



***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*

*Public*

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

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

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

May 25, 2006

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

Rosalie Keith, D.O.  
100 University Street  
Alfred, NY 14802

Re: License No. 171396

Dear Dr. Keith:

Enclosed is a copy of Modification Order #BPMC 05-89 of the New York State Board for Professional Medical Conduct. This modification order and any penalty provided therein goes into effect June 1, 2006.

**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, 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

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IN THE MATTER  
OF  
ROSALIE KEITH, D.O.

MODIFICATION  
ORDER

BPMC No. #05-89

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Upon the proposed Application for a Modification Order of **ROSALIE KEITH, D.O.**  
(Respondent) for Modification Order, that is made a part of this Modification Order, it is agreed to  
and

ORDERED, that the attached Application, and its terms, are adopted SO ORDERED, and  
it is further

ORDERED, that this Modification Order shall be effective upon issuance by the Board,  
either by mailing of a copy of this Modification Order, by either first class mail, to Respondent at  
the address in the attached Application or certified mail to Respondent's attorney, or upon  
transmission via facsimile to Respondent or Respondent's attorney, whichever is earliest.

SO ORDERED.

DATED: 5-24-2006

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

**IN THE MATTER**  
**OF**  
**ROSALIE C. KEITH, D.O.**

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**APPLICATION TO  
MODIFY CONSENT  
AGREEMENT AND ORDER  
BPMC No. 05-89**

**ROSALIE C. KEITH, D.O.**, (Respondent) deposes and says:

That on or about July 30, 1987, I was licensed to practice as a physician in the State of New York, having been issued License No. 171396 by the New York State Education Department.

My current address is 100 University Street, Alfred, NY 14802, and I will advise the Director of the Office of Professional Medical Conduct of any change of my address thirty (30) days, thereof.

I am currently subject to CONSENT AGREEMENT AND ORDER BPMC No. 05-89, annexed hereto, made a part hereof, and marked as Exhibit I (hereinafter "Original Order"), that was issued on or about May 4, 2005.

I apply, hereby, to the State Board for Professional Medical Conduct for an Order (hereinafter "Modification Order"), modifying the Original Order, as follows: to delete the paragraphs in the Original Order that state:

9. Respondent shall practice medicine only when supervised in his/her medical practice. The practice supervisor shall be on-site at all locations, unless determined otherwise by the Director of OPMC. The practice supervisor shall be proposed by Respondent and subject to the written approval to the Director. The practice supervisor shall not be a family member or personal friend, or be in a professional relationship which could pose a conflict with supervision responsibilities.
10. Respondent shall ensure that the practice supervisor is familiar with the Order and terms of probation, and willing to report to OPMC. Respondent shall ensure that the practice supervisor is in a position to regularly observe and assess Respondent's medical practice. Respondent shall cause the practice supervisor to report within 24 hours any suspected impairment, inappropriate behavior, questionable medical practice or possible misconduct to OPMC.

11. Respondent shall authorize the practice supervisor to have access to his/her patient records and to submit quarterly written reports, to the Director of OPMC, regarding Respondent's practice. The Supervisor shall oversee the Petitioner's prescribing, administering, dispensing, inventorying and wasting of controlled substances. These narrative reports shall address all aspects of Respondent's clinical practice including, but not limited to, the evaluation and treatment of patients, general demeanor, time and attendance, the supervisor's assessment of patient records selected for review and other such on-duty conduct as the supervisor deems appropriate to report.

Inserting therefore:

9. Within thirty (30) days of the effective date of the Order, Respondent shall practice medicine only when monitored by a licensed physician, board certified in an appropriate specialty, ("practice monitor") proposed by Respondent and subject to the written approval of the Director of OPMC.
  - a. Respondent shall make available to the monitor any and all records or access to the practice requested by the monitor, including on-site observation. The practice monitor shall visit Respondent's medical practice at each and every location, on a random unannounced basis, at least monthly and shall examine a selection (no less than 20%) of records maintained by Respondent, including patient records, prescribing information, and office records. The practice monitor shall oversee Respondent's prescribing, administering, dispensing, inventorying, and wasting of controlled substances. The review will determine whether Respondent's medical practice is conducted in accordance with the generally accepted standards of professional medical care. Any perceived deviation of accepted standards of professional medical care or refusal to cooperate with the monitor shall be reported within 24 hours to OPMC.
  - b. Respondent shall be solely responsible for all expenses associated with monitoring, including fees, if any, to the monitoring physician.
  - c. Respondent shall cause the practice monitor to report quarterly, in writing, to the Director of OPMC.

d. Respondent shall maintain medical malpractice insurance coverage with limits no less than \$2 million per occurrence and \$6 million per policy year, in accordance with Section 230(18)(b) of the Public Health Law. Proof of coverage shall be submitted to the Director of OPMC prior to Respondent's practice after the effective date of this Order.

