



New York State Board for Professional Medical Conduct
433 River Street, Suite 303 • Troy, New York 12180-2299 • (518) 402-0863

Antonia C. Novello, M.D., M.P.H., Dr. P.H.
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NYS Department of Health

Dennis P. Whalen
Executive Deputy Commissioner
NYS Department of Health

Dennis J. Graziano, Director
Office of Professional Medical Conduct

Public

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Chair

Michael A. Gonzalez, R.P.A.
Vice Chair

Ansel R. Marks, M.D., J.D.
Executive Secretary

October 17, 2006

CERTIFIED MAIL-RETURN RECEIPT REQUESTED

Justin Simon, M.D.
3001 Dana Street
Berkeley, CA 94705

Re: License No. 090917

Dear Dr. Simon:

Enclosed is a copy of Order #BPMC 06-240 of the New York State Board for Professional Medical Conduct. This order and any penalty provided therein goes into effect October 24, 2006.

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 the Board for Professional Medical Conduct, New York State Department of Health, Hedley Park Place, Suite 303, 433 River Street, Troy, New York 12180.

Sincerely,

Ansel R. Marks, M.D., J.D.
Executive Secretary
Board for Professional Medical Conduct

Enclosure

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

IN THE MATTER
OF
JUSTIN SIMON, M.D.

CONSENT
ORDER

BPMC No. #06-240


Upon the proposed agreement of **JUSTIN SIMON, M.D.**, (Respondent) for Consent Order, which application is made a part hereof, it is agreed and

ORDERED, that the application and the provisions thereof are hereby adopted and so ORDERED, and it is further

ORDERED, that this order shall be effective upon issuance by the Board, which may be accomplished by mailing, by first class mail, a copy of the Consent Order to Respondent at the address set forth in this agreement or to Respondent's attorney by certified mail, or upon transmission via facsimile to Respondent or Respondent's attorney, whichever is earliest.

SO ORDERED.

DATED: 10-13-06


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
JUSTIN SIMON, M.D.
CO-06-06-3395-A

CONSENT
AGREEMENT
AND ORDER

JUSTIN SIMON, M.D., (Respondent) being duly sworn deposes and says:

That on or about August 1, 1963, I was licensed to practice as a physician in the State of New York, having been issued License No. 090917 by the New York State Education Department.

My current address is 3001 Dana Street, Berkeley, CA 94705.

I understand that the New York State Board For Professional Medical Conduct has charged me with two (2) Specifications of professional medical misconduct.

A copy of the Statement of Charges, based solely upon a April 24, 2006, Division of Medical Quality, Medical Board of California, Department of Consumer Affairs, Decision and Order is annexed hereto, made a part hereof, and marked as Exhibit "A."

I agree not to contest the Second Specification, in full satisfaction of the charges against me.

The New York State Department of Health has offered to settle this matter by my agreeing to a Censure and Reprimand. I have not, however, practiced medicine in New York state in many years and I do not intend to return to practice medicine in New York state.

I agree, therefore, in lieu of the settlement offered by the State of New York:

to never activate my registration to practice medicine in New York state.

I stipulate, hereby, that any failure by me to comply with such conditions shall constitute misconduct as defined by New York State Education Law §6530(29).

I make, hereby, this Application to the State Board for Professional Medical Conduct (the Board) and request that it be granted.

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.

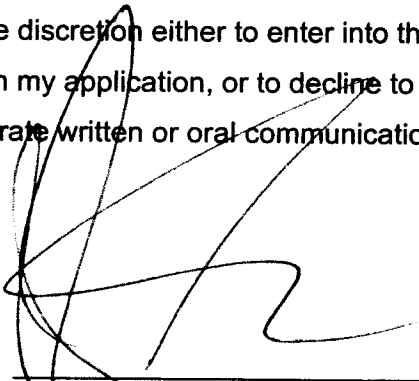
I agree that, if the Board adopts this Consent Agreement, the Chair of the Board shall issue a Consent Order in accordance with its terms. I agree that this Consent Order shall take effect upon its issuance by the Board, either by mailing of a copy of the Consent Order by first class mail to me at the 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 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, 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.

AFFIRMED:


DATED: Oct. 3, 2006



JUSTIN SIMON, M.D.
Respondent

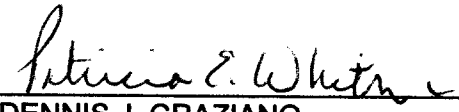
The undersigned agree to the attached application of the Respondent and to the proposed penalty based on the terms and conditions thereof.

DATE: 05 October 2006



ROBERT BOGAN
Associate Counsel
Bureau of Professional Medical Conduct

DATE: 10/12/06


for _____
DENNIS J. GRAZIANO
Director
Office of Professional Medical Conduct

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

IN THE MATTER
OF
JUSTIN SIMON, M.D.
CO-06-06-3395-A

STATEMENT
OF
CHARGES

JUSTIN SIMON, M.D., Respondent, was authorized to practice medicine in New York State on August 1, 1963, by the issuance of license number 090917 by the New York State Education Department.

FACTUAL ALLEGATIONS

A. On or about April 24, 2006, the Division of Medical Quality, Medical Board of California, Department of Consumer Affairs (hereinafter "California Board"), by a Decision and Order (hereinafter "California Order"), publically reprimanded Respondent, based on failing to file a report required by law.

B. The conduct resulting in the California 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 State Education Law §6530(21) (failing to file a report required by law or by the department of health or the education department).

SPECIFICATIONS

FIRST SPECIFICATION

Respondent violated 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 New York state, constitute professional misconduct under the laws of New York state, in that Petitioner charges:

1. The facts in Paragraphs A and/or B.

SECOND SPECIFICATION

Respondent violated New York State Education Law §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 the Petitioner charges:

2. The facts in Paragraphs A and/or B.

DATED: *Sept. 14*, 2006


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