



**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.  
Commissioner  
NYS Department of Health

Dennis P. Whalen  
Executive Deputy Commissioner  
NYS Department of Health

Dennis J. Graziano, Director  
Office of Professional Medical Conduct

Kendrick A. Sears, M.D.  
Chairman

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

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

Public

October 10, 2006

**CERTIFIED MAIL-RETURN RECEIPT REQUESTED**

Richard H. Mesco, D.O.  
P.O. Box 838  
Hanaunau, HI 96726

Re: License No. 175026

Dear Dr. Mesco:

Enclosed is a copy of Order #BPMC 06-73 of the New York State Board for Professional Medical Conduct. This order and any penalty provided therein goes into effect 10/17/2006.

**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

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

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**IN THE MATTER**  
**OF**  
**RICHARD H. MESCO, D.O.**

**APPLICATION TO**  
**MODIFY CONSENT ORDER**  
**BMPC No. 06-73**

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**RICHARD H. MESCO, D.O.**, (Respondent) deposes and says:

That on or about July 1, 1988, I was licensed to practice as a physician in the State of New York, having been issued License No. 175026 by the New York State Education Department.

My current address is P.O. Box 838, Honaunau, HI 96726.

I am currently subject to CONSENT ORDER BMPC No. 06-73, dated April 3, 2006, annexed hereto, made a part hereof, and marked as Exhibit I (hereinafter "Original Order"), that was issued upon a Consent Agreement and Order signed by me on January 23, 2006, (hereinafter "January 23, 2006, Agreement"), adopted by the Original Order.

I apply, hereby, to the State Board for Professional Medical Conduct for a Modification Order (hereinafter "Modification Order"), modifying the Original Order, as follows: to delete the language in the Original Order that states:

" Should I return to the practice of medicine in New York state or in any other jurisdiction where that practice is predicated on my New York state medical license to practice prior to my license being fully restored by the State of Hawaii, I shall provide ninety (90) days in writing, to the Director, OPMC. The Director in his sole discretion, may impose whatever limitations, or further conditions, he deems reasonable."

" That Respondent shall maintain active registration of Respondent's license with the New York State Education, Department Division of Professional Licensing Services (except during periods of actual suspension), and pay all registration fees. This condition shall take effect beginning thirty (30) days after the Consent Order's effective date and will continue so long as Respondent remains license in New York State; and"

substituting therefore:

"I shall never activate my registration to practice medicine in New York state or seek to reapply for a license to practice medicine in New York state."

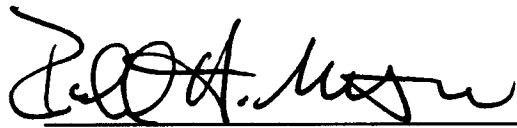
The Modification Order to be issued will not constitute a new disciplinary action against me, but will substitute the proposed language for the above described language in the Original Order.

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.

AFFIRMED:

DATED: 9/21/06

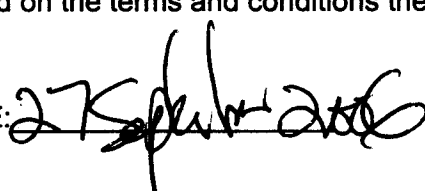


RICHARD H. MESCO, M.D.  
Respondent

*RHM*

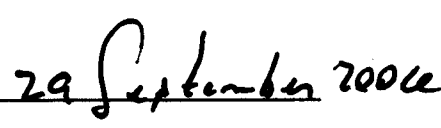
The undersigned agree to the attached application of Respondent and to the proposed penalty based on the terms and conditions thereof.

DATE: 27 September 2006



ROBERT BOGAN  
Associate Counsel  
Bureau of Professional Medical Conduct

DATE: 29 September 2006



DENNIS J. GRAZIANO  
Director  
Office of Professional Medical Conduct

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IN THE MATTER  
OF  
RICHARD H. MESCO, D.O.

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MODIFICATION  
ORDER

Upon the proposed Application for a Modification Order of **RICHARD H. MESCO, D.O.**, (Respondent) for Consent Order, that is made a part of this Modification Order, it is agreed to and

ORDERED, that the attached Application, and its terms, are adopted 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, by either first class mail, to Respondent at the address in the attached Application or certified mail to Respondent's attorney, or upon transmission via facsimile to Respondent or Respondent's attorney, whichever is earliest.

