



# STATE OF NEW YORK DEPARTMENT OF HEALTH

Coming Tower

The Governor Nelson A. Rockefeller Empire State Plaza

Albany, New York 12237

Barbara A. DeBuono, M.D., M.P.H.  
*Commissioner*

Karen Schimke  
*Executive Deputy Commissioner*

June 5, 1996

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

Marcia E. Kaplan, Esq.  
NYS Department of Health  
5 Penn Plaza-Sixth Floor  
New York, New York 10001

T. Lawrence Tabak, Esq.  
Kern, Augustine, Conroy  
& Schoppman, P.C.  
420 Lakeville Road  
Lake Success, New York 11042

Celeste Schmucker-Karpow, M.D.  
31 Rockledge Road  
Montville, New Jersey 07045

Celeste Schmucker-Karpow, M.D.  
688 Columbus Avenue  
New York, New York 10025

### **RE: In the Matter of Celeste Schmucker-Karpow, M.D.**

Effective Date: 06/12/96

Dear Ms. Kaplan, Mr. Tabak and Dr. Schmucker-Karpow:

Enclosed please find the Determination and Order (No. 96-133) of the Hearing Committee in the above referenced matter. This Determination and Order shall be deemed effective upon the receipt or seven (7) days after mailing by certified mail as per the provisions of §230, subdivision 10, paragraph (h) of the New York State Public Health Law.

Five days after receipt of this Order, you will be required to deliver to the Board of Professional Medical Conduct your license to practice medicine if said license has been revoked, annulled, suspended or surrendered, together with the registration certificate. Delivery shall be by either **certified mail or in person to:**

Office of Professional Medical Conduct  
New York State Department of Health  
Corning Tower - Fourth Floor (Room 438)  
Empire State Plaza  
Albany, New York 12237

If your license or registration certificate is lost, misplaced or its whereabouts is otherwise unknown, you shall submit an affidavit to that effect. If subsequently you locate the requested items, they must then be delivered to the Office of Professional Medical Conduct in the manner noted above.

As prescribed by the New York State Public Health Law §230, subdivision 10, paragraph (i), and §230-c subdivisions 1 through 5, (McKinney Supp. 1992), "the determination of a committee on professional medical conduct may be reviewed by the Administrative Review Board for professional medical conduct." Either the licensee or the Department may seek a review of a committee determination.

Request for review of the Committee's determination by the Administrative Review Board stays all action until final determination by that Board. Summary orders are not stayed by Administrative Review Board reviews.

All notices of review must be served, by **certified mail**, upon the Administrative Review Board **and** the adverse party within fourteen (14) days of service and receipt of the enclosed Determination and Order.

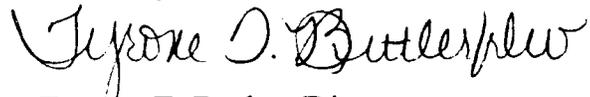
The notice of review served on the Administrative Review Board should be forwarded to:

James F. Horan, Esq., Administrative Law Judge  
New York State Department of Health  
Bureau of Adjudication  
Empire State Plaza  
Corning Tower, Room 2503  
Albany, New York 12237-0030

The parties shall have 30 days from the notice of appeal in which to file their briefs to the Administrative Review Board. Six copies of all papers must also be sent to the attention of Mr. Horan at the above address and one copy to the other party. The stipulated record in this matter shall consist of the official hearing transcript(s) and all documents in evidence.

Parties will be notified by mail of the Administrative Review Board's Determination and Order.

Sincerely,

A handwritten signature in cursive script that reads "Tyrone T. Butler".

Tyrone T. Butler, Director  
Bureau of Adjudication

TTB:nm  
Enclosure

COPY

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

IN THE MATTER

-OF-

CELESTE SCHMUCKER-KARPOW, M.D.

