



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.

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NYS Department of Health*

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*Executive Deputy Commissioner
NYS Department of Health*

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Office of Professional Medical Conduct

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Vice Chair

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

Executive Secretary

February 27, 2001

CERTIFIED MAIL-RETURN RECEIPT REQUESTED

Leo J. Capobianco, D.O.
9809 Biscayne Lane
Las Vegas, NV 89117

RE: License No. 189870

Dear Dr. Capobianco:

Enclosed please find Order #BPMC 01-44 of the New York State Board for Professional Medical Conduct. This Order and any penalty provided therein goes into effect **February 27, 2001**.

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: Pamela Mandel, Esq.
The Common Suite 206
Millburn Avenue
Millburn, NJ 07041

Robert Bogan, Esq.

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

IN THE MATTER

OF

**LEO J. CAPOBIANCO, D.O.
CO-00-07-3088-A**

SURRENDER

ORDER

BPMC #01-44

LEO J. CAPOBIANCO, D.O., says:

On or about July 22, 1992, I was licensed to practice medicine as a physician in the State of New York having been issued License No. 189870 by the New York State Education Department. I currently reside at 9809 Biscayne Lane, Las Vegas, NV 89117.

I am not currently registered with the New York State Education Department to practice as a physician in the State of New York.

I understand that the New York State Board for Professional Medical Conduct has charged me with four (4) specifications of professional misconduct as set forth in the Statement of Charges, annexed hereto, made a part hereof, and marked as Exhibit "A."

I am applying to the State Board for Professional Medical Conduct for an agreement to allow me to surrender my license as a physician in the State of New York and request that the Board issue this Surrender Order.

I hereby agree not to contest the four (4) specifications set forth in the Statement of Charges (Exhibit A).

I understand that, in the event that this proposed agreement is not granted by the State Board for Professional Medical Conduct, 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 proposed agreement 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 State Board for Professional Medical Conduct shall be made without prejudice to the continuance of any disciplinary proceeding and the final determination by a Committee on Professional Medical Conduct 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 upon issuance by the Board, which may be accomplished by mailing, by first class mail, a copy of the Order to me at the address set forth above, or to my attorney, or upon transmission via facsimile to me or my attorney, whichever is first.

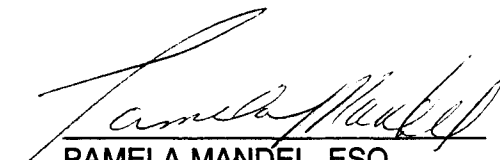
I am making this agreement of my own free will and accord and not under duress, compulsion, or restraint of any kind of manner.

Date: Feb 5, 2001



LEO J. CAOBIANCO, M.D.
Respondent

AGREED TO:

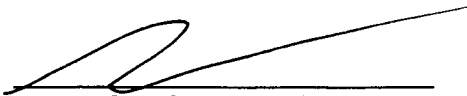
Date: Feb 7, 2001


PAMELA MANDEL, ESQ
Attorney for Respondent

Date: 14 February, 2001


ROBERT BOGAN
Associate Counsel
Bureau of Professional Medical
Conduct

Date: 02/16/01, 2001


DENNIS J. GRAZIANO
Director
Office of Professional Medical
Conduct

ORDER

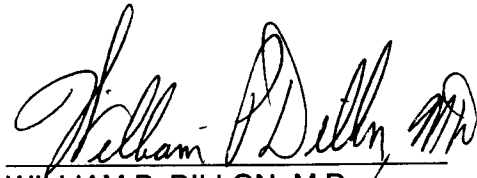
Upon the proposed agreement of **LEO J. CAPOBIANCO, D.O.**, to Surrender his license as a physician in the State of New York, which proposed agreement is made a part hereof, it is **AGREED TO** and

ORDERED, that the proposed agreement and the provisions thereof are hereby adopted; it is further

ORDERED, that the name of the 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, which may be accomplished by mailing, by first class mail, a copy to Respondent at the addresses set forth in this agreement, or to Respondent's attorney, or upon transmission via facsimile to Respondent or Respondent's attorney, whichever is earliest.

DATED: 2/22, 2001



WILLIAM P. DILLON, M.D.
Chair
State Board for Professional
Medical Conduct

EXHIBIT A

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

IN THE MATTER
OF
LEO J. CAPOBIANCO, D.O.
CO-00-07-3088-A

STATEMENT
OF
CHARGES

LEO J. CAPOBIANCO, D.O., the Respondent, was authorized to practice medicine in New York state on July 22, 1992, by the issuance of license number 189870 by the New York State Education Department.

FACTUAL ALLEGATIONS

A. From on or about early 1997 through on or about late 1997 the Respondent submitted false claims for reimbursement for services that were not rendered, different and more costly services than were actually rendered, services that were rendered at the homes of beneficiaries that were claimed to be rendered in an office, services that no licensed doctor had determined were medically necessary, and services that were provided by unsupervised medical personnel.

SPECIFICATIONS

FIRST SPECIFICATION

Respondent violated New York Education Law §6530(2) by practicing the profession fraudulently, in that Petitioner charges:

1. The facts in Paragraph A.

SECOND SPECIFICATION

Respondent violated New York Education Law §6530(20) by conduct in the practice of medicine which evidences moral unfitness to practice medicine, in that Petitioner charges:

2. The facts in paragraph A.

THIRD SPECIFICATION

Respondent violated New York Education Law §6530(21) by willfully making or filing a false report or failing to file a report required by law or by the department of health or the education department, or willfully impeding or obstructing such filling, or inducing another person to do so, in that Petitioner charges:

3. The facts in paragraph A.

FOURTH SPECIFICATION

Respondent violated New York Education Law §6530(32) by failing to maintain a record for each patient which accurately reflects the evaluation and treatment of the patient, in that Petitioner charges:

4. The facts in paragraph A.

DATED: *February 9*, 2001
Albany, New York

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