



New York State Board for Professional Medical Conduct

433 River Street, Suite 303 • Troy, New York 12180-2299 • (518) 402-0863

Nirav R. Shah, M.D., M.P.H.
Commissioner
NYS Department of Health
Keith W. Servis, Director
Office of Professional Medical Conduct

Public

Kendrick A. Sears, M.D.
Chair
Carmella Torrelli
Vice Chair
Katherine A. Hawkins, M.D., J.D.
Executive Secretary

February 28, 2011

CERTIFIED MAIL-RETURN RECEIPT REQUESTED

Barry J. Waldman, M.D.

REDACTED

Re: License No. 207963

Dear Dr. Waldman:

Enclosed is a copy of BPMC #11-49 of the New York State Board for Professional Medical Conduct. This order and any penalty provided therein goes into effect March 7, 2011.

Sincerely,

REDACTED

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

Enclosure

cc: Constance H. Baker, Esq.
Venable LLP
750 E. Pratt Street, Suite 900
Baltimore, MD 21202

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

IN THE MATTER
OF
BARRY JAY WALDMAN, M.D.

CONSENT
ORDER

BPMC No. #11-49

Upon the application of **BARRY JAY WALDMAN, 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.

DATE: 1-25-2011

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

CONSENT

OF

AGREEMENT

BARRY JAY WALDMAN, M.D.
CO-10-01-0050-A

BARRY JAY WALDMAN, M.D., (Respondent), representing that all of the following statements are true, deposes and says:

That on or about August 21, 1997, I was licensed to practice medicine in the State of New York and issued license number 207963 by the New York State Education Department.

My current address is REDACTED, 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 two (2) 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 Factual Allegations A and B(2) and the First Specification, in so far as it relates to the facts in Paragraphs A and B(2), in full satisfaction of the charges against me, and agree to the following sanction:

Censure and Reprimand;

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: _____

2/9/11

REDACTED

BARRY JAY WALDMAN, M.D.
Respondent

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

DATE: 2-11-2011

REDACTED

CONSTANCE H. BAKER
Attorney for Respondent

DATE: 2/14/11

REDACTED

MICHAEL G. BASS
Assistant Counsel
Bureau of Professional Medical Conduct

DATE: 2/23/11

REDACTED

KEITH W. SERVIS
Director
Office of Professional Medical Conduct

EXHIBIT A

IN THE MATTER
OF
BARRY JAY WALDMAN, M.D.
CO-10-01-0050-A

STATEMENT
OF
CHARGES

BARRY JAY WALDMAN, M.D., Respondent, was authorized to practice medicine in New York state on August 21, 1997, by the issuance of license number 207963 by the New York State Education Department.

FACTUAL ALLEGATIONS

A. On or about December 16, 2009, the Maryland Board of Physicians, (hereinafter "Maryland Board"), by Consent Order, Reprimanded Respondent and placed him on Probation for a minimum of one (1) year. The Maryland Board found that Respondent failed to meet the standard of care regarding two (2) patients. In regards to Patient A (total knee replacement), the Maryland Board found that Respondent failed to initiate the appropriate follow-up after receiving an MRI report that was suggestive of a tumor and recommended follow up imaging, failed to order additional MRI imaging as recommended, failed to order a biopsy to determine whether there was a malignancy in the left knee prior to proceeding to surgery, and performed the surgery prior to receiving the results interpreting a CT scan that he had ordered. In regards to Patient B (total knee arthroplasty revision surgery), the Maryland Board found that Respondent failed to perform testing to determine the efficacy of Ecotrin for anticoagulation therapy even though Patient B was in a high risk category for developing blood clots, and also failed to consider prophylactic placement of a Greenfield filter as protection against Patient B's development of a pulmonary embolism. Further, the Maryland Board found that Respondent failed to maintain adequate medical records for both Patients A and B.

B. The conduct resulting in the Maryland 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 Sec. 6530(3) (negligence on more than one occasion);and/or

2. New York Education Law Sec. 6530(32) (failure to maintain a record).

SPECIFICATIONS
FIRST SPECIFICATION

Respondent violated New York Education Law §6530(9)(b) by having been found guilty of improper 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 B.

SECOND SPECIFICATION

Respondent violated New York Education Law §6530(9)(d) by having disciplinary 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:

2. The facts in Paragraphs A and B.

DATED: *December 9*, 2010
Albany, New York

REDACTED

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