

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

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IN THE MATTER :  
OF : ORDER  
FRANCIS KENNEDY, M.D. : BPMC #96-199

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Upon the application of FRANCIS KENNEDY, M.D. (Respondent) for Consent Order, which application is made a part hereof, it is ORDERED, that the application and the provisions thereof are hereby adopted and so ORDERED, 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.

SO ORDERED,

DATED: 23 August 1996

Charles J. Vacanti

Charles J. Vacanti, M.D.  
Chairperson  
State Board for Professional  
Medical Conduct

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

-----X

IN THE MATTER : APPLICATION  
OF : FOR  
FRANCIS KENNEDY, M.D. : CONSENT  
: ORDER

-----X

STATE OF NEW YORK )  
 ) ss.:  
COUNTY OF BROOME )

FRANCIS KENNEDY, M.D., being duly sworn, deposes and says:  
I was licensed to practice as a physician in the State of  
New York, having been issued License No. 092165 by the New York  
State Education Department.

I am currently registered with the New York State Education  
Department to practice as a physician in the State of New York.

I understand that the New York State Board for Professional  
Medical Conduct has charged me with five specifications of  
professional misconduct.

A copy of the Statement of Charges is annexed hereto, made a  
part hereof, and marked as Exhibit "A".

I admit guilt to the fifth specification in full  
satisfaction of the charges against me.

I hereby agree to the penalty of a two year  
suspension/stayed and five year probation pursuant to the terms  
of probation, made a part hereof, and marked as Exhibit "B".

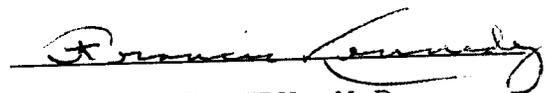
I hereby make this Application to the State Board for Professional Medical Conduct (the Board) and request that it be granted.

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 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.

I agree that, in the event the Board grants my Application, as set forth herein, an order of the Chairperson of the Board shall be issued in accordance with same.

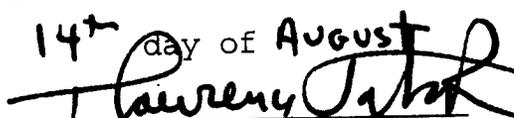
I agree that in the event I am charged with professional misconduct in the future, this Application for Consent Order shall be admitted into evidence in said proceeding.

I am making this Application of my own free will and accord and not under duress, compulsion or restraint of any kind or manner.



FRANCIS KENNEDY, M.D.  
RESPONDENT

Sworn to before me this

14<sup>th</sup> day of August, 1996.  


NOTARY: LAWRENCE TABAK  
Notary Public, State of New York  
No. 31-4085058  
Qualified in New York County  
Commission Expires August 12, 1997

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

-----X  
: APPLICATION  
IN THE MATTER :  
: FOR  
OF :  
: CONSENT  
FRANCIS KENNEDY, M.D. :  
: ORDER  
-----X

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

DATE: August 14, 1996

Francis Kennedy  
FRANCIS KENNEDY, M.D.  
Respondent

DATE: August 14, 1996

T. Lawrence Tabak  
T. LAWRENCE TABAK ESQ.  
Attorney for Respondent

DATE: August 21, 1996

Peter D. Van Buren  
~~KIMBERLY A. O'BRIEN~~ PETER D. VAN BUREN  
Senior Attorney ~~DEPUTY COUNSEL~~  
Bureau of Professional  
Medical Conduct

DATE: August 22, 1996

Anne F. Saile  
ANNE F. SAILE  
Acting Director  
Office of Professional Medical  
Conduct

DATE: 23 August 1996

Charles J. Vacanti  
CHARLES J. VACANTI, M.D.  
Chairperson  
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  
FRANCIS KENNEDY, M.D. : CHARGES

-----X

FRANCIS KENNEDY, M.D., the Respondent, was authorized to practice medicine in New York State on or about June 3, 1994, by the issuance of license number 092165 by the New York State Education Department. The Respondent is currently registered with the New York State Education Department.

**FACTUAL ALLEGATIONS**

A. Respondent provided medical care to Patient A from on or about January 9, 1993 to April 30, 1995. Respondent was not her treating physician.

1. Respondent wrote Patient A excessive prescriptions for controlled substances to treat migraines and peroneal neuropathy.

