

June 6, 2014

CERTIFIED MAIL-RETURN RECEIPT REQUESTED

Frank V. Kramer, M.D.

REDACTED

Re: License No. 226889

Dear Dr. Kramer:

Enclosed is a copy of the New York State Board for Professional Medical Conduct (BPMC) Order No. 14-147. This order and any penalty provided therein goes into effect June 13, 2014.

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

Enclosure

cc: Catherine A. Gale, Esq.
Gale, Gale & Hunt, LLC
P.O. Box 6527
Syracuse, NY 13217-6527

**IN THE MATTER
OF
FRANK KRAMER, M.D.**

**CONSENT
ORDER**

Upon the application of (Respondent) FRANK KRAMER, 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: 6/6/2014

REDACTED

ARTHUR S. HENGERER, M.D.

Chair

State Board for Professional Medical Conduct

**IN THE MATTER
OF
FRANK KRAMER, M.D.**

**CONSENT
AGREEMENT**

FRANK KRAMER, M.D., represents that all of the following statements are true:

That on or about November 15, 2002, I was licensed to practice as a physician in the State of New York, and issued License No. 226889 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 two (2) 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 cannot successfully defend against at least one (1) of the acts of misconduct alleged, and agree to the following penalty:

Pursuant to New York Public Health Law Section 230-a(2), my license to practice medicine in New York State shall be suspended for thirty six (36) months, stayed.

Pursuant to New York Public Health Law Section 230-a(9), I shall be placed on Probation for sixty (60) months, subject to the terms set forth in the attached Exhibit "B." Should I return to practice outside of an Article 28 licensed facility within sixty (60) months of the effective date of this Order, the term of Probation shall be extended by twelve (12) months.

Pursuant to New York Public Health Law Section 230-a(3), my license to Practice medicine in New York shall be limited to preclude my treating patients for chronic pain in a setting outside of an Article 28 facility.

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 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 § 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 05/22/2014

REDACTED

FRANK KRAMER, M.D.
RESPONDENT

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

DATE: 5/28/2014

REDACTED

CATHERINE A. GALE, ESQ.
Attorney for Respondent

DATE: 5/30/14

REDACTED

MICHAEL G. BASS
Assistant Counsel
Bureau of Professional Medical Conduct

DATE: 6/5/14

REDACTED

KEITH W. SERVIS
Director
Office of Professional Medical Conduct

EXHIBIT A

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

IN THE MATTER
OF
FRANK KRAMER, M.D.

STATEMENT
OF
CHARGES

FRANK KRAMER, M.D., Respondent, was authorized to practice medicine in New York state on or about November 15, 2002, by the issuance of license number 226889 by the New York State Education Department.

FACTUAL ALLEGATIONS

A. Respondent provided medical care to Patient A (patients are identified in the attached appendix), a 22 year old male, at various times from on or about October 22, 2002 to on or about December 6, 2010. Patient A initially gave a history of medullary sponge kidney disease, recurrent nephrolithiasis and tobacco use. Respondent's care and treatment of Patient A failed to meet accepted standards of medical practice in that:

1. Respondent, at various times from on or about October 12, 2005 to on or about November 15, 2010, failed to perform appropriate physical examinations of Patient A at office visits in a patient requiring increasing pain medication, and/or failed to document such examinations.
2. Respondent, from on or about December 15, 2008 to on or about November 15, 2010, failed to address Patient A's use of multiple pharmacies.
3. Respondent, from on or about October 12, 2005 to on or about November 15, 2010, made no or insufficient attempts in using non-controlled substances in treating Patient A's chronic pain syndrome.

B. Respondent provided medical care for Patient B, a 50 year old female, at various times from on or about September 3, 2003, to on or about August 25, 2011. Patient B's history included colon cancer, uterine cancer and chronic back pain, with a chief complaint of left sided

torso pain. Respondent's care and treatment of Patient B failed to meet accepted standards of medical practice in that:

1. Respondent, on or about September 3, 2003, failed to obtain an adequate history of Patient B, and/or failed to document such history.
2. Respondent, on repeated occasions from on or about October 17, 2003 to on or about January 17, 2011, failed to address Patient B's elevated blood pressure readings.
3. Respondent, from on or about July 18, 2005 to on or about February 19, 2010, failed to manage Patient B's pain in a safe and appropriate manner.

