



***New York State Board for Professional Medical Conduct***

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

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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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*Vice Chair*

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

October 10, 2002

***CERTIFIED MAIL-RETURN RECEIPT REQUESTED***

Andre Abitbol, M.D.  
6955 SW 128th Street  
Miami, FL 33156

RE: License No. 119545

Dear Dr. Abitbol:

Enclosed please find Order #BPMC 02-319 of the New York State Board for Professional Medical Conduct. This Order and any penalty provided therein goes into effect October 10, 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 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: Louise Jeroslow, Esq.  
6075 Sunset Drive  
Suite 201  
South Miami, FL 33143

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

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**IN THE MATTER**

**OF**

**ANDRE ABITBOL, M.D.  
CO-02-06-3113-A**

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**CONSENT**

**AGREEMENT**

**AND ORDER**

BPMC No. 02-319

**ANDRE ABITBOL, M.D.**, (Respondent) deposes and says:

That on or about March 20, 1974, I was licensed to practice as a physician in the State of New York, having been issued License No. 119545 by the New York State Education Department.

My current address is 6955 SW 128<sup>th</sup> Street, Miami, FL 33156 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 one (1) specification 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 New York State since 1982 and do not presently intend to return to the practice of medicine in the State of New York. I, therefore, am not contesting Factual Allegations A and B(2) and the one (1) specification, in full satisfaction of the charges against me. I, hereby, agree to the following penalties:

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 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: \_\_\_\_\_

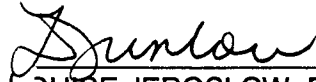
9/28/02

 Andre Abitbol, M.D.


ANDRE ABITBOL, 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: 9/28/02

  
\_\_\_\_\_  
LOUISE JEROSLOW, ESQ.  
Attorney for Respondent

DATE: 30 September 2002

  
\_\_\_\_\_  
ROBERT BOGAN  
Associate Counsel  
Bureau of Professional Medical Conduct

DATE: 7 October 2002

  
\_\_\_\_\_  
DENNIS J. GRAZIANO  
Director  
Office of Professional Medical Conduct

STATE OF NEW YORK

DEPARTMENT OF HEALTH

STATE BOARD FOR PROFESSIONAL MEDICAL CONDUCT

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**IN THE MATTER**  
**OF**  
**ANDRE ABITBOL, M.D.**  
**CO-02-06-3113-A**

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**STATEMENT**  
**OF**  
**CHARGES**

**ANDRE ABITBOL, M.D.**, the Respondent, was authorized to practice medicine in New York state on March 20, 1974, by the issuance of license number 119545 by the New York State Education Department.

**FACTUAL ALLEGATIONS**

A. On or about May 1, 2002, the State of Florida, Board of Medicine (hereinafter "Florida Board"), by a Final Order (hereinafter "Florida Order"), required Respondent to pay a \$5,000.00 administrative fine and \$902.17 costs and to attend five (5) hours of Continuing Medical Education (CME) in risk management and ten (10) hours concerning treatment of cancer by radiation, based on excessive doses of radiation to the upper cervical spinal cord of a patient that resulted in radiation myelitis (inflammation of the spinal cord).

B. The conduct resulting in the Florida 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(3) (negligence on more than one occasion);
2. New York Education Law §6530(4) (gross negligence);
3. New York Education Law §6530(5) (incompetence); and/or
4. New York Education Law §6530(6) (gross incompetence).

**SPECIFICATION**

Respondent violated New York Education Law §6530(9)(d) by having had 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 B.

DATED: *Sept 5*, 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

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IN THE MATTER  
OF  
ANDRE ABITBOL, M.D.

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CONSENT  
ORDER

Upon the proposed agreement of **ANDRE ABITBOL, 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: \_\_\_\_\_

10/9/02



WILLIAM P. DILLON, M.D.

Chair

State Board for Professional  
Medical Conduct