



New York State Board for Professional Medical Conduct

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

Antonia C. Novello, M.D., M.P.H., Dr. P.H.
*Commissioner
NYS Department of Health*

Dennis P. Whalen
*Executive Deputy Commissioner
NYS Department of Health*

Dennis J. Graziano, Director
Office of Professional Medical Conduct

William P. Dillon, M.D.
Chair

Denise M. Bolan, R.P.A.
Vice Chair

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

May 10, 2001

CERTIFIED MAIL-RETURN RECEIPT REQUESTED

Kevin Gallagher, M.D.
601 Riverside Drive
Johnson City, NY 13790

RE: License No. 189859

Dear Dr. Gallagher:

Enclosed please find Order #BPMC 98-17 of the New York State Board for Professional Medical Conduct. This Order and any penalty provided therein goes into effect May 10, 2001.

If the penalty imposed by the Order is a surrender, revocation or suspension of this license, you are required to deliver to the Board the license and registration within five (5) days of receipt of the Order to Board for Professional Medical Conduct, New York State Department of Health, Hedley Park Place, Suite 303, 433 River Street, Troy, New York 12180.

Sincerely,

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

Enclosure

cc: Barry Gold, Esq.
Thuillez, Ford, Gold and Johnson
90 State Street, Suite 1500
Albany, NY 12207-1715

Kevin C. Roe, Esq.

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

IN THE MATTER
OF
KEVIN GALLAGHER, M.D.

APPLICATION TO
MODIFY PRIOR
CONSENT ORDER

STATE OF NEW YORK)

ss.:

COUNTY OF ALBANY)

KEVIN GALLAGHER, M.D., being duly sworn, deposes and says:

On or about July 22, 1996, I was licensed to practice as a physician in the State of New York, having been issued License No. 189859 by the New York State Education Department.

I am the subject of Order BPMC 98-17 annexed hereto, made part hereof, and marked as Exhibit 1. I am applying to the State Board for Professional Medical Conduct to modify the original order. This application is based on the unintended and unforeseen hardship created by the restriction of license contained in the original order, and upon the understanding that the modification order will be a revision of the original order predicated upon the same matter as was the original order. The modification order to be issued will not constitute a new disciplinary action against me, but will substitute a censure and reprimand for the sanction imposed by the original order.

I understand that, in the event that this application is not granted by the State Board for Professional Medical Conduct, nothing contained herein shall be binding upon me or construed to be an admission of any act of misconduct alleged or charged against me.

I make this application to the State Board for Professional Medical Conduct and

request that it be granted. I agree that, in the event the State Board for Professional Medical Conduct grants my application, an order shall be issued in accordance with this application.

I am making this application of my own free will and not under duress, compulsion or restraint of any kind or manner. In consideration of the Board's granting of this application, I fully, freely, and with the advice of counsel, waive any right I may have to appeal or otherwise challenge the validity of the Modification/Surrender Order.



KEVIN GALLAGHER, M.D.
RESPONDENT

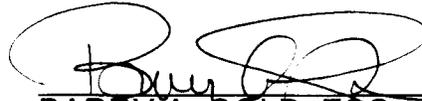
Sworn to before me this
5th day of April, 2001


NOTARY PUBLIC

MARGARET J. OAKLEY
Notary Public, State of New York
No. 010A6009970
Qualified in Broome County
Commission Expires July 6, 2002

The undersigned agree to the attached application of the Respondent to modify Order
BPMC 98-17.

Date: 2 April 2001


BARRY A. GOLD, ESQ.
Attorney for Respondent

Date: April 18/2001


KEVIN C. ROE
Associate Counsel
Bureau of Professional
Medical Conduct

Date: April 30, 2001


DENNIS J. GRAZIANO
Director
Office of Professional Medical Conduct

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

IN THE MATTER
OF
KEVIN GALLAGHER, M.D.

MODIFICATION
ORDER

Upon the Application of KEVIN GALLAGHER, M.D. (Respondent) to modify a prior order, which application is made a part hereof, it is agreed to and

ORDERED, that the application and the provisions thereof are hereby adopted; it is further

ORDERED, that Order BPMC 98-17 is modified to replace the sanction imposed therein to a censure and reprimand; it is further

ORDERED, that this order shall take effect as of the date of the personal service of this order upon Respondent, upon receipt by Respondent of this order via certified mail, or seven days after mailing of this order via certified mail, whichever is earliest.

SO ORDERED.

DATED: 5/8/01



WILLIAM P. DILLON, M.D.
Chairperson
State Board for Professional
Medical Conduct

Exhibit 1

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

-----X

IN THE MATTER : CONSENT
OF : AGREEMENT
KEVIN GALLAGHER, M.D. : AND ORDER
: BPMC # 98-17

-----X

KEVIN GALLAGHER, M.D., says:

1. I was licensed to practice as a physician in the State of New York, having been issued license number 189859 by the New York State Education Department.
2. My current address is United Medical Associates, 601 Riverside Drive, Johnson City, NY 13790 and I will advise the Director of the Office of Professional Medical Conduct of any change of my address.
3. I understand that I have been charged with two specifications of professional misconduct as set forth in the Statement of Charges, annexed hereto, made a part hereof, and marked as Exhibit A.
4. I do not contest the two specifications of misconduct in full satisfaction of the Statement of Charges.

