



New York State Board for Professional Medical Conduct

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

*Richard F. Daines, M.D.
Commissioner
NYS Department of Health
James W. Clyne, Jr.
Executive Deputy Commissioner
Keith W. Servis, Director
Office of Professional Medical Conduct*

Public

*Kendrick A. Sears, M.D.
Chair
Carmela Torrelli
Vice Chair
Katherine A. Hawkins, M.D., J.D.
Executive Secretary*

December 6, 2010

CERTIFIED MAIL-RETURN RECEIPT REQUESTED

Anthony Bertelle, M.D.
7515 13th Avenue
Brooklyn, NY 11228

RE: License No. 174758

Dear Dr. Bertelle:

Enclosed is a copy of Order BPMC #10-262 of the New York State Board for Professional Medical Conduct. This Order and any penalty provided therein goes into effect December 13, 2010.

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

Sincerely,

REDACTED

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

cc: Barbara D. Knothe, Esq.
Garfunkel Wild, P.C.
111 Great Neck Road, Suite 503
Great Neck, NY 11021

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

IN THE MATTER
OF
ANTHONY BERTELLE, M.D.

CONSENT
ORDER

BPMC No. #10-262

Upon the application of (Respondent) ANTHONY BERTELLE, 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: 12/3/10

REDACTED

KENDRICK A. SEARS, 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
ANTHONY BERTELLE, M.D.

CONSENT
AGREEMENT
AND
ORDER

ANTHONY BERTELLE, M.D., represents that all of the following statements are true:

That on or about July 1, 1988, I was licensed to practice as a physician in the State of New York, and issued License No. 174758 by the New York State Education Department.

My current address is 7515 13th Ave., Brooklyn, N.Y. 11228, 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 specification 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 First Specification, Delegating Professional Responsibilities to a Person Not Qualified by Licensure, in full satisfaction of the charges against me, and agree to the following penalty:

Pursuant to N.Y. Pub. Health Law §§ 230-a(7) and (9), I shall be subject to a fine in the amount of \$ 20,000.00, to be paid in full within one year of the Order's effective date, as follows: a payment of \$10,000.00 shall be due on January 1, 2011; a payment of \$5,000.00 shall be due on April 1, 2011; and a payment of \$5,000 shall be due on October 1, 2011. 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

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.

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.

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 10/14/10

REDACTED

ANTHONY BERTELLE, M.D.
RESPONDENT

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

DATE: 10/19/10

REDACTED

BARBARA KNOTHE, ESQ.
Attorney for Respondent

DATE: Oct. 19, 2010

REDACTED

MARCIA E. KAPLAN U
Associate Counsel
Bureau of Professional Medical Conduct

DATE: 12/3/10

REDACTED

KEITH W. SERVIS /
Director
Office of Professional Medical Conduct

EXHIBIT "A"

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

IN THE MATTER

OF

ANTHONY BERTELLE, M.D.

STATEMENT
OF
CHARGES

ANTHONY BERTELLE, M.D., the Respondent, was authorized to practice medicine in New York State on or about July 1, 1988, by the issuance of license number 174758 by the New York State Education Department.

FACTUAL ALLEGATIONS

- A. From in or about July 2001, through in or about September 2002, Respondent delegated professional responsibilities, including the evaluation of Patient A on two occasions in July 2002, to Fred Eugene Notarnicola, M.D., who was not licensed to practice medicine in New York until September 2002, and whom Respondent had reason to know was not qualified by licensure to perform such evaluation.

SPECIFICATION OF CHARGES

FIRST SPECIFICATION

DELEGATING PROFESSIONAL RESPONSIBILITIES TO

A PERSON NOT QUALIFIED BY LICENSURE

Respondent is charged with committing professional misconduct as defined in N.Y. Educ. Law § 6530(25) by delegating professional responsibilities to a

person when the licensee delegating such responsibilities knows or has reason to know that such person is not qualified, by training, by experience, or by licensure, to perform them, as alleged in the facts of:

1. Paragraph A.

DATE: October 19, 2010
New York, New York

REDACTED

~~ROY NEMERSON~~
Deputy Counsel
Bureau of Professional Medical Conduct