



New York State Board for Professional Medical Conduct

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

Barbara A. DeBuono, M.D., M.P.H.
Commissioner of Health

Charles J. Vacanti, M.D.
Chair

February 24, 1997

CERTIFIED MAIL-RETURN RECEIPT REQUESTED

Russell A. Nickels, M.D.
430 Winchuck River Road
Brookings, Oregon 97415

RE: License No. 111959

Dear Dr. Nickels:

Enclosed please find Order #BPMC 97-41 of the New York State Board for Professional Medical Conduct. This Order and any penalty provided therein goes into effect upon receipt of this letter or seven (7) days after the date of this letter, whichever is earlier.

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.

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

Sincerely,

Charles Vacanti, M.D.
Chair
Board for Professional Medical Conduct

Enclosure

cc: Silvia P. Finkelstein, Esq.

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

**IN THE MATTER
OF
RUSSELL A. NICKELS, M.D.**

**CONSENT
ORDER**
BPMC #97-41

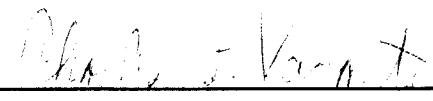
Upon the application of RUSSELL A. NICKELS, M.D. (Respondent) for Consent Order, which application is made a part hereof, it is

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

ORDERED, that this order shall take effect as of the date of the personal service of this order upon Respondent, upon receipt by Respondent of this order via certified mail, or seven days after mailing of this order by certified mail, whichever is earliest.

SO ORDERED.

DATED: 18 February 1997



CHARLES J. VACANTI, M.D.
Chairperson
State Board for Professional
Medical Conduct

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

**IN THE MATTER
OF
RUSSELL A. NICKELS, M.D.**

**APPLICATION
FOR
CONSENT ORDER**

STATE OF OREGON)
) ss.:
COUNTY OF)

RUSSELL A. NICKELS, M.D., being duly sworn, deposes and says:

That on or about March 29, 1972, I was licensed to practice as a physician in the State of New York, having been issued License No. 111959 by the New York State Education Department.

My current address is 430 Winchuck River Road, Brookings, Oregon 97415, 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 specifications of professional misconduct.

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

I admit guilt to the specifications, in full satisfaction of the charges against me. I hereby agree to the penalty that my license be suspended for a period of two years and that said suspension be stayed. I hereby further agree that, within three months of the date of this order, I will register for the practice of medicine with the Division of Professional Licensing Services, New York State Education Department and pay the required registration fee(s) assessed to me. I agree to submit written notification of my registration, within said three month period, to the New York State Department of Health, addressed to the Director of the Office of Professional Medical Conduct, Hedley Building, 4th floor, Troy, New York 12180.

I agree that my failure to register with the Department of Education and notify the Department of Health within three months of the date of this order shall constitute professional misconduct as set forth in N.Y. Educ. Law Sec. 6530(29).

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.

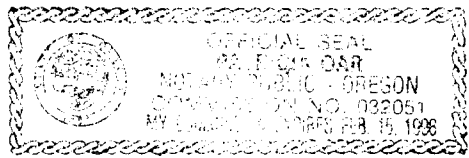
I am making this Application of my own free will and accord and not under duress, compulsion or restraint of any kind or manner. In consideration of the value to me of the acceptance by the Board of this Application, allowing me to resolve this matter without the various risks and burdens of a hearing 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.

Russell A Nickels MD
RUSSELL A. NICKELS, M.D.
Respondent

Sworn to before me this
27 day of January, 1997.

Patricia Ann

NOTARY PUBLIC



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

IN THE MATTER
OF
RUSSELL A. NICKELS, M.D.

APPLICATION
FOR
CONSENT ORDER

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

DATE:

27 Jan 97

Russell A. Nickels MD

RUSSELL A. NICKELS, M.D.
Respondent

DATE:

5 February 1997

Silvia P. Finkelstein

SILVIA P. FINKELSTEIN
Associate Counsel
Bureau of Professional
Medical Conduct

DATE: Feb 13, 1997

Anne Saile
ANNE F. SAILE
Director
Office of Professional Medical
Conduct

DATE: 18 February 1997

Charles J. Vacanti
CHARLES J. VACANTI, M.D.
Chairperson
State Board for Professional
Medical Conduct

IN THE MATTER
OF
RUSSELL A. NICKELS, M.D.

