



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.
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NYS Department of Health

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NYS Department of Health

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Office of Professional Medical Conduct

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Denise M. Bolan, R.P.A.
Vice Chair

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

August 25, 1999

CERTIFIED MAIL-RETURN RECEIPT REQUESTED

Francisco Javier Borja, M.D.
8940 Kendall Drive, #10E
East Miami, FL 33176

RE: License No.: 141588

Dear Dr. Borja:

Enclosed please find Order #BPMC 99-212 of the New York State Board for Professional Medical Conduct. This Order and any penalty provided therein goes into effect **August 25, 1999.**

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 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: Sean M. Ellsworth, Esq.
Dresnick & Ellsworth
Suntrust Plaza, Suite 701
201 Alhambra Circle
Coral Gables, FL 33134-5108

Robert Bogan, Esq.

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

IN THE MATTER
OF
FRANCISCO JAVIER BORJA, M.D.

CONSENT
AGREEMENT
AND
ORDER
BPMC #99-212

STATE OF FLORIDA)
COUNTY OF DADE) SO.:

FRANCISCO JAVIER BORJA, M.D., (Respondent) being duly sworn,
deposes and says:

That on or about April 4, 1980, I was licensed to practice as a physician in the State of New York, having been issued License No. 141588 by the New York State Education Department.

My current address is 8940 Kendall Drive, # 10E, Moami, FL 33176, 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 agree not to contest the two (2) specifications, in full satisfaction of the charges against me. I hereby agree to the following penalty:

Censure and Reprimand.

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

That, except during periods of actual suspension, Respondent shall maintain current registration of Respondent's 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 the licensee possesses his/her license; and

That Respondent 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.

Respondent 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.

Respondent shall meet with a person designated by the Director of OPMC as directed. Respondent shall respond promptly and provide any and all documents and information within Respondent's 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 the licensee possesses his/her 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)(McKinney Supp 1999).

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:

DATED 8/10/99

[Handwritten signature: Borja M.]

FRANCISCO JAVIER BORJA, M.D.
RESPONDENT



Maria Elena Hernandez
My Commission CC599633
Expires November 7, 2000

[Handwritten signature: Maria Elena Hernandez]
*Personally known

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

DATE: 8/13/99

[Handwritten signature: Sean Ellsworth]

SEAN ELLSWORTH, ESQ.
Attorney for Respondent

DATE: 17 Aug 99

[Handwritten signature: Robert Bogan]

ROBERT BOGAN
Assistant Counsel
Bureau of Professional
Medical Conduct

DATE: August 18, 1999

[Handwritten signature: Anne F. Saile]

ANNE F. SAILE
Director
Office of Professional
Medical Conduct

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

IN THE MATTER
OF
FRANCISCO JAVIER BORJA, M.D.

CONSENT
ORDER

Upon the proposed agreement of FRANCISCO JAVIER BORJA, 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 so ORDERED, 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:

8/21/99



WILLIAM P. DILLON, M.D.
Chair
State Board for Professional
Medical Conduct

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

-----X

IN THE MATTER : STATEMENT
OF : OF
FRANCISCO JAVIER BORJA, M.D. : CHARGES

-----X

FRANCISCO JAVIER BORJA, M.D., the Respondent, was authorized to practice medicine in New York state on April 4, 1980 by the issuance of license number 141588 by the New York State Education Department.

FACTUAL ALLEGATIONS

A. On or about January 7, 1999, the State of Florida Board of Medicine, (hereinafter "Florida Board"), entered a Final Order, (hereinafter "Florida Order"), that required Respondent to complete ten hours of CME in risk management, to undergo a Quality Assurance Assessment, and fined him \$5,000.00 based on wrong site surgery wherein Respondent removed the posterior process of a patient's oscalsis rather than the anterior process.

B The conduct resulting in the Florida Board's 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 ^B

^B ~~2. New York Education Law §6530(5) (incompetence on more than one occasion).~~

SPECIFICATIONS

FIRST SPECIFICATION

Respondent violated New York Education §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 the petitioner charges:

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


SECOND SPECIFICATION

Respondent violated New York State Education Law §6530(9)(d) by having had disciplinary action taken against him 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 of New York state, in that the Petitioner charges:

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

DATED: *June 16*, 1999
Albany, New York


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