



***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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*Vice Chair*

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

July 20, 2005

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

**CORRECTED COVER LETTER**

Edwin S. Kulubya, M.D.  
7550 Country Club Drive #14202  
Laredo, TX 78041

Re: License No. 218307

Dear Dr. Kulubya:

Enclosed is a copy of Order #BPMC 05-151 of the New York State Board for Professional Medical Conduct. This order and any penalty provided therein goes into effect July 26, 2005.

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 the 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: Wilfred Friedman, Esq  
Friedman and Mahdavian, PC  
The Bar Building  
26 West 44th Street, Suite 816  
New York, NY 10036

NEW YORK STATE DEPARTMENT OF HEALTH  
STATE BOARD FOR PROFESSIONALMEDICAL CONDUCT

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**IN THE MATTER**  
**OF**  
**EDWIN S. KULUBYA, M.D.**  
**CO-04-02-0828-A**

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**CONSENT AGREEMENT**  
**AND ORDER**

BPMC No. 05-151

**EDWIN S. KULUBYA, M.D., states:**

That on or about July 7, 2000, I was licensed to practice as a physician in the State of New York, having been issued License No. 218307 by the New York State Education Department.

My current address is 7550 Country Club Drive, #14202, Laredo, TX 78041, and I will advise the Director of the Office of Professional Medical Conduct of any change of my address thirty (30) days, thereof.

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 do not contest the two (2) specifications, in full satisfaction of the charges against me. I hereby, agree to the following penalty:

Revocation, stayed, and

Indefinite suspension of my New York state license to practice medicine to run concurrent with and co-terminous with the probation imposed by the March 26, 2004, California Board, Decision.

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

That, except during periods of actual suspension, I shall maintain current registration of my 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 Respondent possesses his license; and

That I 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. I 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. I shall meet with a person designated by the Director of OPMC as directed. I shall respond promptly and provide any and all documents and information within my 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 I possess my 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 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 6-30-05

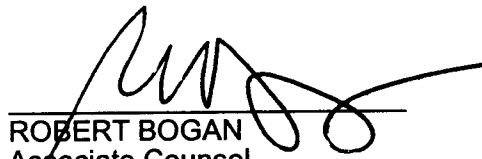
  
EDWIN S. KULUBYA, M.D.  
Respondent

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

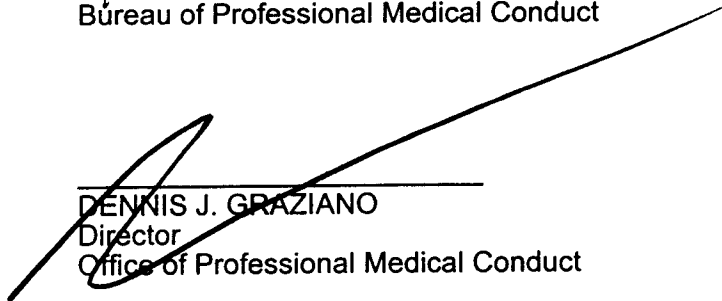
DATE: 7/7/05

  
WILFRED T. FRIEDMAN  
Attorney for Respondent

DATE: 11 July 2005

  
ROBERT BOGAN  
Associate Counsel  
Bureau of Professional Medical Conduct

DATE: 15 July 2005

  
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  
EDWIN S. KULUBYA, M.D.  
CO-04-02-0828-A

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STATEMENT  
OF  
CHARGES

EDWIN S. KULUBYA, M.D., the Respondent, was authorized to practice medicine in New York state on July 7, 2000, by the issuance of license number 218307 by the New York State Education Department.

**FACTUAL ALLEGATIONS**

A. On or about March 26, 2004, the Division of Medical Quality, Medical Board of California, Department of Consumer Affairs, (hereinafter "California Board"), by a Decision (hereinafter "California Decision"), revoked Respondent's Physician's and Surgeon's Certificate, stayed the revocation, placed him on five (5) years probation with terms and conditions, and required him to pay \$13,000.00 costs of investigation and prosecution, based on gross negligence, negligence on more than one occasion, and incompetence.

B. The conduct resulting in the California 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 on more than one occasion);
4. New York Education Law §6530(6) (gross incompetence);
5. New York Education Law §6530(30) (abandoning or neglecting a patient under and in need of immediate professional care, without making reasonable arrangements for the continuation of such care); and/or
6. New York Education Law §6530(32) (failure to maintain a record for each patient which accurately reflects the evaluation and treatment of the patient).

**SPECIFICATIONS**

**FIRST SPECIFICATION**

Respondent violated New York State Education Law §6530(9)(b) by having been found guilty of improper 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 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 his license to practice medicine revoked or having other disciplinary action taken by a duly authorized professional disciplinary agency of another state, where the conduct resulting in the revocation or other disciplinary action would, if committed in New York state, constitute professional misconduct under the laws of New York state, in that Petitioner charges:

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

DATED: *August 26*, 2004  
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  
EDWIN S. KULUBYA, M.D.

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CONSENT ORDER


Upon the proposed agreement of **EDWIN S. KULUBYA, 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 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: 7-19-2005

  
KENDRICK A. SEARS, M.D.  
Chair  
State Board for Professional  
Medical Conduct