



New York State Board for Professional Medical Conduct

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

Public

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NYS Department of Health
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Office of Professional Medical Conduct

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

July 22, 2009

CERTIFIED MAIL-RETURN RECEIPT REQUESTED

Robert Durell, M.D.

Redacted Address

Re: License No. 082448

Dear Dr. Durell:

Enclosed is a copy of BPMC #09-138 of the New York State Board for Professional Medical Conduct. This order and any penalty provided therein goes into effect July 29, 2009.

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,

Redacted Signature

Katherine A. Hawkins, M.D., J.D.
Executive Secretary
Board for Professional Medical Conduct

Enclosure

cc: Michael S. Kelton, Esq.
Abrams, Fensterman et al.
630 Third Avenue, 5th Floor
New York, NY 10017

IN THE MATTER
OF
ROBERT DURELL, M.D.

CONSENT
ORDER

BPMC No. #09-138

Upon the application of **ROBERT DURELL, 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 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.

DATED: 7-21-2009

Redacted Signature

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
ROBERT DURELL, M.D.
CO-08-10-6723-A

CONSENT
AGREEMENT
AND ORDER

ROBERT DURELL, M.D., Respondent, representing that all of the following statements are true, deposes and says:

That on or about June 16, 1959, I was licensed to practice medicine as a physician in the State of New York, and issued license number 082448 by the New York State Education Department.

My current address is Redacted Address, 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 (Board) has charged me with one (1) Specification of professional misconduct, based solely on the October 15, 2008, State of New York, Department of Health, Stipulation and Order.

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 \$500.00 fine, and that I keep my New York state license registration active.

As I do not intend to continue to practice medicine in New York state, I do not contest the one (1) Specification, 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 this 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 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 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 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, 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.

AFFIRMED:

DATED: July 9/09

Redacted Signature

ROBERT DURELL, M.D.
Respondent

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

DATE: 7/14/09

Redacted Signature

MICHAEL S. KELTON
Attorney for Respondent

DATE: 20 July 2009

Redacted Signature

ROBERT BOGAN
Associate Counsel
Bureau of Professional Medical Conduct

DATE: July 21, 2009

Redacted Signature

KEITH W. SERVIS
Director
Office of Professional Medical Conduct

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

IN THE MATTER
OF
ROBERT DURELL, M.D.
CO-08-10-6723-A

STATEMENT
OF
CHARGES

ROBERT DURELL, M.D., Respondent, was authorized to practice medicine in New York state on June 16, 1959, by the issuance of license number 082448 by the New York State Education Department.

FACTUAL ALLEGATIONS

A. On or about October 15, 2008, the State of New York, Department of Health, (hereinafter "New York Department"), by a Stipulation and Order (hereinafter "New York Order"), assessed Respondent a \$2,000.00 civil penalty, based on violating New York PHL § 3331(4), PHL § 3331(6), PHL § 3343(1) and (2), 10 NYCRR 80.62(b), 10 NYCRR 80.71, 10 NYCRR 80.100, 10 NYCRR 80.105(a) and 10 NYCRR 80.112(a) and (b), in that he ordered controlled substances to treat his own condition, but failed to: electronically file with the Department information regarding his dispensing of the controlled substances to himself; maintain any records documenting his purchase, receipt, and dispensing of the controlled substances to himself; and prepare and maintain a biennial inventory.

SPECIFICATION

Respondent violated New York Education Law §6530(9)(e) by having been found by the commissioner of health to be in violation of article thirty-three of the public health law, in that Petitioner charges:

1. The facts in Paragraph A.

DATED: *June 10*, 2009
Albany, New York

Redacted Signature . . .

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