

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

NEW YORK
state department of
HEALTH

Public
Sue Kelly
Executive Deputy Commissioner

March 31, 2014

CERTIFIED MAIL-RETURN RECEIPT REQUESTED

Richard Trevor Gibbs, M.D.

REDACTED

Re: License No. 254977

Dear Dr. Gibbs:

Enclosed is a copy of the New York State Board for Professional Medical Conduct (BPMC) Order No. 14-77. This modification order and any penalty provided therein goes into effect April 7, 2014.

If the penalty imposed by this Order is a surrender, revocation or suspension, you are required to deliver your license and registration within five (5) days of receipt of this Order to: c/o Physician Monitoring Unit, NYS DOH - OPMC, Riverview Center, Suite 355, 150 Broadway, Albany, NY 12204-2719.

If your license is framed, please remove it from the frame and only send the parchment paper on which your name is printed. Our office is unable to store framed licenses.

If the document(s) are lost, misplaced or destroyed, you are required to submit to this office an affidavit to that effect. Enclosed for your convenience is an affidavit. Please complete and sign the affidavit before a notary public and return it to the Office of Professional Medical Conduct.

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

**IN THE MATTER
OF
RICHARD T. GIBBS, M.D.**

**MODIFICATION
ORDER**

Upon the proposed Application for a Modification Order of RICHARD T. GIBBS, M.D. (Respondent), which is made a part of this Modification Order, it is agreed to and ORDERED, that the attached Application, and its terms, are adopted and SO ORDERED, and it is further

ORDERED, that this Modification Order shall be effective upon issuance by the Board, either

- by mailing of a copy of this Modification Order, either by first class to Respondent at the address in the attached Application or by certified mail to Respondent's attorney, OR
- upon facsimile transmission to Respondent or Respondent's attorney, whichever is first.

SO ORDERED.

DATE: 3/28/2014

REDACTED

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

IN THE MATTER
OF
RICHARD T. GIBBS, M.D.

CONSENT
AGREEMENT
AND
ORDER

RICHARD T. GIBBS, M.D., represents that all of the following statements are true:

That on or about September 25, 2009, I was licensed to practice as a physician in the State of New York, and issued License No. 254977 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 am currently subject to BPMC Order # 11-68 (Attachment I) (henceforth "Original Order"), which was issued upon an Application For Consent Order signed by me on March 10, 2011, (henceforth "Original Application"), adopted by the Original Order. I hereby apply to the State Board for Professional Medical Conduct for an Order (henceforth "Modification Order"), modifying the Original Order, as follows:

The sanction imposed in the Original Order was an Indefinite Suspension for no less than 12 months. The sanction imposed shall be modified to read as follows:

- Surrender of my New York State Medical License.

All remaining Terms and Conditions will continue as written in the Original Order.

I make this Application of my own free will and accord and not under duress, compulsion or restraint, and seek the anticipated benefit of the requested Modification. In consideration of the value to me of the acceptance by the Board of this Application, I knowingly waive my right to contest the Original Order or the Modification Order for which I apply, whether administratively or judicially, and ask that the Board grant this Application.

I understand and agree that the attorney for the Department, the Director of the Office of Professional Medical Conduct and the Chair of the State Board for Professional Medical Conduct each retain complete discretion either to enter into the proposed agreement and 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 3.19.14

REDACTED

RICHARD T. GIBBS, M.D.
RESPONDENT

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

DATE: March 24, 2014

REDACTED

~~JOEL E. ABELOVE, ESQ.~~
Associate Counsel
Bureau of Professional Medical Conduct

DATE: 3/28/14

REDACTED

~~KEITH W. SERVIS~~
Director
Office of Professional Medical Conduct

ATTACHMENT 1

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

IN THE MATTER
OF
RICHARD TREVOR GIBBS, M.D.

CONSENT
ORDER

BPMC No. #11-68

Upon the application of RICHARD TREVOR GIBBS, M.D., (Respondent), in the attached Consent Agreement, 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 or email transmission to Respondent or Respondent's attorney, whichever is first.

SO ORDERED.

DATED: 3-19-11

REDACTED

KENDRICK A. SEARS, 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

OF

RICHARD TREVOR GIBBS, M.D.
CO-09-12-7762-A

CONSENT

AGREEMENT

RICHARD TREVOR GIBBS, M.D., (Respondent), representing that all of the following statements are true, deposes and says:

That on or about September 25, 2009, I was licensed to practice medicine in the State of New York, and issued license number 254977 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 my address within thirty (30) days, thereof.

I understand that the New York State Board for Professional Medical Conduct (Board) has charged me with eight (8) 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 eight (8) Specifications and agree to the following penalty:

My license shall be suspended for an indefinite period, but for no less than 12 months. I shall be subject to the condition that I comply with attached Exhibit "C" ("Requirements for Closing a Medical Practice Following Medical License Revocation, Surrender or Suspension of a Medical License"). Upon compliance with all the conditions of this Consent Order, I may petition the Board for a Modification Order staying the indefinite suspension of my license.

