

NEW YORK
state department of
HEALTH

Public

Nirav R. Shah, M.D., M.P.H.
Commissioner

Sue Kelly
Executive Deputy Commissioner

October 25, 2013

CERTIFIED MAIL-RETURN RECEIPT REQUESTED

Jeffery Allen Prosser, M.D.

REDACTED

Re: License No. 184021

Dear Dr. Prosser:

Enclosed is a copy of the New York State Board for Professional Medical Conduct (BPMC) Modification Order No. 13-354. This order and any penalty provided therein goes into effect November 1, 2013.

Please direct any questions to: Board for Professional Medical Conduct, 90 Church Street, 4th Floor, New York, NY 10007-2919, telephone # 212-417-4445.

Sincerely,

REDACTED

Katherine A. Hawkins, M.D., J.D.
Executive Secretary
Board for Professional Medical Conduct

Enclosure

cc: Nicole Goldstein, Esq.
Rivas Goldstein, LLP
405 Lexington Avenue, 26th Floor
New York, NY 10174

**IN THE MATTER
OF
JEFFERY ALLEN PROSSER, M.D.**

**MODIFICATION
ORDER**

Upon the proposed Application for a Modification Order of JEFFERY ALLEN PROSSER M.D. (Respondent), which is made a part of this Modification Order, it is agreed to and

ORDERED, that the attached Application, and its terms, are adopted and SO ORDERED, and it is further

ORDERED, that this Modification Order shall be effective upon issuance by the Board, either

- by mailing of a copy of this Modification Order, either by first class to Respondent at the address in the attached Application or by certified mail to Respondent's attorney, OR
- upon facsimile transmission to Respondent or Respondent's attorney, whichever is first.

SO ORDERED.

DATE: 10/24/2013

REDACTED

ARTHUR S. HENGERER, M.D.

Chair

State Board for Professional Medical Conduct

**IN THE MATTER
OF
JEFFERY ALLEN PROSSER, M.D.**

**APPLICATION FOR
MODIFICATION
ORDER**

JEFFERY ALLEN PROSSER, M.D., represents that all of the following statements are true:

That on or about September 25, 1990, I was licensed to practice as a physician in the State of New York, and issued License No. 184021 by the New York State Education Department.

My current address is _ REDACTED

and I will advise the Director of the Office of Professional Medical Conduct of any change of address.

I am currently subject to BPMC Order # BPMC No. 06-218 (Attachment I) (henceforth "Original Order"), which went into effect on October 5, 2006, and was issued upon an Application For Consent Order signed by me on August 21, 2006, (henceforth "Original Application"), adopted by the Original Order.

The sanction imposed in the Original Order was an indefinite period of suspension for no less than twelve months and until Respondent's license to practice medicine in the State of Florida is fully restored without conditions. The Original Order set forth that, upon compliance with all the Conditions of the Original Order, but no sooner than twelve months from the effective date of the Original Order, Respondent might petition the Director for a

Modification Order staying the indefinite suspension of his license to practice medicine in New York.

More than twelve months have elapsed since the effective date of the Original Order, and my license to practice medicine in the State of Florida is fully restored without conditions.

I hereby apply to the State Board for Professional Medical Conduct for an Order (henceforth "Modification Order"), modifying the Original Order, as follows:

The sanction imposed pursuant to the Original Order shall be modified, as follows:

- Upon the effective date of this Modification Order, the indefinite suspension of Respondent's license to practice medicine in New York shall terminate in its entirety. Accordingly, Respondent shall no longer be subject to the Conditions imposed in Exhibit "B" of the Original Order, "Guidelines for Closing a Medical Practice Following a Revocation, Surrender or Suspension (of six months or more) Of A Medical License."

and

All remaining Terms and Conditions will continue as written in the Original Order.

I make this Application of my own free will and accord and not under duress, compulsion or restraint, and seek the anticipated benefit of the requested Modification. In consideration of the value to me of the acceptance by the Board of this Application, I

knowingly waive my right to contest the Original Order or the Modification Order for which I apply, whether administratively or judicially, and ask that the Board grant this Application.

I understand and agree that the attorney for the Department, the Director of the Office of Professional Medical Conduct and the Chair of the State Board for Professional Medical Conduct each retain complete discretion either to enter into the proposed agreement and 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.

