



***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*

September 8, 2004

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

Abraham Zachariah, M.D.  
555 Knowles Drive  
Suite 117  
Los Gatos, CA 95030

Re: License No. 137458

Dear Dr. Zachariah:

Enclosed please find Order #BPMC 04-202 of the New York State Board for Professional Medical Conduct. This order and any penalty provided therein goes into effect September 15, 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 of receipt of the Order to the 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: Edward A. Hinshaw, Esq.  
Hinshaw, Draa, Marsh, Still & Hinshaw  
12901 Saratoga Avenue  
Saratoga, CA 95070-9998

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

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IN THE MATTER  
OF  
**ABRAHAM ZACHARIAH, M.D.**  
**CO-04-02-0679-A**

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**CONSENT AGREEMENT  
AND ORDER**

BPMC No. 04-202

**ABRAHAM ZACHARIAH, M.D., (Respondent) states:**

That on or about March 16, 1979, I was licensed to practice as a Physician in the State of New York, having been issued License No. 137458 by the New York State Education Department.

My current address is 555 Knowles Drive, Suite #117, Los Gatos, CA 95030, 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 three (3) specifications 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 three (3) specifications, in full satisfaction of the charges against me. I, hereby, agree to the following penalty:

Five (5) years suspension of my New York state license to practice medicine, stayed with five (5) years probation tolled in accordance with the terms in Exhibit "B" attached, hereto.

Prior to returning to the practice of medicine in New York state, I shall provide ninety (90) days notice in writing to the State Board for Professional Medical Conduct requesting an opportunity to appear before a Committee of the Board to prove that I am fit and competent to practice as a physician under whatever limitations, terms of probation or further conditions the Board, in its reasonable discretion, exercised by a Committee on Professional Conduct, may impose. I understand and agree that the Committee's determination shall not be reviewable through recourse to the Administrative Review Board.

I further agree that the Consent Order for which I apply, hereby, 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.

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 make, hereby, 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


  
ABRAHAM ZACHARIAH, M.D.  
Respondent


DATED August 24, 2004

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

DATE: August 23, 2004

  
EDWARD HINSHAW  
Attorney for Respondent

27  
DATE: 26 August 2004  


  
ROBERT BOGAN  
Associate Counsel  
Bureau of Professional Medical Conduct

DATE: 9/3/04

  
DENNIS J. GRAZIANO  
Director  
Office of Professional Medical Conduct

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

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IN THE MATTER  
OF  
ABRAHAM ZACHARIAH, M.D.

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CONSENT ORDER

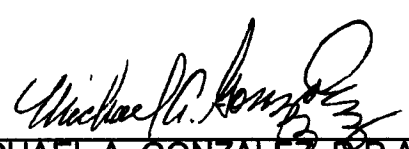
Upon the proposed agreement of **ABRAHAM ZACHARIAH, M.D.**, (Respondent) for Consent Order, which application is made a part hereof, it is agreed to and

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, 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: 9/7/04

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

"Exhibit A"

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

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IN THE MATTER  
OF  
ABRAHAM ZACHARIAH, M.D.  
CO-04-02-0679-A

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STATEMENT  
OF  
CHARGES

**ABRAHAM ZACHARIAH, M.D.**, the Respondent, was authorized to practice medicine in New York state on March 16, 1979, by the issuance of license number 137458 by the New York State Education Department.

**FACTUAL ALLEGATIONS**

A. On or about January 26, 2000, in the Superior Court of California, County of Santa Clara, Respondent was found guilty, based on a plea of nolo contendere, of Driving under the influence of alcohol, a misdemeanor, and was sentenced to three (3) years probation, two (2) days jail, to pay \$680.00, and to attend a First Offender Alcohol Program.

B. On or about December 24, 2003, the Division of Medical Quality, Medical Board of California, Department of Consumer Affairs (hereinafter "California Board"), by a Decision (hereinafter "California Decision"), publically reprimanded Respondent, required him to successfully complete in PACE Program, and required him to pay \$8,000.00 costs, based on unprofessional conduct.

