

NEW YORK
state department of
HEALTH

Public

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

Sue Kelly
Executive Deputy Commissioner

May 24, 2012

CERTIFIED MAIL-RETURN RECEIPT REQUESTED

Glen Zehnder Brooks, M.D.

REDACTED

RE: License No. 156876

Dear Dr. Brooks:

Enclosed is a copy of the New York State Board for Professional Medical Conduct (BPMC) Order No. 12-110. This Order and any penalty provided therein goes into effect May 31, 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 1717
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: Wilfred T. Friedman, Esq.
60 East 42nd Street, 40th Floor
New York, NY 10165

**IN THE MATTER
OF
GLEN ZEHNDER BROOKS, M.D.**

**CONSENT
ORDER**

Upon the application of (Respondent) GLEN ZEHNDER BROOKS, 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: 5/24/2012

REDACTED

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

IN THE MATTER
OF
GLEN ZEHNDER BROOKS, M.D.

CONSENT
AGREEMENT
AND
ORDER

GLEN ZEHNDER BROOKS, M.D., represents that all of the following statements are true:

That on or about December 5, 1983, I was licensed to practice as a physician in the State of New York, and issued License Number 156876 by the New York State Education Department.

My current address is _____ REDACTED _____

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 assert that I cannot successfully defend against at least one of the acts of misconduct alleged, 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.

Pursuant to N.Y. Pub. Health Law §§ 230-a(7) and (9), I shall be subject to a fine in the amount of \$10,000.00, with no less than \$5,000 to be paid in full within 30 days of the effective date of this Order, and the balance to be paid no later than 6 months after the effective date of this Order. Payments must be submitted to:

Bureau of Accounts Management
New York State Department of Health
Empire State Plaza
Corning Tower, Room 1717
Albany, New York 12237

Pursuant to N.Y. Pub. Health Law § 230-a(9), I shall be placed on probation for a period of three years, subject to the terms set forth in attached Exhibit "B."

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

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 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.

That, in addition to the condition set forth immediately above, Respondent shall fully cooperate with OPMC in the investigation of other physicians and medical practices and shall disclose information, and testify

openly and truthfully, concerning any and all knowledge he has regarding the actions and conduct of other physicians and practices. The cooperation requirement set forth in this paragraph, however, shall not be deemed to require waiver of his privilege to decline to be a witness against himself in any forum other than before the Office of, and the State Board for, Professional Medical Conduct or to furnish information which may inculpate him with regard to actions of his own. In the event that Respondent invokes his privilege, with regard only to actions of his own and based upon the advice of his counsel with regard to self-incrimination, then that limited invocation of such privilege shall not be a violation of this condition. Any other failure to cooperate shall be a violation of this condition. This condition shall terminate upon the completion of the period of probation set forth elsewhere in this Order.

That Respondent shall, in writing, notify the Director of OPMC of each and every communication occurring at any time after ^{MAV} ~~March 4~~, 2012, that he or any agent of his has with any of the individuals identified in Exhibit "C," attached, or with the representative(s) of such individual, immediately upon the occurrence of such communication. The required notification shall include the nature and contents of every communication. With regard to any communication occurring prior to the effective date of this Order, the required notification shall be provided immediately upon issuance of the order. (Exhibit "C" shall be a part of the Office of Professional Medical Conduct's

investigative file, within the meaning of Public Health Law § 230(10)(a)(v), and shall be subject to the confidentiality provisions of that section.) This condition shall terminate upon the completion of the period of probation set forth elsewhere in this Order.

I stipulate that my failure to comply with any conditions of this Consent Order shall constitute misconduct as defined by N.Y. Educ. 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 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, 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 9 MAY 2012

REDACTED

GLEN ZEHNDER BROOKS, M.D.
RESPONDENT

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

DATE: 5/10/12

REDACTED

WILFRED T. FRIEDMAN, ESQ.
Attorney for Respondent

DATE: 5/16/12

REDACTED

LESLIE A. EISENBERG
Associate Counsel
Bureau of Professional Medical Conduct

DATE: 5/23/12

REDACTED

KEITH W. SERVIS
Director
Office of Professional Medical Conduct

IN THE MATTER
OF
GLEN ZEHNDER BROOKS

STATEMENT
OF
CHARGES

GLEN ZEHNDER BROOKS, M.D., the Respondent, was authorized to practice medicine in New York State on or about December 5, 1983, by the issuance of license number 156876 by the New York State Education Department.

FACTUAL ALLEGATIONS

A. On more than one date between 2004 and 2008, and with regard to more than one patient (dates and patient identities are unknown to Petitioner), Respondent wrote anesthesia records indicating two different procedure dates when he knew that the two procedures had, in fact, been performed on the patient(s) on a single date.

SPECIFICATION OF CHARGES

FIRST SPECIFICATION

FAILURE TO MAINTAIN RECORDS

Respondent is charged with committing professional misconduct as defined in N.Y. Educ. Law § 6530(32) by failing to maintain a record for each patient which accurately reflects the care and treatment of the patient, as alleged in the facts of:

1. Paragraph A.

EXHIBIT "A"

SECOND SPECIFICATION

FALSE REPORT

Respondent is charged with committing professional misconduct as defined in N.Y. Educ. Law § 6530(21) by willfully making or filing a false report, or failing to file a report required by law or by the department of health or the education department, as alleged in the facts of:

2. Paragraph A.

DATE: ^{May 14} March, 2012
New York, New York

REDACTED

ROY NEMERSON
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 1000, 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; 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 enroll, or continue enrollment, in the Committee for Physician Health (CPH) and shall engage in a contract with CPH that defines the terms, conditions and duration of Respondent's program. Respondent shall comply with the contract. Respondent shall give written authorization for CPH to provide the Director of OPMC with all information or documentation requested by OPMC to determine whether Respondent is in compliance with the contract and with this Order, including full access to all records maintained by CPH will respect to Respondent.
 - a) Respondent shall cause CPH to report to OPMC promptly if Respondent refuses to comply with the contract or refuses to submit to treatment.
 - b) Respondent shall cause CPH to report immediately to OPMC if Respondent is regarded at any time to be an imminent danger to the public.
- 11) Respondent shall enroll in and successfully complete a continuing education program in the areas of medical record keeping and ethics. This continuing education program is subject to the Director of OPMC's prior written approval and shall be successfully completed within the first 90 days of the probation period.
- 12) 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.