



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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Office of Professional Medical Conduct

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

December 14, 1999

CERTIFIED MAIL-RETURN RECEIPT REQUESTED

Barbara McHeffey-Atkinson, M.D.
62 Borglum Road
Manhasset, NY 11030

RE: License No.: 153468

Dear Dr. McHeffey-Atkinson:

Enclosed please find Order #BPMC 99-304 of the New York State Board for Professional Medical Conduct. This Order and any penalty provided therein goes into effect **December 14, 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: Amy T. Kulb
Jacobson and Goldberg, LLP
Attorneys at Law
585 Stewart Avenue
Garden City, NY 11530

Barry Kaufman, Esq.

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

IN THE MATTER
OF
BARBARA McHEFFEY-ATKINSON, M.D.

CONSENT
AGREEMENT
AND
ORDER
BPMC #99-304

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

Barbara McHeffey-Atkinson, M.D., (Respondent) being duly sworn,
deposes and says:

That on or about March 11, 1983, I was licensed to practice as a physician
in the State of New York, having been issued License No. 153468 by the New
York State Education Department.

My current address is 62 Borglum Road, Manhasset, New York, 11030,
and I will advise the Director of the Office of Professional Medical Conduct of any
change of my address.

I understand that the New York State Board for Professional Medical
Conduct has charged me with four (4) 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 First and Second Specifications and enter a plea of "no
contest" to the Third Specification in full satisfaction of the charges against me. I
hereby agree to the following penalty:

Probation for a period of five (5) years tolled until I resume the
active practice of medicine after approval by a Committee of
Professional Medical Conduct acting pursuant to § 230 (13)(a)
of the Public Health Law and as further set forth in the terms

and conditions of probation. The terms and conditions of probation are annexed hereto as Exhibit "B" and incorporated as if fully set forth herein in its entirety. I understand and agree that said terms and conditions of probation are the minimum to be imposed on my practice upon restoration of my license and that other terms may be added by the Committee at the time of license restoration pursuant to Public Health Law § 230(13)(a).

I further agree that the Consent Order for which I hereby apply shall impose the following conditions:

That, except during periods of actual suspension, Respondent shall maintain current registration of Respondent's license with the New York State Education Department Division of Professional Licensing Services, and pay all registration fees. This condition shall be in effect beginning thirty days after the effective date of the Consent Order and will continue while the licensee possesses his/her license; and

That Respondent shall fully cooperate in every respect with the Office of Professional Medical Conduct (OPMC) in its administration and enforcement of this Order and in its investigation of all matters regarding Respondent. Respondent shall respond in a timely manner to each and every request by OPMC to provide written periodic verification

of Respondent's compliance with the terms of this Order. Respondent shall meet with a person designated by the Director of OPMC as directed. Respondent shall respond promptly and provide any and all documents and information within Respondent's control upon the direction of OPMC. This condition shall be in effect beginning upon the effective date of the Consent Order and will continue while the licensee possesses his/her license.

I hereby stipulate that any failure by me to comply with such conditions shall constitute misconduct as defined by New York State Education Law §6530(29)(McKinney Supp 1999).

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 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 such 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 me at the address set forth in this agreement, or to my attorney, or upon transmission via facsimile to me or my attorney, whichever is earliest.

I am making this Application of my own free will and accord and not under duress, compulsion or restraint of any kind or manner. In consideration of the value to me of the acceptance by the Board of this Application, allowing me to resolve this matter without the various risks and burdens of a hearing on the merits, I knowingly waive any right I may have to contest the Consent Order for which I hereby apply, whether administratively or judicially, and ask that the Application be granted.


BARBARA McHEFFEY-ATKINSON, M.D.

Sworn to before me
on this 17 day of
November, 1999



NOTARY

AMY T. KULB
NOTARY PUBLIC, State of New York
No. 02KU5034728
Qualified in Nassau County
Commission Expires October 17, 2000

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

DATE: 11/17/99

Amy T. Kulb
Amy T. Kulb, ESQ.
Attorney for Respondent

DATE: 11/29/99

Barry Kaufman
Barry Kaufman
Associate Counsel
Bureau of Professional
Medical Conduct

DATE: December 2, 1999

Anne F. Saile
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
BARBARA McHEFFEY-ATKINSON, M.D.

CONSENT
ORDER

Upon the proposed agreement of Barbara McHeffey-Atkinson, 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 certified mail, or upon transmission via facsimile to Respondent or Respondent's attorney, whichever is earliest.

SO ORDERED.

