy, New York 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. Respondent shall fully cooperate with and respond in a timely manner to requests from OPMC to provide written periodic verification of Respondent's compliance with the terms of this Order. Respondent shall personally meet with a person designated by the Director of OPMC as requested by the Director. Such personal meeting is waived for any periods that Respondent is serving as a full time active duty member of the United States Armed Forces stationed outside the continental United States, upon Respondent providing the Director, OPMC, with a copy of Respondent's active duty orders and written verification from Respondent's commanding officer that Respondent is on full time active duty outside the continental United States and the location and duration of that service. Respondent must, immediately upon returning from such active military service outside the continental United States, notify the Director, OPMC, of such in writing.
4. 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].
5. 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 or on full time active duty as a member of the United States Armed Forces under the authority of his New York state license to practice medicine. Respondent shall notify the Director, OPMC, in writing, if Respondent is not currently engaged in or intends to leave the active practice of medicine in New York State or active duty as a full time member of the Armed Forces 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 that were not fulfilled shall be fulfilled upon Respondent's return to the practice of medicine in New York State or full time active duty as a member of the United States Armed Forces.
6. 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 staff at practice locations or OPMC offices.
7. 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.

8. Respondent shall enroll in and complete a continuing education course in each of the three (3) following areas: professional ethics, medical recordkeeping, and prescribing, subject to the prior written approval of the Director of OPMC, all to be completed within the first year of probation or as otherwise specified in this Order. The one (1) year period will be extended if Respondent is on full time active duty serving as a member with the United States Armed Forces, stationed outside the continental United States, upon Respondent providing to the Director, OPMC, a copy of Respondent's active duty orders, and written verification from Respondent's commanding officer that Respondent is on full time active duty outside the continental United States, and the location and duration of that service. Respondent must immediately, upon returning from such active military service outside the continental United States, notify the Director, OPMC, of such in writing.
9. Respondent shall comply with all terms, conditions, restrictions, limitations, and penalties to which he 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.