

NEW YORK
state department of
HEALTH

Public

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

Sue Kelly
Executive Deputy Commissioner

July 11, 2013

CERTIFIED MAIL-RETURN RECEIPT REQUESTED

Gerald J. Micalizzi, M.D.

REDACTED

RE: License No. 225913

Dear Dr. Micalizzi:

Enclosed is a copy of the New York State Board for Professional Medical Conduct (BPMC) Order No. 13-209. This Order and any penalty provided therein goes into effect July 18, 2013.

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: Thomas J. Mortati, Esq
Burke, Scolamiero, Mortati & Hurd, LLP
P.O. Box 15085
7 Washington Square
Albany, NY 12212-5085

IN THE MATTER
OF
GERALD JOSEPH MICALIZZI, M.D.

CONSENT
ORDER

Upon the application of **GERALD JOSEPH MICALIZZI, 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: 7/10/2013

REDACTED

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

IN THE MATTER

CONSENT

OF

AGREEMENT

GERALD JOSEPH MICALIZZI, M.D.
CO-12-07-3820-A

GERALD JOSEPH MICALIZZI, M.D., (Respondent), representing that all of the following statements are true, deposes and says:

That on or about August 7, 2002, I was licensed to practice medicine in the State of New York and issued license number 225913 by the New York State Education Department.

My current address is 558 Fairview Avenue, Bridgeport, CT 06606, 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 one (1) 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 one (1) Specification, and agree to the following sanction:

Censure and Reprimand;

Respondent shall pay a \$5,000.00 fine, to be paid within one hundred and eighty (180) 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 2784, Albany, NY 12237-0016.

Respondent shall comply fully with the State of Connecticut, Department of Public Health, Healthcare Quality and Safety Branch (hereinafter Connecticut Board") Consent Order (hereinafter "Connecticut Order") dated March 21, 2012, and any extensions or modifications thereof.

Respondent shall provide a written authorization for the Connecticut 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 Connecticut 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 Connecticut Order during the declaration period specified.

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 remain in continuous compliance with all requirements of New York Public 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 New York Public Health Law § 230, shall constitute professional misconduct as defined in New York Education Law § 6530(21) and New York Education Law § 6530(29). Potential penalties for failure to comply with

this condition may include all penalties for professional misconduct set forth in New York Public Health Law § 230-a, including but not limited to: Revocation or Suspension of license, Censure and Reprimand, Probation, Public Service and/or Fines up to \$10,000 per specification of misconduct found.

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: 7/21, 2013

REDACTED

GERALD JOSEPH MICALIZZI, M.D.
Respondent

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

DATE: July 3, 2013

REDACTED

THOMAS J. MORTATI, Esq.
Attorney for Respondent

DATE: 7/3, 2013

REDACTED

MICHAEL G. BASS
Assistant Counsel
Bureau of Professional Medical Conduct

DATE: July 8, 2013

REDACTED

KEITH W. SERVIS
Director
Office of Professional Medical Conduct

EXHIBIT A

IN THE MATTER
OF
GERALD JOSEPH MICALIZZI, M.D.
CO-12-07-3820-A

STATEMENT
OF
CHARGES

GERALDO JOSEPH MICALIZZI, M.D., Respondent, was authorized to practice medicine in New York state on or about August 7, 2002, by the issuance of license number 225913 by the New York State Education Department.

FACTUAL ALLEGATIONS

A. On or about June 19, 2012, the State of Connecticut, Department of Public Health, Healthcare Quality and Safety Branch (hereinafter "Connecticut Board"), by CONSENT ORDER, (hereinafter "Connecticut Order") reprimanded Respondent's license to practice as a physician and surgeon, fined Respondent twenty-thousand dollars (\$20,000.00) and placed Respondent's license on probation for six (6) months. The Connecticut Board alleged that during the course of approximately February 4th through March 5, 2010, Respondent improperly accessed numerous patient records through Griffin Hospital's Picture Archiving and Communications System (hereinafter "PACS") from his home computer. The Connecticut Board further alleged that Respondent improperly utilized the user name and password of other physicians to access the PACS system, without the knowledge and/or authorization of those other physicians. In consideration of the Connecticut Order, Respondent chose not to contest the above matter and agreed that for the purposes of this or any future proceedings before the Connecticut Board, the Connecticut Order would have the same effect as if proven and ordered after a full hearing.

B. The conduct resulting in the Connecticut 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 Section 6530(3) (practicing the profession fraudulently).

SPECIFICATION

Respondent violated New York Education Law Section 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:

1. The facts in Paragraphs A and B.

DATED: *May 8*, 2013
Albany, New York

REDACTED

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