

February 3, 2012

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

Thomas J. Gruber, M.D.  
REDACTED ADDRESS

Re: License No. None

Dear Dr. Gruber:

Enclosed is a copy of the New York State Board for Professional Medical Conduct (BPMC) Order No. 12-15. This order and any penalty provided therein goes into effect February 10, 2012.

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 SIGNATURE

Katherine A. Hawkins, M.D., J.D.  
Executive Secretary  
Board for Professional Medical Conduct

Enclosure

cc: Dennis A. First, Esq.  
O'Conner, O'Conner, Bresee & First, P.C.  
20 Corporate Woods Boulevard  
Albany, NY 12211

IN THE MATTER  
OF  
THOMAS GRUBER, M.D.

CONSENT  
ORDER

BPMC No. 12-15

Upon the application of **THOMAS GRUBER, 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 2/2/2012

REDACTED SIGNATURE

KENDRICK A. SEARS, M.D.  
Chair  
State Board for Professional Medical Conduct

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

IN THE MATTER  
OF  
THOMAS GRUBER, M.D.

CONSENT  
AGREEMENT  
AND  
ORDER

**THOMAS GRUBER, M.D.**, represents that all of the following statements are true, deposes and says:

That I am was a "licensee," as that term is defined in N.Y. Pub. Health Law Section 230(7)(a), at times on or about 2008 through in and about 2009, and am referred to as "licensee" although I do not hold, and have not held, a license to practice medicine in New York State issued by the New York State Education Department. At times in and about 2008 through in and about 2009, I was a resident in the University at Buffalo Neurosurgery Resident Program in Buffalo, New York.

My current address is REDACTED ADDRESS, 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 (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.

In full settlement of the charges, I do not contest the Specification and:

I agree that I shall not apply for the issuance of a medical license in New York State. [Limitation on registration or issuance of any further license pursuant to Public Health Section 230-a(6)].

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 the 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.

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 1/20/12

REDACTED SIGNATURE

THOMAS GRUBER, M.D.  
RESPONDENT

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

DATE: 1/24/12

REDACTED SIGNATURE

DENNIS A. FIRST, ESQ.  
Attorney for Respondent

DATE: 1/25/12

REDACTED SIGNATURE

MICHAEL G. BASS, ESQ.  
Assistant Counsel  
Bureau of Professional Medical Conduct

DATE: 2/1/12

REDACTED SIGNATURE

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  
THOMAS GRUBER, M.D.  
BU-09-10-6324-A

STATEMENT  
OF  
CHARGES

THOMAS GRUBER, M.D., the Respondent, was a "licensee," as that term is defined in N.Y. Pub. Health Law Section 230(7)(a), at times on or about 2008 through in and about 2009, and is referred to as a "licensee" although he does not hold, and has not held, a license to practice medicine in New York State issued by the New York State Education Department. At times in and about 2008 through in and about 2009, Respondent was a resident in the University at Buffalo Resident Training Program in Buffalo, New York.

**FACTUAL ALLEGATIONS**

A. On or about September 9, 2009, in the Supreme Court of the State of New York, County of Erie, Respondent pled guilty to a misdemeanor. On or about December 9, 2009, Respondent was sentenced, inter alia, to a fine.

**SPECIFICATION**

Respondent violated New York Education Law §6530(9)(a)(i) by being convicted of committing an act constituting a crime under New York state law, in that Petitioner charges:

1. The facts in Paragraph A.

DATED: January 25, 2012  
Albany, New York

REDACTED SIGNATURE

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