DECISION  
AND  
ORDER  
OF THE  
HEARING  
COMMITTEE  
BPMC ORDER  
NO. 96- 133

This matter was commenced by a Notice of Hearing and Statement of Charges, both dated February 9, 1996, which were served upon **CELESTE SCHMUCKER-KARPOW, M.D.**, (hereinafter referred to as "Respondent"). **MICHAEL A. GONZALEZ, R.P.A.**, Chairperson, **RAFAEL A. LANTIQUA, M.D.**, and **CALVIN J. SIMONS, M.D.**, duly designated members of the State Board for Professional Medical Conduct, served as the Hearing Committee in this matter pursuant to Section 230(10)(e) of the Public Health Law. **JONATHAN M. BRANDES, ESQ.**, Administrative Law Judge, served as the Administrative Officer. A hearing was held on April 17, 1996 at 5 Penn Plaza, New York, New York. The State Board For Professional Medical Conduct (hereinafter referred to as "Petitioner") appeared by **HENRY M. GREENBERG, ESQ.**, General Counsel, by **MARCIA E. KAPLAN, ESQ.**, Associate Counsel, Bureau of Professional Medical Conduct. Respondent appeared in person and by **T. LAWRENCE TABAK, ESQ.**, of counsel to Kern, Augustine, Conroy & Schoppman, P.C. Evidence was received. A transcript of these proceedings was made.

After consideration of the entire record, the Hearing Committee issues this Decision and Order.

## STATEMENT OF CASE

This case was brought pursuant to Public Health Law Section 230(10)(p). This statute provides for an expedited hearing where a licensee is charged solely with a violation of Education Law Section 6530(9). In such cases, a licensee is charged with misconduct based upon prior professional disciplinary action or a criminal conviction. The scope of this expedited hearing is limited to a determination of the nature and severity of the penalty to be imposed by this state upon the licensee.

In the instant case, Respondent is charged with professional misconduct pursuant to the New York State Education Law, Section 6530(9)(d) (having one's license suspended or having other disciplinary action taken by the authorized agency of another state). The charges in this proceeding arise from a Consent Order which discontinued Respondent's right<sup>1</sup> to practice medicine in the State of New Jersey. The Consent Order was based upon alleged incidents of alcohol abuse. The allegations in this proceeding and the underlying events are more particularly set forth in the Notice of Referral Proceeding and Statement of Charges, a copy of which is attached to this Decision and Order as Appendix One.

David Canavan, M.D. testified as an expert witness on behalf of Respondent. Respondent did not testify in this proceeding.

## SIGNIFICANT LEGAL DECISIONS BY THE ADMINISTRATIVE LAW JUDGE

Respondent objected to the application of the term "suspended" with regard to Respondent's license in the Statement of Charges. In fact, Respondent's license was not suspended by the state of New

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<sup>1</sup>See *Significant Legal Decisions* infra. The original wording of the charges was disputed. The dispute was resolved by motion of Petitioner.

Jersey. Rather, a Consent Order was entered into between Respondent and New Jersey. The Consent Order directed that Respondent "cease and desist immediately and indefinitely from the practice of medicine in New Jersey and immediately submit her license to the New Jersey Board." By a letter dated April 23, 1996, Petitioner moved to amend the Statement of Charges to conform to the proof. Respondent interposed no objection. Based upon the fact that Respondent did not object and that the amendment merely clarifies the extant charges, the said motion was and is granted. The letter of April 23 is attached to the Notice of Referral Proceeding and both appear in Appendix One.

### **FINDINGS OF FACT**

The Committee adopts the factual statement (as amended) set forth on pages one through three of the Statement of Charges and the letter of April 23, 1996 (Appendix One) as its findings of fact and incorporates them herein.

### **CONCLUSIONS WITH REGARD TO FACTUAL ALLEGATIONS AND PENALTY**

Petitioner herein, has proven by a preponderance of the evidence that the State of New Jersey instituted disciplinary action against Respondent which resulted in a Consent Order. The Consent Order effectively removed the right of Respondent to practice medicine in New Jersey. Petitioner having established the charges, the Committee now turns its attention to penalty

Respondent does not deny she is a recovering alcoholic. The testimony by Dr. Canavan established a long history of abuse and a history of recent relapses. There was no evidence of recovery

whatsoever. Furthermore, the allegations upon which the New Jersey action was based indicate a pattern of compromised practice and patient safety as a result of Respondent's addiction.