SO ORDERED.

DATED: 10-9-2006



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



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

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

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*Chairman*

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

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

April 5, 2006

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

**CORRECTED LETTER**

Richard H. Mesco, D.O.  
P.O. Box 838  
Honaunau, HI 96726

Re: License No. 175026

Dear Dr. Mesco:

Enclosed is a copy of Order #BPMC 06-73 of the New York State Board for Professional Medical Conduct. This order and any penalty provided therein goes into effect April 12, 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

cc: Robert C. Reback, Esq.  
Reback, McAndrews, Kjar, LLP  
1230 Rosecrans Avenue, Suite 450  
Manhattan Beach, CA 90266

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

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IN THE MATTER  
OF  
RICHARD H. MESCO, D.O.  
CO-05-06-3201-A

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CONSENT  
AGREEMENT  
AND ORDER

**RICHARD H. MESCO, D.O., (Respondent) representing that all of the following statements are true, deposes and says:**

That on or about July 1, 1988, I was licensed to practice as a physician in the State of New York, and issued License No. 175026 by the New York State Education Department.

My current address is P.O. Box 838, Honaunau, HI 96726, 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 two (2) specifications of professional misconduct, based solely upon the Board of Medical Examiners, Office of Administrative Hearings, Department of Consumer Affairs, State of Hawaii, December 10, 2004, Board's Final Order.

A copy of the Statement of Charges, marked as Exhibit "A", is attached to and part of this Consent Agreement.

I have never practiced medicine in the State of New York and I do not intend to return to practice medicine in the State of New York as I am currently practicing in the State of Hawaii. To avoid the time and expense to travel to New York state to defend on this matter, I do not contest Factual Allegations A and B(1) and the Second Specification, in full satisfaction of the charges against me, and agree to the following penalty:

Censure and Reprimand; with

One (1) year probation to run concurrent and coterminous with the December 10, 2004, Board of Medical Examiners, Office of Administrative Hearings, Department of Consumer Affairs, State of Hawaii, Board's Final Order, and any modifications thereof, in accordance with Exhibit B, attached, hereto.

Should I return to the practice of medicine in New York state or in any other jurisdiction where that practice is predicated on my New York state medical license to practice prior to my license being fully restored by the State of Hawaii, I shall provide ninety (90) days notice in writing, to the Director, OPMC. The Director in his sole discretion, may impose whatever limitations, or further conditions, he deems reasonable.

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

That Respondent shall maintain active registration of Respondent's license with the New York State Education, Department Division of Professional Licensing Services (except during periods of actual suspension), and shall pay all registration fees. This condition shall take effect thirty (30) days after the Consent Order's effective date and will continue so long as Respondent remains licensed 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 Order and in its investigations of all matters concerning Respondent. Respondent shall respond in a timely manner to all OPMC requests for written periodic verification of Respondent's compliance with this Order. Respondent shall meet with a person designated by the Director of OPMC, as directed, only if Respondent returns to the active practice of medicine in New York state. 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 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 the future, this Consent Agreement and Order shall be admitted into evidence in that proceeding.

I ask the Board to adopt this Consent Agreement.

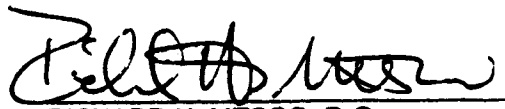
I understand that if the Board does not adopt this Consent Agreement, none of its terms shall bind me or constitute an admission of any of the acts of alleged misconduct; this Consent Agreement shall not be used against me in any way and shall be kept in strict confidence; and the Board's denial shall be without prejudice to the pending disciplinary proceeding and the Board's final determination pursuant to 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 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 Order, this agreement, and all attached Exhibits shall be public documents, with only patients identities, if any, redacted.

I stipulate that the proposed Order is authorized by Public Health Law Sections 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 ask that the Board adopt this Consent Agreement.