DATE 10/02/13

REDACTED

~~JEFFERY ALLEN PROSSER, M.D.~~
RESPONDENT

The undersigned agree to Respondent's attached Application for Modification Order and to its proposed penalty, terms and conditions.

DATE: 10/16/13

REDACTED

NICOLE GOLDSTEIN, ESQ.
Attorney for Respondent

DATE: Oct. 21, 2013

REDACTED

MARCIA E. KAPLAN
Associate Counsel
Bureau of Professional Medical Conduct

DATE: 10/24/13

REDACTED

Fok _____
KEITH W. SERVIS
Director
Office of Professional Medical Conduct

Attachment I

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

IN THE MATTER
OF
JEFFREY ALLEN PROSSER, M.D.

CONSENT
ORDER

Upon the application of (Respondent), JEFFREY ALLEN PROSSER, 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 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.

DATE: 9-27-2006

REDACTED

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

IN THE MATTER
OF
JEFFREY ALLEN PROSSER, M.D.
CO-06-05-2732-A

CONSENT
AGREEMENT
AND
ORDER

BPMC No. 06-218

JEFFREY ALLEN PROSSER, M.D., representing that all of the following statements are true, deposes and says:

That on or about September 25, 1990, I was licensed to practice as a physician in the State of New York, and issued License No. 184021 by the New York State Education Department.

My current address is REDACTED and I will advise the Director of the Office of Professional Medical Conduct of any change of address thirty (30) days, thereof.

I understand that the New York State Board for Professional Medical Conduct has charged me with one (1) Specification of professional misconduct.

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 one (1) Specification, in full satisfaction of the charges against me, and agree to the following penalty:

My license shall be suspended for an indefinite period but no less than twelve months and until my license to practice medicine in the State of Florida is fully restored without conditions. I shall be subject to a condition that I comply with attached Exhibit "B," "Guidelines For Closing a Medical Practice Following a Revocation, Surrender or Suspension (Of 6 Months or More) of a Medical License."

Upon compliance with all conditions of this Order, but no sooner than twelve months from the effective date of this order, I may petition the Director for a Modification Order staying the indefinite suspension of my license.

I understand and agree:

That any Modification Order the Director may issue, in the exercise of its reasonable discretion, may include terms of probation, and/or further conditions on my practice.

That the Director will exercise its reasonable discretion upon my petition for a Modification Order.

That the Director's exercise of discretion shall not be reviewable by the Administrative Review Board.

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

That Respondent shall remain in continuous compliance with all requirements of N.Y. Educ Law § 6502 including but not limited to the requirements that a licensee shall register, and continue to be registered, with the New York State Education Department, (except during periods of actual suspension) and that a licensee shall pay all registration fees. Respondent shall not exercise the option provided in § 6502(4) to avoid registration and payment of fees. This condition shall take effect thirty (30) days after the Consent Order's effective date and will continue so long as Respondent remains a licensee in New York State; and

That Respondent shall cooperate fully with the Office of Professional Medical Conduct (OPMC) in its administration and enforcement of this 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 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 Order shall constitute misconduct as defined by New York State Education Law § 6530(29).

If I am charged with professional misconduct in future, I hereby stipulate and agree that this Application and Order, and/or related Modification Orders shall be admitted into evidence at such proceeding as part of the Department's case-in-chief, at the sole discretion of the Department (Petitioner).

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 the 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 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 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 Order are authorized by Public Health Law § 230 and § 230-a and that the Board for Professional Medical Conduct and the Office of Professional Medical Conduct 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 ask that the Board adopt this Consent Agreement.

I understand and agree that the attorney for the Department, the Director of the Office of Professional Medical Conduct and the Chair of the State Board for Professional Medical Conduct each retain complete discretion either to enter into the proposed agreement and 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.

REDACTED

DATE 08/21/06

~~JEFFREY ALLEN PROSSER, M.D.~~
RESPONDENT

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

DATE: 19 September 2006

REDACTED

~~ROBERT BOGAN~~
Associate Counsel
Bureau of Professional Medical Conduct

DATE: 25 September 2006

REDACTED

~~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

JEFFERY ALLEN PROSSER, M.D.
CO-06-05-2732-A

STATEMENT

OF

CHARGES

JEFFERY ALLEN PROSSER, M.D., Respondent, was authorized to practice medicine in New York state on September 25, 1990, by the issuance of license number 184021 by the New York State Education Department.

