

**NEW YORK**  
state department of  
**HEALTH**

Public

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

Sue Kelly  
Executive Deputy Commissioner

November 19, 2012

***CERTIFIED MAIL-RETURN RECEIPT REQUESTED***

James M. Denier, M.D.  
2830 West Shore Road  
Warwick, RI 02889

RE: License No. 215289

Dear Dr. Denier:

Enclosed is a copy of the New York State Board for Professional Medical Conduct (BPMC) Order No. 12-257. This Order and any penalty provided therein goes into effect November 26, 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: Wendy Taylor Humphrey, Esq.  
Taylor Fay, P.C.  
177 North Main Street  
Providence, RI 02903

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IN THE MATTER

CONSENT

OF

ORDER

JAMES DENIER, M.D.  
CO-12-06-2924-A

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Upon the application of **JAMES DENIER, 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: 11/16/2012

REDACTED

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

STATE OF NEW YORK: DEPARTMENT OF HEALTH

STATE BOARD FOR PROFESSIONAL MEDICAL CONDUCT

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**IN THE MATTER**

**OF**

**JAMES DENIER, M.D.  
CO-12-06-2924-A**

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**CONSENT**

**AGREEMENT**

**JAMES DENIER, M.D.**, (Respondent), representing that all of the following statements are true, deposes and says:

That on or about August 10, 1999, I was licensed to practice medicine in the State of New York and issued license number 215289 by the New York State Education Department.

My current address is 2830 West Shore Road, Warwick, RI 02889, 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 two (2) Specifications, and agree to the following sanction:

\$1,500.00 fine; and

Three (3) years suspension of my license to practice medicine, stayed.

Respondent shall comply fully with the August 7, 2012, Rhode Island Medical Board Consent Order, and any extensions or modifications thereof.

Respondent shall provide a written authorization for the Rhode Island Board to provide the Director of the Office of Professional Medical Conduct (OPMC) with any/all information or documentation as requested by OPMC to enable OPMC to determine whether Respondent is in compliance with the Rhode Island 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 Rhode Island Order during the declaration period specified.

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, OPMC. The Director in his sole discretion, may impose whatever limitations, or further conditions, he deems appropriate.

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

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 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: 11.7.12

REDACTED

JAMES DENIER, M.D.  
Respondent

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

DATE: 11/8/12

REDACTED

WENDY TAYLOR HUMPHREY, ESQ.  
Attorney for Respondent

DATE: 11/14/12

REDACTED

JOEL E. ABELOVE  
Associate Counsel  
Bureau of Professional Medical Conduct

DATE: Nov 16, 2012

REDACTED

KEITH W. SERVIS  
Director  
Office of Professional Medical Conduct

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**IN THE MATTER**  
**OF**  
**JAMES DENIER, M.D.**  
**CO-12-06-2924-A**

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**STATEMENT**  
**OF**  
**CHARGES**

**JAMES DENIER, M.D.**, Respondent, was authorized to practice medicine in New York state on August 10, 1999, by the issuance of license number 215289 by the New York State Education Department.

**FACTUAL ALLEGATIONS**

A. On or about June 6, 2012, the State of Rhode Island, Department of Health, Board of Medical Licensure and Discipline (hereinafter "Rhode Island Board"), by an Order (hereinafter "Rhode Island Order"), Summarily Suspended Respondent's license to practice medicine, and the controlled substances registration issued to Respondent, based on a pattern of prescribing controlled substances below the standard of acceptable practice, prescribing narcotics without medical records and without seeing the patient, substandard and incomplete medical records for patients to whom he prescribed narcotics, delivery of care below the minimum standards, and failure to respond to the Rhode Island Board of Medicine.

On or about August 7, 2012, the Respondent and the Rhode Island Board, by a Consent Order, agreed to a suspension from practice, dating back to June 6, 2012; the continued suspension of Respondent's Controlled Substances Registration until the completion of a Prescribing Controlled Drugs course; Respondent will make every effort to pursue non-narcotic options for pain management for his patients; certain restrictions and limitations on Respondent's prescribing of narcotics and opiates; Upon ordering of any x-ray, Respondent will request that the x-ray be read by a radiologist and will request any report be sent to his attention, and he will direct that any x-ray report he receives be placed in the patient's file; and the Respondent will remain on probation for five years.

B. The conduct resulting in the Rhode Island Board disciplinary actions 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 §6530(3) (practicing the profession negligently on more than one occasion); and/or
2. New York Education Law §6530(5) (practicing the profession with incompetence on more than one occasion); and/or
2. New York Education Law §6530(32) (failure to maintain a record for each patient which accurately reflects the evaluation and treatment of the patient).

**SPECIFICATIONS**  
**FIRST SPECIFICATION**

Respondent violated New York Education Law §6530(9)(b) having been found guilty of improper professional practice or 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:

1. The facts in Paragraphs A and/or B.

**SECOND SPECIFICATION**

Respondent violated New York Education Law §6530(9)(d) by having his license suspended or having other disciplinary action taken by a duly authorized professional disciplinary agency of another state, where the conduct resulting in the suspension or other disciplinary action would, if committed in New York state, constitute professional misconduct under the laws New York state, in that Petitioner charges:

2. The facts in Paragraphs A and/or B.

DATED: *October 12*, 2012  
Albany, New York

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