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NEW YORK
state department of
HEALTH

Nirav R. Shah, M.D., M.P.H.
Commissioner

Sue Kelly
Executive Deputy Commissioner

July 11, 2011

***CERTIFIED MAIL-RETURN RECEIPT REQUESTED***

Joseph D. Spataro, M.D.
Idlewild Medical Center
6101 Idlewild Road, Suite 300
Charlotte, NC 28212

Re: License No. 150516

Dear Dr. Spataro:

Enclosed is a copy of the New York State Board for Professional Medical Conduct (BPMC) Order No. 11-176. This order and any penalty provided therein goes into effect July 18, 2011.

Please direct any questions to: Board for Professional Medical Conduct, 433 River Street, Suite 303, Troy, NY 12180, telephone # (518)402-0863.

Sincerely,

REDACTED

Katherine A. Hawkins, 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 JOSEPH DAVID SPATARO, M.D. | CONSENT ORDER BPMC No. 11-176 |
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Upon the application of **JOSEPH DAVID SPATARO, M.D.,** (Respondent), in the attached Consent Agreement, that 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 Consent 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 or email transmission to Respondent or Respondent's attorney, whichever is first.

SO ORDERED.

DATED: 7/8/11

REDACTED

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 JOSEPH DAVID SPATARO, M.D. CO-10-05-3072-A | CONSENT AGREEMENT |
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**JOSEPH DAVID SPATARO, M.D.**, (Respondent), representing that all of the following statements are true, deposes and says:

That on or about July 1, 1982, I was licensed to practice medicine in the State of New York and issued license number 150516 by the New York State Education Department.

My current address is Idlewild Medical Center, Suite 300, Charlotte, NC 28212, and I will advise the Director (Director) of the Office of Professional Medical Conduct (OPMC) of any change of my address within thirty (30) days, thereof.

I understand that the New York State Board for Professional Medical Conduct (Board) 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, and agree to the following sanction:

Respondent is permanently restricted from practicing obstetrics and performing prenatal services; and

Two (2) years suspension of my license to practice medicine, stayed.

Respondent shall comply fully with the April 16, 2010, North Carolina Medical Board Consent Order, and any extensions or modifications thereof.

Respondent shall provide a written authorization for the North Carolina Board to provide the Director of the Office of Professional Medical Conduct (OPMC) with any/all information or documentation as requested by OPMC to enable OPMC to determine whether Respondent is in compliance with the North Carolina Order.

Respondent shall submit semi-annually a signed Compliance Declaration to the Director of OPMC, which truthfully attests whether Respondent has been in compliance with the North Carolina Order during the declaration period specified.

Should Respondent return to the practice of medicine in the State of New York or in any jurisdiction where that practice is predicated upon Respondent's New York State medical license, Respondent shall provide ninety (90) days notice in writing to the Director, OPMC. The Director in his sole discretion, may impose whatever limitations, or further conditions, he deems appropriate.

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

That Respondent shall remain in continuous compliance with all requirements of New York Education Law § 6502 including, but not limited to, the requirements that a licensee shall register and continue to be registered with the New York State Education Department (except during periods of actual suspension) and that a licensee shall pay all registration fees. Respondent shall not exercise the option provided in New York Education Law § 6502(4) to avoid registration and payment of fees. This condition shall take effect 30 days after the effective date of the Consent Order and will continue so long as Respondent remains a licensee in New York State; and

That Respondent shall cooperate fully with the OPMC in its administration and enforcement of the Consent Order and in its investigations of matters concerning Respondent. Respondent shall respond in a timely manner to all OPMC requests for written periodic verification of Respondent's compliance with this Consent Agreement. Respondent shall meet with a person designated by the Director, 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 the Consent Order shall constitute misconduct as defined by New York Education Law § 6530(29).

I agree that, if I am charged with professional misconduct in future, this Consent Agreement and the Consent 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 New York 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 the Consent 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 or email transmission to me or my attorney, whichever is first. The Consent Order, this Consent 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 of Health website.

I stipulate that the proposed sanction and Consent Order are authorized by New York Public Health Law §§ 230 and 230-a, and that the Board and OPMC 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, administratively and/or judicially, I agree to be bound by the Consent Order, and I ask that the Board adopt this Consent Agreement.

I understand and agree that the attorney for the Department, the Director, OPMC, and the Chair of the Board each retain complete discretion either to enter into the proposed Consent Agreement and Consent 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.

AFFIRMED:

DATED: 6/21/11

REDACTED

JOSEPH DAVID SPATARO, M.D.
Respondent

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

DATE: June 27, 2011

REDACTED

JOEL E. ABELOVE
Associate Counsel
Bureau of Professional Medical Conduct

DATE: July 8, 2011

REDACTED

KEITH W. SERVIS
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 JOSEPH DAVID SPATARO, M.D. CO-10-05-3072-A | STATEMENT OF CHARGES |
|---|---|

**JOSEPH DAVID SPATARO, M.D.,** Respondent, was authorized to practice medicine in New York state on July 1, 1982, by the issuance of license number 150516 by the New York State Education Department.

## FACTUAL ALLEGATIONS

A. On or about April 16, 2010, the North Carolina Medical Board (hereinafter "North Carolina Board"), by a Consent Order (hereinafter "North Carolina Order"), ORDERED Respondent not to practice obstetrics or provide prenatal care and will refer all patients requiring obstetrical and/or prenatal care to appropriate physicians, clinics, hospitals or facilities for treatment and care, based on Respondent's care of five obstetrical patients failing to conform to the applicable standard of care.

B. On or about October 21, 2010, the State of South Carolina Board of Medical Examiners (hereinafter "South Carolina Board"), by a Consent Agreement (hereinafter "South Carolina Agreement"), ORDERED Respondent to not practice obstetrics or provide prenatal care and will refer all patients requiring obstetrical or prenatal care to appropriate physicians, clinics, hospitals or facilities for treatment and care, based on, inter alia, the North Carolina Board, North Carolina Order, set forth in Paragraph A, above.

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 section of New York state law:

1. New York Education Law §6530(3) (negligence on more than one occasion).

D. The conducting resulting in the South Carolina Board disciplinary action against Respondent would constitute misconduct under the laws of New York state, pursuant to the following section of New York state law:

1. New York Education Law §6530(9)(d) (having his license to practice medicine revoked, suspended, and/or having other disciplinary action taken, and/or having voluntarily or otherwise surrendered his license after a disciplinary action was instituted by a duly authorized professional disciplinary agency of another state, where the conduct resulting in the revocation, suspension, and/or other disciplinary action, and/or surrender of the license would, if committed in this state, constitute professional misconduct under the laws of this state).

## SPECIFICATIONS

## FIRST SPECIFICATION

Respondent violated New York Education Law §6530(9)(b) by 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 Paragraphs A and/or C.

## SECOND AND THIRD SPECIFICATIONS

Respondent violated New York Education Law §6530(9)(d) by having his license to practice medicine revoked, suspended, and/or having other disciplinary action taken, and/or having voluntarily or otherwise surrendered his license after a disciplinary action was instituted by a duly authorized professional disciplinary agency of another state, where the conduct resulting in the revocation, suspension, and/or other disciplinary action, and/or surrender of the license 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 C.
3. The facts in Paragraphs A, B, C, and/or D.

DATED: April 28, 2011
Albany, New York

REDACTED

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