



## Department of Health

ANDREW M. CUOMO  
Governor

HOWARD A. ZUCKER, M.D., J.D.  
Commissioner

SALLY DRESLIN, M.S., R.N.  
Executive Deputy Commissioner

October 20, 2016

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

Dianna Yan, M.D.



RE: License No. 185360

Dear Dr. Yan:

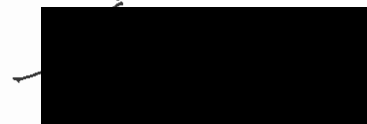
Enclosed is a copy of the New York State Board for Professional Medical Conduct (BPMC) Order No. 16-343. This Order and any penalty provided therein goes into effect October 27, 2016.

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 2784  
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,



Henry Spector, M.D.  
Acting Executive Secretary  
Board for Professional Medical Conduct

Enclosure

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

IN THE MATTER  
OF  
DIANNA YAN, M.D.

BPMC No. 16-343

CONSENT  
ORDER

Upon the application of (Respondent) DIANNA YAN, 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: 10/20/2016

  
ARTHUR S. HENGERER, M.D.  
Chair  
State Board for Professional Medical Conduct

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

IN THE MATTER  
OF  
DIANNA YAN, M.D.

CONSENT  
AGREEMENT

DIANNA YAN, M.D., represents that all of the following statements are true:

That on or about April 24, 1991, I was licensed to practice as a physician in the State of New York, and issued License No. 185360 by the New York State Education Department.

My current address is [REDACTED] 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 or more specifications of professional misconduct, as set forth in a Statement of Charges, marked as Exhibit "A", attached to and part of this Consent Agreement.

I agree not to contest the allegations, in full satisfaction of the charges against me, and agree to the following penalty:

- Pursuant to N.Y. Pub. Health Law § 230-a(1), I shall be subject to a Censure and Reprimand.
- Pursuant to N.Y. Pub. Health Law §§ 230-a(7) and (9), I shall be subject to a fine in the amount of \$2,500, to be paid in full within 30 days of the effective date of this Order. Payments must be submitted to:

Bureau of Accounts Management  
New York State Department of Health  
Corning Tower, Room 2784  
Empire State Plaza  
Albany, New York 12237

In making such payment, Respondent shall indicate the order number of this Order both on the payment check submitted and on the cover letter accompanying payment. Additionally, Respondent shall simultaneously mail a photocopy of the check and cover letter to:

Physician Monitoring Program  
Office of Professional Medical Conduct  
Riverview Center  
150 Broadway, Suite 355  
Albany, New York 12204-2719.

- Pursuant to N.Y. Pub. Health Law § 230-a(3), my license to practice medicine in New York State shall be limited to preclude the prescription of

furosemide and levothyroxine for weight loss purposes, and phentermine and human growth hormone for off-label use.

I further agree that the Consent Order shall impose the following conditions:

Respondent shall comply fully with the January 4, 2016 Consent Order of the Maryland State Board of Physicians and any extension or modification thereof.

Respondent shall provide a written authorization for the Maryland Board to provide the Director of OPMC with any/all information or documentation as requested by OPMC to enable OPMC to determine whether Respondent is in compliance with the Maryland Order.

That Respondent shall comply with each and every penalty imposed by this Order pursuant to N.Y. Pub. Health Law § 230-a; and

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 remain in continuous compliance with all requirements of N.Y. Pub. Health Law § 2995-a(4) and 10 NYCRR 1000.5, including but not limited to the requirements that a licensee shall: report to the department all information required by the Department to develop a public physician profile for the licensee; continue to notify the department of any change in profile information within 30 days of any change (or in the case of optional information, within 365 days of such change); and, in addition to such periodic reports and notification of any changes, update his or her profile information within six months prior to the expiration date of the licensee's registration period. Licensee shall submit changes to his or her physician profile information either electronically using the department's secure web site or on forms prescribed by the department, and licensee shall attest to the truthfulness, completeness and correctness of any changes licensee submits to the department. This condition shall take effect 30 days after the Order's effective date and shall continue so long as Respondent remains a licensee in New York State. Respondent's failure to comply with this condition, if proven and found at a hearing pursuant to N.Y. Pub. Health Law § 230, shall constitute professional misconduct as defined in N.Y. Educ. Law § 6530(21) and N.Y. Educ. Law § 6530(29). Potential penalties for failure to comply with this condition may include all penalties for professional misconduct set forth in N.Y. Pub. Health Law § 230-a, including but not limited to: revocation or suspension of license, Censure and Reprimand,

probation, public service and/or fines of up to \$10,000 per specification of misconduct found; and

