



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*

Dennis P. Whalen
*Executive Deputy Commissioner
NYS Department of Health*

Dennis J. Graziano, Director
Office of Professional Medical Conduct

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Chair

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

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

February 4, 2003

CERTIFIED MAIL-RETURN RECEIPT REQUESTED

Robert S. Carson, M.D.
2 Woodstock Estates Drive - #B6
Woodstock, NY 12498

RE: License No. 077691

Dear Dr. Carson:

Enclosed please find Order #BPMC 03-26 of the New York State Board for Professional Medical Conduct. This Order and any penalty provided therein goes into effect February 4, 2003.

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: Burton W. Stone, Esq
Messrs Stone & Brantman
333 Jericho Turnpike
Jericho, NY 11753

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

IN THE MATTER
OF
ROBERT S. CARSON, M.D.

SURRENDER
ORDER

BPMC No. 03-26

Upon the application of (Respondent) ROBERT S. CARSON, 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

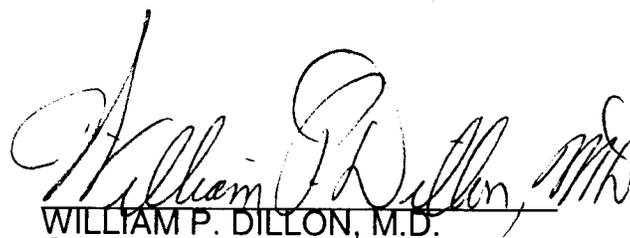
ORDERED, that the name of Respondent be stricken from the roster of physicians in the State of New York; it is further

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: 1/30/03



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
ROBERT S. CARSON, M.D.**

**SURRENDER
of
LICENSE**

ROBERT S. CARSON, M.D., representing that all of the following statements are true, deposes and says:

That on or about March 19, 1956, I was licensed to practice as a physician in the State of New York, and issued License No. 077691 by the New York State Education Department.

My current address is 154 Tinker Street, #B6, Woodstock, New York 12498, 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 twelve (12) specifications 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 assert that I cannot successfully defend against at least one of the acts of misconduct alleged, 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 1/13/03

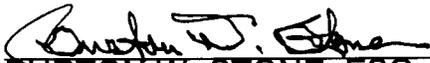

ROBERT S. CARSON, M.D.
RESPONDENT

*Please note new address of
3 Woodstock Estates Dr. #B6
Woodstock, NY 12498*

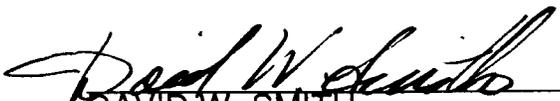


The undersigned agree to Respondent's attached Surrender of License and to its proposed penalty, terms and conditions.

DATE: 1-18-03


BURTON W. STONE, ESQ.
Attorney for Respondent

DATE: 1/23/03


DAVID W. SMITH
Associate Counsel
Bureau of Professional Medical Conduct

DATE: 1/28/03

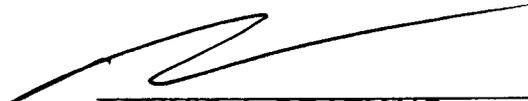

DENNIS J. GRAZIANO
Director
Office of Professional Medical Conduct

EXHIBIT "A"

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

IN THE MATTER
OF
ROBERT S. CARSON, M.D.

STATEMENT
OF
CHARGES

ROBERT S. CARSON, M.D., the Respondent, was authorized to practice medicine in New York State on or about March 19, 1956, by the issuance of license number 077691 by the New York State Education Department.

As the result of a conviction in Federal Court in Massachusetts for Conspiracy to Possess and Distribute Schedule II Controlled Substances, Respondent's license to practice medicine in New York State was revoked on December 19, 1989. On January 3, 1994, Respondent's license to practice medicine in New York State was restored by the New York State Board of Regents.

