



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*

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*Executive Deputy Commissioner
NYS Department of Health*

Dennis J. Graziano, Director
Office of Professional Medical Conduct

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Vice Chair

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

Public

May 2, 2006

CERTIFIED MAIL-RETURN RECEIPT REQUESTED

Linda Lazarus Benjamin, M.D.
123 Depew Street
Buffalo, NY 14214

Re: License No. 135545

Dear Dr. Benjamin:

Enclosed is a copy of Order #BPMC 06-99 of the New York State Board for Professional Medical Conduct. This order and any penalty provided therein goes into effect May 9, 2006.

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 to the 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 Lazarus, Esq.
989 Kenmore Avenue
Kenmore, NY 14217-2924

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

IN THE MATTER

CONSENT

OF

ORDER

LINDA LAZARUS BENJAMIN, M.D.

BPMC No. #06-99

Upon the application of **LINDA LAZARUS BENJAMIN, M.D.**, (Respondent) 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 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.

DATED: 5-1-06



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
OF
LINDA LAZARUS BENJAMIN, M.D.
CO-05-11-6074-A

CONSENT
AGREEMENT
AND ORDER

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

That on or about August 11, 1978, I was licensed to practice as a physician in the State of New York, and issued License No. 135545 by the New York State Education Department.

My current address is 123 Depew Street, Buffalo, NY 14214, and I will advise the Director of the Office of Professional Medical Conduct of any change of my address thirty (30) days, thereof.

I understand that the New York State Board for Professional Medical Conduct has charged me with one (1) specification of professional misconduct.

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 one (1) specification, in full satisfaction of the charges against me, and agree to the following penalty:

Censure and Reprimand;

Respondent shall enroll in and complete a continuing education program in the areas of ethics and controlled substances prescribing. Said continuing education program shall be subject to the prior written approval of the Director of OPMC and be completed within six (6) months of the effective date of this Consent Order.

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

That Respondent shall maintain active registration of Respondent's license with the New York State Education, Department Division of Professional Licensing Services (except during periods of actual suspension), and shall pay all registration fees. This condition shall take effect thirty (30) days after the Consent Order's effective date and will continue so long as Respondent remains licensed 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 Order and in its investigations of all matters concerning Respondent. Respondent shall respond in a timely manner to all OPMC requests for written periodic verification of Respondent's compliance with this 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 Order shall constitute misconduct as defined by New York State Education Law §6530(29).

I agree that if I am charged with professional misconduct in the 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 the 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 this 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 Order, this agreement, and all attached Exhibits shall be public documents, with only patients identities, if any, redacted.

I stipulate that the proposed sanction and Order are authorized by Public Health Law Sections 230 and 230-a and that the Board for Professional Medical Conduct and the Office of Professional Medical Conduct 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 ask that the Board adopt this Consent Agreement.

AFFIRMED:

DATED: 4/6/06

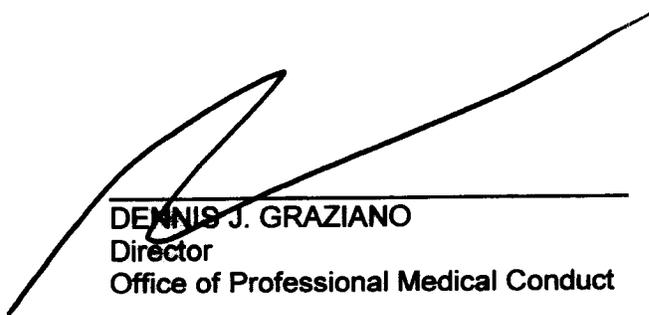

LINDA LAZARUS BENJAMIN, M.D.
Respondent

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

DATE: 13 April 2006


ROBERT BOGAN
Associate Counsel
Bureau of Professional Medical Conduct

DATE: 27 April 2006


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
LINDA LAZARUS BENJAMIN, M.D.
CO-05-11-6074-A

STATEMENT
OF
CHARGES

LINDA LAZARUS BENJAMIN, M.D., Respondent, was authorized to practice medicine in New York state on August 11, 1978, by the issuance of license number 135545 by the New York State Education Department.

FACTUAL ALLEGATIONS

A. On or about April 11, 2006, the State of New York, Department of Health, by a Stipulation and Order, assessed Respondent a \$10,000.00 civil penalty, based on during the period December 2002, through November 2003, Respondent pre-signed blank prescription forms, some of which were blank official New York State prescription forms and unknown to Respondent, staff employed by her falsely completed the prescription forms for the purpose of diverting controlled substances.

B. The conduct resulting in the State of New York, Department of Health, Stipulation and Order 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).

SPECIFICATION

Respondent violated New York Education Law §6530(9)(c) by having been found guilty in an adjudicatory proceeding of violating a state or federal statute or regulation, pursuant to a final decision or determination, and when no appeal is pending, or after resolution of the proceeding by stipulation or agreement, and when the violation would constitute professional misconduct under the laws of New York state, in that Petitioner charges:

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

DATED: *April 14*, 2006
Albany, New York


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