All the evidence presented indicates that Respondent is not only engaged in substance abuse rehabilitation, but more importantly, Respondent has compromised her medical practice as a result of her substance abuse. The compromise of one's medical practice poses a clear danger to the public. The only way this body can adequately protect the people of this state is to ensure that Respondent does not practice medicine in this state until it can be proven that patients will no longer be placed in danger. The only way to establish such proof is to revoke Respondent's license. Should Respondent recover sufficiently from her addiction, she can re-apply for licensure.

### **ORDER**

WHEREFORE, Based upon the preceding facts and conclusions,

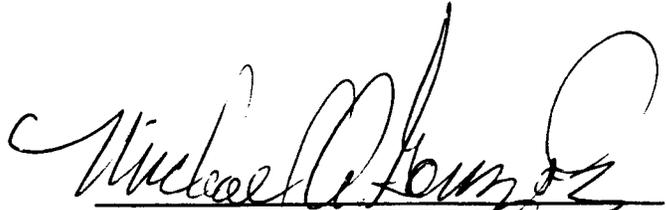
It is hereby **ORDERED** that:

1. The Factual allegations in the Statement of Charges (as amended) are **SUSTAINED**  
Furthermore, it is hereby **ORDERED** that;
2. The Specifications of Misconduct contained within the Statement of Charges (as amended) are **SUSTAINED**;  
Furthermore, it is hereby **ORDERED** that;
3. The license of Respondent to practice medicine in the State of New York is **REVOKED**;  
Furthermore, it is hereby **ORDERED** that;

4. This order shall take effect **UPON RECEIPT** or **SEVEN (7) DAYS** after mailing of this order by Certified Mail to Respondent or Respondent's attorney.

Dated:  
Elmira, New York

6/2/96 1995

  
**MICHAEL A. GONZALEZ, R.P.A., Chairperson**  
**RAFAEL A. LANTIQUA, M.D.**  
**CALVIN J. SIMONS, M.D.**

TO:

**MARCIA E. KAPLAN, ESQ.**  
Associate Counsel  
Bureau of Professional Medical Conduct  
New York State Department of Health  
5 Penn Plaza Room 601  
New York, N.Y. 10001

**CELESTE SCHMUCKER-KARPOW, M.D.**  
31 Rockledge Rd.  
Montville NJ 07045

**T. LAWRENCE TABAK, ESQ.**  
Kern Augustine Conroy & Schoppman, P.C.  
420 Lakeville Rd.  
Lake Success, NY 11042

**CELESTE SCHMUCKER-KARPOW, M.D.**  
688 Columbus Ave.  
New York, N.Y.

(110)

III

**APPENDIX ONE**

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

-  
**IN THE MATTER**  
**OF**  
**CELESTE SCHMUCKER-KARPOW, M.D.**

NOTICE OF  
REFERRAL  
PROCEEDING

TO: Celeste Schmucker-Karpow, M.D.  
31 Rockledge Road 788 Columbus Ave  
Montville, N.J. 07045 New York, N.Y.

**PLEASE TAKE NOTICE THAT:**

An adjudicatory proceeding will be held pursuant to the provisions of N.Y. Pub. Health Law §§230(10)(p) (McKinney Supp. 1996) and N.Y. State Admin. Proc. Act §§301-307 and 401 (McKinney 1984 and Supp. 1996). The proceeding will be conducted before a committee on professional conduct of the State Board for Professional Medical Conduct (Committee) on March 19, 1996 at 10:00 a.m., at the offices of the New York State Department of Health, 5 Penn Plaza, Sixth Floor, New York, New York 10001.

At the proceeding, evidence will be received concerning the allegations set forth in the Statement of Charges, which is attached. A stenographic record of the proceeding will be made and the witnesses at the proceeding will be sworn and examined.

