



New York State Board for Professional Medical Conduct

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

Nirav R. Shah, M.D., M.P.H.
Commissioner
NYS Department of Health
Sue Kelly
Executive Deputy Director
Keith W. Servis, Director
Office of Professional Medical Conduct

Kendrick A. Sears, M.D.
Chair
Carmella Torrelli
Vice Chair
Katherine A. Hawkins, M.D., J.D.
Executive Secretary

PUBLIC

March 4, 2011

CERTIFIED MAIL-RETURN RECEIPT REQUESTED

Michael Stephen Insler, M.D.

Redacted Address

Re: License No. 241338

Dear Dr. Insler:

Enclosed is a copy of BPMC #11-53 of the New York State Board for Professional Medical Conduct. This order and any penalty provided therein goes into effect March 11, 2011.

Sincerely,

REDACTED

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

Enclosure

cc: Debra J. Young, Esq.
Thuillez, Ford, Gold, Butler & Young
20 Corporate Woods Blvd.
Albany, New York 12211

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

IN THE MATTER
OF
MICHAEL STEPHEN INSLER, M.D.

CONSENT
ORDER
BPMC: #11-53

Upon the application of **MICHAEL STEPHEN INSLER, M.D.**, (Respondent), in the attached Consent Agreement, that 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 or email transmission to Respondent or Respondent's attorney, whichever is first.

SO ORDERED.

DATED: 03/04/11

REDACTED

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

IN THE MATTER

OF

MICHAEL STEPHEN INSLER, M.D.
CO-09-10-6937-A

CONSENT

AGREEMENT

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

That on or about August 3, 2006, I was licensed to practice medicine in the State of New York and issued license number 241338 by the New York State Education Department.

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

I understand that the New York State Board for Professional Medical Conduct (Board) has charged me with seven (7) Specifications 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 seven (7) Specifications, and I agree:

to never practice medicine in New York state as a physician, activate my registration to practice medicine as a physician in New York state or seek to reapply for a license to practice medicine as a physician in New York state. [Limitation on registration or issuance of any further license pursuant to Public Health Law Section 230-a(6)].

I stipulate that my failure to comply with any conditions of the 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 the Consent 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 the 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 or email transmission to me or my attorney, whichever is first. The Consent Order, this Consent 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 of Health 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, administratively and/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, OPMC, and the Chair of the Board each retain complete discretion either to enter into the proposed Consent 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: 2/11/11

REDACTED

MICHAEL STEPHEN INSLER, M.D.
Respondent

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

DATE: 2/14/11

REDACTED

DEBRA J. YOUNG
Attorney for Respondent

DATE: 2/17/11

REDACTED

RICHARD J. ZAHNLEUTER
Associate Counsel
Bureau of Professional Medical Conduct

DATE: 3/3/11

REDACTED

KEITH W. SERVIS
Director
Office of Professional Medical Conduct

EXHIBIT "A"

IN THE MATTER
OF
MICHAEL STEPHEN INSLER, M.D.
CO-09-10-6937-A

STATEMENT
OF
CHARGES

MICHAEL STEPHEN INSLER, M.D., Respondent, was authorized to practice medicine in New York State on August 3, 2006, by the issuance of license number 241338 by the New York State Education Department.

FACTUAL ALLEGATIONS

A. On or about October 28, 2009, the Florida Board of Medicine, (hereinafter "Florida Board"), by a Final Order, (hereinafter "Florida Order"):

1. fined Respondent \$30,000;
2. imposed 250 hours of community service within 2 years;
3. imposed costs of \$3,787.69;
4. required Respondent to complete 5 hours of "formal live lecture format" continuing medical education in medical ethics within 1 year;
5. required Respondent to complete 5 hours of continuing medical education in risk management within 1 year;
6. required Respondent to complete a "Legal and Ethical Implications in Medicine..." course within 18 months; and
7. required Respondent to present a 1 hour "lecture/seminar on Wrong Site Surgeries... to medical staff at an approved medical facility" within 6 months.

B. The Florida Order was based on allegations that Respondent, among other things, made "deceptive, untrue, or fraudulent representations or employed a trick or scheme" by:

1. On or about July 29, 2005, at approximately 4:12 PM, performing photo refractive keratotomy laser treatment on a patient's right eye for -7.50

-0.4 x 4 and then excluding the corresponding laser printout from the patient's file until on or about September 14, 2005;

2. On or about July 29, 2005, at approximately 4:25 PM, producing a different laser printout for the patient's right eye for -0.75 -0.4 x 8, in accord with previous planning for the procedure, and immediately placing it in the patient's file.

