



**Department
of Health**

ANDREW M. CUOMO
Governor

HOWARD A. ZUCKER, M.D., J.D.
Commissioner

SALLY DRESLIN, M.S., R.N.
Executive Deputy Commissioner

June 8, 2018

CERTIFIED MAIL-RETURN RECEIPT REQUESTED

Robert O. Schiftan, M.D.
1905 Clint Moore Road, Suite 308
Boca Raton, Florida 33496

Re: License No. 151370

Dear Dr. Schiftan:

Enclosed is a copy of the New York State Board for Professional Medical Conduct (BPMC) Order No. 18-133. This order and any penalty provided therein goes into effect June 15, 2018.

Please direct any questions to: Board for Professional Medical Conduct, Riverview Center, 150 Broadway, Suite 355, Albany, New York 12204, telephone # 518-402-0846.

Sincerely,



Robert A. Catalano, M.D.
Executive Secretary
Board for Professional Medical Conduct

Enclosure

cc: Amy T. Kulb, Esq.
Jacobson, Goldberg & Kulb, LLP.
585 Stewart Avenue, Suite 500
Garden City, New York 11530

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

IN THE MATTER
OF
ROBERT O. SCHIFTAN, M.D.

BPMC No. 18-133
CONSENT
ORDER

Upon the application of (Respondent) ROBERT O. SCHIFTAN, M.D. 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.

DATE: 6/07/2018


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

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

IN THE MATTER
OF
ROBERT O. SCHIFTAN, M.D.

CONSENT
AGREEMENT

ROBERT O. SCHIFTAN, M.D., represents that all of the following statements are true:

That on or about August 27, 1982, I was licensed to practice as a physician in the State of New York, and issued License No. 151370 by the New York State Education Department.

My current address is 1905 Clint Moore Road, Suite 308, Boca Raton, Florida 33496, and I will advise the Director of the Office of Professional Medical Conduct of any change of address.

I understand that the New York State Board for Professional Medical Conduct (Board) has charged me with one or more specifications of professional misconduct, as set forth in a Statement of Charges, marked as Exhibit "A", attached to and part of this Consent Agreement.

I agree not to contest the allegations, in full satisfaction of the charges against me, and agree to the following penalty:

Pursuant to N.Y. Pub. Health Law § 230-a(1), I shall be subject to a Censure and Reprimand.

Should the Director of OPMC approve my return to practice as provided below, my license to practice medicine in New York State shall, pursuant to N.Y. Pub. Health Law § 230-a(3), be limited to preclude prescribing, administering, dispensing, or otherwise utilizing controlled substances in such practice.

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

COMPLIANCE WITH OUT-OF-STATE BOARD ORDER

- 1) Respondent shall comply fully with the February 20, 2017 Final Order of the Board of Medicine of the State of Florida (filed February 22, 2017), including the associated Settlement Agreement dated December 8, 2016, and any extension or modification thereof.
- 2) Respondent shall provide a written authorization for the Board of Medicine of the State of Florida 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 Florida Order.

Respondent, by making this application, asserts that Respondent does not currently practice medicine in New York State or in any setting or jurisdiction where that practice is predicated upon Respondent's New York State medical license ("New York Practice"). As a Condition of this Order, should Respondent decide to

resume practicing medicine in New York, Respondent shall, before beginning such practice, provide 90 days advance written notice to the Director of OPMC.

Respondent may not begin practicing medicine in New York until after Respondent receives the Director's written acknowledgment that this Condition has been satisfied, and shall be subject to any further Conditions the Director may impose upon Respondent's New York Practice based on matters underlying this Consent Agreement and/or any circumstances or information known to the Director at the time of Respondent's proposed return to New York Practice. Respondent, by making this Application, stipulates that the Director shall be authorized in his or her sole discretion to impose whatever further Conditions the Director deems appropriate upon Respondent's return to practice in New York, and Respondent further stipulates that Respondent's failure to comply with these Conditions shall constitute misconduct as defined by N.Y. Educ. Law § 6530(29).

That Respondent shall comply with each and every penalty imposed by this Order pursuant to N.Y. Pub. Health Law § 230-a.

That Respondent shall remain in continuous compliance with all requirements of N.Y. Educ. 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 N.Y. Educ. Law § 6502(4) to avoid

registration and payment of fees. This condition shall take effect 120 days after the Consent Order's effective date and will continue so long as Respondent remains a licensee in New York State; and

That Respondent shall remain in continuous compliance with all requirements of N.Y. Pub. Health Law § 2995-a(4) and 10 NYCRR 1000.5, including but not limited to the requirements that a licensee shall: report to the department all information required by the Department to develop a public physician profile for the licensee; continue to notify the department of any change in profile information within 30 days of any change (or in the case of optional information, within 365 days of such change); and, in addition to such periodic reports and notification of any changes, update his or her profile information within six months prior to the expiration date of the licensee's registration period. Licensee shall submit changes to his or her physician profile information either electronically using the department's secure web site or on forms prescribed by the department, and licensee shall attest to the truthfulness, completeness and correctness of any changes licensee submits to the department. This condition shall take effect 30 days after the Order's effective date and shall continue so long as Respondent remains a licensee in New York State. Respondent's failure to comply with this condition, if proven and found at a hearing pursuant to N.Y. Pub. Health Law § 230, shall constitute professional misconduct as defined in N.Y. Educ.