You may appear in person at the proceeding and may be represented by counsel. You may produce evidence or sworn testimony on your behalf. Such evidence or sworn testimony shall be strictly limited to evidence and testimony relating to the nature and severity of the penalty to be imposed upon the licensee. Where the charges are based on the conviction of state law crimes in other jurisdictions, evidence may be offered which would show that the conviction would not be a crime in New York State. The Committee also may limit the number of witnesses whose testimony will be received, as well as the length of time any

witness will be permitted to testify.

If you intend to present sworn testimony, the number of witnesses and an estimate of the time necessary for their direct examination must be submitted to the New York State Department of Health, Division of Legal Affairs, Bureau of Adjudication, Coming Tower Building, 25th Floor, Empire State Plaza, Albany, New York 12237, ATTENTION: HON. TYRONE BUTLER, DIRECTOR, BUREAU OF ADJUDICATION, (henceforth "Bureau of Adjudication") as well as the Department of Health attorney indicated below, no later than twenty days prior to the scheduled date of the Referral Proceeding, as indicated above.

You may file a written answer, brief, and affidavits with the Committee. Six copies of all papers you wish to submit must be filed with the Bureau of Adjudication at the address indicated above, no later than fourteen days prior to the scheduled date of the Referral Proceeding, and a copy of all papers must be served on the same date on the Department of Health attorney indicated below. Pursuant to §301(5) of the State Administrative Procedure Act, the Department, upon reasonable notice, will provide at no charge a qualified interpreter of the deaf to interpret the proceedings to, and the testimony of, any deaf person.

The proceeding may be held whether or not you appear. Please note that requests for adjournments must be made in writing to the Bureau of Adjudication, at the address indicated above, with a copy of the request to the attorney for the Department of Health, whose name appears below, at least five days prior to the scheduled date of the proceeding. Adjournment requests are not routinely granted. Claims of court engagement will require detailed affidavits of actual engagement. Claims of illness will require medical documentation. Failure to obtain an attorney within a reasonable period of time prior to the proceeding will not be grounds for an adjournment.

The Committee will make a written report of its findings, conclusions as to guilt, and a determination. Such determination may be reviewed by the

administrative review board for professional medical conduct.

SINCE THESE PROCEEDINGS MAY RESULT IN A DETERMINATION THAT SUSPENDS OR REVOKES YOUR LICENSE TO PRACTICE MEDICINE IN NEW YORK STATE AND/OR IMPOSES A FINE FOR EACH OFFENSE CHARGED, YOU ARE URGED TO OBTAIN AN ATTORNEY TO REPRESENT YOU IN THIS MATTER.

DATED: New York, New York  
Feb 9, 1996



ROY NEMERSON  
Deputy Counsel  
Bureau of Professional  
Medical Conduct

Inquiries should be addressed to:

Marcia E. Kaplan  
Associate Counsel  
NYS Department of Health  
Division of Legal Affairs  
5 Penn Plaza, Suite 601  
New York, New York 10001  
(212) 613-2615

IN THE MATTER  
OF  
CELESTE SCHMUCKER-KARPOW, M.D.

STATEMENT  
OF  
CHARGES

Celeste Schmucker-Karpow, M.D., the Respondent, was authorized to practice medicine in New York State on or about July 3, 1981, by the issuance of license number 146752 by the New York State Education Department.

**FACTUAL ALLEGATIONS**

- A. On or about August 29, 1995, the New Jersey State Board of Medical Examiners filed an Interim Consent Order (Order), with Respondent's consent, in order to resolve charges of misconduct filed against Respondent's license. The Order suspended Respondent's license to practice medicine immediately and indefinitely, for a minimum of six months, ordered her to immediately enroll in a specified out-patient treatment program for alcoholism until the program and medical directors of the Physicians' Health Program (PHP) find that she has successfully completed the program, and directed that weekly reports of her progress be sent to the PHP. The Order provides that should Respondent reapply to practice medicine after completing the program, she shall submit all program treatment and evaluation reports and records to the Board, shall consult with the PHP and obtain a plan for her return to practice, and shall request an appearance before the Board to demonstrate her fitness to return to the practice of medicine. The Board further ordered that if the program reports to PHP any failure by Respondent to meet program standards, the PHP shall immediately notify the Board, and Respondent shall appear before the Board for a summary hearing on the possible imposition of further sanctions upon her license.

