



Public

New York State Board for Professional Medical Conduct

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

Richard F. Daines, M.D.
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NYS Department of Health
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Office of Professional Medical Conduct

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Chair
Carmela Torrelli
Vice Chair
Katherine A. Hawkins, M.D., J.D.
Executive Secretary

November 3, 2009

CERTIFIED MAIL-RETURN RECEIPT REQUESTED

Joseph J. Dambrauskas, M.D.

Redacted Address

Re: License No. 234614

Dear Dr. Dambrauskas:

Enclosed is a copy of BPMC #09-196 of the New York State Board for Professional Medical Conduct. This order and any penalty provided therein goes into effect November 10, 2009.

If the penalty imposed by this Order is a surrender, revocation or suspension, you are required to deliver your license and registration within five (5) days of receipt of this Order and return it to the Office of Professional Medical Conduct, New York State Department of Health, 433 River Street, Suite 303, Troy, NY 12180-2299

Sincerely,

Redacted Signature

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

Enclosure

cc: George F. Mould, Esq.
Martin, Ganotis, Brown, Mould & Currie, P.C.
5790 Widewaters Parkway
Dewitt, NY 13214

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

IN THE MATTER
OF
JOSEPH DAMBRAUSKAS, M.D.

CONSENT
ORDER

BPMC No. #09-196

Upon the application of **JOSEPH DAMBRAUSKAS, M.D.** in the attached Consent Agreement, 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.

Redacted Signature

DATE: 11-2-2009

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

**IN THE MATTER
OF
JOSEPH DAMBRAUSKAS, M.D.**

**CONSENT
AGREEMENT**

JOSEPH DAMBRAUSKAS, M.D., represents that all of the following statements are true, deposes and says:

That on or about December 3, 2004, I was licensed to practice as a physician in the State of New York, and issued License No. 234614 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 address.

I understand that the New York State Board for Professional Medical Conduct (Board) has charged me with Five (5) specifications of professional misconduct.

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

In full settlement of the charges, I do not contest the Fifth Specification (failure to comply with state law) and:

I agree that the my license is suspended until the expiration of my current registration period, January 31, 2010. Further, I agree to a penalty that, upon the expiration of my current registration on January 31, 2010, consists of a limitation precluding any future registration or issuance of a medical license in New York State.

I stipulate that my failure to comply with any conditions of the 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 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 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.

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 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.

8 October 2009
DATE

Redacted Signature

JOSEPH DAMBRAUSKAS, M.D.
RESPONDENT

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

DATE: 10/9/09

Redacted Signature

GEORGE MOULD, ESQ.
Attorney for Respondent

DATE: 9/10/09

Redacted Signature

MICHAEL BASS, ESQ.
Assistant Counsel
Bureau of Professional Medical Conduct

DATE: 10/30/09

Redacted Signature

KEITH W. SERVIS
Director
Office of Professional Medical Conduct

IN THE MATTER
OF
JOSEPH DAMBRAUSKAS, M.D.

STATEMENT
OF
CHARGES

JOSEPH DAMBRAUSKAS, M.D., the Respondent, was authorized to practice medicine in New York State on or about December 3, 2004, by the issuance of license number 234614 by the New York State Education Department.

FACTUAL ALLEGATIONS

- A. Respondent, between mid September 2006 and mid January 2007, undertook to perform a human research project related to the possible clinical manifestation of Lyme Disease in psychiatric patients, without oversight of a human research review committee as required by § 2444(3) of the New York State Public Health Law, in that:
1. Respondent, on or about October of 2006, indicated to Patient A's mother that he was interested in doing research on tick borne effects on kids and that "he (Patient A) will be the first child studied."
 2. Respondent, when he visited the residence of Patient A on or about January 21, 2007, requested that Patient A's mother consent to more Lyme Disease testing of Patient A, and told her that he was doing "a study", or words to that effect.
 3. Respondent, on or about November, 2006, requested Patient B's mother to videotape Patient B's activity while he was home on furlough from SLPC so Respondent could use the video tape in "a paper" that he was writing, or words to that effect.
 4. Respondent, on or about January of 2007, told Patient C's mother that he was doing research involving Lyme Disease, or words to that effect.
 5. Respondent, on or about March of 2007 asked Patient C's mother if

she and Patient C would be willing to participate in a study on the correlation between Lyme Disease and behavior problems in children.

SPECIFICATION OF CHARGES

FIRST SPECIFICATION

NEGLIGENCE ON MORE THAN ONE OCCASION

Respondent is charged with committing professional misconduct as defined in N.Y. Educ. Law § 6530(3) by practicing the profession of medicine with negligence on more than one occasion as alleged in the facts of two or more of the following:

1. The facts in paragraphs A and A.1, A and A.2, A and A.3, A and A.4 and/or A and A.5.

SECOND SPECIFICATION

GROSS NEGLIGENCE

Respondent is charged with committing professional misconduct as defined in N.Y. Educ. Law § 6530(4) by practicing the profession of medicine with gross negligence on a particular occasion as alleged in the facts of the following:

2. The facts in paragraphs A and A.1, A and A.2, A and A.3, A and A.4 and/or A and A.5.

THIRD SPECIFICATION

INCOMPETENCE ON MORE THAN ONE OCCASION

Respondent is charged with committing professional misconduct as defined in N.Y. Educ. Law § 6530(5) by practicing the profession of medicine with incompetence on more than one occasion as alleged in the facts of two or more of the following:

3. The facts in paragraphs A and A.1, A and A.3, A and A.4, A and A.5, A and A.6.

FOURTH SPECIFICATION

GROSS INCOMPETENCE

Respondent is charged with committing professional misconduct as defined in N.Y. Educ. Law § 6530(6) by practicing the profession of medicine with gross incompetence as alleged in the facts of the following:

4. The facts in paragraphs A and A.1, A and A.3, A and A.4, A and A.5, and/or A and A.6.

FIFTH SPECIFICATION

FAILURE TO COMPLY WITH STATE LAW

Respondent is charged with committing professional misconduct as defined in N.Y. Educ. Law § 6530(16) by willfully or negligently failing to comply with substantial provisions of federal, state, or local laws, rules or regulations governing the practice of medicine as alleged in the facts of the following:

5. The facts in paragraphs A and A.1, A and A.2, A and A.3, A and A.4, A and A.5, and/or A and A.6.

DATED: *Oct. 19*, 2009
Albany, New York

Redacted Signature

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