5. I hereby agree to the following penalty:
 - a. A Censure and Reprimand and
 - b. A limitation on my license precluding me from self prescribing drugs/medications or prescribing drugs/medications to Patient A, my wife, or to any other current or former family members.

6. I agree that in the event that I am charged with professional misconduct in the future, this agreement and order shall be admitted into evidence in that proceeding.

7. I agree that, as a condition of this Order, I will maintain current registration of my license with the New York State Education Department, Division of Professional Licensing Services, and pay all registration fees. This condition will remain in effect except during periods of actual suspension, if any, imposed by this Order. This condition shall be in effect beginning thirty days after the effective date of this Order and will continue until the full term of the Order has run, and until any associated period of probation and all probation terms have been completed and satisfied. I understand that any failure by me to comply with this condition shall constitute misconduct as defined by New York State Education Law §6530(29).

8. I understand that, in the event that the Board does not grant this application, nothing contained herein shall be binding upon me or construed to be an admission of any act of misconduct alleged or charged against me; such application shall not be used against me in any way and shall be kept in strict confidence during the pendency of the professional misconduct disciplinary proceeding; and such denial by the Board shall be made without prejudice to the continuance of any disciplinary proceeding and the final determination by the Board pursuant to the provisions of the Public Health Law.

9. I agree that, in the event the State Board for Professional Medical Conduct grants my application, an order of the Chairperson of the Board shall be issued in accordance with same.

10. I make this application of my own free will and accord and not under duress, compulsion or restraint of any kind or manner.

Kevin Gallagher

 KEVIN GALLAGHER M.D.
 RESPONDENT

Subscribed before me this
 6 day of JANUARY , 1998.

Carol G. Solomon
 NOTARY PUBLIC JOE G. SOLOMON
 Notary Public, State of New York
 Commission Expires April 30, 1999 3
 Registration #01SO4748093

AGREED TO:

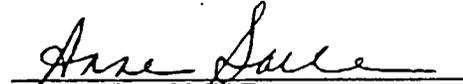
DATE: _____

_____, ESQ.
Attorney for Respondent

DATE: 1/7/98


KALIMAH J. JENKINS
ASSISTANT COUNSEL
Bureau of Professional
Medical Conduct

DATE: Jan 13, 1998


ANNE F. SAILE
DIRECTOR
Office of Professional
Medical Conduct

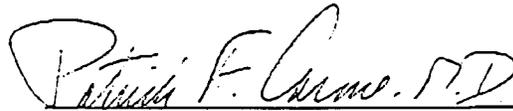
ORDER

Upon the proposed agreement of KEVIN GALLAGHER, M.D. (Respondent) for Consent Order, which proposed agreement is made a part hereof, it is AGREED TO and

ORDERED, that the proposed agreement and the provisions thereof are hereby adopted; and it is further

ORDERED, that this order shall take effect as of the date of the personal service of this order upon Respondent, upon receipt by Respondent of this order via certified mail, or seven days after mailing of this order by certified mail, whichever is earliest.

DATED: 1/16/98



PATRICK F. CARONE, M.D., M.P.H.
Chair
State Board for Professional
Medical Conduct

BY: THEA GRAVES PELLMAN
Vice-Chair
State Board for Professional
Medical Conduct

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

-----X

IN THE MATTER : STATEMENT
OF : OF
KEVIN GALLAGHER, M.D. : CHARGES

-----X

KEVIN GALLAGHER, M.D., the Respondent, was authorized to practice medicine in New York State on July 22, 1992 by the issuance of license number 189859 by the New York State Education Department. The Respondent is currently registered with the New York State Education Department to practice medicine for the period June 1, 1996 through May 31, 1998, with a registration address of 601 Riverside Drive, Johnson City, NY 13790.

FACTUAL ALLEGATIONS

- A. Respondent, on various occasions from approximately October 1992 through September 1997, provided medical care to Patient A, his wife (identified in Appendix). Respondent, on various occasions from approximately October 1992 through September 1997 excessively prescribed Stadol to Patient A.
- B. Respondent failed to maintain adequate medical records for Patient A.

FIRST SPECIFICATION

Respondent is charged with professional misconduct under N.Y. Education Law § 6530(3) by reason of his practicing the profession of medicine with negligence on more than one occasion, in that Petitioner charges:

1. The facts in Paragraph A.

SECOND SPECIFICATION

Respondent is charged with professional misconduct under N.Y. Education Law § 6530(32) by reason of his failing to maintain a record for each patient which accurately reflects the evaluation and treatment of the patient, in that Petitioner charges:

2. The facts in Paragraph B.

DATED: *January 7*, 1997
Albany, New York

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