AFFIRMED:

DATED: 1/23/06

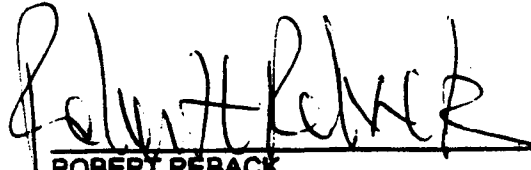


RICHARD H. MESCO, D.O.  
Respondent




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

DATE: 1/26/06

  
ROBERT REBACK  
Attorney for Respondent

DATE: 30 January 2006

  
ROBERT BOGAN  
Associate Counsel  
Bureau of Professional Medical Conduct

DATE: 28 March 2006

  
DENNIS J. GRAZIANO  
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**  
**RICHARD H. MESCO, D.O.**  
**CO-05-06-3201-A**

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**STATEMENT**  
**OF**  
**CHARGES**

**RICHARD H. MESCO, D.O.**, the Respondent, was authorized to practice medicine in New York state on July 1, 1988, by the issuance of license number 175026 by the New York State Education Department.

**FACTUAL ALLEGATIONS**

A. On or about December 10, 2004, the Board of Medical Examiners, Office of Administrative Hearings, Department of Consumer Affairs, State of Hawaii, (hereinafter "Hawaii Board"), by a Board's Final Order (hereinafter "Hawaii Order"), placed Respondent on one (1) year probation, imposed a \$1,000.00 fine, and required him to successfully complete three (3) hours of CME in maintaining professional boundaries, based on professional misconduct and negligence.

B. The conduct resulting in the Hawaii 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(3) (negligence on more than one occasion);  
and/or
2. New York Education Law §6530(31) (harassing, abusing, or intimidating a patient).

**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 findings 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 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 New York state, in that Petitioner charges:

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

DATED: *Sept. 22*, 2005  
Albany, New York

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

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

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IN THE MATTER  
OF  
RICHARD H. MESCO, D.O.

CONSENT  
ORDER

BPMC No. 06-73

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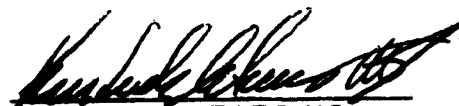
Upon the application of RICHARD H. MESCO, D.O., (Respondent) in the attached Consent Agreement and Order, which is made a part of this Consent Order, it is

ORDERED, that the Consent Agreement, and its terms, are adopted and it is further

ORDERED, that this 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.

DATED: 4-3-2006

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

## **EXHIBIT B**

### **Terms of Probation**

1. Respondent shall conduct himself in all ways in a manner befitting his professional status, and shall conform fully to the moral and professional standards of conduct and obligations imposed by law and by his profession.
2. Respondent shall submit written notification to the New York State Department of Health addressed to the Director, Office of Professional Medical Conduct (OPMC), Hedley Park Place, 433 River Street Suite 303, Troy, New York 12180-2299; said notice is to include a full description of any employment and practice, professional and residential addresses and telephone numbers within or without New York State, and any and all investigations, charges, convictions or disciplinary actions by any local, state or federal agency, institution or facility, within thirty days of each action.
3. Respondent shall fully cooperate with and respond in a timely manner to requests from OPMC to provide written periodic verification of Respondent's compliance with the terms of this Order. Respondent shall personally meet with a person designated by the Director of OPMC as requested by the Director.
4. Respondent shall maintain legible and complete medical records which accurately reflect the evaluation and treatment of patients. The medical records shall contain all information required by State rules and regulations regarding controlled substances.
5. Respondent shall comply fully with the December 10, 2004, Board's Final Order of the Hawaii Board and any extension or modification thereof.
6. Respondent shall provide a written authorization for the Hawaii 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 Hawaii Order.
7. 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 Hawaii Order during the declaration period specified.
8. Respondent shall comply with all terms, conditions, restrictions, limitations and penalties to which he is subject pursuant to the Order and shall assume and bear all costs related to compliance. Upon receipt of evidence of noncompliance with, or any violation of these terms, the Director of OPMC and/or the Board may initiate a violation of probation proceeding and/or any such other proceeding against Respondent as may be authorized pursuant to the law.