Law § 6530(21) and N.Y. Educ. Law § 6530(29). Potential penalties for failure to comply with this condition may include all penalties for professional misconduct set forth in N.Y. Pub. Health Law § 230-a, including but not limited to: revocation or suspension of license, Censure and Reprimand, probation, public service and/or fines of up to \$10,000 per specification of misconduct found; and

That Respondent shall provide the Director, Office of Professional Medical Conduct (OPMC), Riverview Center, 150 Broadway, Suite 355, Albany, New York 12204-2719, 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; 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. This condition shall take effect 30 days after the Order's effective date and shall continue at all times until Respondent receives written notification from the Office of Professional Medical Conduct, Physician Monitoring Program, that OPMC has determined that Respondent has fully complied with and satisfied the requirements of the Order, regardless of tolling; and

That Respondent shall cooperate fully with the Office of Professional Medical Conduct (OPMC) in its administration and enforcement of this 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 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 Consent Order shall constitute misconduct as defined by N.Y. Educ. Law § 8530(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 the N.Y. Pub. 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 or other confidential information, if any, redacted. As public documents, they may be posted on the Department's website. OPMC shall report this action to the National Practitioner Data Bank and the Federation of State Medical Boards, and any other entities that the Director of OPMC shall deem appropriate.

I stipulate that the proposed sanction and Consent Order are authorized by N.Y. Pub. 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.

DATE May 30, 2018


ROBERT O. SCHIFTAN, M.D.
RESPONDENT

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

DATE: 5/30/18


AMY T. KUEB, ESQ.
Attorney for Respondent

DATE: 5/31/18


DAVID W. QUIST, ESQ.
Associate Attorney
Bureau of Professional Medical Conduct

DATE: 6/5/18


KEITH W. SERVIS
Director
Office of Professional Medical Conduct

EXHIBIT "A"

IN THE MATTER
OF
ROBERT O. SCHIFTAN, M.D.

STATEMENT
OF
CHARGES

ROBERT O. SCHIFTAN, M.D., the Respondent, was authorized to practice medicine in New York State on or about August 27, 1982, by the issuance of license number 151370 by the New York State Education Department.

FACTUAL ALLEGATIONS

- A. On or about February 20, 2017, the Board of Medicine of the State of Florida ("Board") issued a Final Order, effective on or about February 22, 2017, based on a Settlement Agreement signed by Respondent on or about December 8, 2016. The case was initiated by an Administrative Complaint (case no. 2009-23418), filed on or about May 2, 2011.
- B. Pursuant to the terms of the Settlement Agreement, Respondent neither admitted nor denied charges that he had failed to comply with appropriate professional standards in several respects as to his prescribing of controlled substances to, and his examination, evaluation, and treatment, of ten patients, and that he failed to maintain adequate records with regard to those patients. Pursuant to the Settlement Agreement and the Final Order, Respondent was reprimanded, made subject to one year's

monitored probation, required to complete a course of education in laws and rules, prescribing, and medical record keeping, required to pay a fine in the amount of forty-thousand dollars (\$40,000), required to pay costs in the amount of \$24,000, subjected to permanent license restrictions prohibiting Respondent from owning, operating, or practicing in a pain management clinic, and permanently restricting Respondent from ordering, prescribing, administering, and/or delegating the prescribing, ordering, or administering of Schedule I controlled substances, Schedule II controlled substances classified as opioids, and from prescribing or delegating the prescribing of benzodiazepines. However, Respondent was allowed to prescribe and/or delegate the prescribing of benzodiazepines for the treatment of epilepsy, and to order and/or administer benzodiazepines in a hospital setting and/or a hospital-owned clinic. The Settlement Agreement also imposed additional standard conditions on Respondent.

C. The conduct resulting in the Board's Decision and Order against Respondent would constitute misconduct under the laws of New York State pursuant to New York Education Law Section 6530(3) (negligence), and/or (32) (failure to maintain a record).

SPECIFICATION OF CHARGES

FIRST SPECIFICATION **HAVING HAD DISCIPLINARY ACTION TAKEN**

Respondent is charged with committing professional misconduct as defined in N.Y. Educ. Law § 6530(9)(d) by having his or her license to practice medicine revoked, suspended or having other disciplinary action taken, or having his or her application for a

license refused, revoked or suspended or having voluntarily or otherwise surrendered his or her license after a disciplinary action was instituted by a duly authorized professional disciplinary agency of another state, where the conduct resulting in the revocation, suspension or other disciplinary action involving the license or refusal, revocation or suspension of an application for a license or the surrender of the license would, if committed in New York state, constitute professional misconduct under the laws of New York state (namely N.Y. Educ. Law § 6530(3) and/or (32)) as alleged in the facts of the following:

1. The facts in Paragraphs A, B and C.

DATE: April 26, 2018
Albany, New York


MICHAEL A. HISER, ESQ.
Deputy Counsel
Bureau of Professional Medical Conduct