



***New York State Board for Professional Medical Conduct***

*433 River Street, Suite 303 • Troy, New York 12180-2299 • (518) 402-0863*

Richard F. Daines, M.D.  
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NYS Department of Health*

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*Director  
Office of Professional Medical Conduct*

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*Chair*

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

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

June 20, 2007

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

Josephine Scotto Dicarlo, M.D.  
159 Glendale Road  
Hampden, MA 01036

RE: License No. 161958

Dear Dr. Dicarlo:

Enclosed is a copy of Order #BPMC 07-126 of the New York State Board for Professional Medical Conduct. This Order and any penalty provided therein goes into effect June 27, 2007.

**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:**

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

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 1258  
Empire State Plaza  
Albany, New York 12237

Sincerely,

A handwritten signature in black ink, appearing to read "Ansel R. Marks". The signature is fluid and cursive, with a large initial "A" and "M".

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

cc: Diane C. Fernald, Esq.  
Morrison, Mahoney, LLP  
Tower Square  
1500 Main Street, Suite 2400  
Springfield, MA 01115

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

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**IN THE MATTER**

**OF**

**JOSEPHINE SCOTTO DICARLO, M.D.**

**CONSENT  
ORDER**

BPMC No. #07-126

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Upon the application of (Respondent) **JOSEPHINE SCOTTO DICARLO, 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 the 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.

DATED: 6-19-07

  
KENDRICK A. SEARS, M.D.

Chair

State Board for Professional Medical Conduct

NEW YORK STATE DEPARTMENT OF HEALTH  
STATE BOARD FOR PROFESSIONALMEDICAL CONDUCT

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**IN THE MATTER**  
**OF**  
**JOSEPHINE SCOTTO DICARLO, M.D.**  
**CO-07-01-0306-A**

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**CONSENT AGREEMENT**  
**AND ORDER**

**JOSEPHINE SCOTTO DICARLO, M.D., states:**

That on or about April 15, 1985, I was licensed to practice as a physician in the State of New York, having been issued License No. 161958 by the New York State Education Department.

My current address is 159 Glendale Road, Hampden, MA 01036, and I will advise the Director of the Office of Professional Medical Conduct of any change of my address thirty (30) days, thereof.

I understand that the New York State Board for Professional Medical Conduct has charged me with one (1) Specification of professional misconduct, based solely upon the Commonwealth of Massachusetts, Board of Registration in Medicine, December 20, 2006, Final Decision and Order.

A copy of the Statement of Charges is annexed hereto, made a part hereof, and marked as Exhibit A.

I do not contest the one (1) Specification, in full satisfaction of the charges against me. I hereby, agree to the following penalty:

Suspension of my New York State license to practice medicine, stayed.

The suspension and stay to run concurrent and to be coterminous with the suspension imposed pursuant to the Commonwealth of Massachusetts, Board of Registration in Medicine, December 20, 2006, Final Decision and Order.

Respondent shall comply fully with Commonwealth of Massachusetts, Board of Registration in Medicine, December 20, 2006, Final Decision and Order, and any extension or modification, thereof.

Respondent shall provide a written authorization for the Massachusetts Board to provide the Director of OPMC with any/all information or documentation as requested by OPMC to enable OPMC to determine whether Respondent is in compliance with the Massachusetts Order.

Respondent shall submit semi-annually a signed Compliance Declaration to the Director of OPMC, which truthfully attests whether Respondent has been in compliance with the Massachusetts Order during the declaration period specified.

and a \$1,000.00 fine.

The fine is to be paid within thirty (30) days of the effective date of this Order to the NYS Department of Health, Bureau of Accounts Management, Revenue Unit, Empire State Place, Corning Tower, Room 1258, Albany, NY 12237-0016.

I further agree that the Consent Order for which I hereby apply shall impose the following conditions:

That Respondent shall remain in continuous compliance with all requirements of New York Education 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 New York Education Law § 6502(4) to avoid registration and payment of fees. This condition shall take effect 30 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 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 New York Education Law § 6530(29).

I agree that in the event I am charged with professional misconduct in the future, this 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 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 6/4/07


  
JOSEPHINE SCOTT DICARLO, 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: 6/5/07

  
DIANE C. FERNALD  
Attorney for Respondent

DATE: 12 June 2007

  
ROBERT BOGAN  
Associate Counsel  
Bureau of Professional Medical Conduct

DATE: 6/18/07

  
KEITH W. SERVIS  
Director  
Office of Professional Medical Conduct

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

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IN THE MATTER  
OF  
JOSEPHINE SCOTTO DICARLO, M.D.  
CO-07-01-0306-A

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STATEMENT  
OF  
CHARGES

**JOSEPHINE SCOTTO DICARLO, M.D.**, Respondent, was authorized to practice medicine in New York state on April 15, 1985, by the issuance of license number 161958 by the New York State Education Department.

**FACTUAL ALLEGATIONS**

A. On or about December 20, 2006, the Commonwealth of Massachusetts, Board of Registration in Medicine (hereinafter "Massachusetts Board"), by a Final Decision and Order (hereinafter "Massachusetts Order"), inter alia, SUSPENDED Respondent's license to practice medicine, the suspension stayed for thirty (30) days to allow for the payment of a \$2,500.00 fine, and further stayed upon such payment, based on committing misconduct in the practice of medicine by violating a patient's right to privacy.

B. The conduct resulting in the Massachusetts 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(23) (revealing personally identifiable facts, data, or information obtained in a professional capacity without the prior consent of the patient).



**SPECIFICATION**

Respondent violated New York State Education Law §6530(9)(d) by having her license to practice medicine suspended and/or having other disciplinary action taken by a duly authorized professional disciplinary agency of another state, where the conduct resulting in the suspension and/or other disciplinary action 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.

DATED: *June 8*, 2007  
Albany, New York

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