



# Department of Health

ANDREW M. CUOMO  
Governor

HOWARD A. ZUCKER, M.D., J.D.  
Commissioner

SALLY DRESLIN, M.S., R.N.  
Executive Deputy Commissioner

January 17, 2018

**CERTIFIED MAIL-RETURN RECEIPT REQUESTED**

Virgil W. Smaltz, M.D.  


RE: License No. 261418

Dear Dr. Smaltz:


Enclosed is a copy of the New York State Board for Professional Medical Conduct (BPMC) Order No. 18-014. This Order and any penalty provided therein goes into effect January 24, 2018.

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, Riverview Center, 150 Broadway, Suite 355, Albany, New York, 12204, telephone # 518-402-0846.

Sincerely,

  
Robert A. Catalano, M.D.  
Executive Secretary  
Board for Professional Medical Conduct

cc: Allan Silver, Esq.  
Abrams Fensterman  
160 Linden Oaks, Suite E  
Rochester, New York 14625

Enclosure

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

BPMC No. 18-014

IN THE MATTER  
OF  
VIRGIL SMALTZ, M.D.

CONSENT  
ORDER

Upon the application of (Respondent) VIRGIL SMALTZ, 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: 01/17/2018

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

18-014

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

IN THE MATTER  
OF  
VIRGIL SMALTZ, M.D.

CONSENT  
AGREEMENT

VIRGIL SMALTZ, M.D., represents that all of the following statements are true:

That on or about May 9, 2011, I was licensed to practice as a physician in the State of New York, and issued License No. 261418 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 one or more 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 shall agree not to contest the allegations, in full satisfaction of the charges against me, and agree to the following penalty:

- > Pursuant to N.Y. Pub. Health Law § 230-a(1), I shall be subject to a Censure and Reprimand.

11/10/11 10:00 AM 10/10/11 10:00 AM

Pursuant to N.Y. Pub. Health Law §§ 230-a(7) and (9), I shall be subject to a fine in the amount of Ten Thousand Dollars (\$10,000), to be paid in full within ten (10) months of the effective date of this Order. Payments must be submitted to:

Bureau of Accounts Management  
New York State Department of Health  
Corning Tower, Room 2784  
Empire State Plaza  
Albany, New York 12237

In making such payment, Respondent shall indicate the order number of this Order both on the payment check submitted and on the cover letter accompanying payment. Additionally, Respondent shall simultaneously mail a photocopy of the check and cover letter to:

Physician Monitoring Program  
Office of Professional Medical Conduct  
Riverview Center  
150 Broadway, Suite 355  
Albany, New York 12204-2719.

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



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 the 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 or other confidential information, 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.









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

IN THE MATTER  
OF  
VIRGIL SMALTZ, M.D.

STATEMENT  
OF  
CHARGES

VIRGIL SMALTZ, M.D., the Respondent, was authorized to practice medicine in New York State on or about May 9, 2011, by the issuance of license number 261418 by the New York State Education Department.

FACTUAL ALLEGATIONS

- A. Respondent, while providing emergency medical services for eight patients at Geneva General Hospital, located at 196 North Avenue, Geneva, New York, during the timeframe of April 2015 to June 2015, failed to timely file and/or complete a report of examination for each of the eight patients.

SPECIFICATION OF CHARGES

FIRST SPECIFICATION

FAILURE TO MAINTAIN RECORDS

Respondent is charged with committing professional misconduct as defined in N.Y. Educ. 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:

10/10/15 10:00 AM

1. Paragraph A.

*JANUARY 4, 2018*  
DATE: ~~December~~, ~~2017~~  
Albany, New York



MICHAEL A. HISER  
Deputy Counsel  
Bureau of Professional Medical Conduct

STATE OF NEW YORK

OFFICE OF THE ATTORNEY GENERAL

ALBANY, NEW YORK