



**New York State Board for Professional Medical Conduct**

433 River Street, Suite 303 • Troy, New York 12180-2299 • (518) 402-0863

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NYS Department of Health

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NYS Department of Health

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

*Public*

December 21, 2006

**CERTIFIED MAIL-RETURN RECEIPT REQUESTED**

Alberto C. Beltrano, M.D.  
41 Cherry Street  
Lyons, New York 14489

Re: License No. 153336

Dear Dr. Beltrano:

Enclosed is a copy of Order #BPMC 06-301 of the New York State Board for Professional Medical Conduct. This order and any penalty provided therein goes into effect December 28, 2006.

**If the penalty imposed by this Order is a surrender, revocation or suspension, you are required to deliver your license and registration within five (5) days of receipt of this Order. If the document(s) are lost, misplaced or destroyed, you are required to submit to this office an affidavit to that effect. Enclosed for your convenience is an affidavit. Please complete and sign the affidavit before a notary public and return it to: Office of Professional Medical Conduct, New York State Department of Health, 433 River Street, Suite 303, Troy, NY 12180-2299**

Sincerely,

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

Enclosure

cc: Thomas M. Bernacki, Esq.  
Times Square Building  
45 Exchange Boulevard, Suite 300  
Rochester, New York 14614

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

AFFIDAVIT

IN THE MATTER  
OF

Alberto C. Beltrano, M.D.

STATE OF \_\_\_\_\_ }

ss:

COUNTY OF \_\_\_\_\_ }

I, Alberto C. Beltrano, M.D., the undersigned, hereby state that after having made a diligent search through all of my papers, files, residence(s), office(s), and storage facilities, I am unable to locate my license to practice medicine in the State of New York. I am, therefore, unable to provide the document(s) to the New York State Health Department (the Department), as directed by Order BPMC# 06-301 of the Office of Professional Medical Conduct. I hereby agree and recognize that, should I locate the document(s), I am bound to forward it/them to the Department.

I am advised and I understand that, pursuant to N.Y.S. Education Law §6512, any such person not authorized to practice medicine who practices or offers to practice or holds himself/herself out as being able to practice in New York State shall be guilty of a class E felony. I am further advised and understand that, pursuant to N.Y.S. Education Law §6513, anyone not authorized to use a professional title regulated by Title 8 of the N.Y.S. Education Law who uses such professional title in New York State shall be guilty of a class A misdemeanor. I am also advised and understand that the N.Y.S. Education Law §6522 states that only a person licensed or otherwise authorized under this article shall practice medicine or use the title "physician."

I state that, other than my failure to forward the document(s) to the Department, I am fully in compliance with the Order.

(signed) \_\_\_\_\_

Sworn to before me this

(print) \_\_\_\_\_

\_\_\_\_ day of \_\_\_\_\_, 200\_\_

\_\_\_\_\_  
NOTARY PUBLIC

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

**IN THE MATTER  
OF  
ALBERTO BELTRANO, M.D.**

**SURRENDER  
ORDER**

BPMC No. 06-301

Upon the application of (Respondent) ALBERTO BELTRANO, 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 it is further

ORDERED, that Respondent's name 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 Surrender Order, either by first class mail to Respondent at the address in the attached Surrender Application or by certified mail to Respondent's attorney, OR
- upon facsimile transmission to Respondent or Respondent's attorney,

whichever is first.

SO ORDERED.

DATE: 12-21-2006

  
KENDRICK A. SEARS, 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  
ALBERTO BELTRANO, M.D.**

**SURRENDER  
of  
LICENSE**

ALBERTON BELTRANO, M.D., representing that all of the following statements are true, deposes and says:

That on or about March 11, 1983, I was licensed to practice as a physician in the State of New York and issued License No. 153336 by the New York State Education Department.

My current address is 41 Cherry Street, Lyons, New York 14489, 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 Fifteen 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 do not contest the factual allegations on Specification Thirteen [Negligence on more than one occasion] in full satisfaction of the charges against me.

