



New York State Board for Professional Medical Conduct

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

Richard F. Daines, M.D.
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NYS Department of Health
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Office of Professional Medical Conduct

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Chair
Michael A. Gonzalez, R.P.A.
Vice Chair
Ansel R. Marks, M.D., J.D.
Executive Secretary

March 3, 2008

CERTIFIED MAIL-RETURN RECEIPT REQUESTED

Robert L. Daniels, M.D.
400 Foote Avenue
Jamestown, NY 14701

Re: License No. 131973

Dear Dr. Daniels:

Enclosed is a copy of Order #BPMC 08-34 of the New York State Board for Professional Medical Conduct. This order and any penalty provided therein goes into effect March 10, 2008.

If the penalty imposed by this Order is a surrender, revocation or suspension, you are required to deliver your license and registration within five (5) days of receipt of this Order and return it to the Office of Professional Medical Conduct, New York State Department of Health, 433 River Street, Suite 303, Troy, NY 12180-2299

Sincerely,

Ansel R. Marks, M.D., J.D.
Executive Secretary
Board for Professional Medical Conduct

Enclosure

cc: Dale C. Robbins, Esq.
Burgett & Robbins
P.O. Box 3090
15 E. 5th Street
Jamestown, NY 14701

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

**IN THE MATTER
OF
ROBERT L. DANIELS, M.D.**

**CONSENT
ORDER**

BPMC No. #08-34

Upon the application of (Respondent) ROBERT L. DANIELS, 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: 2-29-2008


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

**IN THE MATTER
OF
ROBERT L. DANIELS, M.D.**

**CONSENT
AGREEMENT
AND
ORDER**

ROBERT L. DANIELS, MD representing that all of the following statements are true, deposes and says:

That on or about August 26, 1977, I was licensed to practice as a physician in the State of New York, and issued License No. 131973 by the New York State Education Department.

My current address is 400 Foote Avenue, Jamestown, NY 14701 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 two specifications of 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 first 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: My license to practice shall be 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 02/07/08



ROBERT L. DANIELS, MD
RESPONDENT

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

DATE: 02/07/08


DALE C. ROBBINS, ESQ.
Attorney for Respondent

DATE: 2/15/08


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

DATE: 2/26/08


KEITH W. SERVIS
Director
Office of Professional Medical Conduct

**IN THE MATTER
OF
ROBERT L. DANIELS, MD**

**STATEMENT
OF
CHARGES**

ROBERT L. DANIELS, MD, the Respondent, was authorized to practice medicine in New York State on or about August 26, 1977, by the issuance of license number 131973 by the New York State Education Department.

FACTUAL ALLEGATIONS

- A. Respondent treated Patient A on July 21, 2004 at Women's Christian Association Hospital, Jamestown, NY. Respondent's care and treatment of Patient A failed to meet accepted standards, in that:
1. Respondent failed to extend the incision to provide greater operative exposure when unable to identify the structures on which he was operating.
 2. Respondent inappropriately biopsied an unknown structure for identification.
- B. Respondent treated Patient A on May 6, 2004 at Women's Christian Association Hospital, Jamestown, NY. . Respondent's care and treatment of Patient B failed to meet accepted standards, in that:
1. Respondent failed to perform a pregnancy test prior to attempting bilateral tubal ligation.

SPECIFICATIONS

FIRST 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:

1. The facts in Paragraphs A and A.1 and/or A.2: and B and B.1.

SECOND SPECIFICATION

INCOMPETENCE ON MORE THAN ONE OCCASION

Respondent is charged with incompetence on more than one occasion in violation of New York Education Law §6530(5) in that, Petitioner charges two or more of the following:

2. The facts in Paragraphs A and A.1 and/or A.2: and B and B.1

DATED: *Feb 15*, 2008

Albany, New York

Peter D. Van Buren
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. Beginning thirty days after the effective date of this order, Respondent shall practice medicine only when monitored by a licensed physician, board certified in an appropriate specialty, ("practice monitor") proposed by Respondent and subject to the written approval of the Director of OPMC.
 - a. Respondent shall make available to the monitor any and all records or access to the practice requested by the monitor, including on-site observation. The practice monitor shall visit Respondent's medical practice at each and every location, on a random unannounced basis at least monthly and shall examine a random selection of no less than 25 records maintained by Respondent, including patient records, prescribing information, hospital and office records. The review will determine whether the Respondent's medical practice is conducted in accordance with the generally accepted standards of professional medical care. Any perceived deviation of accepted standards of medical care or refusal to cooperate with the monitor shall be reported within 24 hours to OPMC.
 - b. Respondent shall be solely responsible for all expenses associated with monitoring, including fees, if any, to the monitoring physician.
 - c. Respondent shall cause the practice monitor to report monthly during the first six months of probation and then quarterly to the Director of OPMC.
 - d. 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.

7. Respondent shall enroll in and complete 100 hours of continuing medical education during each year of the period of probation. The continuing medical education programs shall be subject to the Director of OPMC's prior written approval.
8. 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.