



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.

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NYS Department of Health

Dennis P. Whalen

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NYS Department of Health

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Office 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

December 22, 2000

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Shawn Allen McGivney, M.D.

111 East 85th Street

New York, NY 10028

RE: License No. 179171

Dear Dr. McGivney:

Enclosed please find Order #BPMC 00-359 of the New York State Board for Professional Medical Conduct. This Order and any penalty provided therein goes into effect December 22, 2000.

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.

Board for Professional Medical Conduct
New York State Department of Health
Hedley Park Place, Suite 303
433 River Street
Troy, New York 12180

If the penalty imposed by the Order is a fine, please write the check payable to the New York State Department of Health. Noting the BPMC Order number on your remittance will assist in proper crediting. Payments should be directed to the following address:

Bureau of Accounts Management
New York State Department of Health
Corning Tower, Room 1258
Empire State Plaza
Albany, New York 12237

Sincerely,



Ansel R. Marks, M.D., J.D.
Executive Secretary
Board for Professional Medical Conduct

Enclosure

cc: William Wood, Esq.
Wood and Scher
The Harwood Building 14 harwood Court
ScarsdaleNY10583

David W. Smith, Esq.

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

**IN THE MATTER
OF
SHAWN ALLEN McGIVNEY, M.D.**

CONSENT
AGREEMENT
AND
ORDER

BPMC No. 00-359

STATE OF NEW YORK)
COUNTY OF) ss.:

SHAWN ALLEN McGIVNEY, M.D., (Respondent) being duly sworn,
deposes and says:

That on or about July 26, 1989, I was licensed to practice as a physician in the State of New York, having been issued License No. 179171 by the New York State Education Department.

My current address is 111 East 85th Street, New York, New York 10028, 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 three (3) specifications of professional misconduct.

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

I hereby agree not to contest the allegations set forth in the First Specification, in full satisfaction of the charges against me. I hereby agree to the following penalty:

- a. Censure and Reprimand
- b. A fine of \$10,000.00 payable to the New York State Department of Health within thirty (30) days after the effective date of the Order to be issued herein:

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 active 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).

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.

DATED 12-8-2000

Sworn to before me
on this 8TH day of
~~DECEMBER~~ 2000

Karen Ramey
NOTARY

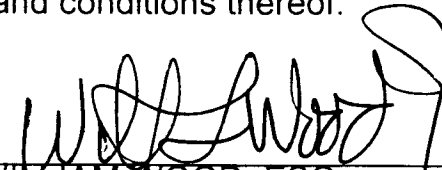
Shawn McGivney

SHAWN ALLEN MCGIVNEY, M.D.
RESPONDENT

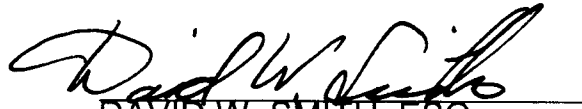


The undersigned agree to the attached application of the Respondent and to the proposed penalty based on the terms and conditions thereof.

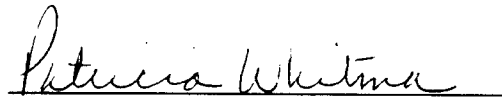
DATE: December 12, 2000


WILLIAM WOOD, ESQ.
Attorney for Respondent

DATE: 12/15/00


DAVID W. SMITH, ESQ.
Associate Counsel
Bureau of Professional
Medical Conduct

DATE: 12/18/00


for Anne F. Saile
Office of Professional
Medical Conduct

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

**IN THE MATTER
OF
SHAWN ALLEN McGIVNEY, M.D.**

CONSENT
ORDER

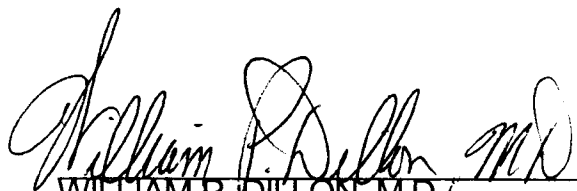
Upon the proposed agreement of SHAWN ALLEN McGIVNEY, M.D.
(Respondent) for Consent Order, which application is made a part hereof, it is agreed to
and

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: 12/21/00



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

EXHIBIT "A"

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

IN THE MATTER
OF
SHAWN ALLEN McGIVNEY, M.D.

STATEMENT
OF
CHARGES

SHAWN ALLEN McGIVNEY, M.D., the Respondent, was authorized to practice medicine in New York State on or about July 26, 1989, by the issuance of license number 179171 by the New York State Education Department.

FACTUAL ALLEGATIONS

- A. Between in or about November, 1999, and March, 2000, Respondent was the attending physician to Patient A and was the physician last in attendance for Patient A when she died at home on or about March 22, 2000.
1. When the funeral Director having charge of Patient A's body presented Respondent with the Death Certificate for completion, Respondent
 - a. Failed to certify the facts of death;
 - b. Failed to provide the medical information required by the Certification; and
 - c. Failed to sign the Death Certificate.
 2. Respondent refused to perform the duties set forth in Paragraphs A1 (a)-(c) unless he was paid \$300.00.

3. Completion of the Death Certificate is required by N.Y. Public Health Law, Section 4141 and 4142. Respondent willfully or through gross negligence refused to comply with these statutes.

SPECIFICATION OF CHARGES

FIRST SPECIFICATION

FAILING TO FILE A REPORT

Respondent is charged with committing professional misconduct as defined in N.Y. Educ. Law §6530(21)(McKinney Supp. 2000) by failing to file a report required by law as alleged in the facts of:

1. Paragraph A and all its subparagraphs.

SECOND SPECIFICATION

WILLFUL FAILURE TO COMPLY WITH STATE LAW

Respondent is charged with committing professional misconduct as defined in N.Y. Educ. Law §6530(16)(McKinney Supp. 2000) by willfully or through gross negligence failing to comply with substantial provisions of State Law as alleged in the facts of:

2. Paragraph A and all its subparagraphs.

THIRD SPECIFICATION
CONDUCT EVIDENCING MORAL UNFITNESS

Respondent is charged with committing professional misconduct as defined in N.Y. Educ. Law §6530(20)(McKinney Supp. 2000) by engaging in conduct in the practice of the profession of medicine that evidences moral unfitness to practice as alleged in the facts of the following:

3. Paragraph A and all its subparagraphs.

DATED: October , 2000
New York, New York

ROY NEMERSON
Deputy Counsel
Bureau of Professional
Medical Conduct