

NEW YORK
state department of
HEALTH

Nirav R. Shah, M.D., M.P.H.
Commissioner

Sue Kelly
Executive Deputy Commissioner

September 23, 2013

CERTIFIED MAIL-RETURN RECEIPT REQUESTED

Thomas J. Calogero, III, M.D.
REDACTED

Re: License No. 232753

Dear Dr. Calogero:

Enclosed is a copy of the New York State Board for Professional Medical Conduct (BPMC) Order No. 13-305. This order and any penalty provided therein goes into effect September 30, 2013.

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

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

Enclosure

cc: Susan Etra, Esq.
Yoeli, Gottlieb & Etra, LLP
260 Madison Avenue, 18th Floor
New York, NY 10016

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

IN THE MATTER

CONSENT

OF

ORDER

THOMAS JOHN CALOGERO III, M.D.

Upon the application of THOMAS JOHN CALOGERO III, 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.

REDACTED

DATED: 9-20-13

ARTHUR S. HENGERER, 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

CONSENT

OF

AGREEMENT

THOMAS JOHN CALOGERO III, M.D.
CO-12-07-3415-A

THOMAS JOHN CALOGERO III, M.D., (Respondent), representing that all of the following statements are true, deposes and says:

That on or about June 10, 2004, I was licensed to practice medicine in the State of New York and issued license number 232753 by the New York State Education Department.

My current address is: REDACTED 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 two (2) Specifications of professional misconduct based on a prior North Carolina Medical Board Order.

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 Second Specification as it relates to Factual Allegations A and B.2 and deny all other Factual Allegations. I agree to the following sanction:

to never activate my registration 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: 9/14/13

REDACTED

THOMAS JOHN CALOGERO III M.D.
Respondent

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

DATE: 9/16/2013

REDACTED

SUSAN ETRA, Esq.
Attorney for Respondent

DATE: 9/17/13

REDACTED

MICHAEL G. BASS
Assistant Counsel
Bureau of Professional Medical Conduct

DATE: 9/20/13

REDACTED

KEITH W. SERVIS
Director
Office of Professional Medical Conduct

EXHIBIT A

IN THE MATTER

OF

THOMAS JOHN CALOGERO III, M.D.
CO-12-07-3415-A

STATEMENT

OF

CHARGES

THOMAS JOHN CALOGERO III, M.D., Respondent, was authorized to practice medicine in New York state on June 10, 2004, by the issuance of license number 232753 by the New York State Education Department.

FACTUAL ALLEGATIONS

A. On or about April 20, 2012, the North Carolina Medical Board, (hereinafter "North Carolina Board"), by CONSENT ORDER (hereinafter "North Carolina Order"), placed Respondent's license on PROBATION until terminated by the North Carolina Board. The North Carolina Board found, *inter alia*, that Respondent's medical records for six (6) patients were disjointed and inadequate; that for some patients who had multiple and complex medical conditions, Respondent failed to address all of the patient's conditions; that patient non-compliance issues were not addressed; that patients' prior medical histories and past medical records were either not obtained or addressed adequately; and that other modalities of treatment were not attempted or addressed.

B. The conduct resulting in the North Carolina 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) (negligence on more than one occasion);
and/or
2. New York Education Law §6530(32) (failure to maintain a record).

SPECIFICATIONS
FIRST SPECIFICATION

Respondent violated New York Education Law §6530(9)(b) by having been found guilty of improper 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 B.

SECOND SPECIFICATION

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:

2. The facts in Paragraphs A and B.

DATED: *May 8*, 2013
Albany, New York

REDACTED

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