



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

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

Public

Richard F. Daines, M.D.  
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NYS Department of Health  
Wendy E. Saunders  
Executive Deputy Commissioner  
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Office of Professional Medical Conduct

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Vice Chair  
Katherine A. Hawkins, M.D., J.D.  
Executive Secretary

August 10, 2009

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

Bashir A. Zikria, M.D.

Redacted Address

Re: License No. 091655

Dear Dr. Zikria:

Enclosed is a copy of BPMC #09-153 of the New York State Board for Professional Medical Conduct. This order and any penalty provided therein goes into effect August 17, 2009.

**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** and return it to the Office of Professional Medical Conduct, New York State Department of Health, 433 River Street, Suite 303, Troy, NY 12180-2299

Sincerely,  
Redacted Signature

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

Enclosure

cc: Philomena Basuk, Esq.  
O'Connor, McGuinness, Conte, Doyle & Oleson  
One Barker Avenue, Suite 675  
White Plains, NY 10601

IN THE MATTER  
OF  
BASHIR ZIKRIA, M.D.

CONSENT  
ORDER

BPMC No. #09-153

Upon the application of (Respondent) Bashir Zikria, 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.

DATE: 8-7-2009

Redacted Signature

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

**IN THE MATTER  
OF  
BASHIR ZIKRIA, M.D.**

**CONSENT  
AGREEMENT  
AND  
ORDER**

Bashir Zikria, M.D., represents that all of the following statements are true:

That on or about January 6, 1964, I was licensed to practice as a physician in the State of New York, and issued License No. 091655 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 address.

I understand that the New York State Board for Professional Medical Conduct (Board) has charged me with one 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 state that I cannot successfully defend against at least one of the acts of misconduct alleged, in full satisfaction of the charges against me, and agree to the following penalty:

Pursuant to N.Y. Pub. Health Law Section 230-a(3), my license to practice medicine in New York State shall be limited to preclude the performing of surgery and the supervision of the performance of surgery by others.

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 N.Y. Educ. Law § 6502(4) to avoid registration and payment of fees. This condition shall take effect 120 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 provide the Director, Office of Professional Medical Conduct (OPMC), Hedley Park Place, 433 River Street Suite 303, Troy, N.Y. 12180-2299 with the following information, in writing, and ensure that this information is kept current: a full description of Respondent's employment and practice; all professional and residential addresses and telephone numbers within and outside New York State; and all investigations, arrests, charges, convictions or disciplinary actions by any local, state or federal agency, institution or facility. Respondent shall notify OPMC, in writing, within 30 days of any additions to or changes in the required information.

That Respondent shall cooperate fully with, and respond in a timely manner to, OPMC requests to provide written periodic verification of Respondent's compliance with the terms of this Consent Order and, in its investigations of matters concerning Respondent. Respondent shall 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. Upon the Director of OPMC's request, Respondent shall meet in person with the Director's designee.

I stipulate that my failure to comply with any conditions of this Consent Order shall constitute misconduct as defined by N.Y. Educ. 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 N.Y. Pub. 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 N.Y. Pub. 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.

DATE 7/30/09

Redacted Signature

BASHIR ZIKRIA, M.D.  
RESPONDENT

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

DATE: 7.31.09

Redacted Signature

~~PHILOMENA BASUK, ESQ.~~  
Attorney for Respondent

DATE: 8/4/09

Redacted Signature

~~LESLIE EISENBERG~~  
Associate Counsel  
Bureau of Professional Medical Conduct

DATE: 8/2/09

Redacted Signature

~~KEITH W. SERVIS~~  
Director  
Office of Professional Medical Conduct

Exhibit "A"

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

**IN THE MATTER  
OF  
BASHIR ZIKRIA, M.D.**

**STATEMENT  
OF  
CHARGES**

Bashir Zikria, M.D., the Respondent, was authorized to practice medicine in New York State on or about January 6, 1964, by the issuance of license number 091655 by the New York State Education Department. Respondent performed surgery on the patients who are the subject of this statement of charges, at Harlem Hospital in New York, N.Y..

**FACTUAL ALLEGATIONS**

- A. Respondent performed gastric bypass surgery on Patient A on September 5, 2002, on Patient B on October 17, 2002, and on Patient C on October 6, 2000. Respondent's care and treatment deviated from minimally accepted standards of care in that Respondent improperly performed gastric bypass surgery.

**SPECIFICATION OF CHARGES**

**FIRST SPECIFICATION**

**NEGLIGENCE ON MORE THAN ONE OCCASION**

Respondent is charged with committing professional misconduct as defined in N.Y. Educ. Law § 6530(3) by practicing the profession of medicine with negligence on more than one occasion as alleged in the facts of two or more of the following:

1. Paragraph A.



DATE: July 31, 2009  
New York, New York

Redacted Signature

*for* \_\_\_\_\_  
Roy Nemerson  
Deputy Counsel  
Bureau of Professional Medical Conduct