



New York State Board for Professional Medical Conduct

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

Dennis P. Whalen
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Anne F. Saile, Director
Office of Professional Medical Conduct
William J. Comiskey, Chief Counsel
Bureau of Professional Medical Conduct

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Denise M. Bolan, R.P.A.
Vice Chair
Ansel R. Marks, M.D., J.D.
Executive Secretary

June 3, 1999

CERTIFIED MAIL-RETURN RECEIPT REQUESTED

Jeffrey Kingsbury, D.D.S., M.D.
8 Kate Land Court
Gertzville, NY 14068

RE: License No. 198972

Dear Dr. Kingsbury:

Enclosed please find Order #BPMC 99-116 of the New York State Board for Professional Medical Conduct. This Order and any penalty provided therein goes into effect **June 3, 1999**.

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: Lawrence J. Vilardo, Esq.
Connors & Vilardo, LLP
1020 Liberty Building
420 Main Street
Buffalo, NY 14202

William J. Lynch Esq.

agree that the Committee's exercise of such discretion shall not be reviewable through recourse to the Administrative Review Board.

I understand and agree that my application for restoration will not be submitted to a Committee until I have provided certain minimum evidence of my fitness and competence as set forth in Exhibit B. The Board will make reasonable attempts to convene a Committee no later than 90 days after my request, which shall not be deemed to have been perfected until receipt, by the Director of all that is required to be provided by me pursuant to Exhibit B. I understand and agree that proceedings before said Committee shall not be in the nature of a hearing pursuant to New York Public Health Law §230, but shall, instead, be informal and intended only for the purpose of addressing any and all facts, evidence, circumstances, or issues which do or may relate to the advisability of terminating the suspension of my license. I understand and agree that the procedural nature of said proceeding shall be determined by the Board through the discretion of the Office of Professional Medical Conduct. In the event that my application for restoration is denied, I understand and agree that I may make a further application for restoration only after a period of six months from the date of denial.

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

I hereby make this Application to the Board and request that it be granted.

I understand that, in the event that this Application is not granted by the Board, 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; 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. I am making this Application of my own free will and accord and not under duress, compulsion or restraint of any kind or manner.

AFFIRMED

DATED:

5/14/99



JEREMY KINGSBURY, D.D.S., M.D.
RESPONDENT

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

DATE: 5/18/99


CONNORS & VILARDO, LLP
Attorney for Respondent

DATE: 5/19/99


WILLIAM J. LYNCH, ESQ.
Senior Attorney
Bureau of Professional Medical Conduct

DATE: May 24 1999


ANNE F. SAILE
Director
Office of Professional Medical Conduct

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

**IN THE MATTER
OF
JEFFREY KINGSBURY, D.D.S.,M.D.**

CONSENT
ORDER

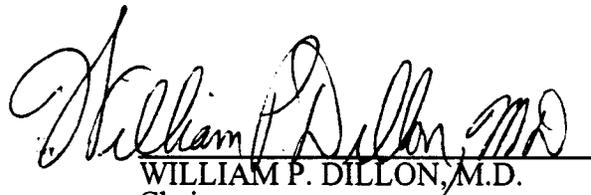
Upon the proposed agreement of JEFFREY KINGSBURY, D.D.S, M.D. (Respondent) for Consent Order, which application is made a part hereof, it is agreed to and

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

ORDERED, that this order shall be effective upon issuance by the Board, which may be accomplished by mailing, by first class mail, a copy of the Consent Order to Respondent at the address set forth in this agreement or to Respondent's attorney by first class mail, or upon transmission by facsimile to Respondent or Respondent's attorney, whichever is earliest.

SO ORDERED.

DATED: 5/31/99



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

EXHIBIT "A"

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

-----X

IN THE MATTER	:	STATEMENT
OF	:	OF
JEFFREY S. KINGSBURY, D.D.S., M.D.	:	CHARGES

-----X

JEFFREY S. KINGSBURY, D.D.S., M.D., the Respondent, was authorized to practice medicine in New York State on April 12, 1995 by the issuance of license number 198972 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, 1998, through May 31, 2000, with a registration address of 6490 Main Street, Suite 3, Williamsville, New York 14221.

FACTUAL ALLEGATIONS

1. Between approximately January 1998 and approximately March 1999, Respondent habitually used fentanyl citrate.
2. Between approximately January 1998 and approximately March 1999, Respondent on several occasions injected himself with fentanyl citrate during office hours at 6490 Main Street, Suite 3, Williamsville, New York while practicing as a physician.
3. Between approximately October 1998 and March 1999, Respondent diverted fentanyl citrate that was intended for IV sedation for his personal use and/or to conceal his drug usage.