I understand and agree:

That any Modification Order the Board may issue, in the exercise of its reasonable discretion, may include terms of probation and/or further conditions on my practice.

That the Board will exercise its reasonable discretion upon my petition for a Modification Order, through a Committee on Professional Conduct, after a proceeding in which I have met a burden of proof and persuasion, as further set forth in attached Exhibit "B."

That the Committee's exercise of discretion shall not be reviewable by the Administrative Review Board.

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

That Respondent shall return all official New York State prescriptions to the Bureau of Narcotic Enforcement, and shall surrender Respondent's Controlled Substance Registration Certificate to the United States Department of Justice, Drug Enforcement Administration, within 30 days of the Consent Order's effective date. Further, within 30 days of returning these prescriptions and surrendering this Registration, Respondent shall provide the Director of OPMC ("Director") with written evidence, satisfactory to the Director, that Respondent has complied with this condition.

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 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 investigation 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 OPMC with 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 New York State Education Law § 6530(29).

I agree that, if I am charged with professional misconduct in future, this Consent Agreement and the Consent Order, and/or related Modification Orders, 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 the 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 this Consent Order shall take effect upon 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. This 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 N.Y. Pub. Health Law §§ 230 and 230-a, and that the Board for Professional Medical Conduct and the Office of Professional Medical Conduct 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, 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.

DATE: 3.10.2011

REDACTED

RICHARD TREVOR GIBBS, M.D.
Respondent

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

DATE: 3/11/11

REDACTED

JOEL E. ABELOVE
Associate Counsel
Bureau of Professional Medical Conduct

DATE: 3/15/11

REDACTED

KEITH W. SERVIS
Director
Office of Professional Medical Conduct

EXHIBIT A

IN THE MATTER
OF
RICHARD TREVOR GIBBS, M.D.
CO-09-12-7762-A

STATEMENT
OF
CHARGES

RICHARD TREVOR GIBBS, M.D., Respondent, was authorized to practice medicine in New York state on September 25, 2009, by the issuance of license number 254977 by the New York State Education Department.

FACTUAL ALLEGATIONS

A. On or about November 17, 2009, in the Commonwealth of Pennsylvania, Allegheny County Court of Common Pleas, Respondent was found guilty, based on a plea of guilty, of DUI: Highest Rate of Alcohol (BAC .16+), 1st offense, and DUI: Gen Imp/Incapable of Driving Safely – 1st offense, both crimes, and was sentenced to 3 days of Intermediate Punishment Program, 3 months probation, safe driving school, work release, and fines and fees of \$2,326.50.

B. On or about November 10, 2009, the Maine State Board of Licensure in Medicine (hereinafter "Maine Board"), by a Consent Agreement (hereinafter "Maine Agreement"), inter alia, Reprimanded Respondent for substance abuse issues, required him to totally abstain from any and all prohibited alcohol and drugs except those prescribed by his physician, and required him to enroll in and successfully participate in the Pennsylvania Physicians' Health Program or The New Mexico Monitored Treatment Program.

C. On or about April 12, 2010, in the State of Maine Superior Court, County of Washington, Respondent was found guilty, based on a plea of guilty, of Operating Under the Influence of Intoxicants or While Having a BAC of 0.08% or more, and was sentenced to 48 hours community service, fines and fee of \$640.00, and 90-day license suspension.

D. On or about June 3, 2010, the South Dakota Board of Medical and Osteopathic Examiners (hereinafter "South Dakota Board"), granted Respondent's request to withdraw his licensure application while under investigation or to avoid the results of an investigation, based on Respondent's failure to disclose his convictions outlined above in Maine and Pennsylvania.

E. On or about June 22, 2010, the Pennsylvania Board of Medicine (hereinafter "Pennsylvania Board"), by Consent Agreement and Order, ordered a STAY of suspension with probation for no less than 3 years, based upon "Maine Board" action outlined above.

F. The conduct resulting in the Maine Board 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 §6530(8) (being a habitual abuser of alcohol);
2. New York Education Law §6530(9)(a)(iii) (being convicted of committing an act constituting a crime under the law of another jurisdiction and which, if committed within this state, would have constituted a crime under New York State law);

G. The conduct resulting in the South Dakota Board 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 §6530(2) (practicing the profession fraudulently);
and/or
2. New York Education Law §6530(21) (failing to file a report required by law or by the department of health or the education department).

H. The conduct resulting in the Pennsylvania Board 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 §6530(9)(b) (by 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 that state, constitute professional misconduct under the laws of that state); and/or

2. New York Education Law §6530(9)(d) (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 that state, constitute professional misconduct under the laws of that state).

SPECIFICATIONS

FIRST AND SECOND SPECIFICATIONS

Respondent violated New York Education Law §6530(9)(a)(iii) by being convicted of committing an act constituting a crime under the law of another jurisdiction and which, if committed within this state, would have constituted a crime under New York state law, in that Petitioner charges:

1. The facts in Paragraph A.
2. The facts in Paragraph C.

THIRD THROUGH FIFTH SPECIFICATIONS

Respondent violated New York State Education Law §6530(9)(b) by 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 New York state, in that Petitioner charges:

3. The facts in Paragraphs B, C, and/or F.
4. The facts in Paragraphs B, C, D, F, and/or G.
5. The facts in Paragraphs B, C, E, F, and/or H.