C. Respondent provided medical care for Patient C, a 28 year old female, at various times from on or about March 16, 2009 to on or about July 21, 2011. Patient C's initial history included bipolar affective disorder, chronic back pain, obesity and a family history of diabetes and early heart disease. Respondent's care and treatment of Patient C failed to meet accepted standards of medical practice in that:

1. Respondent, from on or about March 16, 2009 to on or about July 21, 2011, failed to appropriately monitor Patient C's back pain.
2. Respondent, from on or about March 16, 2009 to on or about July 21, 2011, failed to advise Patient C of the cardiac side effects of methadone, and/or failed to document such advice.
3. Respondent, from on or about July of 2009 to on or about March of 2010, failed to address patient C's multiple elevated blood pressure readings.

D. Respondent provided medical care for Patient D, a 41 year old male, at various times from on or about December 16, 2004 to on or about September 20, 2011. Patient D presented with left hand/arm numbness and aching and significant stress, with a history of depression, anxiety, high blood pressure, hypercholesterolemia, gastroesophageal reflux disease, tobacco abuse, asthma, hematemesis and an esophageal ulcer. Respondent's care and treatment of Patient D failed to meet the accepted standards of medical practice in that:

1. Respondent, from on or about April 18, 2005, to on or about October 23, 2007, failed to prescribe Patient D sleeping medications in a clinically appropriate manner.
2. Respondent, from on or about April 26, 2007 to on or about September 20, 2011,

failed to appropriately manage Patient D's drug habituation.

3. Respondent, from on or about March 25, 2005 to on or about July 28, 2011, failed to appropriately manage Patient D's hyperlipidemia.

SPECIFICATIONS

FIRST SPECIFICATION

NEGLIGENCE ON MORE THAN ONE OCCASION

Respondent is charged with committing professional misconduct as defined in New York Education Law § 6530(3) by practicing the profession with negligence on more than one occasion as alleged in the facts of the following:

1. The facts in paragraphs A and A.1, A and A.2, A and A.3, B and B.1, B and B.2, B and B.3, C and C.1, C and C.2, C and C.3, D and D.1, D and D.2 and/or D and D.3.

SECOND SPECIFICATION

FAILURE TO MAINTAIN A RECORD

Respondent is charged with committing professional misconduct as defined in New York Education Law § 6530(32) by failing to maintain a record for each patient which accurately reflects the evaluation and treatment of the patient as alleged in the facts of the following:

2. The facts in paragraphs A and A.1, B and B.1, and/or C and C.2.

DATED: *June 3*, 2014
Albany, New York

REDACTED

~~MICHAEL A. HISER~~
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 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.
- 4) 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].
- 5) 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.

- 6) 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.
- 7) Within thirty days of the Consent Order's effective date, Respondent shall practice medicine only when monitored by a licensed physician, board certified in an appropriate specialty, ("practice monitor") proposed by Respondent and subject to the written approval of the Director of OPMC. Any medical practice in violation of this term shall constitute the unauthorized practice of medicine.
 - a) Respondent shall make available to the monitor any and all records or access to the practice requested by the monitor, including on-site observation. The practice monitor shall visit Respondent's medical practice at each and every location, on a random unannounced basis at least monthly and shall examine a selection (no fewer than 20) of records maintained by Respondent, including patient records, prescribing information and office records. The review will determine whether the Respondent's medical practice is conducted in accordance with the generally accepted standards of professional medical care. Any perceived deviation of accepted standards of medical care or refusal to cooperate with the monitor shall be reported within 24 hours to OPMC.
 - b) Respondent shall be solely responsible for all expenses associated with monitoring, including fees, if any, to the monitoring physician.
 - c) Respondent shall cause the practice monitor to report quarterly, in writing, to the Director of OPMC.
 - d) Respondent shall maintain medical malpractice insurance coverage with limits no less than \$2 million per occurrence and \$6 million per policy year, in accordance with Section 230(18)(b) of the Public Health Law. Proof of coverage shall be submitted to the Director of OPMC prior to Respondent's practice after the effective date of this Order.
- 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) At the direction of the Director of OPMC, Respondent shall submit to evaluations by a board-certified psychiatrist, licensed mental health practitioner or other health care professional or program designated by the Director (hereafter "Evaluator.") Respondent shall provide the Evaluator with a copy of this Order and copies of all previous treatment records. OPMC, at its discretion, may provide information or documentation from its investigative files concerning Respondent to Respondent's Evaluator. The Evaluator shall report to the Director regarding Respondent's condition and fitness or incapacity to practice medicine. Respondent shall comply with all treatment recommendations based upon the evaluation; failure to comply with such treatment recommendations shall constitute professional misconduct.
- 11) Respondent shall enroll in and successfully complete a continuing education program in the area of pain management and in the area of appropriate prescribing of controlled substances. These continuing education programs are subject to the Director of OPMC's prior written approval and shall be successfully completed within the first 90 days of the probation period. Respondent shall enroll in and complete any subsequent continuing education programs deemed necessary by the Director throughout the probationary 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.