The New Jersey Board issued the Interim Consent Order after disciplinary action was instituted by the filing of a verified complaint on

August 3, 1995, alleging that Respondent's continued use of alcohol renders her incapable of discharging the functions of a licensee in a manner consistent with the public's health safety and welfare under N.J.S.A. 45:1-21(i), and that Respondent has engaged in alcohol use and appeared at a clinic at Morristown Memorial Hospital in an impaired condition which impaired her ability to practice with reasonable skill or safety under N.J.S.A. 45:9-16, in that:

- ◆ on or about October 25, 1991, Respondent was convicted in the State of New York of operating a motor vehicle under the influence of liquor/drugs and her license was suspended for ninety days;
- ◆ in or about June 1993, Respondent was referred to the PHP of the Medical Society of New Jersey because of concerns over her chronic alcoholism;
- ◆ in 1993, Respondent participated in inpatient and outpatient treatment for alcoholism with little or no success;
- ◆ that on or about June 9, 1995, PHP was notified that Respondent came to a physician's office in an intoxicated state with a blood alcohol level of .09%;
- ◆ on or about June 7, 1995, Respondent failed to appear for work as scheduled at the ophthalmology clinic at Morristown Memorial Hospital and was called by a nurse and her speech was rambling;
- ◆ she arrived at the clinic approximately 20 minutes after she was called and she was anxious, her gait was unsteady, she had a black eye, her eyes were glassy, her cheeks were flushed, she was not dressed in her usual professional manner, she swayed when she washed in preparation for the clinic, her hands were shaking so severely as she instilled eye drops to a patient that the Director of the Clinic was afraid Respondent would injure a patient or contaminate the eye drops and because of her condition she was unable to see nine clinic patients who had to be rescheduled;
- ◆ PHP received a second letter dated June 15, 1995 stating that Respondent had had a relapse and that she had agreed not to practice medicine for at least four weeks;
- ◆ on or about June 21, 1995, PHP received a third letter stating that Respondent was not following physician recommendations and her

physician was extending the period of time before she could return to practice for another month, that at approximately the same time, PHP received a phone call from the hospital regarding Respondent coming to ophthalmology clinic on June 7, 1995 reeking of alcohol, disheveled in appearance and with a black eye;

- ◆ the PHP Medical Director recommends that Respondent be removed from practice pending long-term inpatient treatment.

The conduct resulting in the suspension of Respondent's New Jersey medical license, if committed in New York State, would have constituted professional misconduct under New York Educ. Law Section 6530, (McKinney 1996), as follows: Sec. 6530(7) (i.e. practicing the profession while impaired by alcohol) and/or Sec. 6530(8), (being a habitual user of alcohol).

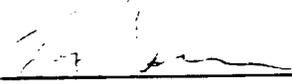
### **SPECIFICATION OF CHARGES**

#### **SPECIFICATION HAVING HAD DISCIPLINARY ACTION TAKEN**

Respondent is charged with committing professional misconduct as defined in N.Y. Educ. Law §6530(9)(d)(McKinney Supp. 1996) by having her license to practice medicine suspended or having other disciplinary action taken, where the conduct resulting in the suspension or other disciplinary action involving the license would, if committed in New York state, constitute professional misconduct under the laws of New York state {namely N.Y. Educ. Law §6530(7)and/or (8)}, as alleged in the facts of the following:

1. Paragraph A.

DATED: February 9, 1996  
New York, New York

  
\_\_\_\_\_  
ROY NEMERSON  
Deputy Counsel  
Bureau of Professional  
Medical Conduct