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

IN THE MATTER OF MICHAEL KUKFA, M.D.	CONSENT ORDER BPMC No. #08-57

Upon the application of (Respondent) MICHAEL KUKFA, 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: 4-11-2008

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 MICHAEL KUKFA, M.D.	CONSENT AGREEMENT AND ORDER

MICHAEL KUKFA, M.D., representing that all of the following statements are true, deposes and says:

That on or about July 5, 1988, I was licensed to practice as a physician in the State of New York, and issued License No. 175129 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 address.

I understand that the New York State Board for Professional Medical Conduct (Board) has charged me with Three 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 Third Specification (failure to maintain adequate records), in full satisfaction of the charges against me, and agree to the following penalty:

I agree to receive a Censure and Reprimand.

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

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 30 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.

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 March 20 2008

Redacted Signature
MICHAEL KUKFA, M.D.
RESPONDENT

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

DATE: 3/31/2008

Redacted Signature
DENNIS J. GRUTTADARO, ESQ.
Attorney for Respondent

DATE: 4/3/08

Redacted Signature
MICHAEL A. HISER
Associate Counsel
Bureau of Professional Medical Conduct

DATE: 4/10/08

Redacted Signature
KEITH W. SERVIS
Director
Office of Professional Medical Conduct

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

IN THE MATTER OF MICHAEL KUKFA, M.D.	STATEMENT OF CHARGES

MICHAEL KUKFA, M.D., the Respondent, was authorized to practice medicine in New York State on or about July 5, 1988, by the issuance of license number 175129 by the New York State Education Department.

FACTUAL ALLEGATIONS

A. Respondent provided medical care to Patient A [the patient is identified in the attached appendix], a 30 year old male, at various times from 2003 through December, 2004. On or about November 14, 2004, the patient was seen and treated at, and released from, the emergency department of the Rochester General Hospital for complaints of chest pain. On November 23, 2004, Respondent evaluated the patient at Respondent's office at the Linden Medical Group ["LMG"], 30 Hagen Drive, Rochester, New York, as a follow up to the emergency room visit, and for ongoing complaints of heartburn like symptoms. On or about November 28, 2004, the patient was admitted to the Rochester General Hospital with an acute myocardial infarction. On approximately the same day, Respondent was informed that the patient had suffered a serious heart attack. Shortly thereafter, Respondent took various actions to assess and document his medical care of Patient A during the November 23, 2004, office visit. Respondent's medical care of Patient A and those actions failed to meet minimum standards, in that:

1. Respondent, after having been informed that Patient A had suffered an acute myocardial infarction on or about Nov. 28, 2004, was unable to locate an EKG dated November 23, 2004. In an attempt to recover the missing EKG, Respondent thereafter performed an EKG on himself after inputting the patient's name and the date of the patient's visit into the EKG machine, but did not note that the EKG had been performed on himself.

2. Respondent, on or about December 8, 2004, attended a meeting of he partners of the LMG health group, during which the care of Patient A was discussed. A copy of the EKG that Respondent performed on himself, with the name of Patient A and the date of Patient A's visit, was reviewed and compared to prior EKGs of Patient A. Respondent did not advise at that time that the EKG was one he had performed on himself.

SPECIFICATION OF CHARGES

FIRST 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:

1. The facts in paragraphs A and A.1 and A and A.2.

SECOND SPECIFICATION

FRAUDULENT PRACTICE

Respondent is charged with committing professional misconduct as defined by N.Y. Educ. Law § 6530(2) by practicing the profession of medicine fraudulently as alleged in the facts of the following:

2. The facts in paragraphs A and A.1 and A and A.2.

THIRD 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:

3. The facts in paragraphs A and A.1 and A and A.2.

DATE: ~~March~~ April 3, 2008
Albany, New York

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