

---

IN THE MATTER  
OF  
VIJAY SAKHUJA, M.D.

---

CONSENT  
ORDER  
09-33

Upon the application of **VIJAY SAKHUJA, M.D.**, (Respondent), 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: 2/27/09

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  
VIJAY SAKHUJA, M.D.  
CO-07-11-6413-A

---

CONSENT  
AGREEMENT  
AND ORDER

VIJAY SAKHUJA, M.D., (Respondent), representing that all of the following statements are true, deposes and says:

That on or about March 26, 1976, I was licensed to practice as a physician in the State of New York, and issued license number 126860 by the New York State Education Department.

My current address is Redacted Address 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 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, and agree to the following penalty:

Censure and Reprimand; and  
a \$2,500.00 fine.

The fine is to be paid within one (1) year 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 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 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 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: \_\_\_\_\_

2/18/09

Redacted Signature

\_\_\_\_\_  
VIJAY SAKHUJA, M.D.  
Respondent

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

DATE: 20 February 2009

Redacted Signature  
\_\_\_\_\_  
ROBERT BOGAN  
Associate Counsel  
Bureau of Professional Medical Conduct

DATE: 2/25/09

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  
VIJAY SAKHUJA, M.D.  
CO-07-11-6413-A

---

STATEMENT  
OF  
CHARGES

**VIJAY SAKHUJA, M.D.**, Respondent, was authorized to practice medicine in New York state on March 26, 1976, by the issuance of license number 126860 by the New York State Education Department.

**FACTUAL ALLEGATIONS**

A. On or about April 19, 2004, the United States of America, Department of Health & Human Services, (hereafter "USA"), by a DECISION, sustained a decision to revoke Respondent's physician laboratory's certificate and to cancel his ability to receive medicine or Medicaid payments for laboratory services, based on failing to comply with the CLIA "condition" of patient test management; failing to meet the CLIA patient test management "standard" requiring a laboratory to have written policies and procedures; failing to meet the CLIA patient test management "standard" requiring a laboratory to have a record system to ensure reliable identification of patient specimens or to assure that accurate test results were reported; failing to meet the patient test management "standard" requiring a laboratory to produce records confirming that he had referred specimens for testing only to a laboratory that had a valid certificate to perform that test; failing to meet the CLIA "condition" of quality control; failing to meet the CLIA quality control "standard" requiring the laboratory to follow the manufacturer's instructions for test system operation and performance and to have a procedures manual describing its process for testing; failing to meet the CLIA quality control "standard" of providing a laboratory space and environmental conditions necessary for conducting the services offered; failing to meet the CLIA quality control "standard" requiring the laboratory to use testing methods and equipment that provide accurate and reliable test results and test reports and to use laboratory materials in a manner that ensures they are of good quality; failing to meet the

CLIA quality control "standard" of having a written procedures manual for the performance of all analytical methods used by the laboratory; failing to meet the CLIA quality control "standard" requiring the laboratory to document and maintain records of all quality control activities for at least two years; failing to meet the CLIA quality control requirement for syphilis serology that a laboratory's equipment, controls, and techniques conform to manufacturers' specifications; failing to meet the CLIA Laboratory Director "condition" requiring the laboratory to have a director who ensures the laboratory's compliance with CLIA requirements; and failing to meet the CLIA Quality Assurance "condition" requiring the laboratory to have a quality assurance program.

B. The conduct resulting in the USA action described in Paragraph A, above, would constitute misconduct under the laws of New York state, pursuant to the following section of New York state law:

1. New York Education Law §6530(3) (practicing the profession with 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(16) (failure to comply with substantial provisions of federal, state, or local rules, or regulations governing the practice of medicine); and/or
6. New York Education Law §6530(32) (failure to maintain a record of each patient which accurately reflects the evaluation and treatment of the patient).

**SPECIFICATION**

Respondent violated New York Education Law §6530(9)(c) by having been found guilty in an adjudicatory proceeding of violating a state or federal statute or regulation, pursuant to a final decision or determination, and when no appeal is pending, or after resolution of the proceeding by stipulation or agreement, and when the violation would constitute professional misconduct under the laws of New York state, in that Petitioner charges:

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

DATED: *Sept. 22*, 2008  
Albany, New York

Redacted Signature \_\_\_\_\_  
PETER D. VAN BUREN  
Deputy Counsel  
Bureau of Professional Medical Conduct