

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

IN THE MATTER
OF
CLIFFORD ALAN BERKEN, M.D.

ORDER FOR
NON PRACTICE OF
MEDICINE

Upon the proposed application and agreement of **CLIFFORD ALAN BERKEN, M.D.**, (Respondent) for an Order by which Respondent agrees to cease the practice of medicine in the state of New York pending the final disposition of the present Department of Health, Office of Professional Medical Conduct investigation of certain aspects of the Respondent's medical practice, which application and agreement is made a part hereof, it is agreed to and

ORDERED, that the application and agreement and the provisions thereof are hereby adopted and so ORDERED, and 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 of the Order to Respondent's attorney or upon transmission via facsimile to Respondent's attorney, whichever is earliest.

SO ORDERED.

DATED: 1-28-2009

Redacted Signature

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
CLIFFORD ALAN BERKEN, M.D.

APPLICATION FOR
AND AGREEMENT
TO
NOT PRACTICE
MEDICINE/
ORDER OF THE
BOARD

CLIFFORD ALAN BERKEN, M.D., being duly sworn, deposes and says:

That on or about October 15, 1982, I was licensed to practice as a physician in the state of New York, having been issued license number 151731 by the New York State Education Department.

My current address is : Redacted Address , and I will advise the Director of the Office of Professional Medical Conduct of any change of my address within thirty (30) days thereof.

I understand that the New York State Board for Professional Medical Conduct is investigating certain aspects of my medical practice to determine if I may have engaged in professional misconduct.

I agree, hereby, to the following :

I will not engage in the practice of medicine in the state of New York, or in any other jurisdiction where that practice of medicine is predicated on my license to practice medicine in the state of New York pending the final disposition of the currently open Department of Health, Office of Professional Medical Conduct investigation. I agree, further, to abide by such final disposition, without waiving, hereby, any rights to appeal to which I might otherwise be entitled.

For the purpose of this agreement, "final disposition" shall mean the

later of any disposition by administrative closure or determination of a Hearing Committee of the State Board for Professional Medical Conduct.

I stipulate, hereby, that any failure by me to comply with the above condition imposed by this Order shall constitute misconduct as defined by New York State Education Law §6530(29).

Further, I acknowledge, hereby, that any activity by me that constitutes the practice of medicine in the state of New York at any time after the effective date of this Order and during the pendency of the Order in the state of New York or in any other jurisdiction when that practice of medicine is predicated on my license to practice medicine in the state of New York, shall constitute the unauthorized practice of medicine within the meaning of N.Y. Educ. Law §6512, defining a Class E felony.

I presently maintain hospital privileges at Greenwich Hospital.
My employment is inactive.

I agree to neither exercise nor seek privileges or employment as a physician during the pendency of this agreement, in the state of New York or in any other jurisdiction where that practice of medicine is predicated on my license to practice medicine in the state of New York.

I understand that unless and until I am allowed to resume the practice of medicine under the terms of this agreement, my licensure status is "inactive" and I am not authorized to practice medicine in the state of New York or any other jurisdiction where that practice of medicine is predicated on my license to practice medicine in the state of New York. I further understand that any practice of medicine while my license is "inactive" shall constitute a violation of New York Education Law Section 6530(12), regardless of the location of such practice. Finally, I agree that this agreement may be made public in the same manner as a determination of a Hearing Committee that imposes discipline on a physician, including notice to the National Practitioners' Data Bank.

I understand that unless and until I am allowed to resume the practice of medicine in the state of New York under the terms of this agreement, I shall notify all persons who request my medical services that I have ceased the active practice of medicine.

I understand that the Department of Health, Office of Professional Medical Conduct shall notify each hospital or facility at which I presently hold privileges, or at which I obtain privileges during the pendency of this agreement, that I have ceased the active practice of medicine in the state of New York; and that my New York state licensure status during the pendency of the agreement, is inactive.

I make, hereby, this Application to the State Board for Professional Medical Conduct (the Board) and request that it be granted.

I understand, that in the event that this Application is not granted by the Board, 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 Application shall not be used against me in any way and shall be kept in strict confidence during the pendency of any professional misconduct disciplinary proceeding; and such denial by the Board shall be made without prejudice to the continuance of any disciplinary proceeding and the final determination by the Board 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. I agree that such Order shall be effective upon issuance by the Board, which may be accomplished by mailing, by first class mail, a copy of the Order to my attorney or upon transmission via facsimile to my attorney, whichever is earliest.

I am making this Application of my own free will and accord and not under duress, compulsion or restraint of any kind or manner. In consideration of the value to me of the acceptance by the Board of this Application, I knowingly waive any right I may have to contest the Order for which I hereby apply, whether administratively or judicially, and ask that the Application be granted.

AFFIRMED:

Redacted Signature

DATED 1/16/09

~~CLIFFORD~~/ALAN BERKEN, M.D.
RESPONDENT

The undersigned agree to the attached application of the Respondent based on the terms and conditions thereof.

DATE: 1/16/09

Redacted Signature

MARY ALICE MOORE LEONHARDT, ESQ.
Attorney for Licensee

DATE: 22 January 2009

Redacted Signature

ROBERT BOGAN
Associate Counsel
Bureau of Professional Medical Conduct

DATE: 1/29/09

Redacted Signature

KEITH W. SERVIS
Director
Office of Professional Medical Conduct