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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NYS Department of Health

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Office of Professional Medical Conduct

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Vice Chair

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

July 12, 2001

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Joseph S. Myers, M.D.
157 Mallard Lane
Daytona Beach, FL 32119

RE: License No. 081636

Dear Dr. Myers:

Enclosed please find Order #BPMC 01-159 of the New York State Board for Professional Medical Conduct. This Order and any penalty provided therein goes into effect July 12, 2001.

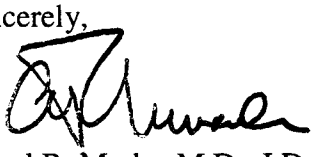
If the penalty imposed by the Order is a surrender, revocation or suspension of this license, you are required to deliver to the Board the license and registration within five (5) days of receipt of the Order.

Board for Professional Medical Conduct
New York State Department of Health
Hedley Park Place, Suite 303
433 River Street
Troy, New York 12180

If the penalty imposed by the Order is a fine, please write the check payable to the New York State Department of Health. Noting the BPMC Order number on your remittance will assist in proper crediting. Payments should be directed to the following address:

Bureau of Accounts Management
New York State Department of Health
Corning Tower, Room 1258
Empire State Plaza
Albany, New York 12237

Sincerely,



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

Enclosure

cc: Robert Bogan, Esq.

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

IN THE MATTER OF JOSEPH S. MYERS, M.D. CO-01-02-0730-A	CONSENT AGREEMENT AND ORDER BPMC No. 01-159

JOSEPH S. MYERS, M.D., (Respondent) deposes and says:

That on or about October 7, 1958, I was licensed to practice as a physician in the State of New York, having been issued License No. 081636 by the New York State Education Department.

My current address is 157 Mallard Lane, Daytona Beach, FL 32119 and I will advise the Director of the Office of Professional Medical Conduct of any change of my address within thirty (30) days thereof.

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

A copy of the Statement of Charges is annexed hereto, made a part hereof, and marked as Exhibit "A."

I do not contest the one (1) Specification, in full satisfaction of the charges against me. I, hereby, agree to the following penalties:

Censure and Reprimand; and

a $1,000.00 fine.

I further agree that the Consent Order for which I, hereby, apply shall impose the following conditions:

That, except during periods of actual suspension, Respondent shall maintain active registration of Respondent's license with the New York State Education Department Division of Professional Licensing Services, and pay all registration fees. This condition shall be in effect beginning thirty days after the effective date of the Consent Order and will continue while the licensee possess his/her license; and

That Respondent shall fully cooperate in every respect with the Office of Professional Medical Conduct (OPMC) in its administration and enforcement of this Order and in its investigation of all matters regarding Respondent. Respondent shall respond in a timely manner to each and every request by OPMC to provide written periodic verification of Respondent's compliance with the terms of this Order. Respondent shall meet with a person designated by the Director of OPMC as directed. Respondent shall respond promptly and provide any and all documents and information within Respondent's control upon the direction of OPMC. This condition shall be in effect beginning upon the effective date of the Consent Order and will continue while the licensee possesses his/her license.

I, hereby, stipulate that any failure by me to comply with such conditions shall constitute misconduct as defined by New York State Education Law §6530(29).

I agree that in the event that I am charged with professional misconduct in the future, the agreement and order shall be admitted into evidence in that proceeding.

I, hereby, make this Application to the State Board for Professional Medical Conduct (the Board) and request that it be granted.

I understand that, in the event that this Application is not granted by the Board, nothing contained herein shall be binding upon me or construed to be an admission of any act of misconduct alleged or charged against me, such Application shall not be used against me in any way and shall be kept in strict confidence during the pendency of the professional misconduct disciplinary proceeding; and such denial by the Board shall be made without prejudice to the continuance of any disciplinary proceeding and the final determination by the Board pursuant to the provisions of the Public Health Law.

I agree that, in the event the Board grants my Application, as set forth herein, an order of the Chairperson of the Board shall be issued in accordance with same. I agree that such order shall be effective upon issuance by the Board, which may be accomplished by mailing, by first class mail, a copy of the Consent Order to me at the address set forth in this agreement or to my attorney or upon transmission via facsimile to me or my attorney, whichever is earliest.

I am making this Application of my own free will and accord and not under duress, compulsion or restraint of any kind or manner, in consideration of the value to me of the acceptance by the Board of this Application, allowing me to resolve this matter without the various risks and burdens of a hearing on the merits. I knowingly waive any right I may have to contest the Consent Order for which I, hereby, apply, whether administratively or judicially, and ask that the Application be granted.

AFFIRMED:

DATED: 6/28/01

Joseph S. Myers MD

JOSEPH S. MYERS, M.D.
Respondent

The undersigned agree to the attached application of the Respondent and to the proposed penalty based on the terms and conditions thereof.

DATE: 03 July 01

ROBERT BOGAN
Associate Counsel
Bureau of Professional Medical Conduct

DATE: 7/9/01

Patricia Whitman
for 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 JOSEPH S. MYERS, M.D. CO-01-02-0730-A	STATEMENT OF CHARGES

JOSEPH S. MYERS, M.D., the Respondent, was authorized to practice medicine in New York state on October 7, 1958, by the issuance of license number 081636 by the New York State Education Department.

FACTUAL ALLEGATIONS

A. On or about December 13, 2000, the State of Florida, Board of Medicine (hereinafter "Florida Board"), by a Final Order (hereinafter "Florida Order"), issued Respondent a letter of concern, required him to pay a $2,000.00 administrative fine and $2,000.00 administrative costs, and required him to perform 100 hours community service, based on, in 1995, failing to personally see a patient, conduct a physical examination, and to make a presumption diagnosis before performing tests, authorizing numerous expensive tests before seeing a patient, allowing his staff to determine a specific patient diagnosis before examining the patient, and allowing his staff to determine billing codes before examining a patient.

B. The conduct resulting in the Florida 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(25) (delegating professional responsibilities to a person when the licensee knows or has reason to know that such person is not qualified to perform them); and/or

2. New York Education Law §6530(35) (ordering excessive tests).

SPECIFICATIONS

Respondent violated New York Education Law §6530(9)(d) by having had disciplinary action taken after a disciplinary action was instituted 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 New York state, in that Petitioner charges:

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

DATED: June 15, 2001
Albany, New York

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

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

IN THE MATTER OF JOSEPH S. MYERS, M.D.	CONSENT ORDER

Upon the proposed agreement of **JOSEPH S. MYERS, M.D.** (Respondent) for Consent Order, which application is made a part hereof, it is agreed and

ORDERED, that the application and the provisions thereof are hereby adopted and so ORDERED, and it is further

ORDERED, that this order shall be effective upon issuance by the Board, which may be accomplished by mailing, by first class mail, a copy of the Consent Order to Respondent at the address set forth in this agreement or to Respondent's attorney by certified mail or upon transmission via facsimile to Respondent or Respondent's attorney, whichever is earliest.

SO ORDERED.

DATED: 7/11/01

William P. Dillon, MD
WILLIAM P. DILLON, M.D.
Chair
State Board for Professional
Medical Conduct