

November 3, 2011

CERTIFIED MAIL-RETURN RECEIPT REQUESTED

Clifton Daniel Burt, M.D.

REDACTED ADDRESS

RE: License No. 251765

Dear Dr. Burt:

Enclosed is a copy of the New York State Board for Professional Medical Conduct (BPMC) Order No. 11-263. This Order and any penalty provided therein goes into effect November 10, 2011.

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 1717
Empire State Plaza
Albany, New York 12237

Please direct any questions to: Board for Professional Medical Conduct, 90 Church Street, 4th Floor, New York, NY 10007-2919, telephone # 212-417-4445.

Sincerely,

REDACTED SIGNATURE

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

cc: Frederick N. Gaffney, Esq.
Costell, Shea & Gaffney, LLP
44 Wall Street
New York, NY 10005

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

IN THE MATTER

CONSENT

OF

ORDER

CLIFTON DANIEL BURT, M.D.

BPMC No. 11-263

Upon the application of **CLIFTON DANIEL BURT, 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 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: 11/2/11

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
CLIFTON DANIEL BURT, M.D.

CONSENT
AGREEMENT

CLIFTON DANIEL BURT, M.D., representing that all of the following statements are true, deposes and says:

That on or about January 23, 2009, I was licensed to practice medicine in the State of New York, and issued license number 251765 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 address thirty (30) days, thereof.

I understand that the New York State Board for Professional Medical Conduct (Board) has charged me with three (3) specifications of professional misconduct.

A copy of the Amended Statement of Charges, marked as Exhibit A, is attached to and part of this Consent Agreement.

I do not contest solely for the purposes of this proceeding paragraphs A, B, and B(1) and the Second Specification of the Amended Statement of Charges, and agree to the following penalty:

Censure and Reprimand;

I shall pay a \$3,500.00 fine, to be paid within thirty (30) days of the effective date of the Consent Order to the NYS Department of Health, Bureau of Accounts Management, Revenue Unit, Empire State Plaza, Coming Tower, Room 1717, Albany, NY 12237-0016.

I agree, further, 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 effective date of the Consent Order and will continue so long as Respondent remains a licensee in New York State; and

That Respondent shall cooperate fully with the OPMC in its administration and enforcement of the 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 Agreement. Respondent shall meet with a person designated by the Director, 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 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:

DATE: 10/19/2011

REDACTED SIGNATURE

CLIFTON DANIEL BURT, M.D.
Respondent

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

DATE: 10/19/11

REDACTED SIGNATURE

FREDERICK N. GAFFNEY
Attorney for Respondent

REDACTED SIGNATURE
Michael Morris
Attorney for Respondent

DATE: 10/27/11

REDACTED SIGNATURE

RICHARD J. ZAHNLEUTER
Associate Counsel
Bureau of Professional Medical Conduct

DATE: 11/2/11

REDACTED SIGNATURE

KEITH SERVIS
Director
Office of Professional Medical Conduct

EXHIBIT A

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

IN THE MATTER
OF
CLIFTON DANIEL BURT, M.D.
CO-09-12-8015-A

AMENDED
STATEMENT
OF
CHARGES

CLIFTON DANIEL BURT, M.D., Respondent, was authorized to practice medicine in New York State on January 23, 2009, by the issuance of license number 251765 by the New York State Education Department.

FACTUAL ALLEGATIONS

A. On or about November 10, 2009, the Virginia Board of Medicine (hereinafter "Virginia Board"), by a "Consent Order" (hereinafter "Virginia Order"), issued a "Reprimand" to Respondent, ordered him to pay a \$1,500.00 penalty, and ordered that he complete at least 12 hours of continuing medical education through face-to-face interactive sessions concerning proper prescribing, based on Respondent, from May 2008 to October 2008, having prescribed controlled substances, including Schedule III hydrocodone and Schedule IV zolpidem, "to individuals outside of a bona fide practitioner-patient relationship" and "without seeing these patients in person and without personally performing any physical examinations on these patients."

B. The conduct resulting in the Virginia 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(3) (practicing the profession with negligence on more than one occasion);
2. New York Education Law §6530(4) (practicing the profession with gross negligence on a particular occasion); and/or

3. New York Education Law §6530(16) (willful or grossly negligent failure to comply with substantial provisions of state laws, rules, or regulations governing the practice of medicine, including 10 NYCRR 80.63(c), 10 NYCRR 910.2(f), Public Health Law §3332(1), and Public Health Law §3331(2).

C. On or about April 1, 2011, the U.S. Drug Enforcement Administration ("DEA"), by a "Revocation of Registration" (hereinafter "DEA Order"), revoked Respondent's DEA registration for New Jersey, and Respondent's DEA registration for Virginia in the event that Respondent had filed a renewal application, based on Respondent having prescribed controlled substances (hydrocodone/apap) to four "internet patients without physically examining them," without "establish[ing] a bona fide doctor-patient relationship with the Telemed customers," without having "a legitimate medical purpose," and "outside of the usual course of professional practice," in violation of the federal Controlled Substances Act, including implementing regulations set forth in 21 CFR 1306.04(a).

D. The violation resulting in the DEA Order would constitute professional misconduct under the laws of New York State, pursuant to the following sections 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) (practicing the profession with gross negligence on more than one occasion);

3. New York Education Law §6530(5) (practicing the profession with incompetence on more than one occasion);

4. New York Education Law §6530(6) (practicing the profession with gross incompetence); and/or

5. New York Education Law §6530(16) (willful or grossly negligent failure to comply with substantial provisions of federal or state laws, rules, or regulations governing the practice of medicine, including 10 NYCRR 80.63(c), 10 NYCRR 910.2(f), Public Health Law §3332(1), Public Health Law §3331(2), and 21 CFR 1306.04(a).

SPECIFICATIONS OF MISCONDUCT

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, B, B(1), B(2), and/or B(3).

SECOND SPECIFICATION

Respondent violated New York Education Law §6530(9)(d) by having his license to practice medicine revoked, suspended or having other disciplinary action taken by a duly authorized professional disciplinary agency of another state, or having voluntarily or otherwise surrendered his license after a disciplinary action was instituted by a duly authorized professional disciplinary agency of another state where the conduct resulting in the revocation, suspension or other disciplinary action would, if committed in New York State, constitute professional misconduct under the laws New York State, in that Petitioner charges:

2. The facts in Paragraphs A, B, B(1), B(2), and/or B(3).

THIRD SPECIFICATION

Respondent violated New York Education Law §6530(9)(c) by having been found guilty in an adjudicatory proceeding of violating a 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 pursuant to this section, in that Petitioner charges:

4. The facts in Paragraphs C, D, D(1), D(2), D(3), D(4), and/or D(5).

DATED: *October 17*, 2011
Albany, New York

REDACTED SIGNATURE

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