

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

IN THE MATTER
OF
JORGE BENITO, M.D.

CONSENT
ORDER
BPMC No. #08-46

Upon the application of (Respondent), **JORGE BENITO, 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.

DATED: 3-28-2008

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
JORGE BENITO, M.D.
CO-06-12-7220-A

CONSENT
AGREEMENT
AND ORDER

JORGE BENITO, M.D., representing that all of the following statements are true, deposes and says:

That on or about February 12, 1992, I was licensed to practice as a physician in the State of New York, and issued License No. 188346 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 my address 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 solely upon the December 13, 2006, and February 11, 2008, State of Florida, Board of Medicine, Final Orders.

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 the two (2) Specifications, in full satisfaction of the charges against me, and agree to the following penalty:

\$3,000 fine.

The fine is to be paid within thirty (30) days of the effective date of this Order to the NYS Department of Health, Bureau of Accounts Management, Revenue Unit, Empire State Plaza, Corning Tower, Room 1258, Albany, NY 12237-0016.

Respondent shall comply fully with the December 13, 2006, Final Order of the State of Florida, Board of Medicine and any extension or modification thereof.

Respondent shall provide a written authorization for the Florida 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 Florida Order.

Respondent shall submit semi-annually a signed Compliance Declaration to the Director of OPMC, which truthfully attests whether Respondent has been in compliance with the Florida Order during the declaration period specified.

I further agree 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 Consent Order's effective date and will continue so long as Respondent remains a licensee in New York State; 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 New York Education 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 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 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 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, 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.

AFFIRMED:

DATED:

3/15/08

Redacted Signature

~~JORGE BENITO, M.D.~~

Respondent

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

DATE: 3/14/08

Redacted Signature
ROBERT N. NICHOLSON
Attorney for Respondent

DATE: 18 March 2008

Redacted Signature
ROBERT BOGAN
Associate Counsel
Bureau of Professional Medical Conduct

DATE: 3/26/08

Redacted Signature
KEITH W. SERVIS
Director
Office of Professional Medical Conduct

STATE OF NEW YORK

DEPARTMENT OF HEALTH

STATE BOARD FOR PROFESSIONAL MEDICAL CONDUCT

IN THE MATTER
OF
JORGE BENITO, M.D.
CO-06-12-7220-A

AMENDED
STATEMENT
OF
CHARGES

JORGE BENITO, M.D., Respondent, was authorized to practice medicine in New York state on February 12, 1992, by the issuance of license number 188346 by the New York State Education Department.

FACTUAL ALLEGATIONS

A. On or about December 13, 2006, the State of Florida, Board of Medicine (hereinafter "Florida Board"), by a Final Order (hereinafter "Florida Order 1"), required Respondent to pay a \$5,000.00 administrative fine and \$2,755.10 administrative costs, required him to take a Laws and Rules course, and issued him a Letter of Concern, based on failing to keep legible medical records that identify supervising physician by name and failing to keep legible medical records that identify the licensed physician or the physician extender and supervising physician by name and professional title who is or are responsible for rendering, ordering, supervising, or billing for each diagnostic or treatment procedure and that justify the course of treatment of the patient, including, but not limited to, patient histories, examination results, test results, records of drugs prescribed, dispensed, or administered, and reports of consultations and hospitalizations; and failing to properly supervise adequately the activities of those professionals acting under the supervision of the physician.

B. On or about February 11, 2008, the Florida Board, by a Final Order (hereinafter "Florida Order 2"), required Respondent to pay a \$1,000.00 fine and \$549.42 administrative costs, based on failing to comply with requirements of the Florida Board, as set forth in Paragraph A, above.

C. The conduct resulting in the Florida Board disciplinary actions 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(29) (violating any term of probation or condition or limitation imposed on the licensee);
2. New York Education Law §6530(32) (failing to maintain a record for each patient which accurately reflects the evaluation and treatment of the patient provided); and/or
3. New York Education Law §6530(33) (failing to exercise appropriate supervision over persons who are authorized to practice only under the supervision of the licensee).

SPECIFICATIONS

FIRST AND SECOND 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 New York state, in that Petitioner charges:

1. The facts in Paragraphs A and/or C.
2. The facts in Paragraphs B and/or C.

DATED: *Feb. 26*, 2008
Albany, New York

Redacted Signature

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