I ask the Board to accept the Surrender of my License, and I agree to be bound by all of the terms set forth in attached Exhibit "B".

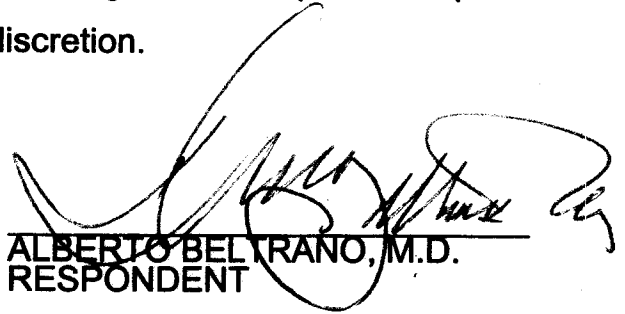
I understand that if the Board does not accept this Surrender, none of its terms shall bind me or constitute an admission of any of the acts of alleged misconduct; this application shall not be used against me in any way and shall be kept in strict confidence; and the Board's denial shall be without 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. The Order, this agreement, and all attached Exhibits shall be public documents, with only patient identities, if any, redacted. As public documents, they may be posted on the Department's website.

I ask the Board to accept this Surrender of License, which I submit 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.

I understand and agree that the attorney for the Department, the Director of the Office of Professional Medical Conduct and the Chair of the State Board

for Professional Medical Conduct each retain complete discretion either to enter into the proposed agreement and Order, based upon my application, or to decline to do so. I further understand and agree that no prior or separate written or oral communication can limit that discretion.




ALBERTO BELTRANO, M.D.  
RESPONDENT

DATE 12-11-06

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

DATE: 12/14/06

  
THOMAS M. BERNACKI, ESQ.  
Attorney for Respondent

DATE: 12/18/06

  
MICHAEL A. HISER, ESQ.  
Associate Counsel  
Bureau of Professional Medical Conduct

DATE: 20 December 2006

  
DENNIS J. GRAZIANO  
Director  
Office of Professional Medical Conduct

IN THE MATTER  
OF  
ALBERTO BELTRANO, M.D.

STATEMENT  
OF  
CHARGES

ALBERTO BELTRANO, M.D., the Respondent, was authorized to practice medicine in New York State on or about March 11, 1983, by the issuance of license number 153336 by the New York State Education Department.

**FACTUAL ALLEGATIONS**

- A. Respondent provided medical care to Patient A [patients are identified in the attached appendix], an 81 year old female, at various times from approximately 1984 to May, 2003 at his office at 12 Leach Road, Lyons, New York (the "Office") and at the Newark-Wayne Campus of Via Health of Wayne, Driving Park Ave., Newark, New York 14513 ["Newark- Wayne Hospital"]. Patient A presented to the emergency room at Newark- Wayne Hospital on April 26, 2003, with complaints that included diffuse abdominal pain. Respondent's care and treatment of Patient A was contrary to accepted standards of medical practice, in that:
1. Respondent failed to adequately evaluate the patient prior to the performance of a laparoscopic cholecystectomy, and/or failed to document that he had adequately evaluated the patient prior to such procedure.
  2. Respondent ordered the performance of a laparoscopic cholecystectomy on Patient A without adequate medical indication, and/or without documenting such adequate medical indication.
  3. Respondent, on or about, April 27, 2003 date, performed a laparoscopic cholecystectomy on the patient without first performing an adequate laparoscopic exploration of all four quadrants of the abdomen, and/or without documenting that he



performed an adequate laparoscopic exploration of all four quadrants of the abdomen.

4. Respondent, after the patient developed hypotension and decreased hemoglobin and hematocrit levels on the first post operative day, failed to order and/or obtain a medical consultation in timely fashion.

