

NEW YORK
state department of
HEALTH

Public

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

Sue Kelly
Executive Deputy Commissioner

May 21, 2012

CERTIFIED MAIL-RETURN RECEIPT REQUESTED

John R. Tallett, M.D.
268 West Main Street, Suite 3
Fredonia, NY 14063

Re: License No. 201018

Dear Dr. Tallett:

Enclosed is a copy of the New York State Board for Professional Medical Conduct (BPMC) Order No. 12-102. This order and any penalty provided therein goes into effect May 28, 2012.

Please direct any questions to: Board for Professional Medical Conduct, 90 Church Street, 4th Floor, New York, NY 10007-2919, telephone # 212-417-4445.

Sincerely,

REDACTED

Katherine A. Hawkins, M.D., J.D.
Executive Secretary
Board for Professional Medical Conduct

Enclosure

cc: Mark R. Uba, Esq.
5500 Main Street, Suite 204
Williamsville, NY 14221

IN THE MATTER
OF
JOHN TALLETT, M.D.

CONSENT
ORDER

Upon the application of (Respondent) JOHN TALLETT, M.D. 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 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 transmission to Respondent or Respondent's attorney, whichever is first.

SO ORDERED.

DATE: 5/18/2012

REDACTED

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

IN THE MATTER
OF
JOHN TALLETT, M.D.

CONSENT
AGREEMENT
AND
ORDER

JOHN TALLETT, M.D., represents that all of the following statements are true:

That on or about October 12, 1995, I was licensed to practice as a physician in the State of New York, and issued License No. 201018 by the New York State Education Department.

My current address is 268 West Main Street, Suite 3, Fredonia, New York 14063, and I will advise the Director of the Office of Professional Medical Conduct of any change of address.

I understand that the New York State Board for Professional Medical Conduct (Board) has charged me with Five 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 admit the Fifth Specification (failing to appropriately document care), in full satisfaction of the charges against me, and agree to the following penalty:

Pursuant to N.Y. Pub. Health Law § 230-a(3), my license to practice medicine in New York State shall be limited to preclude the practice of obstetrics.

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

Each year, within thirty days following the anniversary of the effective date of this Order, Respondent shall submit a document to the attention of the Physician Monitoring Program, Office of Professional Medical Conduct, attesting in writing that he has abstained from the practice of obstetrics in New York State during the prior year. Respondent shall submit such an attestation yearly so long as he remains active in the clinical practice of medicine in New York State.

That Respondent shall remain in continuous compliance with all requirements of N.Y. Educ 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 N.Y. Educ. Law § 6502(4) to avoid registration and payment of fees. This condition shall take effect 120 days after the Consent Order's effective date and will continue so long as Respondent remains a licensee 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 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 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 Consent Order shall constitute misconduct as defined by N.Y. Educ. Law § 6530(29).

I agree that, if I am charged with professional misconduct in 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 N.Y. Pub. 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 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 transmission to me or my attorney, whichever is first. The Consent Order, this 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's website. OPMC shall report this action to the National Practitioner Data Bank and the Federation of State Medical Boards, and any other entities that the Director of OPMC shall deem appropriate.

I stipulate that the proposed sanction and Consent Order are authorized by N.Y. Pub. 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, whether administratively 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 of OPMC and the Chair of the Board each retain complete discretion either to enter into the proposed 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.

DATE 5.8.12

REDACTED

JOHN TALLETT, M.D.
RESPONDENT

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

DATE: 5/10/2012

REDACTED

MARK R. UBA, ESQ.
Attorney for Respondent

DATE: 5/14/12

REDACTED

MICHAEL A. HISER, ESQ.
Associate Counsel
Bureau of Professional Medical Conduct

DATE: 5/18/12

REDACTED

KEITH W. SERVIS
Director
Office of Professional Medical Conduct

IN THE MATTER
OF
JOHN TALLETT, M.D.

STATEMENT
OF
CHARGES

JOHN TALLETT, M.D., the Respondent, was authorized to practice medicine in New York State on or about October 12, 1995, by the issuance of license number 201018 by the New York State Education Department.

FACTUAL ALLEGATIONS

A. Respondent provided medical care to Patient A [patient names are disclosed only in the attached Appendix], a 14 year old female, from on or about May, 2008 through August of 2008, including during the patient's hospitalization from July 19 to July 21, 2008 at the Brooks Memorial Hospital, 529 Central Avenue, Dunkirk, New York 14048. Patient A delivered a male infant on July 19, 2008. Respondent's care of the patient was below accepted standards of medicine, in that:

1. Respondent, once he confirmed that the patient had experienced an umbilical cord prolapse at approximately 0350 on July 19, 2008, failed to adequately respond to that medical emergency by manually elevating the baby's head off the cord, and maintaining such elevation until at or near the time of the delivery of the baby, and/or failed to document that he did so.
2. Respondent, once he confirmed that the patient had experienced an umbilical cord prolapse at approximately 0350 on July 19, 2008, failed to adequately respond to that medical emergency by ordering and performing a caesarean section on a sufficiently emergent basis, and/or failed to document that he did so.
3. Respondent, once he confirmed that the patient had experienced an umbilical cord prolapse at approximately 0350 on July 19, 2008, failed to ensure that the fetal heart rate monitors, which had been disconnected at

approximately 0357, were reconnected prior to the delivery of the stillborn infant on or about 0425, and/or failed to document that he did so.

SPECIFICATION OF CHARGES

FIRST SPECIFICATION

GROSS NEGLIGENCE

Respondent is charged with committing professional misconduct as defined in N.Y. Educ. Law § 6530(4) by practicing the profession of medicine with gross negligence on a particular occasion as alleged in the facts of the following:

1. The facts in Paragraphs A and A.1, A and A.2, and/or A and A.3.

SECOND SPECIFICATION

GROSS INCOMPETENCE

Respondent is charged with committing professional misconduct as defined in N.Y. Educ. Law § 6530(6) by practicing the profession of medicine with gross incompetence as alleged in the facts of the following:

2. The facts in Paragraphs A and A.1, A and A.2, and/or A and A.3.

THIRD SPECIFICATION

NEGLIGENCE ON MORE THAN ONE OCCASION

Respondent is charged with committing professional misconduct as defined in N.Y. Educ. Law § 6530(3) by practicing the profession of medicine with negligence on more than one occasion as alleged in the facts of two or more of the following:

3. The facts in Paragraphs A and A.1, A and A.2, and/or A and A.3.

FOURTH SPECIFICATION

INCOMPETENCE ON MORE THAN ONE OCCASION

Respondent is charged with committing professional misconduct as defined in N.Y. Educ. Law § 6530(5) by practicing the profession of medicine with incompetence on more than one occasion as alleged in the facts of two or more of the following:

4. The facts in Paragraphs A and A.1, A and A.2, and/or A and A.3.

FIFTH SPECIFICATION

FAILURE TO MAINTAIN RECORDS

Respondent is charged with committing professional misconduct as defined in N.Y. Educ. Law § 6530(32) by failing to maintain a record for each patient which accurately reflects the care and treatment of the patient, as alleged in the facts of:

5. The facts in Paragraphs A and A.1, A and A.2, and/or A and A.3.

DATE: ^{May 14} April, 2012
Albany, New York

REDACTED

Peter D. Van Buren
Deputy Counsel
Bureau of Professional Medical Conduct