



*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.*  
*Commissioner*  
*NYS Department of Health*  
*James W. Clyne, Jr.*  
*Executive Deputy Commissioner*  
*Keith W. Servis, Director*  
*Office of Professional Medical Conduct*

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

May 14, 2010

***CERTIFIED MAIL-RETURN RECEIPT REQUESTED***

Brian L. Shaffer, M.D.

Re: License No. 178891

Dear Dr. Shaffer:

Enclosed is a copy of BPMC #10-81 of the New York State Board for Professional Medical Conduct. This order and any penalty provided therein goes into effect May 21, 2010.

**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,

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

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IN THE MATTER  
OF  
BRIAN L. SHAFFER, M.D.

CONSENT  
ORDER

BPMC No. #10-81

Upon the application of **BRIAN L. SHAFFER, 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: 5-12-2010

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

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IN THE MATTER

CONSENT

OF

AGREEMENT

BRIAN L. SHAFFER, M.D.  
CO-09-05-2747-A

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**BRIAN L. SHAFFER, M.D.**, (Respondent), representing that all of the following statements are true, deposes and says:

That on or about July 3, 1989, I was licensed to practice medicine in the State of New York and issued license number 178891 by the New York State Education Department.

My current address is \_\_\_\_\_, 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 five (5) Specifications of professional misconduct.

A copy of the Statement of Charges, marked as Exhibit A, is attached to and part of this Consent Agreement.

The New York State Department of Health has offered to settle this matter by my agreeing to a Censure and Reprimand, a \$5,000.00 fine, and the requirement that I keep my New York state license registration active.

As I have not practiced medicine in New York state in many years and I do not intend to return to practice medicine in New York state, I do not contest the five (5) Specifications, and:

I agree, in lieu of the settlement offered by the State of New York:

to 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.



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

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IN THE MATTER  
OF  
BRIAN L. SHAFFER, M.D.  
CO-09-05-2747-A

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STATEMENT  
OF  
CHARGES

**BRIAN L. SHAFFER, M.D.**, Respondent, was authorized to practice medicine in New York State on July 3, 1989, by the issuance of license number 178891 by the New York State Education Department.

**FACTUAL ALLEGATIONS**

A. On or about July 25, 2008, in the United States District Court, District of New Jersey, Respondent was found guilty, based on a plea of guilty, of Evasion of Income Taxes, in violation of 26 USC §7201, a felony, and on or about August 6, 2008, was sentenced to three (3) years probation and a \$100.00 Assessment.

B. On or about March 9, 2009, the Commonwealth of Pennsylvania, Department of State, State Board of Medicine, (hereinafter "Pennsylvania Board"), by a Consent Agreement and Order (hereinafter "Pennsylvania Order"), fined Respondent \$5,000.00 and PUBLICLY REPRIMANDED him based on the Federal criminal conviction set forth in Paragraph A, above.

C. On or about June 8, 2009, nunc pro tunc April 8, 2009, the State of New Jersey, Department of Law & Public Safety, Division of Consumer Affairs, State Board of Medical Examiners, (hereinafter "New Jersey Board"), by a Consent Order (hereinafter "New Jersey Order"), suspended Respondent's license to practice medicine for three (3) years, effective May 8, 2009, the first six (6) months to be served as a period of active suspension, the remainder stayed to be served as a period of probation, assessed a \$30,000.00 cost and penalties, and required him to take and successfully complete an ethics course, based on the Federal criminal conviction set forth in Paragraph A, above.

D. The conduct resulting in the Pennsylvania 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 State Education Law §6530(9)(a)(ii) (being convicted of committing an act constituting a crime under federal law).

E. The conduct resulting in the New Jersey 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 State Education Law §6530(9)(a)(ii) (being convicted of committing an act constituting a crime under federal law).

### **SPECIFICATIONS**

#### **FIRST SPECIFICATION**

Respondent violated New York Education Law §6530(9)(a)(ii) by being convicted of committing an act constituting a crime under federal law, in that Petitioner charges:

1. The facts in Paragraphs A.

#### **SECOND AND THIRD SPECIFICATIONS**

Respondent violated New York State 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 findings was based 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, B, and/or D.

3. The facts in Paragraphs A, C, and/or E.

#### **FOURTH AND FIFTH SPECIFICATIONS**

Respondent violated New York State Education Law §6530(9)(d) by having his license to practice medicine suspended and/or having other disciplinary action taken by a duly authorized professional disciplinary agency of another state, where the conduct resulting in the

license suspension and/or other disciplinary action would, if committed in New York state, constitute professional misconduct under the laws of New York state, in that the Petitioner charges:

4. The facts in Paragraphs A, B, and/or D.
5. The facts in Paragraphs A, C, and/or E.

DATED: *April 8*, 2010  
Albany, New York

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