B. Respondent provided medical care to Patient B, an 83 year old male, at various times from approximately October, 2004 to December, 2004 at his Office and at the Newark-Wayne Hospital. The patient underwent a diverting transverse colostomy on or about October 7, 2004, after having received pre-operative medical clearance. Thereafter, Respondent, on or about December 9, 2004, performed a segmental resection of the sigmoid colon and closure of the diverting transverse colostomy. Respondent's care and treatment of Patient B was contrary to accepted standards of medical practice, in that:

1. Respondent, on or about December 9, 2004, performed a segmental resection of the sigmoid colon and closure of the diverting transverse colostomy without ordering and/or obtaining pre-operative medical clearance for the patient, and/or without documenting such an order.

C. Respondent provided medical care to Patient C, a 71 year old male, at the Newark-Wayne Hospital from on or about March 9-12, 2004. The patient presented to the Newark-Wayne Hospital emergency room on March 9, 2004, complaining of abdominal pain. Respondent admitted and treated the patient. Respondent's care and treatment of Patient C was contrary to accepted standards of medical practice, in that:

1. Respondent failed to obtain and/or document that he obtained an adequate history or physical examination of the patient.
2. Respondent, on March 10, 2004, performed a repair of a supposed incarcerated right inguinal hernia on the patient

without an adequate pre-operative evaluation of the patient, and/or without documenting an adequate pre-operative evaluation of the patient.

3. Respondent, on March 10, 2004, performed a repair of a supposed incarcerated right inguinal hernia on the patient without adequate medical indication and/or without documenting such adequate medical indication.

D. Respondent provided medical care to Patient D, a 56 year old male, at various times from approximately March 6, 2005 to April 23, 2005 at the Newark-Wayne Hospital. The patient came to the Emergency Department of the Newark-Wayne Hospital on March 6, 2005, with a complaint of abdominal pain. He was thereafter admitted the same day with a diagnosis of diverticulitis. On March 10, 2005, Respondent performed an exploratory laparotomy, right hemicolectomy and end-to-end anastomosis.

Respondent's care and treatment of Patient D was contrary to accepted standards of medical practice, in that:

1. Respondent ordered and/or performed an exploratory laparotomy, right hemicolectomy and end-to-end anastomosis without adequate medical indication, and/or without documenting such adequate medical indication.
2. Respondent performed the exploratory laparotomy, right hemicolectomy and end-to-end anastomosis on Patient D's large bowel when the bowel was both inflamed and/or not adequately prepared.
3. Respondent's dictated operative note fails to contain sufficient descriptive information of the procedure, including the indications for surgery, documentation that an exploratory laparotomy was performed, description of the condition of the intra-abdominal organs, description of the extent of the colon resection, and/or description as to the adequacy of the bowel preparation.

E. Respondent provided medical care to Patient E, a 76 year old male, on or about October 15-30, 2005 at the Newark-Wayne Hospital. The patient presented to the Newark-Wayne Hospital emergency department on October 15, 2005 with right upper quadrant abdominal pain, and a history of gallstones. On October 20, 2005, Respondent performed a laparoscopic cholecystectomy and cholangiogram. Respondent's care and treatment of Patient E was contrary to accepted standards of medical practice, in that:

1. Respondent, on or about October 20, 2005, performed a laparoscopic cholecystectomy and cholangiogram on the patient, despite not having confirmed that the patient's abnormal coagulation parameters from three days before had normalized.
2. Respondent's dictated operative note fails to contain sufficient descriptive information, including clear indications as to what procedures were done, to what anatomic structures, and/or in what order.
3. Respondent failed to treat the patient properly post-operatively, including failure to take appropriate steps in light of the patient's generally decreasing hemoglobin and hematocrit, and failing to check the patient's coagulation parameters, and/or Respondent failed to document that he did so.

F. Respondent provided medical care to Patient F, a 42 year old male, from on or about November 5 through November 26, 2005 at the Newark-Wayne Hospital. The patient presented to the Newark-Wayne Hospital emergency department on November 5, 2005, with a complaint of abdominal pain and was evaluated by Respondent with a resulting impression of acute appendicitis. Respondent thereafter performed an appendectomy on the patient. The post-operative diagnosis was retrocecal acute appendicitis. Respondent's care and treatment of Patient F was contrary to accepted standards of medical practice, in that:

1. Respondent failed to order or use appropriate pre-operative antibiotics prior to performing the appendectomy on Patient F.

