



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*

William P. Dillon, M.D.
Chair

Dennis P. Whalen
*Executive Deputy Commissioner
NYS Department of Health*

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

Dennis J. Graziano, Director
Office of Professional Medical Conduct

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

March 28, 2002

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Richard Maloney, M.D.
11181 Health Park Blvd.
Suite 11
Naples, FL 34110

RE: License No. ¹²⁷⁶⁸⁰~~184728~~

Dear Dr. Maloney:

Enclosed please find Order #BPMC 02-96 of the New York State Board for Professional Medical Conduct. This Order and any penalty provided therein goes into effect March 28, 2002.

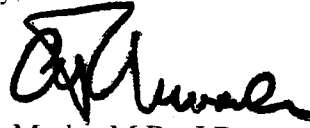
If the penalty imposed by the Order is a surrender, revocation or suspension of this license, you are required to deliver to the Board the license and registration within five (5) days of receipt of the Order.

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

If the penalty imposed by the Order is a fine, please write the check payable to the New York State Department of Health. Noting the BPMC Order number on your remittance will assist in proper crediting. Payments should be directed to the following address:

Bureau of Accounts Management
New York State Department of Health
Corning Tower, Room 1258
Empire State Plaza
Albany, New York 12237

Sincerely,

A handwritten signature in black ink, appearing to read "Ansel R. Marks". The signature is stylized and written in a cursive-like font.

Ansel R. Marks, M.D., J.D.
Executive Secretary
Board for Professional Medical Conduct

Enclosure

cc: Amy T. Kulb, Esq.
Jacobson ad Goldberg, LLP
585 Stewart Avenue
Garden City, NY 11530

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

IN THE MATTER

CONSENT

OF

AGREEMENT

**RICHARD W. MALONEY, M.D.
CO-01-06-2758-A**

AND ORDER

BPMC No. 02-96

RICHARD W. MALONEY, M.D., (Respondent) deposes and says:

That on or about July 16, 1976, I was licensed to practice as a physician in the State of New York, having been issued License No. 127680 by the New York State Education Department.

My current address is 11181 Health Park Blvd., Suite 11, Naples, FL 34110 and I will advise the Director of the Office of Professional Medical Conduct of any change of my address within thirty (30) days thereof.

I understand that the New York State Board of 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 have not practiced medicine in the state of New York in many years and I do not intend to return to the practice of medicine in the state of New York. I, therefore, do not contest Factual Allegations A, B, C(4), and C(5) and the two (2) specifications, in full satisfaction of the charges against me. I, hereby, agree to the following penalties:

\$5,000.00 fine;

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 active 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 possess 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).

I agree that in the event that I am charged with professional misconduct in the future, the 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: 3-18-2002


RICHARD W. MALONEY, M.D.
Respondent

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

DATE: March 15, 2002 Amy T. Kulb
AMY T. KULB
Attorney for Respondent

DATE: 19 March 2002 [Signature]
ROBERT BOGAN
Associate Counsel
Bureau of Professional Medical Conduct

DATE: 26 March 2002 [Signature]
DENNIS J. GRAZIANO
Director
Office of Professional Medical Conduct

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

IN THE MATTER	STATEMENT
OF	OF
RICHARD W. MALONEY, M.D.	CHARGES
CO-01-06-2758-A	

RICHARD W. MALONEY, M.D., the Respondent, was authorized to practice medicine in New York state on July 16, 1976, by the issuance of license number 127680 by the New York State Education Department.

FACTUAL ALLEGATIONS

A. On or about March 9, 2001, the State of Florida, Board of Medicine (hereinafter "Florida Board"), by a Final Order (hereinafter "Florida Order I"), fined Respondent \$1,000.00 and required him to attend the USF drug course and pay \$878.04 costs, based on delegating professional responsibilities to a person not qualified by training, experience or licensure to perform them, by allowing a nurse to sign prescriptions for controlled substances, or by giving her specific permission to sign the prescription pad with Respondent's name on the signature line followed by Respondent's nurse's initials.

B. On or about December 10, 2001, the Florida Board, by a Final Order (hereinafter "Florida Order II"), fined Respondent \$5,000.00 and required him to complete three (3) hours CME in the area of medical ethics and to pay \$500.00 costs, based on false, deceptive or misleading advertising in a newspaper concerning his qualifications, skills or other attributes.

C. The conduct resulting in the Florida Board disciplinary actions 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);

2. New York Education Law §6530(11) (permitting an unlicensed person to perform activities requiring a license);
3. New York Education Law §6530(20) (moral unfitness);
4. New York Education Law §6530(25) (delegating responsibilities to a person not qualified by training, experience or licensure to perform them); and/or
5. New York Education Law §6530(27)(advertising not in the public interest).


SPECIFICATIONS

FIRST AND 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:

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

DATED: *Jan. 28*, 2002
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

IN THE MATTER **CONSENT**
OF **ORDER**
RICHARD W. MALONEY, M.D.

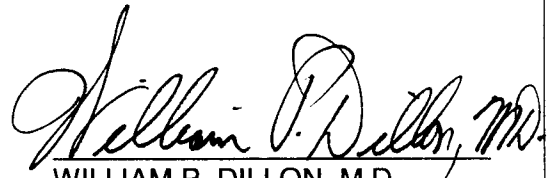
Upon the proposed agreement of **RICHARD W. MALONEY, M.D.** (Respondent) for Consent Order, which application is made a part hereof, it is agreed and

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: 3/26/02



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