



**Department
of Health**

KATHY HOCHUL
Governor

JAMES V. McDONALD, M.D., M.P.H.
Commissioner

JOHANNE E. MORNE, M.S.
Acting Executive Deputy Commissioner

January 8, 2024

CERTIFIED MAIL-RETURN RECEIPT REQUESTED

Marco Munoz, M.D.

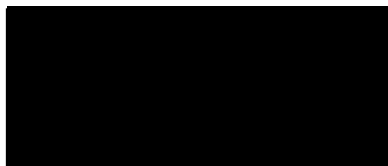

Re: License No. 258745

Dear Dr. Munoz:

Enclosed is a copy of the New York State Board for Professional Medical Conduct (BPMC) Order No. 24-005. This order and any penalty provided therein goes into effect January 15, 2024.

Please direct any questions to: Board for Professional Medical Conduct, Riverview Center, 150 Broadway, Suite 355, Albany, New York 12204, telephone # 518-402-0846.

Sincerely,



David Besser, M.D.
Executive Secretary
Board for Professional Medical Conduct

Enclosure

cc: Norman Spencer, Esq.
52 Duane Street, 7th Floor
New York, New York 10007

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

BPMC No. 24-005

**IN THE MATTER
OF
MARCO MUNOZ, M.D.**

**CONSENT
ORDER**

Upon the application of (Respondent) MARCO MUNOZ, 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

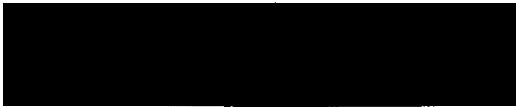
ORDERED, that this Consent Order shall be effective upon issuance by the Board, either

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: 1/06/2024


THOMAS T. LEE, 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
MARCO MUNOZ, M.D.

CONSENT
AGREEMENT

MARCO MUNOZ, M.D., represents that all of the following statements are true:

That on or about September 21, 2010, I was licensed to practice as a physician in the State of New York and issued License No. 258745 by the New York State Education Department.

My current address is [REDACTED], 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 or more specifications of professional misconduct, as set forth in a Statement of Charges, marked as Exhibit "A", attached to and part of this Consent Agreement.

I do not contest the Statement of Charges and, in full satisfaction of the charges against me, agree to the following penalty:

- Pursuant to N.Y. Pub. Health Law § 230-a(1), I shall be subject to a Censure and Reprimand.

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

That Respondent shall comply with each and every penalty imposed by this Order pursuant to N.Y. Pub. Health Law § 230-a.

That Respondent, by making this application, asserts that Respondent does not currently practice medicine in New York State or in any setting or jurisdiction where that practice is predicated upon Respondent's New York State medical license. As a condition of this Order, should Respondent decide to resume practicing medicine in New York, Respondent shall make available for review by a third-party billing monitor ("billing monitor") any and all office and accounts records, as directed by OPMC. Such billing monitor shall be proposed by Respondent at least 30-days before practicing medicine in New York, and approved, in writing, by the Director of OPMC. No more than 30 days after learning that the approved billing monitor is no longer willing or able to serve or no more than 30 days after having been notified by the Director that the billing monitor has been discharged for cause, which shall include but not be limited to the inadequacy of the billing monitor's reports and/or performance, Respondent shall have an approved successor in place, subject to the Director's written approval. Upon approval, the new billing monitor shall perform the duties described in (b) and (c) below. Regardless of the reason necessitating a replacement, if the Director does not approve Respondent's proposed new billing monitor, Respondent shall immediately cease the practice of medicine, unless

notified by the Director, in writing, of an extension, which may be granted at the Director's discretion. In that event, Respondent shall propose another billing monitor, which the Director has 30 days to approve or disapprove until a billing monitor is accepted. Any medical practice in violation of this term shall constitute the unauthorized practice of medicine. Respondent shall fully cooperate in the review process. The review will determine whether Respondent's medical billing and related documentation practices are conducted in a manner that complies with all Federal, State, and local statutes and regulations regarding billing for medical services and is accurate, under all relevant circumstances, as to the services rendered and the clinical bases for such services.

- a) Respondent shall be solely responsible for all expenses associated with monitoring, including fees, if any, to the billing monitoring.
- b) Respondent shall cause the billing monitor to report quarterly, in writing to the Director of OPMC.
- c) Any perceived deviation from proper billing practices or refusal to cooperate with the billing monitor shall be reported within 24 hours to OPMC.
- d) Respondent shall be monitored by the billing monitor for thirty-six months. The billing monitor requirement shall toll when Respondent is not engaged in active medical practice in New York State for a period of 30 consecutive days or more. Respondent shall notify the Director of OPMC, in writing, if

Respondent is not currently engaged in, or intends to leave, active medical practice in New York State for a consecutive 30 day period. Respondent shall then notify the Director again at least 14 days before returning to active practice. Upon Respondent's return to active practice in New York State, the billing monitor period shall resume and Respondent shall fulfill any unfulfilled terms and such additional requirements as the Director may impose as reasonably relate to the matters set forth in Exhibit "A" or as are necessary to protect the public health.

- e) Should Respondent resume practicing medicine in New York, Respondent shall be required to enroll in and successfully complete continuing education as directed by the Office of Professional Medical Conduct, subject to the Director of the Office of Professional Medical Conduct's prior written approval.