FACTUAL ALLEGATIONS

A. On or about April 18, 2006, the State of Florida, Board of Medicine (hereinafter "Florida Board"), by a Final Order (hereinafter "Florida Order"), issued Respondent a Letter of Concern, fined him \$12,500.00, required him to pay \$3,889.31 costs, to take a Laws and Rules course, and a Drug Prescribing course, five (5) hours of CME in Risk Management, and to perform seventy-five (75) hours of community service, based on practicing below the acceptable standards of care; prescribing, dispensing, administering, mixing or otherwise preparing a legend drug, including any controlled substance, other than in the course of his professional practice.

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);
- and/or
2. New York Education Law §6530(5) (incompetence on more than one occasion).

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 B.

DATED *August 2*, 2006
Albany, New York

REDACTED

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

EXHIBIT "B"

**GUIDELINES FOR CLOSING A MEDICAL PRACTICE FOLLOWING A
REVOCATION, SURRENDER OR SUSPENSION (of six months or more)
OF A MEDICAL LICENSE**

1. Respondent shall immediately cease the practice of medicine in compliance with the terms of the Consent Order. Respondent shall not represent himself or herself as eligible to practice medicine and shall refrain from providing an opinion as to professional practice or its application.
2. Within 15 days of the Consent Order's effective date, Respondent shall notify all patients that he or she has ceased the practice of medicine, and shall refer all patients to another licensed practicing physician for their continued care, as appropriate.
3. Within thirty days of the Consent Order's effective date, Respondent shall have his or her original license to practice medicine in New York State and current biennial registration delivered to the Office of Professional Medical Conduct (OPMC) at 433 River Street Suite 303, Troy, NY 12180-2299.
4. Respondent shall arrange for the transfer and maintenance of all patient medical records. Within thirty days of the Consent Order's effective date, Respondent shall notify OPMC of these arrangements, including the name, address, and telephone number of an appropriate contact person, acceptable to the Director of OPMC, who shall have access to these records. Original records shall be retained for patients for at least six years after the last date of service, and, for minors, at least six years after the last date of service or three years after the patient reaches the age of majority, whichever time period is longer. Records shall be maintained in a safe and secure place that is reasonably accessible to former patients. The arrangements shall ensure that all patient information is kept confidential and is available only to authorized persons. When a patient or authorized representative requests a copy of the patient's medical record, or requests that the original medical record be sent to another health care provider, a copy of the record shall be promptly provided or sent at reasonable cost to the patient (not to exceed 75 cents per page.) Radiographic, sonographic and like materials shall be provided at cost. A qualified person shall not be denied access to patient information solely because of inability to pay.
5. Within 15 days of the Order's effective date, Respondent shall return any unused New York State official prescription forms to the Bureau of Narcotic Enforcement of the New York State Department of Health. Respondent shall have all prescription pads bearing Respondent's name destroyed. If no other licensee is providing services at Respondent's practice location, Respondent shall dispose of all medications.
6. Within 15 days of the Order's effective date, Respondent shall remove from the public domain any representation that Respondent is eligible to practice medicine, including all related signs, advertisements, professional listings whether in telephone directories or otherwise, professional stationery or billings. Respondent shall not share, occupy or use office space in which another licensee provides health care services.
7. Respondent shall not charge, receive or share any fee or distribution of dividends for professional services rendered (by himself or others) while barred from practicing medicine. Respondent may receive compensation for the reasonable value of services lawfully rendered, and disbursements incurred on a patient's behalf, prior to the Order's effective date.

8. If Respondent is a shareholder in any professional service corporation organized to engage in the practice of medicine and Respondent's license is revoked, surrendered or suspended for six months or more pursuant to this Order, Respondent shall, within ninety days of the Order's effective date, divest himself/herself of all financial interest in such professional services corporation in accordance with New York Business Corporation Law. If Respondent is the sole shareholder in a professional services corporation, the corporation must be dissolved or sold within ninety days of the Order's effective date.
9. Failure to comply with the above directives may result in civil or criminal penalties. Practicing medicine when a medical license has been suspended, revoked or annulled is a Class E Felony, punishable by imprisonment for up to four years, under § 6512 of the Education Law. Professional misconduct may result in penalties including revocation of the suspended license and/or fines of up to \$10,000 for each specification of misconduct, under § 230-a of the Public Health Law.