And re-designating paragraph "12" as paragraph "10."

The Modification Order to be issued will not constitute a new disciplinary action against me, but will substitute the proposed language for the above described language in the Original Order.

I am making this Application of my own free will and accord and not under duress, compulsion or restraint of any kind or manner, and seek the anticipated benefit of the requested Modification. In consideration of the value to me of the acceptance by the Board of this Application, I knowingly waive any right I may have to contest the Original Order or the Modification Order for which I apply, whether administratively or judicially, and ask that the Board grant this Application.

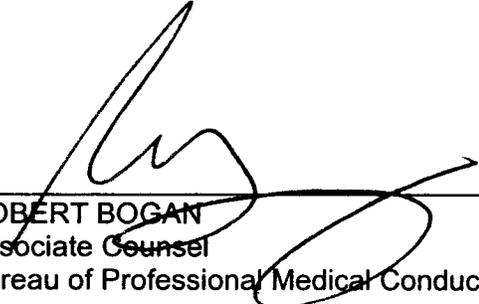
AFFIRMED:

DATED: 12 May 2006

  
ROSALIE KEITH, D.O.  
Respondent

The undersigned agree to the attached application of Respondent and to the proposed penalty based on the terms and conditions thereof.

DATE: 16 May 2006

  
ROBERT BOGAN  
Associate Counsel  
Bureau of Professional Medical Conduct

DATE: 24 May 2006

  
DENNIS J. GRAZIANO  
Director  
Office of Professional Medical Conduct



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

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

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*Vice Chair*

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

*Public*

May 4, 2005

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

Rosalie Keith, D.O.  
100 University Street  
Alfred, NY 14802

Re: License No. 171396

Dear Dr. Keith:

Enclosed is a copy of Order #BPMC 05-89 of the New York State Board for Professional Medical Conduct. This order and any penalty provided therein goes into effect May 11, 2005.

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 the 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: Thomas E. Myers, Esq.  
Bond, Schoeneck & King, LLP  
One Lincoln Center  
Syracuse, NY 13202-1355

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

**IN THE MATTER  
OF  
ROSALIE C. KEITH, D.O.**

**CONSENT  
AGREEMENT  
AND  
ORDER**

Rosalie C. Keith, D.O., representing that all of the following statements are true, states:

That on or about July 30, 1987, I was licensed to practice as a physician in the State of New York, and issued License No. 171396 by the New York State Education Department.

My current address is 100 University Street, Alfred, NY 14802, 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 has charged me with one specification of professional misconduct.

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

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

My license to practice medicine shall be suspended for three years, said suspension shall be stayed based upon full compliance with this

order. I shall concurrently be placed on probation for three years according to the terms and conditions listed in Exhibit "B".

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

That Respondent shall maintain current registration of licensure with the New York State Education Department Division of Professional Licensing Services (except during periods of actual suspension), and shall pay all registration fees. This condition shall take effect thirty (30) days after the Consent Order's effective date and will continue so long as Respondent remains licensed 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 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 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 Order shall constitute misconduct as defined by New York State 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 the 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 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 Order, this agreement, and all attached Exhibits shall be public documents, with only patient identities, if any, redacted.**

**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**

IN THE MATTER  
OF  
ROSALIE C. KEITH, D.O.

STATEMENT  
OF  
CHARGES

Rosalie C. Keith, D.O., the Respondent, was authorized to practice medicine in New York State on or about July 30, 1987, by the issuance of license number 171396 by the New York State Education Department.

**FACTUAL ALLEGATIONS**

- A. Rosalie C. Keith, D.O. worked as an anesthesiologist at St. James Mercy Hospital in Hornell, New York during the period of December 2003 through early January 2004. Respondent intentionally diverted Fentanyl during surgical procedures at St. James Mercy Hospital and then administered the Fentanyl to patients during procedures at a mobile Lithotripsy unit located on the hospital grounds, but not affiliated with the hospital.
- B. Respondent did not record the administration of Fentanyl to the Lithotripsy patients in their medical records.

