



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.
*Commissioner
NYS Department of Health*

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

Dennis J. Graziano, Director
Office of Professional Medical Conduct

Public

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

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

May 10, 2006

CERTIFIED MAIL-RETURN RECEIPT REQUESTED

Vivian Elizabeth Clark, M.D.
120 Steeple Chase Road
Chapel Hill, NC 27514-7083

Re: License No. 150753

Dear Dr. Clark:

Enclosed is a copy of Order #BPMC 06-104 of the New York State Board for Professional Medical Conduct. This order and any penalty provided therein goes into effect May 17, 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 to the 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

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

IN THE MATTER
OF
VIVIAN ELIZABETH CLARK, M.D.

CONSENT
ORDER

BPMC No. 06-104

Upon the application of **VIVIAN ELIZABETH CLARK, M.D.**, (Respondent) in the attached Consent Agreement and Order, which is made a part of this Consent Order, it is

ORDERED, that the Consent Agreement, and its terms, are adopted and 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: 5-9-06



KENDRICK A. SEARS, M.D.
Chair
State Board for Professional
Medical Conduct

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

IN THE MATTER
OF
VIVIAN ELIZABETH CLARK, M.D.
CO-05-10-5434-A

CONSENT
AGREEMENT
AND ORDER

VIVIAN ELIZABETH CLARK, M.D., (Respondent) representing that all of the following statements are true, deposes and says:

That on or about July 7, 1982, I was licensed to practice as a physician in the State of New York, and issued License No. 150753 by the New York State Education Department.

My current address is 120 Steeple Chase Road, Chapel Hill, NC 27514-7083, and I will advise the Director of the Office of Professional Medical Conduct of any change of my address thirty (30) days, thereof.

I understand that the New York State Board for Professional Medical Conduct has charged me with three (3) specifications of professional misconduct.

A copy of the Statement of Charges, marked as Exhibit "A", is attached to and part of this Consent Agreement.

I do not contest the three (3) specifications, in full satisfaction of the charges against me, and agree to the following penalty:

Censure and Reprimand

I further agree that the Consent Order shall impose the following conditions:

That Respondent shall maintain active registration of Respondent's license with the New York State Education, Department Division of Professional Licensing Services (except during periods of actual suspension), and shall pay all registration fees. This condition shall take effect thirty (30) days after the Consent Order's effective date and will continue so long as Respondent remains licensed in New York State; and

That Respondent shall cooperate fully with the Office of Professional Medical Conduct (OPMC) in its administration and enforcement of this Order and in its investigations of all matters concerning Respondent. Respondent shall respond in a timely manner to all OPMC requests for written periodic verification of Respondent's compliance with this Order. Respondent shall meet with a person designated by the Director of OPMC, as directed. Respondent shall respond promptly and provide all documents and information within Respondent's control, as directed. This condition shall take effect upon the Board's issuance of the Consent Order and will continue so long as Respondent remains licensed in New York State.

I stipulate that my failure to comply with any conditions of this Order shall constitute misconduct as defined by New York State Education Law §6530(29).

I agree that if I am charged with professional misconduct in the future, this Consent Agreement and Order shall be admitted into evidence in that proceeding.

I ask the Board to adopt this Consent Agreement.

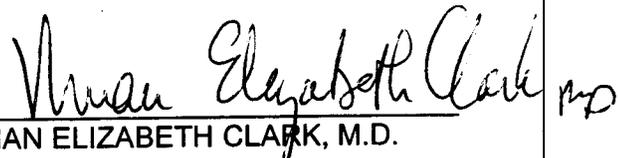
I understand that if the Board does not adopt this Consent Agreement, none of its terms shall bind me or constitute an admission of any of the acts of alleged misconduct; this Consent Agreement shall not be used against me in any way and shall be kept in strict confidence; and the Board's denial shall 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 adopts this Consent Agreement, the Chair of the Board shall issue a Consent 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 Consent Order by first class mail to me at the address in this Consent Agreement, 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 patients identities, if any, redacted.

I stipulate that the proposed sanction and Order are authorized by Public Health Law Sections 230 and 230-a and that the Board for Professional Medical Conduct and the Office of Professional Medical Conduct have the requisite powers to carry out all included terms. I ask the Board to adopt this Consent Agreement of my own free will and not under duress, compulsion or restraint. In consideration of the value to me of the Board's adoption of this Consent Agreement, 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 Consent Order for which I apply, whether administratively or judicially, I agree to be bound by the Consent Order, and ask that the Board adopt this Consent Agreement.

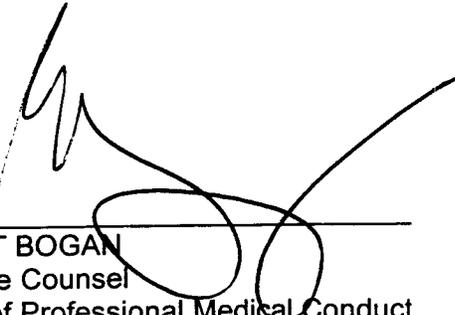
AFFIRMED:

DATED: 5/2/2006


VIVIAN ELIZABETH CLARK, M.D.
Respondent

The undersigned agree to Respondent's attached Consent Agreement and to its proposed penalty, terms and conditions thereof.

DATE: 4 May 2006


ROBERT BOGAN
Associate Counsel
Bureau of Professional Medical Conduct

DATE: 08 May 2006


DENNIS J. GRAZIANO
Director
Office of Professional Medical Conduct

IN THE MATTER
OF
VIVIAN ELIZABETH CLARK, M.D.
CO-05-10-5434-A

STATEMENT
OF
CHARGES

VIVIAN ELIZABETH CLARK, M.D., Respondent, was authorized to practice medicine in New York state on July 7, 1982, by the issuance of license number 150753 by the New York State Education Department.

FACTUAL ALLEGATIONS

A. On or about April 26, 2005, in the General Court of Justice, District Court Division, North Carolina, Respondent was found guilty, based on a plea of guilty, of Careless & Reckless Driving, a misdemeanor, and was sentenced to a \$500.00 fine and \$100.00 costs.

B. On or about October 18, 2005, the North Carolina Medical Board (hereinafter "North Carolina Board"), by a Consent Order (hereinafter "North Carolina Order"), REPRIMANDED Respondent, based on the criminal conviction set forth in Paragraph A, above, and having too much alcohol to drink while on call.

C. The conduct resulting in the North Carolina Board 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 by alcohol); and/or
2. New York Education Law §6530(9)(a)(i) (by being convicted of committing a crime under state law).

SPECIFICATIONS
FIRST SPECIFICATION

Respondent violated New York Education Law §6530(9)(a)(iii) by having been convicted of committing an act constituting a crime under the law of another jurisdiction and which, if committed within this state, would have constituted a crime under New York state law, in that Petitioner charges:

1. The facts in Paragraph A.

SECOND SPECIFICATION

Respondent violated New York Education Law §6530(9)(b) 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:

2. The facts in Paragraphs A, B, and/or C.

THIRD SPECIFICATION

Respondent violated New York state Education Law §6530(9)(d) by having discipline action taken 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:

3. The facts in Paragraphs A, B and/or C.

DATED: *April 11*, 2006
Albany, New York


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