FIRST SPECIFICATION
DEPENDENCY ON DRUGS

Respondent is charged with professional misconduct under N.Y. Educ. Law §6530(8) by reason of his being dependent on drugs which are not part of a therapeutic regimen in that Petitioner charges the following:

1. The facts in Paragraphs 1, 2, and 3.

SECOND SPECIFICATION
PRACTICING WHILE IMPAIRED

Respondent is charged with professional misconduct under N.Y. Educ. Law §6530(7) by reason of his having practiced while impaired in that Petitioner charges the following:

2. The facts in Paragraph 1, 2, and 3.

DATED: *May 19*, 1999
Albany, New York

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

EXHIBIT B

1. I request, agree, and understand that the suspension of my license shall be terminated no earlier than six months from the effective date of this Order and only upon a showing to the satisfaction of a Committee on Professional Conduct of the State Board for Professional Medical Conduct (hereafter "Committee") that I am no longer incapacitated for the active practice of medicine. I understand that the determination that I am no longer incapacitated for the active practice of medicine shall be made solely by the Committee, and shall include, but not be limited to, a determination of successful completion of an approved course of therapy.

2. I request, agree, and understand that at the time that I request that a meeting of a Committee be scheduled, pursuant to paragraph 1, I will provide the Director of the Office of Professional Medical Conduct, New York State Department of Health, 433 River Street, Suite 303, Troy, NY 12180-2299, with the following:

- a. The signed acknowledgement from the sobriety monitor referred to in Exhibit C paragraph 4.
- b. The signed acknowledgement from the supervising physician referred to in Exhibit C paragraph 5.
- c. The signed acknowledgement from the health care professional referred to in Exhibit C paragraph 6.
- d. Certified true and complete copies of records of all evaluation and treatment, relating to my impairment, whether that evaluation and treatment occurred prior to or during the time this surrender is in effect. These records shall include documentation of the results of all urine/blood/breath tests conducted to detect the presence of drugs and/or alcohol. Such records shall include documentation of participation in the program of the Committee for Physicians' Health of the Medical Society of the State of New York, or other equivalent program.
- e. Fully executed waivers of patient confidentiality concerning any previous and prospective treatment records.
- f. A current in-depth chemical dependency evaluation by a health care professional in a licensed facility. Also, upon request of the Director of OPMC, an independent current psychiatric evaluation by a board certified psychiatrist.
- g. My attendance at, participation in, and cooperation with any interview conducted by personnel of OPMC, upon the request of the Director thereof.

Provision of the aforesaid documents does not constitute a showing that I am no longer incapacitated for the active practice of medicine.

3. At the proceeding referred to in paragraph 1, I will provide the committee, at a minimum, with the following:
- a. Certified true and complete and current records of all psychiatric, psychological, and/or any other mental health treatment, evaluation, and/or testing, whether in an out-patient, in-patient, office, consultation setting.
 - b. Evidence of compliance with the terms of a continuing after-care out-patient treatment plan that addresses the major problems associated with my illness.
 - c. Evidence that I have maintained adequate knowledge and competence to practice as a physician. Such evidence shall include documentation of continuing medical education and, if so requested by the Director of OPMC, a report of an independent evaluation of my medical knowledge and competence.

Submission of the aforesaid evidence does not constitute a showing that I am no longer incapacitated for the active practice of medicine.

4. I request, agree, and understand that if the Chairperson of the Committee issues an Order finding that I am no longer incapacitated for the active practice of medicine, thereby terminating the suspension of my license, the Order shall further impose a period of probation, pursuant to New York Public Health Law §230-a, during which my practice of medicine shall be subject to conditions as described in Exhibit C.

EXHIBIT C
TERMS OF PROBATION

My practice shall be subject to the following terms of probation for a period of no less than three years:

1. I will remain drug and alcohol free with the exception of prescribed drugs that are part of an approved therapeutic regimen.
2. I will comply with the terms of a continuing after-care treatment plan that addresses the major problems associated with my illness.
3. At the direction of the Director of OPMC, I will submit to periodic interviews with, and evaluations by, a board certified psychiatrist or other licensed mental health practitioner designated by the Director. Said practitioner shall report to the Director regarding my condition and my fitness or incapacity to practice medicine.
4. My sobriety will be monitored by a health care professional proposed by me and approved in writing by the Director of OPMC.
 - a. Said monitor shall be familiar with my history of chemical dependence, with this suspension and with the terms of probation to be set forth.
 - b. Said monitor shall see me at least twice during a quarter.
 - c. Said monitor shall direct me to submit to unannounced tests of my blood, breath and/or urine for the presence of drugs or alcohol and shall report to OPMC within 24 hours if at any time such a test is refused by me or is positive.
 - d. Said monitor shall report to OPMC any noncompliance with the imposed conditions.
 - e. Said monitor shall not be a personal friend.
 - f. Said monitor shall submit to OPMC quarterly reports certifying my compliance or detailing my failure to comply with each of the conditions imposed. The reports shall include the results of all body fluid and/or breath tests for drugs and/or alcohol performed during that quarter.
5. I will be supervised in my medical practice by a licensed physician, proposed by me and approved in writing by the Director of OPMC. Said supervising physician shall be familiar with my history of chemical dependency, with this suspension and with the terms of probation to be set forth. Said supervising physician shall supervise my compliance with the conditions of practice to be imposed. Said supervising physician shall be in a position regularly to observe and assess my medical practice.
 - a. Said supervising physician shall have the authority to direct me to submit to

