



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

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

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

October 18, 2004

CERTIFIED MAIL-RETURN RECEIPT REQUESTED

Gerald Applegate, M.D.
P.O. Box 545
Wexford, PA 15090-0545

Re: License No. 197471

Dear Dr. Applegate:

Enclosed please find Order #BPMC 04-221 of the New York State Board for Professional Medical Conduct. This order and any penalty provided therein goes into effect October 25, 2004.

If the penalty imposed by the Order is a surrender, revocation or suspension of this license, you are required to deliver to the Board the license and registration within five (5) days of receipt of the 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 PROFESSIONALMEDICAL CONDUCT

IN THE MATTER
OF
GERALD APPLGATE, M.D.
CO-04-04-1761-A

CONSENT AGREEMENT
AND ORDER

BPMC No. 04-221

GERALD APPLGATE, M.D., states:

That on or about October 13, 1994, I was licensed to practice as a physician in the State of New York, having been issued License No. 197471 by the New York State Education Department.

My current address is 1601 Fieldstone Lane, Sewickley, PA 15143, and I will advise the Director of the Office of Professional Medical Conduct of any change of my address.

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

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

I do not contest Factual Allegations A and B(3) and the two (2) Specifications, in full satisfaction of the charges against me. I agree, hereby, to the following penalty:

Ninety (90) days suspension of my New York state license, stayed,

Respondent shall comply fully with the requirements of the Department of State, State Board of Medicine for the Commonwealth of Pennsylvania, February 18, 2004, Consent Agreement and Order and any extension or modification thereof.

Respondent shall provide a written authorization for the Pennsylvania 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 Pennsylvania 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 Pennsylvania Order during the declaration period specified.

Should I practice 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 without conditions by the State of Pennsylvania, I shall provide ninety (90) days notice, in writing, to the Director, OPMC. The Director in his sole discretion, may impose whatever probation, limitation(s), term(s) or further conditions, he in his sole discretion deems reasonable.

Permanently restricted from prescribing controlled substances to himself and family members.

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

That, except during periods of actual suspension, I shall maintain current registration of my license with the New York State Education Department Division of Professional Licensing Services, and pay all registration fees. This condition shall be in effect beginning thirty days after the effective date of the Consent Order and will continue while Respondent possesses his license; and

That I shall fully cooperate in every respect with the Office of Professional Medical Conduct (OPMC) in its administration and enforcement of this Order and in its investigation of all matters regarding Respondent. I shall respond in a timely manner to each and every request by OPMC to provide written periodic verification of Respondent's compliance with the terms of this Order. I shall meet with a person designated by the Director of OPMC as directed. I shall respond promptly and provide any and all documents and information within my control upon the direction of OPMC. This condition shall be in effect beginning upon the effective date of the Consent Order and will continue while I possess my license.

I, hereby, stipulate that any failure by me to comply with such conditions shall constitute misconduct as defined by New York State 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.

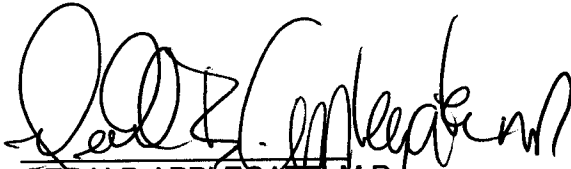
I, hereby, make this application to the State Board for Professional Medical Conduct (the Board) and request that it be granted.

I understand that, in the event that this application is not granted by the Board, nothing contained herein shall be binding upon me or construed to be an admission of any act of misconduct alleged or charged against me, such application shall not be used against me in any way and shall be kept in strict confidence during the pendency of the professional misconduct disciplinary proceeding; and such denial by the Board shall be made without prejudice to the continuance of any disciplinary proceeding and the final determination by the Board pursuant to the provisions of the Public Health Law.

I agree that, in the event the Board grants my application, as set forth herein, an order of the Chairperson of the Board shall be issued in accordance with same. I agree that such 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 me at the address set forth in this agreement, or to my attorney, or upon transmission via facsimile to me or my attorney, whichever is earliest.

I am making this application of my own free will and accord and not under duress, compulsion or restraint of any kind or manner. In consideration of the value to me of the acceptance by the Board of this application, allowing me to resolve this matter without the various risks and burdens of a hearing on the merits, I knowingly waive any right I may have to contest the Consent Order for which I hereby apply, whether administratively or judicially, and ask that the application be granted.

AFFIRMED

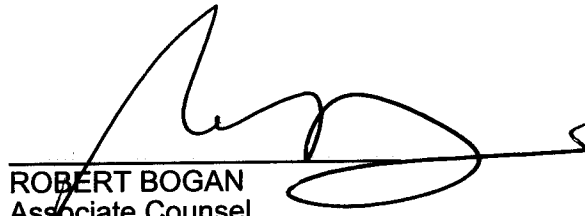

GERALD APPLIGATE, M.D.
Respondent

DATED


SEPT 15, 2004

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

DATE: 16 September 2004


ROBERT BOGAN
Associate Counsel
Bureau of Professional Medical Conduct

DATE: 21 September 2004


DENNIS J. GRAZIANO
Director
Office of Professional Medical Conduct

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

IN THE MATTER
OF
GERALD APPEGATE, M.D

CONSENT ORDER


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

ORDERED, that the application and the provisions thereof are hereby adopted; 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: 9/26/04


MICHAEL A. GONZALEZ, R.P.A.
Vice Chair
State Board for Professional
Medical Conduct

IN THE MATTER
OF
GERALD B. APPLGATE, M.D.
CO-04-04-1761-A

STATEMENT
OF
CHARGES

GERALD B. APPLGATE, M.D., the Respondent, was authorized to practice medicine in New York state on October 13, 1994, by the issuance of license number 197471 by the New York State Education Department.

FACTUAL ALLEGATIONS

A. On or about February 18, 2004, the Commonwealth of Pennsylvania, Department of State, State Board of Medicine, (hereinafter "Pennsylvania Board"), by a Consent Agreement and Order (hereinafter "Pennsylvania Order"), **SUSPENDED** Respondent's license to practice medicine for ninety (90) days, **STAYED** the **SUSPENSION** in favor of **PROBATION** for ninety (90) days with conditions, and imposed a \$5,000.00 **CIVIL PENALTY**, based on writing prescriptions for controlled substances for his wife on 86 occasions that were filled at eight (8) different pharmacies wherein he failed to maintain medical records for the circumstances under which the prescriptions were written.

B. The conduct resulting in the Pennsylvania 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(2) (practicing the profession fraudulently);
2. New York Education Law §6530(3) (practicing the profession with negligence on more than one occasion); and/or
3. New York Education Law §6530(32) (failure to maintain a record of each patient which accurately reflects the evaluation and treatment).

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 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, constituted professional misconduct under the laws of New York state, in that Petitioner charges:

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

DATED: *8/23*, 2004
Albany, New York


BRIAN M. MURPHY
Chief Counsel
Bureau of Professional Medical Conduct