SIXTH THROUGH EIGHTH SPECIFICATIONS

Respondent violated New York State Education Law §6530(9)(d) by having discipline 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:

6. The facts in Paragraphs B, C, and/or F.
7. The facts in Paragraphs B, C, D, F, and/or G.

8. The facts in Paragraphs B, C, E, F, and/or H.

DATED: *December 8*, 2010
Albany, New York

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

EXHIBIT "B"

Requirements for Closing a Medical Practice Following a Revocation, Surrender, Limitation or Suspension of a Medical License

1. Licensee shall immediately cease and desist from engaging in the practice of medicine in New York State, or under Licensee's New York license, in accordance with the terms of the Order. In addition, Licensee shall refrain from providing an opinion as to professional practice or its application and from representing that Licensee is eligible to practice medicine.
2. Within 5 days of the Order's effective date, Licensee shall deliver Licensee's original license to practice medicine in New York State and current biennial registration to the Office of Professional Medical Conduct (OPMC) at Riverview Center, 150 Broadway, Suite 355, Albany, New York 12204-2719.
3. Within 15 days of the Order's effective date, Licensee shall notify all patients of the cessation or limitation of Licensee's medical practice, and shall refer all patients to another licensed practicing physician for continued care, as appropriate. Licensee shall notify, in writing, each health care plan with which the Licensee contracts or is employed, and each hospital where Licensee has privileges, that Licensee has ceased medical practice. Within 45 days of the Order's effective date, Licensee shall provide OPMC with written documentation that all patients and hospitals have been notified of the cessation of Licensee's medical practice.
4. Licensee shall make arrangements for the transfer and maintenance of all patient medical records. Within 30 days of the Order's effective date, Licensee shall notify OPMC of these arrangements, including the name, address, and telephone number of an appropriate and acceptable contact persons who shall have access to these records. Original records shall be retained for at least 6 years after the last date of service rendered to a patient or, in the case of a minor, for at least 6 years after the last date of service or 3 years after the patient reaches the age of majority, whichever time period is longer. Records shall be maintained in a safe and secure place that is reasonably accessible to former patients. The arrangements shall include provisions to ensure that the information in the record is kept confidential and is available only to authorized persons. When a patient or a patient's representative requests a copy of the patient's medical record, or requests that the original medical record be sent to another health care provider, a copy of the record shall be promptly provided or forwarded at a reasonable cost to the patient (not to exceed 75 cents per page.) Radiographic, sonographic and similar materials shall be provided at cost. A qualified person shall not be denied access to patient information solely because of an inability to pay.

5. In the event that Licensee holds a Drug Enforcement Administration (DEA) certificate for New York State, Licensee shall, within fifteen (15) days of the Order's effective date, advise the DEA, in writing, of the licensure action and shall surrender his/her DEA controlled substance privileges for New York State to the DEA. Licensee shall promptly surrender any unused DEA #222 U.S. Official Order Forms Schedules 1 and 2 for New York State to the DEA. All submissions to the DEA shall be addressed to Diversion Program Manager, New York Field Division, U.S. Drug Enforcement Administration, 99 Tenth Avenue, New York, NY 10011.
6. Within 15 days of the Order's effective date, Licensee shall return any unused New York State official prescription forms to the Bureau of Narcotic Enforcement of the New York State Department of Health. Licensee shall destroy all prescription pads bearing Licensee's name. If no other licensee is providing services at Licensee's practice location, Licensee shall properly dispose of all medications.
7. Within 15 days of the Order's effective date, Licensee shall remove from the public domain any representation that Licensee is eligible to practice medicine, including all related signs, advertisements, professional listings (whether in telephone directories, internet or otherwise), professional stationery or billings. Licensee shall not share, occupy, or use office space in which another licensee provides health care services.
8. Licensee shall not charge, receive or share any fee or distribution of dividends for professional services rendered by Licensee or others while Licensee is barred from engaging in the practice of medicine. Licensee may be compensated for the reasonable value of services lawfully rendered, and disbursements incurred on a patient's behalf, prior to the Order's effective date.
9. If Licensee is a shareholder in any professional service corporation organized to engage in the practice of medicine, Licensee shall divest all financial interest in the professional services corporation, in accordance with New York Business Corporation Law. Such divestiture shall occur within 90 days. If Licensee is the sole shareholder in a professional services corporation, the corporation must be dissolved or sold within 90 days of the Order's effective date.
10. Failure to comply with the above directives may result in a civil penalty or criminal penalties as may be authorized by governing law. Under N.Y. Educ. Law § 6512, it is a Class E Felony, punishable by imprisonment of up to 4 years, to practice the profession of medicine when a professional license has been suspended, revoked or annulled. Such punishment is in addition to the penalties for professional misconduct set forth in N.Y. Pub. Health Law §

230-a, which include fines of up to \$10,000 for each specification of charges of which the Licensee is found guilty, and may include revocation of a suspended license.