unannounced tests of my blood, breath, and/or urine for the presence of drugs or alcohol and shall report to OPMC within 24 hours if at any time such a test is refused by me or is positive.

- b. Said supervising physician shall submit to OPMC quarterly reports regarding the quality of my medical practice, any unexplained absences from work and certifying my compliance or detailing my failure to comply with each condition imposed.
- c. Said supervising physician shall report any suspected impairment, inappropriate behavior, questionable medical practices or possible misconduct to OPMC.

6. I will continue in treatment with a health care professional, proposed by me and approved, in writing, by the Director of OPMC, for as long as the health care professional determines it is necessary.

- a. My treating health care professional or program shall submit to OPMC quarterly reports certifying that I am complying with the treatment.
- b. Said treating health care professional shall report to OPMC immediately if I am noncompliant with my treatment plan or if I demonstrate any significant pattern of absences.

7. I agree that the preceding terms set out in paragraphs 1-6 shall be the minimum probation terms, related to my fitness to practice, to be imposed on my practice, and that other terms may be added by the Committee at the time of termination of my suspension, and that the costs of complying with all such terms will be my responsibility. I understand that any failure by me to comply with the conditions imposed upon my practice at the time of termination of my suspension, may result in disciplinary action being brought against me charging professional misconduct as defined by the New York State Education Law, including but not limited to N.Y. Educ. Law Section 6530(29). That section defines professional misconduct to include "violating any... condition... imposed on the licensee pursuant to section two hundred thirty of the public health law."

8. I agree that upon any denial of termination of my suspension made by the Committee, I shall not again request convening of a Committee until a minimum period of six months has elapsed since such denial.

9. I agree that in addition to the terms set out in paragraphs 1-6 and any other terms imposed by added by the Committee upon restoration of my license, I shall also be subject to the following standard terms of probation:

- a. I shall conduct myself in all ways in a manner befitting my professional status, and shall conform fully to the moral and professional standards of conduct and obligations imposed by law and by my profession.

- b. I shall submit written notification to the New York State Department of Health addressed to the Director of the Office of Professional Medical Conduct, 433 River Street, Suite 303, Troy, NY 12180-2299; said notice is to include a full description of any employment and practice, professional and residential addresses and telephone numbers within or without New York State, and any and all investigations, charges, convictions or disciplinary actions by any local, state or federal agency, institution or facility, within thirty days of each action.
- c. I shall fully cooperate with and respond in a timely manner to requests from OPMC to provide written periodic verification of my compliance with the terms of this Order. I shall personally meet with a person designated by the Director of OPMC as requested by the Director.
- d. Any civil penalty not paid by the date prescribed herein shall be subject to all provisions of law relating to debt collection by New York State. This includes but is 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].
- e. The period of probation shall be tolled during periods in which I am not engaged in the active practice of medicine in New York State. I shall notify the Director of OPMC, in writing, if I am not currently engaged in or intend to leave the active practice of medicine in New York State for a period of thirty (30) consecutive days or more. I shall then notify the Director again prior to any change in that status. The period of probation shall resume and any terms of probation which were not fulfilled shall be fulfilled upon my return to practice in New York State. The tolling provision set forth in this paragraph may be waived by the Director of the OPMC, in the Director's discretion.
- f. My professional performance may be reviewed by the Director of OPMC. This review may include, but shall not be limited to, a review of office records, patient records and/or hospital charts, interviews with or periodic visits with me and my staff at practice locations or OPMC offices.
- g. I shall maintain legible and complete medical records which accurately reflect the evaluation and treatment of patients. The medical records shall contain all information required by State rules and regulations regarding controlled substances.
- h. I shall comply with all terms, conditions, restrictions, limitations and penalties to which I am subject pursuant to the Order and I shall assume and bear all costs related to compliance. Upon receipt of evidence of noncompliance with, or any violation of these terms, the Director of OPMC and/or the Board may initiate a violation of probation proceeding and/or any such other proceeding against me as may be authorized pursuant to the law.