STATEMENT
OF
CHARGES

RUSSELL A. NICKELS, M.D., the Respondent, was authorized to practice medicine in New York State on or about March 29, 1972, by the issuance of license number 111959 by the New York State Education Department.

FACTUAL ALLEGATIONS

- A. On or about May 8, 1996, the Division of Medical Quality of the Medical Board of California (California Board), issued an order, after hearing, effective June 7, 1996, imposing a penalty upon Respondent's license consisting of revocation of his license, said revocation was stayed, actual suspension of the license for a period of ninety (90) days, and a seven year period of probation under conditions which included monitoring of Respondent's practice and the requirement to enroll in a course in Ethics. The California Board issued factual findings which included that on or about December 17, 1990 the Board of Medical Examiners of the State of Oregon (Oregon Board) accepted Respondent's surrender of his Oregon license, effective July 1, 1990, in lieu of disciplinary action. The facts and circumstances giving rise to the Oregon disciplinary action involved allegations relating to Respondent's professional competence, professional performance and financial integrity. Respondent was found to have violated the Business and Professions Code of the State of California §2305 (revocation, suspension, or other discipline by another state

of a license or certificate to practice medicine shall constitute unprofessional conduct in California). The events set forth in the Factual Findings of the California Board would constitute professional misconduct under N.Y. Educ. Law §6530(9)(d) (having ...voluntarily or otherwise surrendered his license after a disciplinary action was instituted by a duly authorized professional disciplinary agency of another state).

- B. On or about April 17, 1996, the State Medical Board of Ohio (Ohio Board) issued a Consent Agreement entered into by Respondent and the Ohio Board, to resolve pending allegations that Respondent violated Ohio Revised Code §§4731.22A (fraud, misrepresentation, or deception in applying for or securing any license or certificate issued by the board) and/or 4731.22(B)(5) (publishing a false, fraudulent, deceptive, or misleading statement). Respondent admits in the Consent Agreement that in completing his application for renewal of his certificate to practice medicine or surgery for the 1994-1996 biennial registration period, he did certify that he had completed during the preceding biennium the requisite hours of continuing medical education, as required by §4731.281 Ohio Revised Code, where in fact, he had not completed the requisite hours of continuing medical education as required at the time of certification, but did so subsequently. The penalty agreed upon by Respondent and the Ohio Board consisted of actual suspension of Respondent's license for a period of thirty (30) days and six (6) years probation. If committed in New York, the conduct admitted to in the Ohio consent agreement would constitute professional misconduct under N.Y. Educ. Law §6530(2) (practicing the profession fraudulently) and/or 6530(21) (willfully making or filing a false report).

SPECIFICATION OF CHARGES

FIRST SPECIFICATION
HAVING BEEN FOUND GUILTY OF
PROFESSIONAL MISCONDUCT

Respondent is charged with committing professional misconduct as defined in N.Y. Educ. Law §6530(9)(b)(McKinney Supp. 1997) 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 as alleged in the facts of the following:

1. Paragraph A

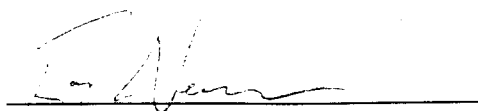
SECOND SPECIFICATION
HAVING HAD DISCIPLINARY ACTION TAKEN

Respondent is charged with committing professional misconduct as defined in N.Y. Educ. Law §6530(9)(d)(McKinney Supp. 1997) by having his or her license to practice medicine revoked, suspended or having other disciplinary action taken, or having his or her application for a license refused, revoked or suspended or having voluntarily or otherwise surrendered his or her 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 as alleged in the facts of the following:

2. Paragraph B

DATED: January 15, 1997
New York, New York



ROY NEMERSON
Deputy Counsel
Bureau of Professional
Medical Conduct