



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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Office of Professional Medical Conduct

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Vice Chair

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

May 18, 2001

CERTIFIED MAIL-RETURN RECEIPT REQUESTED

Evan Musman, D.O.
37 Cherry Street
Milton, VT 05468

RE: License No. 192464

Dear Dr. Musman:

Enclosed please find Order #BPMC 01-123 of the New York State Board for Professional Medical Conduct. This Order and any penalty provided therein goes into effect May 18, 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: Joshua Simonds, Esq.
Affolter, Gannon and Flynn, Ltd.
Five Burlington Square
P.O. Box 8430
Burlington, VT 05402

Robert Bogan, Esq.

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

IN THE MATTER

OF

**EVAN MUSMAN, D.O.
CO-00-10-4589-A**

SURRENDER

ORDER

BPMC No. 01-123

EVAN MUSMAN, D.O., says:

On or about June 23, 1993, I was licensed to practice medicine as a physician in the State of New York having been issued License No. 192464 by the New York State Education Department. I currently reside at 37 Cherry Street, Milton, VT 05468.

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 two (2) specifications of professional misconduct as set forth in the Statement of Charges, annexed hereto, made a part hereof, and marked as Exhibit "A."

I have not practiced medicine in New York state since 1994, and I do not intend to return to practice medicine in New York state. I am, therefore, 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 two (2) specifications set forth in the Statement of Charges (Exhibit A).

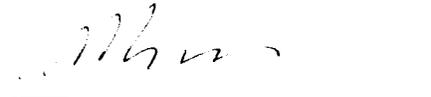
I understand that, in the event that this proposed agreement is not granted by the State Board for Professional Medical Conduct, nothing contained herein shall be binding upon me or construed to be an admission of any act of misconduct alleged or charged against me, such proposed agreement shall not 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: 4.13, 2001


EVAN MUSMAN, D. O.
Respondent

AGREED TO:

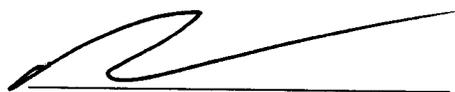
Date: 4/13, 2001


JOSHUA L. SIMONDS, ESQ.
Attorney for the Respondent

Date: 14 May, 2001


ROBERT BOGAN
Associate Counsel
Bureau of Professional Medical
Conduct

Date: 14 May, 2001


DENNIS J. GRAZIANO
Director, Office of Professional
Medical Conduct

“Exhibit A”

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

IN THE MATTER
OF
EVAN MUSMAN, D.O.

STATEMENT
OF
CHARGES

EVAN MUSMAN, D.O., the Respondent, was authorized to practice medicine in New York state on June 23, 1993, by the issuance of license number 192464 by the New York State Education Department.

FACTUAL ALLEGATIONS

A. On or about July 11, 2000, the State of Vermont, Office of Professional Regulations, Board of Osteopathic Physician & Surgeons (hereinafter “Vermont Board”), by a Stipulation and Consent Order, (hereinafter “Vermont Order”), placed CONDITIONS on the Respondent’s license to practice medicine to include that he not practice as an anesthesiologist, based on his abuse of sufentanyl and that he was unable to control his use of that drug and became addicted to that drug for a period of time.

B. The conduct resulting in the Vermont Board’s disciplinary action against Respondent would constitute misconduct under the laws of New York State, pursuant to the following sections of New York State law:

1. New York Education Law §6530(7) (practicing the profession while impaired);
and/or
2. New York Education Law §6530(8) (being dependent or a habitual user of narcotics, barbiturates, amphetamines, hallucinogens, or other drugs having similar effects).

SPECIFICATIONS
FIRST SPECIFICATION

Respondent violated New York Education Law §6530(9)(b) by reason of having been found guilty of improper professional practice or professional misconduct by a duly authorized professional disciplinary agency of another state where the conduct upon which the finding was based would, if committed in New York state, constitute professional misconduct under the laws of New York state, in that Petitioner charges:

1. The facts in paragraph A and/or B.

SECOND SPECIFICATION

Respondent violated New York Education Law §6530(9)(d) by reason of having had disciplinary action taken after a disciplinary action was instituted 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 of New York state, in that Petitioner charges:

2. The facts in paragraphs A and/or B.

DATED: *Jan. 2*, 2001
Albany, New York


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

ORDER

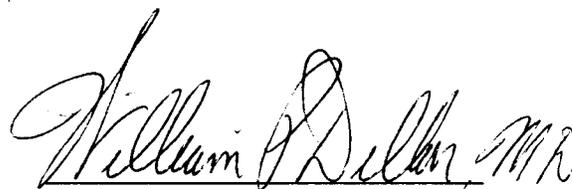
Upon the proposed agreement of **EVAN MUSMAN, D.O.**, to Surrender his license as a physician in the State of New York, which proposed agreement is made a part hereof, it is AGREED TO and

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: 5/17/01, 2001



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