**SPECIFICATION OF CHARGES**

**FIRST SPECIFICATION**

**FRAUDULENT PRACTICE**

Respondent is charged with committing professional misconduct as defined by N.Y. Educ. Law §6530(2) by practicing the profession of medicine fraudulently as alleged in the facts of the following:

- 1. The facts as alleged in paragraphs A and B.

**EXHIBIT A**

DATED: *April 18*, 2005  
Albany, New York

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

## EXHIBIT "B"

### Terms of Probation

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).
2. Respondent shall maintain current registration of licensure with the New York State Education Department Division of Professional Licensing Services (except during periods of actual suspension), and shall pay all registration fees.
3. Respondent shall provide the Director, Office of Professional Medical Conduct (OPMC), Hedley Park Place, 433 River Street Suite 303, Troy, New York 12180-2299 with the following information, in writing, and ensure that such 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, charges, convictions or disciplinary actions by any local, state or federal agency, institution or facility, within thirty (30) days of each action.
4. Respondent shall cooperate fully with, and respond in a timely manner to, OPMC requests to provide written periodic verification of Respondent's compliance with the terms of this Consent Order. Upon the Director of OPMC's request, Respondent shall meet in person with the Director's designee.
5. Respondent's failure to pay any monetary penalty by the prescribed date shall subject Respondent to all provisions of law relating to debt collection by New York State, including but not limited to: the imposition of interest, late payment charges and collection fees; referral to the New York State Department of Taxation and Finance for collection; and non-renewal of permits or licenses [Tax Law section 171(27)]; State Finance Law section 18; CPLR section 5001; Executive Law section 32].
6. The probation period shall toll when Respondent is not engaged in active medical practice in New York State for a period of thirty (30) consecutive days or more. Respondent shall notify the Director of OPMC, in writing, if Respondent is not currently engaged in, or intends to leave, active medical practice in New York State for a consecutive thirty (30) day period. Respondent shall then notify the Director again at least fourteen (14) days before returning to active practice. Upon Respondent's return to active practice in New York State, the probation period will resume and Respondent shall fulfill any unfulfilled probation terms.
7. The Director of OPMC may review Respondent's professional performance. This review may include but shall not be limited to: a review of office records, patient records and/or hospital charts; and interviews with or periodic visits with Respondent and staff at practice locations or OPMC offices.

8. Respondent shall maintain complete and legible medical records that accurately reflect the evaluation and treatment of patients and contain all information required by State rules and regulations concerning controlled substances.

#### **PRACTICE SUPERVISOR**

9. Respondent shall practice medicine only when supervised in his/her medical practice. The practice supervisor shall be on-site at all locations, unless determined otherwise by the Director of OPMC. The practice supervisor shall be proposed by Respondent and subject to the written approval of the Director. The practice supervisor shall not be a family member or personal friend, or be in a professional relationship which could pose a conflict with supervision responsibilities.
10. Respondent shall ensure that the practice supervisor is familiar with the Order and terms of probation, and willing to report to OPMC. Respondent shall ensure that the practice supervisor is in a position to regularly observe and assess Respondent's medical practice. Respondent shall cause the practice supervisor to report within 24 hours any suspected impairment, inappropriate behavior, questionable medical practice or possible misconduct to OPMC.
11. Respondent shall authorize the practice supervisor to have access to his/her patient records and to submit quarterly written reports, to the Director of OPMC, regarding Respondent's practice. The Supervisor shall oversee the Petitioner's prescribing, administering, dispensing, inventorying and wasting of controlled substances. These narrative reports shall address all aspects of Respondent's clinical practice including, but not limited to, the evaluation and treatment of patients, general demeanor, time and attendance, the supervisor's assessment of patient records selected for review and other such on-duty conduct as the supervisor deems appropriate to report.
12. Respondent shall comply with this Order and all its terms, and shall bear all associated compliance costs. Upon receiving evidence of noncompliance with, or violation of, these terms, the Director of OPMC and/or the Board may initiate a violation of probation proceeding, and/or any other such proceeding authorized by law, against Respondent.