



***New York State Board for Professional Medical Conduct***

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

Kendrick A. Sears, M.D.  
*Chair*

Dennis J. Graziano, Director  
*Office of Professional Medical Conduct*

*Public*

Michael A. Gonzalez, R.P.A.  
*Vice Chair*

Ansel R. Marks, M.D., J.D.  
*Executive Secretary*

January 24, 2007

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

James Herivaux, M.D.  
148-27 Edgewood Street  
Rosedale, NY 11422

Re: License No. 194186

Dear Dr. Herivaux:

Enclosed is a copy of Order #BPMC 07-12 of the New York State Board for Professional Medical Conduct. This order and any penalty provided therein goes into effect January 31, 2007.

**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 to the Board for Professional Medical Conduct, New York State Department of Health, 433 River Street, Suite 303, Troy, NY 12180.**

Sincerely,

Ansel R. Marks, M.D., J.D.  
Executive Secretary  
Board for Professional Medical Conduct

Enclosure

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

IN THE MATTER  
OF  
JAMES HERIVAUX, M.D.

CONSENT  
ORDER

BPMC No. #07-12

Upon the application of (Respondent), **JAMES HERIVAUX, 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: 1-23-07

  
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

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**IN THE MATTER**  
**OF**  
**JAMES HERIVAUX, M.D.**  
**CO-06-07-3857-A**

**CONSENT**  
**AGREEMENT**  
**AND ORDER**

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**JAMES HERIVAUX, M.D.**, representing that all of the following statements are true, deposes and says:

That on or about November 6, 1993, I was licensed to practice as a physician in the State of New York, and issued License No. 194186 by the New York State Education Department.

My current address is 148-27 Edgewood Street, Rosedale, NY 11422, 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.

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

Censure and Reprimand

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:

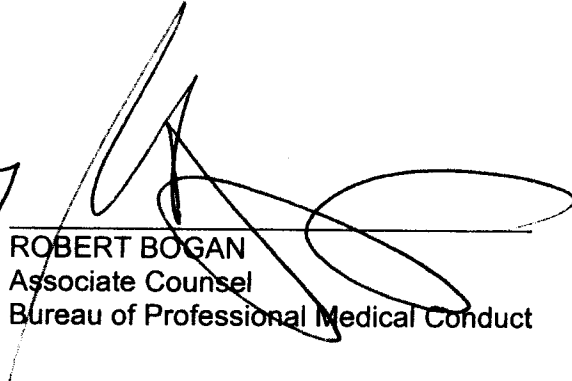
DATED: 1-10-07

  
\_\_\_\_\_  
JAMES HERIVAUX, M.D.  
Respondent

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

DATE:

12 January 2007

  
ROBERT BOGAN  
Associate Counsel  
Bureau of Professional Medical Conduct

DATE:

22 January 2007

  
DENNIS J. GRAZIANO  
Director  
Office of Professional Medical Conduct

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

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IN THE MATTER  
OF  
JAMES HERIVAUX, M.D.  
CO-06-07-3857-A

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STATEMENT  
OF  
CHARGES

**JAMES HERIVAUX, M.D.**, Respondent, was authorized to practice medicine in New York state on November 6, 1993, by the issuance of license number 194186 by the New York State Education Department.

**FACTUAL ALLEGATIONS**

A. On or about June 19, 2004, Respondent became subject to New York State Department of Health, State Board for Professional Medical Conduct, Consent Order BPMC No. 04-134, wherein, he was placed on five (5) years probation, with Terms of Probation that include, "1. Respondent's conduct shall conform to moral and professional standards of conduct and governing law. Any act of professional misconduct by Respondent as defined by New York State Education Law §6530 or §6531 shall constitute a violation of probation and may subject Respondent to an action pursuant to New York State Public Health Law §230(19)."

B. On or about June 19, 2006, the State of Florida, Department of Health, (hereinafter "Florida Board"), by a Final Order (hereinafter "Florida Order"), REPIMANDED Respondent, suspended his license to practice medicine, required him to pay \$289.23 administrative costs, and required him to successfully complete a Laws and Rules Course, based on failing to perform a legal or statutory duty placed upon the licensee and violating a lawful Order of the Florida Board previously entered in a disciplinary hearing.

C. The conduct resulting in the Florida 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(29) (violating any term or condition or limitation imposed on the licensee).

**SPECIFICATIONS**

**FIRST SPECIFICATION**

Respondent violated New York Education Law §6530(9)(d) by having his license to practice medicine suspended and/or having disciplinary action taken by a duly authorized disciplinary agency of another state, where the conduct resulting in the license suspension and/or disciplinary action 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 B and/or C.

**SECOND SPECIFICATION**

Respondent violated New York Education Law §6530(29) by violating any term of probation or condition or limitation imposed on the licensee, in that Petitioner charges:

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

DATED: *Dec. 21*, 2006  
Albany, New York

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