

NEW YORK
state department of
HEALTH

Public

Nirav R. Shah, M.D., M.P.H.
Commissioner

Sue Kelly
Executive Deputy Commissioner

July 27, 2012

Corrected Effective Date

CERTIFIED MAIL-RETURN RECEIPT REQUESTED

Samuel B. Kriegler, M.D.
REDACTED

RE: License No. 125136

Dear Dr. Kriegler:

Enclosed is a copy of the New York State Board for Professional Medical Conduct (BPMC) Order No. 12-149. This Order and any penalty provided therein goes into effect August 3, 2012.

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 2784
Empire State Plaza
Albany, New York 12237

Please direct any questions to: Board for Professional Medical Conduct, 90 Church Street, 4th Floor, New York, NY 10007-2919, telephone # 212-417-4445.

Sincerely,

REDACTED

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

cc: Cheryl A. Possenti, Esq.
Goldberg Segalla
665 Main Street, Suite 400
Buffalo, NY 14203-1425

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

IN THE MATTER

CONSENT

OF

ORDER

SAMUEL B. KRIEGLER
CO-11-01-0210-A

BPMC: 12-149

Upon the application of **SAMUEL B. KRIEGLER, 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: July 26, 2012

REDACTED

ARTHUR S. HENGERER, M.D.
Chair
State Board for Professional
Medical Conduct

IN THE MATTER

CONSENT

OF

AGREEMENT

SAMUEL B. KRIEGLER, M.D.
CO-11-01-0210-A

SAMUEL B. KRIEGLER, M.D., (Respondent), representing that all of the following statements are true, deposes and says:

That on or about September 15, 1975, I was licensed to practice medicine as a physician in the State of New York and issued license number 125136 by the New York State Education Department.

My current address is REDACTED, 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 two (2) Specifications 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 Second Specification, and agree to the following sanction:

Censure and Reprimand;

I shall pay a \$1,500 fine, to be paid within thirty (30) days of the effective date of the Consent Order to the NYS Department of Health, Bureau of Accounts Management, Revenue Unit, Empire State Plaza, Corning Tower, Room 1717, Albany, NY 12237-0016.

Pursuant to New York Public Health Law § 230-a (9), I shall be placed on probation for a period of three (3) years, subject to the terms set forth in attached Exhibit B, and any extensions and/or modifications thereto.

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

Should Respondent return to the practice of medicine in the State of New York or in any Jurisdiction where that practice is predicated upon Respondent's New York State Medical license, Respondent shall provide ninety (90) days notice in writing to the Director, Office of Professional Medical Conduct (OPMC). The Director, in his sole discretion, may impose whatever limitations, or further conditions, he deems appropriate.

Respondent shall comply fully with the Minnesota Board of Medical Practice (hereinafter "Minnesota Board"), Stipulation and Order (hereinafter ("Minnesota Order")), dated November 13, 2010.

Respondent shall provide a written authorization for the Minnesota Board to provide the Director of OPMC with any/all information or documentation as requested by OPMC to enable OPMC to determine whether Respondent is in compliance with the Minnesota Order.

Respondent shall submit semi-annually a signed Compliance Declaration to the Director of OPMC, which truthfully attests whether Respondent has been in compliance with the Minnesota Order during the declaration period specified.

That Respondent shall remain in continuous compliance with all requirements of New York Education 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 New York Education Law § 6502(4) to avoid registration and payment of fees. This condition shall take effect 30 days after the effective date of the Consent Order and will continue so long as Respondent remains a licensee in New York State; and

That Respondent shall cooperate fully with the OPMC in its administration and enforcement of the 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 Agreement. Respondent shall meet with a person designated by the Director, 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 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 the 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.

AFFIRMED:

DATED: 7/11/12

REDACTED

SAMUEL B. KRIEGLER, M.D.
Respondent

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

DATE: 7/17/12

REDACTED

JOEL E. ABELOVE
Associate Counsel
Bureau of Professional Medical Conduct

DATE: 7/20/12

REDACTED

KEITH W. SERVIS
Director
Office of Professional Medical Conduct

EXHIBIT A

IN THE MATTER
OF
SAMUEL B. KRIEGLER, M.D.
CO-11-01-0210-A

STATEMENT
OF
CHARGES

SAMUEL B. KRIEGLER, M.D., Respondent, was authorized to practice medicine in New York state on September 15, 1975, by the issuance of license number 125136 by the New York State Education Department.

FACTUAL ALLEGATIONS

A On or about November 13, 2010, the Minnesota Board of Medical Practice, (hereinafter "Minnesota Board"), by STIPULATION AND ORDER (hereinafter "Minnesota Order"), REPRIMANDED Respondent and ordered, inter alia, that Respondent complete a course in female pelvic dysfunction, write a paper pertaining to the course and submit to the Board and obtain a supervising physician, meet on a quarterly basis with a designated Board member or designee to review his progress under the terms of the Order. The Stipulation and Order shall remain in effect for a minimum of two years. The Minnesota Board treated the following facts as true: that Respondent frequently failed to document the basis for his diagnoses, failed to appropriately perform or interpret the results of diagnostic testing, failed to note physical findings to support the need for urethral dilation and failed to explore alternative treatment options for his female patients.