C. 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 section of New York State Law:

1. New York Education Law §6530(2) (practicing the profession fraudulently).

D. On or about March 3, 2010, the Pennsylvania State Board of Medicine (hereinafter "Pennsylvania Board"), by a Consent Agreement and Order, (hereinafter "Pennsylvania Order") imposed on Respondent a "public reprimand" and fined Respondent \$10,000 based on the Florida Order described in paragraphs A and B, above.

E. The conduct resulting in the Pennsylvania Board disciplinary action against Respondent 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(9)(d) (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).

F. On or about March 17, 2010, the Tennessee Board of Medical Examiners (hereinafter "Tennessee Board"), by a Consent Order, (hereinafter "Tennessee Order") "reprimanded" Respondent, fined Respondent \$2,000, and required Respondent to comply with the Florida Order, based on the Florida Order described in paragraphs A and B, above.

G. The conduct resulting in the Tennessee Board disciplinary action against Respondent 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(9)(d) (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).

H. On or about April 20, 2010, the Illinois Department of Financial and Professional Regulation (hereinafter "Illinois Board"), by a Consent Order, (hereinafter "Illinois Order") "reprimanded" Respondent and required Respondent to comply with the Florida Order, based on the Florida Order described in paragraphs A and B, above.

I. The conduct resulting in the Illinois Board disciplinary action against Respondent 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(9)(d) (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).

J. On or about May 6, 2010, the Georgia Composite Medical Board (hereinafter "Georgia Board"), by a Public Consent Order, (hereinafter "Georgia Order") "reprimanded" Respondent, fined Respondent \$500, and required Respondent to comply with the Florida Order, based on the Florida Order described in paragraphs A and B, above.

K. The conduct resulting in the Georgia Board disciplinary action against Respondent 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(9)(d) (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).

L. On or about May 12, 2010, the State Medical Board of Ohio (hereinafter "Ohio Board"), by a Consent Agreement, (hereinafter "Ohio Order") "reprimanded" Respondent, based on the Florida Order described in paragraphs A and B, above.

M. The conduct resulting in the Ohio Board disciplinary action against Respondent 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(9)(d) (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).

N. On or about July 9, 2010, the Missouri State Board of Registration for the Healing Arts, (hereinafter "Missouri Board"), by a Settlement Agreement, (hereinafter "Missouri Order") "publicly reprimanded" Respondent, based on the Florida Order described in paragraphs A and B, above.

O. The conduct resulting in the Missouri Board disciplinary action against Respondent 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(9)(d) (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).

SPECIFICATIONS OF MISCONDUCT

FIRST THROUGH SEVENTH SPECIFICATIONS

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 of New York State, in that Petitioner charges:

1. The facts set forth in Paragraphs A, A(1), A(2), A(3), A(4), A(5), A(6), and/or A(7), B, B(1), and/or B(2), and/or C.
2. The facts set forth in Paragraphs A, A(1), A(2), A(3), A(4), A(5), A(6), and/or A(7), B, B(1), and/or B(2), and/or C, and/or D, and/or E.

3. The facts set forth in Paragraphs A, A(1), A(2), A(3), A(4), A(5), A(6), and/or A(7), B, B(1), and/or B(2), and/or C, and/or F, and/or G.
4. The facts set forth in Paragraphs A, A(1), A(2), A(3), A(4), A(5), A(6), and/or A(7), B, B(1), and/or B(2), and/or C, and/or H, and/or I.
5. The facts set forth in Paragraphs A, A(1), A(2), A(3), A(4), A(5), A(6), and/or A(7), B, B(1), and/or B(2), and/or C, and/or J, and/or K.
6. The facts set forth in Paragraphs A, A(1), A(2), A(3), A(4), A(5), A(6), and/or A(7), B, B(1), and/or B(2), and/or C, and/or L, and/or M.
7. The facts set forth in Paragraphs A, A(1), A(2), A(3), A(4), A(5), A(6), and/or A(7), B, B(1), and/or B(2), and/or C, and/or N, and/or O.

DATED: *Nov. 22*, 2010
Albany, New York

REDACTED

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