FACTUAL ALLEGATIONS

- A. Between in or about February, 1998 and in or about May, 1999, Respondent treated Patients A through G for HIV/AIDS at the Immune Treatment Center, Valley Stream, Long Island.
1. Respondent inappropriately treated them with typhoid vaccine.
 2. Respondent failed to maintain a record which accurately reflects the evaluation and treatment of such patient.

3. On or about March 31, 1999, Respondent inappropriately revealed personally identifiable facts, data or information about Patients A through G without their consent.
- B. Between in or about February, 1998 and in or about May, 1999 Respondent through ads and articles advertised that the use of typhoid vaccine would either “eradicate” HIV/AIDS or send it into “remission”.
1. Such advertisements and articles were misleading and/or deceptive.
 2. Such advertisements and articles were false and Respondent knew them to be false at the time they were promulgated and used them with intent to deceive.

SPECIFICATION OF CHARGES

FIRST SPECIFICATION

GROSS NEGLIGENCE

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

1. Paragraphs A and A1, 2.

SECOND SPECIFICATION

GROSS INCOMPETENCE

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

2. Paragraphs A and A1, 2.

THIRD SPECIFICATION

NEGLIGENCE ON MORE THAN ONE OCCASION

Respondent is charged with committing professional misconduct as defined in N.Y. Educ. 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:

3. Paragraphs A and A1, 2.

FOURTH SPECIFICATION

INCOMPETENCE ON MORE THAN ONE OCCASION

Respondent is charged with committing professional misconduct as defined in N.Y. Educ. 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:

4. Paragraphs A and A1, 2.

FIFTH SPECIFICATIONS
FRAUDULENT PRACTICE

Respondent is charged with committing professional misconduct as defined by N.Y. Educ. Law §6530(2) by practicing the profession of medicine fraudulently as alleged in the facts of the following:

5. Paragraphs B and B2.

SIXTH SPECIFICATION
UNDUE INFLUENCE

Respondent is charged with committing professional misconduct as defined in N.Y. Educ. Law §6530(17) by using undue influence on Patients A through G as alleged in the facts of the following:

6. Paragraphs B and B1.

SEVENTH SPECIFICATION

REVEALING OF PERSONALLY IDENTIFIABLE DATA

Respondent is charged with committing professional misconduct as defined in N.Y. Educ. Law §6530(22) by revealing personally identifiable facts, data and information, obtained in a professional capacity, of Patients A through G without their prior consent as alleged in the facts of the following:

7. Paragraphs A and A3.

EIGHTH SPECIFICATION

ADVERTISING NOT IN THE PUBLIC INTEREST

Respondent is charged with committing professional misconduct as defined in N.Y. Educ. Law §6530(27) by the use of advertising that was false, fraudulent, deceptive or misleading; represented intimidation or undue pressure,; guaranteed a service; or made claims of professional superiority which cannot be substantiated by licensee as alleged in the facts of the following:

8. Paragraphs B and B1.

NINTH SPECIFICATION
GUARANTEE OF A CURE

Respondent is charged with committing professional misconduct as defined in N.Y. Educ. Law §6530(34) by guaranteeing satisfaction or a cure resulting from professional services as alleged in the facts of the following:

9. Paragraphs B.

TENTH SPECIFICATION
FAILURE TO MAINTAIN RECORDS

Respondent is charged with committing professional misconduct as defined in N.Y. Educ. Law §6530(32) by failing to maintain a record for each patient which accurately reflects the care and treatment of the patient, as alleged in the facts of the following:

10. Paragraphs A and A2.

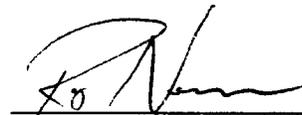
ELEVENTH AND TWELFTH SPECIFICATIONS

MORAL UNFITNESS

Respondent is charged with committing professional misconduct as defined in N.Y. Educ. 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:

11. Paragraphs A and A1, 3.
12. Paragraphs B and B1, 2.

DATED: November 7, 2002
New York, New York



ROY NEMERSON
Deputy Counsel
Bureau of Professional
Medical Conduct

EXHIBIT "B"