2. Respondent failed to prepare any record for his treatment of Patient A.

3. Respondent continued to write prescriptions for controlled substances, even though Patient A had a known dependency problem.

**SPECIFICATION OF CHARGES**

**FIRST SPECIFICATION**

**GROSS NEGLIGENCE**

Respondent is charged with practicing the profession of medicine with gross negligence on a particular occasion, within the meaning of N.Y. Educ. Law §6530(4) (McKinney Supp. 1996), in that Petitioner charges that Respondent committed at least one of the following:

1. The facts in paragraphs A and A.1, A and A.2, and/or A and A.3.

**SECOND SPECIFICATION**

**GROSS INCOMPETENCE**

Respondent is charged with practicing the profession of medicine with gross incompetence, within the meaning of N.Y. Educ. Law §6530(6) (McKinney Supp. 1995), in that Petitioner charges that Respondent committed at least one of the following:

2. The facts in paragraphs A and A.1, A and A.2, and/or A and A.3.

**THIRD SPECIFICATION**

**NEGLIGENCE ON MORE THAN ONE OCCASION**

Respondent is charged with practicing the profession of medicine with negligence on more than one occasion within the meaning of N.Y. Educ. Law §6530(3) (McKinney Supp. 1995), in that Petitioner charges that Respondent committed two or more of the following:

3. The facts in paragraphs A and A.1, A and A.2, and/or A and A.3.

**FOURTH SPECIFICATION**

**INCOMPETENCE ON MORE THAN ONE OCCASION**

Respondent is charged with practicing the profession of medicine with incompetence on more than one occasion within the meaning of N.Y. Educ. Law §6530(5) (McKinney Supp. 1995), in that Petitioner charges that Respondent committed two or more of the following:

4. The facts in paragraphs A and A.1, A and A.2, and/or A and A.3.

**FIFTH SPECIFICATION**

**FAILURE TO MAINTAIN RECORDS**

Respondent is charged with failing to maintain records for Patients A that accurately reflect the evaluation and treatment of this patient, within the meaning of N.Y. Educ. Law §6530(32) (McKinney Supp. 1995) in that Petitioner charges:

5. The facts in paragraphs A and A.1, A and A.2, and/or A and A.3.

DATED: *August 21*, 1996  
Albany, New York

*Peter D. Van Buren*

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

## TERMS OF PROBATION

### EXHIBIT B

1. Respondent will personally meet with a member of the Office of Professional Medical Conduct staff on a (quarterly, semi-annual, annual, random) basis at the discretion of the Director of the Office or designee.
  2. Respondent will not prescribe to himself or his wife.
  3. Respondent will conform fully:
    - a. to the professional standards of conduct imposed by law and by his or her profession
    - b. with all civil and criminal laws, rules and regulations.
  4. Respondent will notify the Office of Professional Medical Conduct of:
    - a. any and all investigations, charges, convictions or disciplinary actions taken by any local, state or federal agency, institution or facility, within thirty days of each action;
    - b. any and all changes in personal and professional addresses and telephone numbers and facility affiliations, within 30 days of such changes. This will include any change in practice location, within or outside of the State of New York. The date of departure from the State of New York, and the date of return, if any, must be reported in writing.
- Failure to notify the Office of Professional Medical Conduct of any of the above will be considered a violation of probation.
5. Respondent will maintain legible and complete medical records which accurately reflect evaluation and treatment of patients. Records will contain a comprehensive history, physical examination findings, chief complaint, present illness, diagnosis and treatment. In cases of prescribing, dispensing, or administering of controlled substances, the medical record will contain all information required by state rules and regulations regarding controlled substances.
  6. So long as there is full compliance with every term herein set forth, Respondent may continue to practice his or her profession in accordance with the terms of probation. Upon receipt of evidence of non compliance with, or any violation of these terms, the Director of the Office of Professional

Medical Conduct and/or the Board may initiate a violation of probation proceeding and/or any such other proceeding against Respondent as may be authorized by law.

- a. Respondent shall assume and bear all costs related to compliance with the terms of probation.
7. If the Respondent does not practice medicine in the State of New York, for any period of time during the five year probation, the probation period may be tolled and the period will then be extended by the length of the period outside of New York. Any terms of probation which were not fulfilled while Respondent was in New York State, must be fulfilled upon return to New York State.