

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

IN THE MATTER
OF
THOMAS TZENG, M.D.

CONSENT
ORDER

BPMC NO. #08-206

Upon the proposed agreement of **THOMAS TZENG, 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: 10-13-2008

Redacted Signature

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
THOMAS TZENG, M.D.
CO-07-09-5652-A

CONSENT
AGREEMENT
AND ORDER

THOMAS TZENG, M.D., (Respondent) being duly sworn deposes and says:

That on or about September 1, 1978, I was licensed to practice as a physician in the State of New York, having been issued license number 135679 by the New York State Education Department.

My current address is Redacted Address

I understand that the New York State Board For Professional Medical Conduct has charged me with two (2) Specifications of professional medical misconduct, based solely upon the State of California, Division of Medical Quality, Medical Board of California, Department of Consumer Affairs, August 15, 2007, Decision.

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 and the Second Specification, in full satisfaction of the charges against me.

The New York State Department of Health has offered to settle this matter by my agreeing to a:

Censure and Reprimand;

\$2,500.00 fine;

that I comply with the above described California Decision;

that I give ninety (90) days notice before returning to the practice of medicine; and

that I keep my New York State license registration active.

I have not practiced medicine in New York state in many years and I do not intend to return to practice medicine in New York state.

I agree, therefore, in lieu of the settlement offered by the State of New York:

to 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 stipulate, hereby, that any failure by me to comply with such conditions shall constitute misconduct as defined by New York State Education Law §6530(29).

I make, hereby, 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: 9/26/08

Redacted Signature

THOMAS TZENG, 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: 10/2/08

Redacted Signature

TIMOTHY J. STAFFORD
Attorney for Respondent

DATE: 06 October 2008

Redacted Signature

ROBERT BOGAN
Associate Counsel
Bureau of Professional Medical Conduct

DATE: 10/10/08

Redacted Signature

KEITH W. SERVIS
Director
Office of Professional Medical Conduct

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

IN THE MATTER
OF
THOMAS TZENG, M.D.
CO-07-09-5652-A

STATEMENT
OF
CHARGES

THOMAS TZENG, M.D., Respondent, was authorized to practice medicine in New York State on September 1, 1978, by the issuance of license number 135679 by the New York State Education Department.

FACTUAL ALLEGATIONS

A. On or about August 15, 2007, 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 license to practice medicine, stayed the revocation, and placed him on five (5) years probation under terms and conditions, based on inaccurate and inadequate records.

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 State Education Law §6530(3) (negligence on more than one occasion);
2. New York State 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 State Education Law §6530(9)(d) by having his license to practice medicine revoked and/or having other disciplinary action taken by a duly authorized professional disciplinary agency of another state, where the conduct resulting in the revocation and/or other disciplinary action would, if committed in New York state, constitute professional misconduct under the laws of New York state, in that the Petitioner charges:

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

DATED: *June 11*, 2008

Redacted Signature

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