

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

IN THE MATTER
OF
DAVID S. SKORY, M.D.

CONSENT
ORDER
BPMC No. #09-78

Upon the application of (Respondent) DAVID S. SKORY, MD, 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: 4-22-2009

Redacted Signature

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

**IN THE MATTER
OF
DAVID S. SKORY, M.D.**

**CONSENT
AGREEMENT
AND
ORDER**

DAVID S. SKORY, M.D., MD representing that all of the following statements are true, deposes and says:

That on or about March 13, 1987, I was licensed to practice as a physician in the State of New York and issued License No. 169529 by the New York State Education Department.

My current address is 2310 Nott Street East, Suite 1, Schenectady, NY 12309. 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 professional misconduct. A copy of the Statement of Charges, marked as Exhibit A, is attached to and made part of this agreement.

I do not contest the specification (negligence on more than one occasion) of the Statement of Charges in full satisfaction of the charges against me.

I agree to the following penalty: I shall be censured and reprimanded; my license to practice medicine shall be restricted to prohibit patient contact without the presence of a chaperone; and my licence shall placed on probation for three years under the terms and conditions attached as Exhibit B.

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 4/2/07

Redacted Signature

DAVID S. SKORY, M.D.
RESPONDENT

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

DATE: 4/2/09

Redacted Signature

~~STEPHEN C. PRUDENTE, ESQ.~~
Attorney for Respondent

DATE: 4/13/09

Redacted Signature

~~KEVIN C. ROE, ESQ.~~
Assistant Counsel
Bureau of Professional Medical Conduct

DATE: 4/20/09

Redacted Signature

~~KEITH W. SERVIS~~
Director
Office of Professional Medical Conduct

EXHIBIT A

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

IN THE MATTER
OF
DAVID S. SKORY, M.D.

STATEMENT
OF
CHARGES

DAVID S. SKORY, M.D., the Respondent, was authorized to practice medicine in New York State on or about March 13, 1987, by the issuance of license number 169529 by the New York State Education Department.

FACTUAL ALLEGATIONS

- A. Respondent treated Patient A (patients are identified in the attached appendix) at his office, 2310 Nott Street East, Schenectady, New York, on January 2, 2007. Respondent's care and treatment of Patient A failed to meet acceptable standards of medical care, in that:
1. Respondent made offensive comments during the patient encounter.
- B. Respondent treated Patient B at his office on April 2, 2007. Respondent's care and treatment of Patient B failed to meet acceptable standards of medical care, in that:
1. Respondent made offensive comments during the patient encounter.

SPECIFICATION

NEGLIGENCE ON MORE THAN ONE OCCASION

Respondent is charged with negligence on more than one occasion in violation of New York Education Law §6530(3) in that, Petitioner charges two or more of the following: the facts in Paragraphs A and A.1, and/or B and B.1.

DATED: *April 13*, 2008

Albany, New York

Redacted Signature

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

EXHIBIT B
Terms of Probation

1. Respondent shall conduct himself in all ways in a manner befitting his/her professional status, and shall conform fully to the moral and professional standards of conduct and obligations imposed by law and by his profession.
2. Respondent shall submit written notification to the New York State Department of Health addressed to the Director of the Office of Professional Medical Conduct, New York State Department of Health, 433 River Street, Suite 303, Troy, NY 12180-2299; said notice shall include a full description of any employment and practice, professional and residential addresses and telephone numbers within or without New York State, and any and all investigations, charges, convictions or disciplinary actions by any local, state or federal agency, institution or facility, within thirty days of each action.
3. The period of probation shall be tolled during periods in which Respondent is not engaged in the active practice of medicine in New York State. Respondent shall notify the Director of OPMC, in writing, if Respondent is not currently engaged in or intends to leave the active practice of medicine in New York State for a period of thirty (30) consecutive days or more. Respondent shall then notify the Director again prior to any change in that status. The period of probation shall resume and any terms of probation which were not fulfilled shall be fulfilled upon Respondent's return to practice in New York State.
4. Respondent's professional performance may be reviewed by the Director of OPMC. This review may include, but shall not be limited to, a review of office records, patient records and/or hospital charts, interviews with or periodic visits with Respondent and his staff at practice locations or OPMC offices.
5. Respondent shall maintain legible and complete medical records which accurately reflect the evaluation and treatment of patients. The medical records shall contain all information required by State rules and regulations regarding controlled substances.
6. Respondent shall examine and/or treat female patients only in the presence of a chaperone. The chaperone shall be a licensed or registered health care professional or other health care worker, shall not be a family member, personal friend, or be in a professional relationship with Respondent which could pose a conflict with the chaperone's responsibilities. A chaperone monitor shall be proposed by Respondent and subject to the written the approval of the Director of OPMC.
7. Prior to the approval of any individual as chaperone monitor, Respondent shall cause the proposed chaperone monitor to execute and submit to the Director of OPMC an acknowledgment of the chaperone monitor's agreement to undertake all of the responsibilities of the role of chaperone monitor. Said acknowledgment shall be made upon a form provided by and acceptable to the Director. Respondent shall provide the chaperone monitor with a copy of the Order and all of its attachments and shall, without fail, cause the approved chaperone monitor to:
 - a. Report quarterly to OPMC regarding the chaperoning of Respondent's practice.
 - b. Report within 24 hours any failure of Respondent to comply with the Order, including, but not limited to, any failure by Respondent to have a chaperone present when required and any inappropriate behavior by Respondent in the presence of any patient.

- c. Confirm a chaperone's presence at each and every examination and treatment of a female patient by Respondent, by placing the chaperone's name, title and date in the patient record for each and every visit, and by maintaining a separate log, kept in the chaperone monitor's own possession, listing the patient name and date of visit for each and every patient visit chaperoned.
 - d. Provide copies of the log described in paragraph c, above, to OPMC at least quarterly and also immediately upon the Director's request.
8. Respondent shall enroll in and successfully complete 100 hours of continuing medical education relating to physician/patient boundaries within the first two years of probation. The continuing medical education programs shall be proposed by Respondent and subject to the written approval of the Director of OPMC.
9. Respondent shall maintain medical malpractice insurance coverage with limits no less than \$2 million per occurrence and \$6 million per policy year, in accordance with Section 230(18)(b) of the Public Health Law. Proof of coverage shall be submitted to the Director of OPMC prior to Respondent's practice after the effective date of this Order.
10. Respondent shall comply with all terms, conditions, restrictions, limitations and penalties to which he is subject pursuant to the order and shall assume and bear all costs related to compliance. Upon receipt of evidence of noncompliance with, or any violation of these terms, the Director of OPMC and/or the Board may initiate a violation of probation proceeding and/or any such other proceeding against Respondent as may be authorized pursuant to law.