B. The conduct resulting in the Minnesota 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 Sec. 6530(3) (practicing the profession negligently on more than one occasion); and/or
2. New York Education Law Sec. 6530(32) (failure to maintain medical records).

SPECIFICATIONS
FIRST SPECIFICATION

Respondent violated New York Education Law Sec. 6530(9)(b) by having been found guilty of improper professional misconduct by a duly authorized professional disciplinary agency of another state where the conduct upon which the finding was based would, if committed in New York state, constitute professional misconduct under the laws of New York state, in that Petitioner charges:

1. The facts in Paragraphs A and B.

SECOND SPECIFICATION

Respondent violated New York Education Law Sec. 6530(9)(d) by having disciplinary action taken 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 of New York state, in that Petitioner charges:

2. The facts in Paragraphs A and B.

DATED: *May 24*, 2012
Albany, New York

REDACTED

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

EXHIBIT B
Terms of Probation

1. Respondent's conduct shall conform to moral and professional standards of conduct and governing law. Any act of professional misconduct by Respondent as defined by N.Y. Educ. Law §§ 6530 or 6531 shall constitute a violation of probation and may subject Respondent to an action pursuant to N.Y. Pub. Health Law § 230(19).
2. Respondent shall maintain active registration of Respondent's license (except during periods of actual suspension) with the New York State Education Department Division of Professional Licensing Services, and shall pay all registration fees.
3. Respondent shall provide the Director, Office of Professional Medical Conduct (OPMC), Hedley Park Place, 433 River Street Suite 303, Troy, New York 12180-2299 with the following information, in writing, and ensure that this information is kept current: a full description of Respondent's employment and practice; all professional and residential addresses and telephone numbers within and outside New York State; all current and past affiliations and/or privileges, with hospitals, institutions, facilities, medical practices, managed care organizations, and/or applications for such affiliations and/or privileges; and all investigations, arrests, charges, convictions or disciplinary actions by any local, state or federal agency, institution or facility. Respondent shall notify OPMC, in writing, within 30 days of any additions to or changes in the required information.
4. Respondent shall cooperate fully with, and respond in a timely manner to, OPMC requests to provide written periodic verification of Respondent's compliance with the terms of this Consent Order. Upon the Director of OPMC's request, Respondent shall meet in person with the Director's designee.
5. Respondent's failure to pay any monetary penalty by the prescribed date shall subject Respondent to all provisions of law relating to debt collection by New York State, including but not limited to: the imposition of interest, late payment charges and collection fees; referral to the New York State Department of Taxation and Finance for collection; and non-renewal of permits or licenses [Tax Law § 171(27); State Finance Law § 18; CPLR § 5001; Executive Law § 32].
6. The probation period shall toll when Respondent is not engaged in active medical practice in New York State for a period of 30 consecutive days or more. Respondent shall notify the Director of OPMC, in writing, if Respondent is not currently engaged in, or intends to leave, active medical practice in New York State for a consecutive 30 day period. Respondent shall then notify the Director again at least 14 days before returning to active practice. Upon Respondent's return to active practice in New York State, the probation period shall resume and Respondent shall fulfill any unfulfilled probation terms and such additional requirements as the Director may impose as reasonably relate to the matters set forth in Exhibit A or as are necessary to protect the public health.
7. The Director of OPMC may review Respondent's professional performance. This review may include but shall not be limited to: a review of office records, patient records, hospital charts, and/or electronic records; and interviews with or periodic visits with Respondent and staff at practice locations or OPMC offices.
8. Respondent shall adhere to federal and state guidelines and professional standards of care with respect to infection control practices. Respondent shall ensure education,

training and oversight of all office personnel involved in medical care, with respect to these practices.

9. Respondent shall maintain complete and legible medical records that accurately reflect the evaluation and treatment of patients and contain all information required by State rules and regulations concerning controlled substances.
10. Respondent shall practice medicine only when monitored by a licensed physician, board certified in urology, ("practice monitor") proposed by Respondent and subject to the written approval of the Director of OPMC. Any medical practice in violation of this term shall constitute the unauthorized practice of medicine.
 - 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 selection (no fewer than 20) of records maintained by Respondent, including patient records, hospital records, prescribing information and office records. In addition to the twenty records per month as set forth above, the monitor shall review the pre-operative consent forms, operative notes, and post-operative office notes for at least ten additional surgical cases per month. 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; inconsistencies between pre-operative documentation, operative reports, and post-operative documentation or refusal to cooperate with the monitor shall be reported by the monitor within 24 hours to OPMC.
 - B. Respondent shall cause the practice monitor to report quarterly, in writing, to the Director of OPMC.
 - C. Respondent shall be solely responsible for all expenses associated with monitoring, including fees, if any, to the practice monitor.
 - 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.
11. Respondent shall comply with this Consent Order and all its terms, and shall bear all associated compliance costs. Upon receiving evidence of noncompliance with, or a violation of, these terms, the Director of OPMC and/or the Board may initiate a violation of probation proceeding, and/or any other such proceeding authorized by law, against Respondent.