



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

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

Kendrick A. Sears, M.D.  
*Chair*

Keith W. Servis, Director  
*Office of Professional Medical Conduct*

*Public*

Michael A. Gonzalez, R.P.A.  
*Vice Chair*

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

February 13, 2007

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

Alan G. Kulberg, M.D.  
115 Strong Avenue  
Pittsfield, MA 01201

RE: License No. 128396

Dear Dr. Kulberg:

Enclosed is a copy of Order #BPMC 07-32 of the New York State Board for Professional Medical Conduct. This Order and any penalty provided therein goes into effect February 20, 2007.

**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:**

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 fluid and cursive, with a large initial "A" and "M".

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

cc: Christine Napierski, Esq.  
Napierski, Vandenburg & Napierski  
296 Washington Avenue Extension  
Albany, NY 12203

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

IN THE MATTER

CONSENT

OF

ORDER

ALAN G. KULBERG, M.D.

BPMC No. #07-32

Upon the application of (Respondent), **ALAN G. KULBERG, 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: 2-13-07



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

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IN THE MATTER

OF

CONSENT AGREEMENT  
AND ORDER

ALAN G. KULBERG, M.D.  
CO-06-08-4849-A

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**ALAN G. KULBERG, M.D.**, representing that all of the following statements are true, deposes and says:

That on or about September 17, 1976, I was licensed to practice as a physician in the State of New York, and issued License No. 128396 by the New York State Education Department.

My current address is 115 Strong Avenue, Pittsfield, MA, 01201, 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 (Board) has charged me with two (2) Specifications of professional misconduct, based solely on the Commonwealth of Massachusetts Board of Registration and Medicine's April 16, 2006 Consent Order.

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 factual allegations of A and B(2), and the 2<sup>nd</sup> specification in full satisfaction of the charges against me, and agree to the following penalty:

\$1,000 fine.

The fine is to be paid within thirty (30) days of the effective date of this Order to the NYS Department of Health, Bureau of Accounts Management, Revenue Unit, Empire State Plaza, Corning Tower, Room 1258, Albany, NY, 12237-0016.

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

That Respondent shall remain in continuous compliance with all requirements of New York Education Law § 6502 including but not limited to the requirements that 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 New York Education Law § 6502(4) to avoid registration and payment of fees. This condition shall take effect 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 Consent Order and in its investigations of matters concerning Respondent. Respondent shall respond in a timely manner to all OPMC request 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 posed 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 his 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: 1/18/07

Alan G. Kulberg M.D.  
ALAN G. KULBERG, M.D.  
Respondent

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

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IN THE MATTER  
OF  
ALAN G. KULBERG, M.D.  
CO-06-08-4849-A

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STATEMENT  
OF  
CHARGES

ALAN G. KULBERG, M.D., Respondent, was authorized to practice medicine in New York state on September 17, 1976, by the issuance of license number 128396 by the New York State Education Department.

**FACTUAL ALLEGATIONS**

A. On or about April 16, 2006, the Commonwealth of Massachusetts, Board of Registration in Medicine (hereinafter "Massachusetts Board"), a Consent Order (hereinafter "Massachusetts Order"), fined Respondent \$2,000.00, based on engaging in conduct that undermines public confidence in the integrity of the medical profession, misconduct in the practice of medicine, and violating a provision of the laws of Massachusetts relating to the practice of medicine.

B. The conduct resulting in the Massachusetts 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(16) (failure to comply with substantial provisions of federal, state, or local laws, rules, or regulations governing the practice of medicine);
2. New York Education Law §6530(21) (failing to file a report required by law or by the department of health or the education department); and/or
3. New York Education Law §6530(23) (revealing of personally identifiable facts, data, or information obtained in a professional capacity without the prior consent 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 State 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: *Nov. 17*, 2006  
Albany, New York

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



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

DATE: 1 February 2007

  
ROBERT BOGAN  
Associate Counsel  
Bureau of Professional Medical Conduct

DATE: 2/8/07

  
KEITH W. SERVIS  
Director  
Office of Professional Medical Conduct