



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.
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NYS Department of Health*

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*Executive Deputy Commissioner
NYS Department of Health*

Dennis J. Graziano, Director
Office of Professional Medical Conduct

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

August 29, 2006

CERTIFIED MAIL-RETURN RECEIPT REQUESTED

Michael W. Yushak, M.D.
250 Mill Pond Court
Weathersfield, VT 05151

Re: License No. 136401

Dear Dr. Yushak:

Enclosed is a copy of Order #BPMC 06-207 of the New York State Board for Professional Medical Conduct. This order and any penalty provided therein goes into effect September 5, 2006.

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

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

IN THE MATTER
OF
MICHAEL W. YUSHAK, M.D.

CONSENT

ORDER

BPMC No. #06-207

Upon the application of (Respondent), **MICHAEL W. YUSHAK, M.D.** in the attached Consent Agreement and Order, which is made a part of this Consent Order, it is

ORDERED, that the Consent Agreement, and its terms, are adopted and it is further


ORDERED, that this Consent Order shall be effective upon issuance by the Board, either by mailing of a copy of this Consent Order, either

by first class mail to Respondent at the address in the attached Consent Agreement or by certified mail to Respondent's attorney, or

upon facsimile transmission to Respondent or Respondent's attorney, whichever is first.

SO ORDERED.

DATED: 8-28-06


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

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

IN THE MATTER
OF
MICHAEL W. YUSHAK, M.D.
CO-06-03-1908-A

CONSENT
AGREEMENT
AND ORDER

MICHAEL W. YUSHAK, M.D., representing that all of the following statements are true, deposes and says:

That on or about October 28, 1978, I was licensed to practice as a physician in the State of New York, and issued License No. 136401 by the New York State Education Department.

My current address is 250 Mill Pond Court, Weathersfield, VT 05151.

I understand that the New York State Board for Professional Medical Conduct (Board) has charged me with two (2) Specifications of professional misconduct, based solely on the State of New Hampshire, Board of Medicine, March 7, 2006, Settlement Agreement.

A copy of the Statement of Charges, marked as Exhibit "A", is attached to and part of this Consent Agreement.

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

I shall never activate my registration to practice medicine in New York state or seek to reapply for a license to practice medicine in New York state.

I further agree that the Consent Order shall impose the following conditions:

That Respondent shall cooperate fully with the Office of Professional Medical Conduct (OPMC) in its administration and enforcement of this Consent Order and in its investigations of matters concerning Respondent. Respondent shall respond in a timely manner to all OPMC requests for written periodic verification of Respondent's compliance with this Consent Order. Respondent shall meet with a person designated by the Director of OPMC, as directed. Respondent shall respond promptly and provide all documents and information within Respondent's control, as directed. This condition shall take effect upon the Board's issuance of the Consent Order and will continue so long as Respondent remains licensed in New York State.

I stipulate that my failure to comply with any conditions of this Consent Order shall constitute misconduct as defined by New York Education Law § 6530(29).

I agree that, if I am charged with professional misconduct in future, this Consent Agreement and Order shall be admitted into evidence in that proceeding.

I ask the Board to adopt this Consent Agreement.

I understand that if the Board does not adopt this Consent Agreement, none of its terms shall bind me or constitute an admission of any of the acts of alleged misconduct; this Consent Agreement shall not be used against me in any way and shall be kept in strict confidence; and the Board's denial shall be without prejudice to the pending disciplinary proceeding and the Board's final determination pursuant to New York Public Health Law.

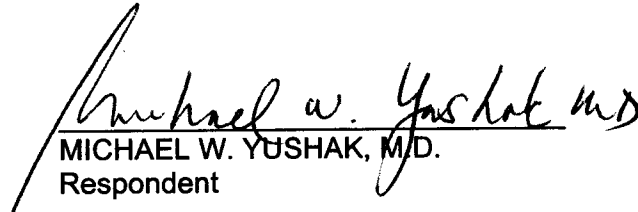
I agree that, if the Board adopts this Consent Agreement, the Chair of the Board shall issue a Consent Order in accordance with its terms. I agree that this Consent Order shall take effect upon its issuance by the Board, either by mailing of a copy of the Consent Order by first class mail to me at the address in this Consent Agreement, or to my attorney by certified mail, or upon facsimile transmission to me or my attorney, whichever is first. The Consent Order, this agreement, and all attached Exhibits shall be public documents, with only patient identities, if any, redacted. As public documents, they may be posted on the Department's website.

I stipulate that the proposed sanction and Consent Order are authorized by New York Public Health Law §§ 230 and 230-a, and that the Board and OPMC have the requisite powers to carry out all included terms. I ask the Board to adopt this Consent Agreement of my own free will and not under duress, compulsion or restraint. In consideration of the value to me of the Board's adoption of this Consent Agreement, allowing me to resolve this matter without the various risks and burdens of a hearing on the merits, I knowingly waive my right to contest the Consent Order for which I apply, whether administratively or judicially, I agree to be bound by the Consent Order, and I ask that the Board adopt this Consent Agreement.

I understand and agree that the attorney for the Department, the Director of OPMC and the Chair of the Board each retain complete discretion either to enter into the proposed agreement and Consent Order, based upon my application, or to decline to do so. I further understand and agree that no prior or separate written or oral communication can limit that discretion.

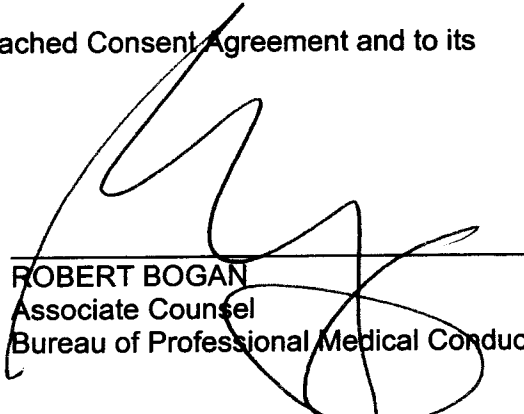
AFFIRMED:

DATED: 08/14/06


MICHAEL W. YUSHAK, M.D.
Respondent

The undersigned agree to Respondent's attached Consent Agreement and to its proposed penalty, terms and conditions.

DATE: 16 August 2006


ROBERT BOGAN
Associate Counsel
Bureau of Professional Medical Conduct

DATE: 24 August 2006


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
OF
MICHAEL W. YUSHAK, M.D.
CO-06-03-1908-A

STATEMENT
OF
CHARGES

MICHAEL W. YUSKAH, M.D., Respondent, was authorized to practice medicine in New York state on October 28, 1978, by the issuance of license number 136401 by the New York State Education Department.

FACTUAL ALLEGATIONS

A. On or about March 7, 2006, the State of New Hampshire, Board of Medicine (hereinafter "New Hampshire Board"), by a Settlement Agreement (hereinafter "New Hampshire Agreement"), REPRIMANDED Respondent and RESTRICTED his license to those gynecological and obstetric patients requiring no surgery or only minor gynecological surgery, similar to the obstetric and gynecological medicine practiced by a practitioner of family medicine, that he undergo a global assessment, and that for one (1) year from the date he returns to practice medicine he be subject to random alcohol screening, based on repeated negligent acts.

B. The conduct resulting in the New Hampshire 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(5) (incompetence on more than one occasion);
- and/or
3. 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 Education Law §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 Petitioner charges:

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

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 of New York state, in that Petitioner charges:

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

DATED: *July 14*, 2006
Albany, New York


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