C. The conduct resulting in the California Board disciplinary action against Respondent would constitutes misconduct under the laws of New York state, pursuant to the following sections of New York state Law:

1. New York Education Law §6530(3) (negligence on more than one occasion);
2. New York Education Law §6530(11) (permitting, aiding or abetting an unlicensed person to perform activities requiring a license);

3. New York Education Law §6530(25) (delegating professional responsibilities to a person when the licensee delegating such responsibilities knows or has reason to know that such person is not qualified by licensure to perform them); and/or

4. New York Education Law §6530(32) (failure to maintain a record for each patient which accurately reflects the evaluation and treatment for the patient).

D. On or about February 2, 2004, in the Superior Court of California, County of Santa Clara, California, Respondent was found guilty, based on a plea of nolo contendere, of Driving under the influence of alcohol, a misdemeanor, and was sentenced to three (3) years probation, ten (10) days jail, to pay a \$950.00, and an eighteen (18) month drivers license restriction.

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

Respondent violated New York Education Law §6530(9)(a)(iii) by having been convicted of committing an act constituting a crime under the law of another jurisdiction and which, if committed within this state, would have constituted a crime under New York state law, in that Petitioner charges:

1. The facts in Paragraph A.
2. The facts in Paragraph D.

**THIRD SPECIFICATION**

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

3. The facts in Paragraphs B and/or C.

DATED: *August 25*, 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.
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. 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.
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 remain drug/alcohol free.
9. Respondent shall remain active in self help groups such as, but not limited to, Narcotics Anonymous, Alcoholics Anonymous and Caduceus.
10. Respondent shall notify all treating physicians of his history of alcohol/chemical dependency. Respondent shall advise OPMC of any controlled or mood-altering substance given or prescribed by treating physicians.

11. Respondent shall practice only when monitored by qualified health care professionals ("sobriety monitor", "practice supervisor" and "therapist") proposed by Respondent and approved, in writing, by the Director of OPMC. Monitors shall not be family members or personal friends, or be in professional relationships which would pose a conflict with monitoring responsibilities.
12. Respondent shall ensure that the monitors are familiar with Respondent's drug/alcohol dependency and with the terms of this Order. Respondent shall cause the monitors to report any deviation from compliance with the terms of this Order to OPMC. Respondent shall cause the monitors to submit required reports on a timely basis.
13. Respondent shall submit, at the request of a monitor, to random, unannounced observed blood, breath and/or urine screens for the presence of drugs/alcohol. This monitoring will be on a random, seven-days a week, twenty-four hours a day basis. Respondent shall report for a drug screen within four (4) hours of being contacted by the monitor. Respondent shall cause the monitor to report to OPMC within 24 hours if a test is refused or delayed by Respondent or a test is positive for any unauthorized substance.
14. Respondent shall meet with a sobriety monitor on a regular basis who will submit quarterly reports to OPMC certifying Respondent's sobriety. These reports are to include a) forensically valid results of all drug/alcohol monitoring tests to be performed at a frequency of no less than six (6) per month for the first 12 months of the period of probation, then at a frequency to be proposed by the sobriety monitor and approved by OPMC and b) an assessment of self-help group attendance (e.g., AA/NA/Caduceus, etc.), 12 step progress, etc.
15. Respondent shall avoid all substances which may cause positive urines such as herbal tea, poppy seeds, mouthwash, cough medication. Any positive result will be considered a violation of this Order.
16. Respondent shall practice medicine only when supervised in his medical practice. The practice supervisor shall be on-site at all locations, unless determined otherwise by the Director of OPMC. Respondent shall not practice medicine until a practice supervisor has been approved. Respondent shall ensure that the practice supervisor is in a position to regularly observe and assess Respondent's medical practice. Respondent shall cause the practice supervisor to report within 24 hours any suspected impairment, inappropriate behavior, questionable medical practice or possible misconduct to OPMC.
17. Respondent shall cause the practice supervisor to review Respondent's practice regarding the prescribing, administering, dispensing, inventorying, and disposal of controlled substances.
18. Respondent shall cause the practice supervisor to submit quarterly reports to OPMC regarding the quality of Respondent's medical practice, including the evaluation and treatment of patients, physical and mental condition, time and attendance or any unexplained absences from work, prescribing practices, and compliance or failure to comply with any term of probation.
19. Respondent shall engage and continue in therapy with a therapist in accordance with a treatment plan approved by the Director, OPMC.
20. 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.

21. 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. Respondent shall bear all expenses of such evaluation.
23. 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.