



New York State Board for Professional Medical Conduct

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*Richard F. Daines, M.D.
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NYS Department of Health
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Executive Deputy Commissioner
Keith W. Servis, Director
Office of Professional Medical Conduct*

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

PUBLIC

July 27, 2010

CERTIFIED MAIL-RETURN RECEIPT REQUESTED

Benny Celniker, M.D.

Redacted Address

Re: License No. 082040

Dear Dr. Celniker:

Enclosed is a copy of BPMC #10-130 of the New York State Board for Professional Medical Conduct. This order and any penalty provided therein goes into effect August 3, 2010.

Sincerely,

Redacted Signature

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
BENNY CELNIKER, M.D.

CONSENT
ORDER

BPMC #: 10-130

Upon the application of **BENNY CELNIKER, 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: July 27, 2010

Redacted Signature

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

BENNY CELNIKER, M.D.
CO-09-06-3457-A

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

That on or about March 19, 1959, I was licensed to practice medicine in the State of New York and issued license number 082040 by the New York State Education Department.

My current address is Redacted Address 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, based solely on the August 6, 2009, Arizona Medical Board, Consent Agreement.

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 two (2) Specifications, and agree to the following penalty:

I have not practiced medicine in the State of New York in many years and I do not intend to return to the practice of medicine in the State of New York.

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

I shall never practice medicine in New York state
or activate my registration to practice medicine 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: 7/12/10

Redacted Signature

BENNY CELMIKER, M.D.
Respondent

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

DATE: 16 July 2010

Redacted Signature

ROBERT BOGAN
Associate Counsel
Bureau of Professional Medical Conduct

DATE: July 24, 2010

Redacted Signature

KEITH W. SERVIS
Director
Office of Professional Medical Conduct

IN THE MATTER
OF
BENNY CELNIKER, M.D.
CO-09-06-3457-A

STATEMENT
OF
CHARGES

BENNY CELNIKER, M.D., Respondent, was authorized to practice medicine in New York state on March 19, 1959, by the issuance of license number 082040 by the New York State Education Department.

FACTUAL ALLEGATIONS

A On or about August 6, 2009, the Arizona Medical Board (hereinafter "Arizona Board"), by a Consent Agreement for Decree of Censure and Reprimand (hereinafter "Arizona Agreement"), issued Respondent a Decree of Censure and placed him on one (1) year probation with terms and conditions, based on conduct in the practice that is or might be harmful or dangerous to the health of the patient or the public and gross negligence, repeated negligence or negligence resulting in harm to or the death of a patient.

B. The conduct resulting in the Arizona 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(5) (incompetence on more than one occasion);
- and/or
4. New York Education Law §6530(6) (gross incompetence).

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 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 14*, 2010
Albany, New York

Redacted Signature

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