That Respondent shall provide the Director, Office of Professional Medical Conduct (OPMC), Riverview Center, 150 Broadway, Suite 355, Albany, New York 12204-2719, 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. This condition shall take effect 30 days after the Order's effective date and shall continue at all times until Respondent receives written notification from the Office of Professional Medical Conduct, Physician Monitoring Program, that OPMC has determined that Respondent has fully complied with and satisfied the requirements of the Order, regardless of tolling; 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 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 the 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. OPMC shall report this action to the National Practitioner Data Bank and the Federation of State Medical Boards, and any other entities that the Director of OPMC shall deem appropriate.

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 10/4/16

  
DIANNA YAN, M.D.  
RESPONDENT

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

DATE: 10/13/16

  
IAN H. SILVERMAN, ESQ.  
Associate Counsel  
Bureau of Professional Medical Conduct

DATE: 10/14/16

  
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  
  
DIANNA YAN, M.D.

STATEMENT  
  
OF  
  
CHARGES

DIANNA YAN M.D., the Respondent, was authorized to practice medicine in New York State on or about April 24, 1991 by the issuance of license number 185360 by the New York State Education Department.

**FACTUAL ALLEGATIONS**

A. On or about January 4, 2016 the Maryland State Board of Physicians (Maryland Board) entered into a Consent Order with the Respondent. Under the terms of the Consent Order, the Respondent received a reprimand, *was ordered to permanently cease the prescribing of phentermine and human growth hormone for off-label use and furosemide (Lasix) and levothyroxine (Synthroid) for weight loss purposes.* In addition, the Respondent was placed on probation until she successfully completed the Board-approved course in medical ethics and medical recordkeeping. The Consent Order was based on allegations that the Respondent prescribed the above-referenced medication for weight loss to six patients. It was alleged by the Maryland Board that (1) Respondent failed to document adequate informed consent before prescribing the off-label weight loss medication to patient A; (2) Respondent did not document that she had provided patient B and her mother with adequate informed consent, including the risk of prescribing these medications for off-label use; (3) Respondent failed to document any risk/benefit documentation of pregnancy at patients C's advanced maternal age; (4) Respondent did not adequately provide patient D with informed

consent regarding off-label use of the medications; (5) Respondent failed to order appropriate laboratory tests prior to prescribing the weight loss medications; (6) Respondent failed to order appropriate laboratory tests prior to prescribing the weight loss medication to patient E and (7) Respondent failed to order follow-up laboratory testing after prescribing diet medications to patient F.

B. Respondent also prescribed genotropin to patients *G and H*, however patients *G and H* did not exist.

C. Respondent's conduct as described above, upon which the disciplinary action taken in Maryland was based would, if committed in New York State, constitute professional misconduct under the laws of the State of New York as follows:

1. New York Education Law §6530 (2) (practicing the profession fraudulently or beyond its authorized scope);
2. New York Education Law §6530(3) (practicing the profession with negligence on more than one occasion and/or
3. New York Education Law §6530 (32) (failing to maintain a record for each patient which accurately reflects the evaluation and treatment of the patient.)

**SPECIFICATION OF CHARGES**  
**HAVING HAD DISCIPLINARY ACTION TAKEN**

Respondent is charged with committing professional misconduct as defined in N.Y. Educ. Law § 6530(9)(d) by having his or her license to practice medicine revoked, suspended or having other disciplinary action taken, or having his or her application for a license refused, revoked or suspended or having voluntarily or otherwise surrendered his or her 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 involving the license or refusal, revocation or suspension of an application for a license or the surrender of the license would, if committed in New York state, constitute professional misconduct under the laws of New York state (namely N.Y. Educ. Law § 6530(2), (3) and/or (32)) as alleged in the facts of the following:

1. The facts in Paragraphs A, B, and C.

DATE: October 13, 2016  
Albany, New York

  
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Michael A. Hiser  
Deputy Counsel  
Bureau of Professional Medical Conduct