



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.
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NYS Department of Health*

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

Dennis J. Graziano, Director
Office of Professional Medical Conduct

William P. Dillon, M.D.
Chair

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

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

PUBLIC

June 12, 2003

CERTIFIED MAIL-RETURN RECEIPT REQUESTED

Scott M. O'Neil, M.D.
630 Stonewall Jackson Trail
Martinsville, VA 24112

RE: License No. 193560

Dear Dr. O'Neil:

Enclosed please find Order #BPMC 03-150 of the New York State Board for Professional Medical Conduct. This Order and any penalty provided therein goes into effect June 19, 2003.

If the penalty imposed by the Order is a surrender, revocation or suspension of this license, you are required to deliver to the Board the license and registration within five (5) days of receipt of the Order to 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

cc: James E. Moore, Esq.
Christian/Barton, LLP
909 East Main Street, Suite 1200
Richmond, VA 23219-3095

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

IN THE MATTER
OF
SCOTT M. O' NEIL, M.D.

CONSENT
ORDER
BPMC No. 03-150

Upon the proposed agreement of **SCOTT M. O' NEIL, M.D.** (Respondent) for Consent Order, which application is made a part hereof, it is agreed and

ORDERED, that the application and the provisions thereof are hereby adopted and so ORDERED, and it is further

ORDERED, that this order shall be effective upon issuance by the Board, which may be accomplished by mailing, by first class mail, a copy of the Consent Order to Respondent at the address set forth in this agreement or to Respondent's attorney by certified mail or upon transmission via facsimile to Respondent or Respondent's attorney, whichever is earliest.

SO ORDERED.

DATED: 6/9/03

William P. Dillon, M.D.

WILLIAM P. DILLON, 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

**SCOTT O' NEIL, M.D.
CO-03-03-1264-A**

CONSENT

AGREEMENT

AND ORDER

SCOTT O' NEIL, M.D., (Respondent) deposes and says:

That on or about August 31, 1993, I was licensed to practice as a physician in the State of New York, having been issued License No. 193560 by the New York State Education Department.

My current address is 630 Stonewall Jackson Trail, Martinsville, VA 24112 and I will advise the Director of the Office of Professional Medical Conduct of any change of my address within thirty (30) days thereof.

I understand that the New York State Board of Professional Medical Conduct has charged me with two (2) specifications of professional misconduct.

A copy of the Statement of Charges is annexed hereto, made a part hereof, and marked as Exhibit "A."

I do not contest Factual Allegations A and B(1) and the two (2) specifications, in full satisfaction of the charges against me. I, hereby, agree to the following penalties:

Censure and Reprimand.

I further agree that the Consent Order for which I, hereby, apply shall impose the following conditions:

That, except during periods of actual suspension, Respondent shall maintain active registration of Respondent's license with the New York State Education Department Division of Professional Licensing Services, and pay all registration fees. This condition shall be in effect beginning thirty days after the effective date of the Consent Order and will continue while the licensee possess his/her license; and

That Respondent shall fully cooperate in every respect with the Office of Professional Medical Conduct (OPMC) in its administration and enforcement of this Order and in its investigation of all matters regarding Respondent. Respondent shall respond in a timely manner to each and every request by OPMC to provide written periodic verification of Respondent's compliance with the terms of this Order. Respondent shall meet with a person designated by the Director of OPMC as directed. Respondent shall respond promptly and provide any and all documents and information within Respondent's control upon the direction of OPMC. This condition shall be in effect beginning upon the effective date of the Consent Order and will continue while the licensee possesses his/her license.

I, hereby, stipulate that any failure by me to comply with such conditions shall constitute misconduct as defined by New York State Education Law §6530(29).

I agree that in the event that I am charged with professional misconduct in the future, the agreement and order shall be admitted into evidence in that proceeding.

I, hereby, make this Application to the State Board for Professional Medical Conduct (the Board) and request that it be granted.

I understand that, in the event that this Application is not granted by the Board, nothing contained herein shall be binding upon me or construed to be an admission of any act of misconduct alleged or charged against me, such Application shall not be used against me in any way and shall be kept in strict confidence during the pendency of the professional misconduct disciplinary proceeding; and such denial by the Board shall be made without prejudice to the continuance of any disciplinary proceeding and the final determination by the Board pursuant to the provisions of the Public Health Law.

I agree that, in the event the Board grants my Application, as set forth herein, an order of the Chairperson of the Board shall be issued in accordance with same. I agree that such order shall be effective upon issuance by the Board, which may be accomplished by mailing, by first class mail, a copy of the Consent Order to me at the address set forth in this agreement or to my attorney or upon transmission via facsimile to me or my attorney, whichever is earliest.

I am making this Application of my own free will and accord and not under duress, compulsion or restraint of any kind or manner, in consideration of the value to me of the acceptance by the Board of this Application, allowing me to resolve this matter without the various risks and burdens of a hearing on the merits. I knowingly waive any right I may have to contest the Consent Order for which I, hereby, apply, whether administratively or judicially, and ask that the Application be granted.

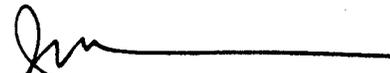
AFFIRMED:

DATED: 5/29/03


SCOTT M. O' NEIL, M.D.
Respondent

The undersigned agree to the attached application of the Respondent and to the proposed penalty based on the terms and conditions thereof.

DATE: 6/2/03



JAMES E. MOORE, ESQ.
Attorney for Respondent

DATE: 03 June



ROBERT BOGAN
Associate Counsel
Bureau of Professional Medical Conduct

DATE: 05 June



DENNIS J. GRAZIANO
Director
Office of Professional Medical Conduct

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

IN THE MATTER
OF
SCOTT M. O' NEIL, M.D.
CO-03-03-1264-A

STATEMENT
OF
CHARGES

SCOTT M. O' NEIL, M.D., the Respondent, was authorized to practice medicine in New York state on August 31, 1993, by the issuance of license number 193560 by the New York State Education Department.

FACTUAL ALLEGATIONS

A. On or about December 20, 2002, the Commonwealth of Virginia, Department of Health Professions, Board of Medicine (hereinafter "Virginia Board"), by an Amended Order (hereinafter "Virginia Order"), CENSURED Respondent and required that he successfully complete a medical record keeping course, based on having scheduled a laparoscopic cholecystectomy despite normal ultrasound and HIDA scan, relying on studies, at least one year old, failure to perform adequate diagnostic tests, allowing a high school student to touch the pelvic mass of a patient while the patient was under pre-operative anesthesia and on the operating table without written consent of the patient in violation of written hospital policy, failing to document surgical consent, interfering with another physician's treatment of a patient, and failure to maintain a record for each patient that accurately reflects the evaluation and treatment of the patient.

B. The conduct resulting in the Virginia 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(3) (negligence on more than one occasion);

2. New York Education Law §6530(4) (gross negligence);
3. New York Education Law §6530(32) (failure to maintain a record of each patient which accurately reflects the evaluation and treatment of the patient); and/or
4. New York Education Law §6530(35) (ordering excessive tests or treatment not warranted by the condition of the patient).

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 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/or B.

DATED: *May 15*, 2003
Albany, New York


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