DATED: 12/7/99


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

IN THE MATTER

OF

BARBARA MCHEFFEY-ATKINSON, M.D.

STATEMENT

OF

CHARGES

BARBARA MCHEFFEY-ATKINSON, M.D., also known as, BARBARA J. ATKINSON, the Respondent, was authorized to practice medicine in New York State on or about March 11, 1983, by the issuance of license number 153468 by the New York State Education Department.

FACTUAL ALLEGATIONS

- A. On or about August 4, 1998, Respondent pleaded guilty in the First District Court of Nassau County, State of New York, to violating § 1192.2 of the Vehicle and Traffic Law (Driving While Intoxicated) an Unclassified Misdemeanor. Respondent, on or about March 6, 1998, drove a motor vehicle while intoxicated. Respondent was sentenced to three years probation, license revocation, and a fine of \$1,250.00.
- B. On or about April 22, 1987, Respondent pleaded guilty in the First District Court of Nassau County, State of New York, to violating § 1192.2 of the Vehicle and Traffic Law (Driving While Intoxicated) an Unclassified Misdemeanor. Respondent, on or about January 2, 1987, drove a motor vehicle while intoxicated. Respondent was sentenced as follows: to pay a fine in the sum of \$350.00 or spend ten days in jail, a conditional discharge after one year, and license revocation. The Respondent paid the \$350.00 fine.

EXHIBIT "A"

C. Respondent, at all times set forth herein, was employed as an attending pathologist at North Shore University Hospital located in Manhasset, New York, in the Department of Laboratories.

1. Between on or about January 28, 1991 and January 30, 1991, Respondent failed to correctly read slides of tissue taken from Patient A and did not make a proper diagnosis.
2. Between on or about February 9, 1998 and February 11, 1998, Respondent failed to correctly read slides of tissue taken from Patient B and did not make a proper diagnosis.

SPECIFICATION OF CHARGES

FIRST AND SECOND SPECIFICATIONS

CRIMINAL CONVICTION (N.Y.S.)

Respondent is charged with committing professional misconduct as defined in N.Y. Educ. Law §6530(9)(a)(i)(McKinney Supp. 1999), and as formerly defined in N.Y. Educ. Law § 6509(5)(a)(i) (as amended effective July 1, 1980), by having been convicted of committing an act constituting a crime under New York state law as alleged in the facts of the following:

1. A;
2. B.

THIRD SPECIFICATION

NEGLIGENCE ON MORE THAN ONE OCCASION

Respondent is charged with committing professional misconduct as defined in

N.Y. Educ. Law §6530(3)(McKinney Supp. 1999), and as formerly defined in N.Y. Educ. Law § 6509(2) (as amended effective September 1, 1975), by practicing the profession of medicine with negligence on more than one occasion as alleged in the facts of two or more of the following:

3. C, C(1) and C(2).

FOURTH SPECIFICATION

INCOMPETENCE ON MORE THAN ONE OCCASION

Respondent is charged with committing professional misconduct as defined in N.Y. Educ. Law §6530(5)(McKinney Supp. 1999), and as formerly defined in N.Y. Educ. Law § 6509(2) (as amended effective September 1, 1975), by practicing the profession of medicine with incompetence on more than one occasion as alleged in the facts of two or more of the following:

4. C, C(1) and C(2)

DATED: November , 1999
New York, New York

ROY NEMERSON
Deputy Counsel
Bureau of Professional
Medical Conduct

EXHIBIT "B"

Terms of Probation

1. Respondent shall conduct himself/herself in all ways in a manner befitting his/her professional status, and shall conform fully to the moral and professional standards of conduct and obligations imposed by law and by his/her profession.
2. Respondent shall submit written notification to the New York State Department of Health addressed to the Director of the Office of Professional Medical Conduct, New York State Department of Health, 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.
3. 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].
4. The period of probation shall be tolled during periods in which Respondent is not engaged in the active practice of medicine in New York State. (See also paragraph 8, below.) Respondent shall notify the Director of OPMC, in writing, if Respondent is not currently engaged in or intends to leave the active practice of medicine in New York State for a period of thirty (30) consecutive days or more. Respondent 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 Respondent's return to practice in New York State.
5. Respondent's 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 Respondent and his/her staff at practice locations or OPMC offices.
6. Respondent 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.
7. Respondent shall comply with all terms, conditions, restrictions, limitations and penalties to which she is subject pursuant to the Order and 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 Respondent as may be authorized pursuant to the law.
8. The period and terms of probation shall be tolled until such time as Respondent's

license status is no longer "inactive" as is to be determined by a Committee of Professional Conduct of the State Board of Professional Conduct pursuant to the provisions of New York Public Health Law §230(13)(a) and the Temporary Surrender of Respondent's License. If the Chairperson of the committee issues an order (Order) restoring Respondent's license, the Order shall include a period during which Respondent's practice of medicine shall be subject to terms and conditions imposed pursuant to New York Public Health Law §230(13)(a) and as set forth herein. Respondent's practice shall be subject to such terms and conditions for a period of no less than five (5) years. The minimum terms and conditions will be the following:

- a. Respondent will remain drug and alcohol free, except for medications prescribed by Respondent's treating physician pursuant to a bona fide therapeutic regimen, and Respondent will comply with the terms of a continuing after-care treatment plan that addresses the major problems associated with Respondent's illness.
- b. Respondent's sobriety will be monitored by a health care professional proposed by Respondent and approved in writing by the Director of OPMC, in accordance with the conditions of restoration set forth in or annexed to the Order. Said monitor shall acknowledge his/her willingness to comply with the monitoring by executing the acknowledgement provided by OPMC.
 - i. Said monitor shall be familiar with Respondent's history of substance abuse and psychiatric illness and with the conditions of practice set forth herein and any additional terms annexed to the Order. Said monitor shall not be Respondent's treating physician.
 - ii. Said monitor shall see Respondent at least twice during a quarter.
 - iii. Said monitor shall direct Respondent to submit to unannounced tests of Respondent's 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 Respondent or is positive. The frequency of the tests shall be determined by the Committee at the time of the granting of the restoration of Respondent's license pursuant to Public Health Law § 230(13)(a).
 - iv. Said monitor shall report to OPMC any noncompliance with the imposed conditions.
 - v. Said monitor shall not be a personal friend.
 - vi. Said monitor shall submit to OPMC quarterly reports either certifying Respondent's compliance, or detailing

Respondent's 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.

- c. Respondent will be supervised in her medical practice by a licensed physician proposed by Respondent and approved, in writing, by the Director of OPMC. Said supervising physician shall be familiar with Respondent's history of substance abuse and psychiatric illness, and with the Order and its conditions. Said supervising physician shall supervise Respondent's compliance with the conditions of practice imposed by the Order. Said supervising physician shall be in a position regularly to observe and assess Respondent's medical practice. Said supervising physician shall acknowledge his/her willingness to comply with the supervision by executing the acknowledgement provided by OPMC, and referred to in paragraph 8(b).
 - i. Said supervising physician shall have the authority to direct Respondent to submit to unannounced tests of Respondent's 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 Respondent or is positive.
 - ii. Said supervising physician shall submit to OPMC quarterly reports regarding the quality of Respondent's medical practice, any unexplained absences from work and certifying Respondent's compliance or detailing Respondent's failure to comply with each condition imposed.
 - iii. Said supervising physician shall report any suspected impairment, inappropriate behavior, questionable medical practice or possible misconduct to OPMC.

- d. Respondent will continue in treatment with a health care professional, proposed by Respondent and approved by the Director of OPMC, for as long as the health care professional determines it is necessary.
 - i. Respondent's treating health care professional shall submit to OPMC quarterly reports certifying that Respondent is complying with the treatment.
 - ii. Said treating health care professional shall report to OPMC immediately if Respondent drops out of treatment, or if Respondent demonstrates any significant pattern of absences.

- iii. Said treating health care professional shall acknowledge his/her willingness to comply with the above-mentioned reporting by executing the acknowledgement provided by OPMC.
 - e. At the direction of the Director of OPMC, Respondent will submit to evaluations by a board-certified psychiatrist or other licensed mental health practitioner designated by the Director. Said practitioner shall report to the Director regarding Respondent's condition and Respondent's fitness or incapacity to practice medicine.
- 9. Respondent agrees that the terms set out in paragraph 8 are the minimum conditions to be imposed on Respondent's practice upon restoration of Respondent's license, and that other terms may be added by the Committee at the time of license restoration pursuant to the procedures of New York Public Health Law §230(13)(a), and that the costs of complying with all such terms will be Respondent's responsibility. Respondent understands that any failure by Respondent to comply with the conditions imposed upon Respondent's practice at the time of license restoration, may result in disciplinary action being brought against Respondent charging professional misconduct as defined by the New York State Education Law, including but not limited to N.Y. Educ. Law Section 6530(29) (McKinney Supp. 1999). That section defines professional misconduct to include "violating any term of probation or condition... imposed on the licensee pursuant to section two hundred thirty of the public health law."