That Respondent shall remain in continuous compliance with all requirements of N.Y. Educ 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 N.Y. Educ. Law § 6502(4) to avoid registration and payment of fees. This condition shall take effect 120 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 remain in continuous compliance with all requirements of N.Y. Pub. Health Law § 2995-a(4) and 10 NYCRR 1000.5, including but not limited to the requirements that a licensee shall: report to the Department all information required by the Department to develop a public physician profile for the licensee; continue to notify the Department of any change in profile information within 30 days of any change (or in the case of optional information, within 365 days of such change); and, in addition to such periodic reports and notification of any changes, update the Licensee's profile information within six months prior to the expiration date of the licensee's registration period. Licensee shall submit changes to the Licensee's physician profile information either electronically using the Department's secure web site or on forms prescribed by the Department, and licensee shall attest to the truthfulness, completeness and correctness of any changes licensee submits to the Department. This condition shall take effect 30 days after the Order's effective date and shall continue so long as Respondent remains a licensee in New York State. Respondent's failure to comply with this condition, if proven and found at a hearing pursuant to N.Y. Pub. Health Law § 230, shall constitute professional misconduct as defined in N.Y. Educ. Law § 6530(21) and N.Y. Educ. Law § 6530(29). Potential

penalties for failure to comply with this condition may include all penalties for professional misconduct set forth in N.Y. Pub. Health Law § 230-a, including but not limited to: revocation or suspension of license, Censure and Reprimand, probation, public service and/or fines of up to \$10,000 per specification of misconduct found; and

That Respondent shall provide the Director, Office of Professional Medical Conduct (OPMC), Riverview Center, 150 Broadway, Suite 355, Albany, New York 12204-2719, with the following information, in writing, and ensure that this information is kept current: a full description of Respondent's employment and practice; all professional and residential addresses and telephone numbers within and outside New York State; and all investigations, arrests, charges, convictions or disciplinary actions by any local, state or federal agency, institution or facility. Respondent shall notify OPMC, in writing, within 30 days of any additions to or changes in the required information. This condition shall take effect 30 days after the Order's effective date and shall continue at all times until Respondent receives written notification from the Office of Professional Medical Conduct, Physician Monitoring Program, that OPMC has determined that Respondent has fully complied with and satisfied the requirements of the Order, regardless of tolling; 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 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 the 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 or other confidential information, if any, redacted. As public documents, they may be posted on the Department's website. OPMC shall report this action to the National Practitioner Data Bank and the Federation of State Medical Boards, and any other entities that the Director of OPMC shall deem appropriate.

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.

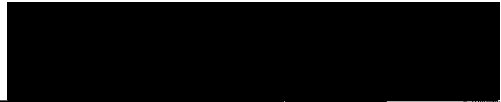
DATE 12/23/2023



MARCO MUNOZ, M.D.
RESPONDENT

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

DATE: 1/3/24



NORMAN SPENCER, ESQ.
Attorney for Respondent

DATE: Jan. 3, 2024



NATHANIAL WHITE
Associate Counsel
Bureau of Professional Medical Conduct

DATE: January 5, 2024



SHELLY WANG BANDAGO
Director
Office of Professional Medical Conduct

EXHIBIT A

IN THE MATTER
OF
MARCO MUNOZ, M.D.

STATEMENT
OF
CHARGES

MARCO MUNOZ, M.D., the Respondent, was authorized to practice medicine in New York State on or about September 21, 2010, by the issuance of license number 258745 by the New York State Education Department.

FACTUAL ALLEGATIONS

A. On or about June 12, 2020, the Texas Medical Board issued a non-disciplinary Remedial Plan as a result of the Texas Medical Board finding that the Respondent failed to obtain and/or document the required forty-eight hours of continuing medical education for Respondent's license renewal period of September 1, 2016 to August 31, 2018. The Remedial Plan required the Respondent to, within one year of the entry of the Remedial Plan, pass the Medical Jurisprudence Examination with a score of 75 or above within three attempts. The Remedial Plan also required the Respondent to enroll and complete the required forty-eight hours of CME for the renewal period of September 1, 2016 to August 31, 2018, as well as four additional CME hours in the topic of Ethics, all to be completed within one year of the entry of the Remedial Plan.

B. On or about October 11, 2021, the Texas Medical Board issued an Automatic Suspension Order after finding that the Respondent had not passed the Medical Jurisprudence Examination with a score of 75 or above which was considered by the Texas Medical Board as a violation of the Remedial Plan. The Texas Medical Board concluded that the Texas Board could take disciplinary action against the Respondent

as set out in various provisions of Texas law, including for committing a direct violation of a Board Rule, specifically Board Rule 189.3, which requires compliance with all terms of a Board order. The Texas Board also concluded that Board Rule 189.9 permitted the issuance of an Order of Suspension for violation of a Board Order. The Texas Medical Board suspended Respondent's Texas license until such time that Respondent petitions to have the suspension stayed or lifted, and provides evidence that Respondent is in compliance with all terms and conditions of the Remedial Plan.

C. The conduct resulting in the Texas disciplinary action against the Respondent would constitute misconduct under the laws of New York State pursuant to the following section of New York law:

1. New York Education Law section 6530(29) (violating any term of probation or condition or limitation imposed on the licensee pursuant to section two hundred thirty of the public health law).

SPECIFICATION OF CHARGES

Respondent is charged with committing professional misconduct as defined in N.Y. Educ. Law § 6530(9)(d) by having the Respondent's license to practice medicine revoked, suspended or having other disciplinary action taken, or having the Respondent's application for a license refused, revoked or suspended or having voluntarily or otherwise surrendered the Respondent's license after a disciplinary action was instituted by a duly authorized professional disciplinary agency of another state, where the conduct resulting in the revocation, suspension or other disciplinary action involving the license or refusal, revocation or suspension of an application for a license or the surrender of the license would, if committed in New York state, constitute professional misconduct under the laws of New York state (namely N.Y. Educ. Law § 6530[29]) as alleged in the facts of the following:

1. Paragraphs A, B, C and C.1.

DATE: October 11, 2023
Albany, New York



JEFFREY J. CONKLIN
Deputy Director
Bureau of Professional Medical Conduct