2. Respondent failed to adequately perform the appendectomy on Patient F, in that Respondent failed to fully identify and remove the entire appendix during the procedure, and/or Respondent failed to document doing so.
3. Respondent, following the performance of the appendectomy on or about November 5, 2005, failed to properly care for the patient, in that Respondent failed to order that the patient receive intravenous antibiotics, and/or Respondent failed to document such an order.

### **SPECIFICATION OF CHARGES**

#### **FIRST THROUGH SIXTH SPECIFICATIONS**

#### **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. The facts in Paragraphs A and A.1, A and A.2, A and A.3, and/or A and A.4.
2. The facts in Paragraphs B and B.1.
3. The facts in Paragraphs C and C.1, C and C.2, and/or C and C.3.
4. The facts in Paragraphs D and D.1, D and D.2, and/or D and D.3.
5. The facts in Paragraphs E and E.1, E and E.2, and/or E and E.3.
6. The facts in Paragraphs F and F.1, F and F.2, and/or F and F.3.

## **SEVENTH THROUGH TWELFTH SPECIFICATIONS**

### **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:

7. The facts in Paragraphs A and A.1, a and A.2, A and A.3, and/or A and A.4.
8. The facts in Paragraphs B and B.1.
9. The facts in Paragraphs C and C.1, C and C.2, and/or C and C.3.
10. The facts in Paragraphs D and D.1, D and D.2, and/or D and D.3.
11. The facts in Paragraphs E and E.1, E and E.2, and/or E and E.3.
12. The facts in Paragraphs F and F.1, F and F.2, and/or F and F.3.

### **THIRTEENTH 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:

13. The facts in Paragraphs A and A.1, A and A.2, A and A.3, A and A.4, B and B.1, C and C.1, C and C.2, C and C.3, D and D.1, D and D.2, D and D.3, E and E.1, E and E.2, E and E.3, F and F.1, F and F.2, and/or F and F.3.

## FOURTEENTH 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:

14. The facts in Paragraphs A and A.1, A and A.2, A and A.3, A and A.4, B and B.1, C and C.1, C and C.2, C and C.3, D and D.1, D and D.2, D and D.3, E and E.1, E and E.2, E and E.3, F and F.1, F and F.2, and/or F and F.3.

## FIFTEENTH 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:

15. The facts in Paragraphs A and A.2, A and A.3, C and C.1, C and C.2, C and C.3, D and D.1, D and D.2, E and E.1, E and E.3, F and F.2, and/or F and F.3.

DATE: December 18, 2006  
Albany, New York



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

## EXHIBIT "B"

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

1. Respondent shall immediately cease the practice of medicine in compliance with the terms of the Surrender Order. Respondent shall not represent that Respondent is eligible to practice medicine and shall refrain from providing an opinion as to professional practice or its application.
2. Within 15 days of the Surrender Order's effective date, Respondent shall notify all patients that Respondent 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 days of the Surrender Order's effective date, Respondent shall deliver Respondent's original license to practice medicine in New York State and current biennial registration 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 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 years after the last date of service, and, for minors, for at least six years after the last date of service or three 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 75 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 15 days of the Surrender 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 Respondent's DEA controlled substance certificate, privileges, and any used DEA #222 U.S. Official Order Forms Schedules 1 and 2, to the DEA.
6. Within 15 days of the Surrender Order's effective date, Respondent shall return any unused New York State official prescription forms to the Bureau of Narcotic Enforcement 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 Respondent's practice location, Respondent shall dispose of all medications.
7. Within 15 days of the Surrender 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 Respondent 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 Surrender 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 months or more pursuant to this Order, Respondent shall, within ninety days of the Order's effective date, divest completely 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 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 years, under § 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 § 230-a of the Public Health Law.