

NY Doctor Protection Memorandum

The following memorandum was issued June 15, 2005 by OPMC Director Dennis Graziano to every staff member of the Office of Professional Medical Conduct (OPMC) and copied to all the members of the Board for Professional Medical Conduct and its chief counsel:

Victory in New York!

Dear Friends,

The following memorandum was issued June 15, 2005 by OPMC Director Dennis Graziano to every staff member of the Office of Professional Medical Conduct (OPMC) and copied to all the members of the Board for Professional Medical Conduct and its chief counsel:

“Subject: Investigation of Practitioners Utilizing Treatment Modalities That Are Not Universally Accepted by the Medical Profession.

“This memorandum is intended to memorialize and endorse the principles that are currently in place in the Office of Professional Medical Conduct regarding the investigation of physicians, physician assistants and specialist assistants who use treatment modalities that are not universally accepted by the medical profession, such as the varying modalities used in the treatment of Lyme disease and other tick-borne diseases.

“As you know, Article 131 of the Education Law defines the practice of medicine. Paragraph (e) of subdivision four of §6527 of the Education Law provides that Article 131 ‘shall not be construed to affect or prevent...[a] physician’s use of whatever medical care, conventional or non-conventional, which effectively treats human disease, pain, injury, deformity or physical condition.’ Under current law, therefore, it is clear that so long as a treatment modality effectively treats human disease, pain, injury, deformity or physical condition, the recommendation or provision of that modality does not, by itself, constitute professional misconduct.

Consequently, it is contrary to the policy and practice of the Office of Professional Medical Conduct to identify, investigate or charge a physician, physician's assistant or specialist assistant based solely on that practitioner's recommendation or provision of such treatment modality.

"Please note that this prohibition does not exonerate such practitioners from otherwise applicable professional requirements."

According to New York doctor Joseph Burrascano, "This memorandum means that the pressure is now off of Lyme-treating physicians in New York, and it is certainly a reward for all the hard work and efforts of the Lyme community." ([click here for printable pdf of memorandum](#))

The Lyme Disease Association and Voices of Lyme/NY Lyme are pleased to announce that the New York State OPMC has issued this memorandum on investigating doctors who are treating Lyme disease and other tick-borne diseases. The extensive public grass roots work of the Lyme community enabled a number of private meetings to be held in Albany, culminating with a January 2005 meeting with the Governor's counsel. This meeting set in motion the issuing of the memorandum.

We are grateful to New York Assembly members Adam Bradley, Nettie Mayersohn, and Joel Miller for their constant support of the Lyme community including their initiation of and attendance at this January 2005 meeting with the Governor's office, the Lyme Disease Association and Dr. Brian Fallon, Columbia University College of Physicians & Surgeons.

We thank Governor Pataki who responded to the thousands of communications he received from Lyme patients seeking protection for their medical care. He was instrumental in the work leading to the issuance of this memo.

Most importantly, we thank the Lyme community for its continued dedication to addressing the conditions in NY which had threatened the medical care of Lyme disease patients. Without your continued grass roots efforts over the past four years through phone calls, faxes, emails, letters, and testimonies, this memorandum would not have been issued.

We also thank our physicians who have freely provided their time and expertise in this process, particularly ILADS and Dr. Brian Fallon. Jill Auerbach deserves

special recognition for her role in the meeting process.

Thanks to Monica Miller of FAIM, who, working independently, consistently provided invaluable direction to the Lyme disease effort. Also thanks to Richard Gottfried, Chair, Assembly Health Committee, who called the Assembly hearings on Lyme disease and has been fighting very hard along with us for the OPMC reform bill.

YOUR CONTINUED EFFORTS AND SUPPORT CAUSED THIS TO HAPPEN!

THANK YOU ALL!

Pat Smith President

LDA

Ellen Lubarsky Voices of Lyme/NY Lyme