GUIDELINES FOR CLOSING A MEDICAL PRACTICE FOLLOWING A REVOCATION, SURRENDER OR SUSPENSION (of 6 months or more) OF A MEDICAL LICENSE

1. Respondent shall immediately cease and desist the practice of medicine in compliance with the terms of the Surrender Order. Respondent shall not represent himself or herself as eligible to practice medicine and shall refrain from providing an opinion as to professional practice or its application.
2. Within fifteen (15) days of the Surrender Order's effective date, Respondent shall notify all patients that he or she has ceased the practice of medicine, and shall refer all patients to another licensed practicing physician for their continued care, as appropriate.
3. Within thirty (30) days of the Surrender Order's effective date, Respondent shall have his or her original license to practice medicine in New York State and current biennial registration delivered to the Office of Professional Medical Conduct (OPMC) at 433 River Street Suite 303, Troy, NY 12180-2299.
4. Respondent shall arrange for the transfer and maintenance of all patient medical records. Within thirty (30) days of the Surrender Order's effective date, Respondent shall notify OPMC of these arrangements, including the name, address, and telephone number of an appropriate contact person, acceptable to the Director of OPMC, who shall have access to these records. Original records shall be retained for patients for at least six (6) years after the last date of service, and, for minors, at least six (6) years after the last date of service or three (3) years after the patient reaches the age of majority, whichever time period is longer. Records shall be maintained in a safe and secure place that is reasonably accessible to former patients. The arrangements shall ensure that all patient information is kept confidential and is available only to authorized persons. When a patient or authorized representative requests a copy of the patient's medical record, or requests that the original medical record be sent to another health care provider, a copy of the record shall be promptly provided or sent at reasonable cost to the patient (not to exceed seventy-five cents per page.) Radiographic, sonographic and like materials shall be provided at cost. A qualified person shall not be denied access to patient information solely because of inability to pay.
5. Within fifteen (15) days of the Order's effective date, if Respondent holds a Drug Enforcement Agency (DEA) certificate, Respondent shall advise the DEA in writing of the licensure action and shall surrender his or her DEA controlled substance certificate, privileges, and any used DEA #222 U.S. Official Order Forms Schedules 1 and 2, to the DEA.
6. Within fifteen (15) days of the Order's effective date, Respondent shall return any unused New York State official prescription forms to the Bureau of Controlled Substances of the New York State Department of Health. Respondent shall have all prescription pads bearing Respondent's name destroyed. If no other licensee is providing services at his practice location, Respondent shall dispose of all medications.
7. Within fifteen (15) days of the Order's effective date, Respondent shall remove from the public domain any representation that Respondent is eligible to practice medicine, including all related signs, advertisements, professional listings whether in telephone directories or otherwise, professional stationery or billings. Respondent shall not share, occupy or use office space in which another licensee provides health

care services.

8. Respondent shall not charge, receive or share any fee or distribution of dividends for professional services rendered (by himself or others) while barred from practicing medicine. Respondent may receive compensation for the reasonable value of services lawfully rendered, and disbursements incurred on a patient's behalf, prior to the Order's effective date.

9. If Respondent is a shareholder in any professional service corporation organized to engage in the practice of medicine and Respondent's license is revoked, surrendered or suspended for six (6) months or more pursuant to this Order, Respondent shall, within ninety (90) days of the Order's effective date, divest himself/herself of all financial interest in such professional services corporation in accordance with New York Business Corporation Law. If Respondent is the sole shareholder in a professional services corporation, the corporation must be dissolved or sold within ninety (90) days of the Order's effective date.

10. Failure to comply with the above directives may result in civil or criminal penalties. Practicing medicine when a medical license has been suspended, revoked or annulled is a Class E Felony, punishable by imprisonment for up to four (4) years, under Section 6512 of the Education Law. Professional misconduct may result in penalties including revocation of the suspended license and/or fines of up to \$10,000 for each specification of misconduct, under Section 230-a of the Public Health Law.