



New York State Board for Professional Medical Conduct

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Executive Secretary

August 23, 2005

CERTIFIED MAIL-RETURN RECEIPT REQUESTED

Monte Keen, M.D.
42 Blanche Avenue
Demarest, NJ 07627

Re: License No. 151467

Dear Dr. Keen:

Enclosed is a copy of the Modification Order #BPMC 00-42 of the New York State Board for Professional Medical Conduct. This order and any penalty provided therein goes into effect August 30, 2005.

Sincerely,

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

Enclosure

cc: Sharif Mahdavian, Esq.
36 West 44th Street, Suite 816
New York, NY 10036

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

IN THE MATTER

MODIFICATION

OF

OF

MONTE KEEN, MD

CONSENT ORDER

This matter was brought to the New York State Board for Professional Medical Conduct (Board) for decision at the request of Monte Keen, MD, (Petitioner), New York State medical license No. 151467. Petitioner entered into Modification of Consent Order BPMC No. 00-42, effective October 30, 2003, which modified the terms of the February 11, 2000 Order. The Order suspended Petitioner's license to practice medicine for an indefinite period of no less than one year from October 30, 2003. The purpose of the proceeding was to determine whether this suspension was to be stayed upon the satisfaction of a Committee of the Board for Professional Medical Conduct that Petitioner, among other things, has successfully completed a course of therapy prescribed by the Board which includes a determination that Petitioner is no longer incapacitated for active practice and that he is both fit and competent to practice medicine.

A meeting of the Committee was held in the above-entitled proceeding on June 14, 2005. Petitioner appeared with his attorney, Sharif Mahdavian, Esq. before a Committee of the Board consisting of Richard Milone, M.D., Chair, Alan Freedman, M.D. and Lois Jordan. The Committee determined, by unanimous decision, after careful consideration of all evidence submitted to them prior to the meeting and the testimony provided, that the suspension of Petitioner's license shall be stayed and he shall be allowed to practice medicine subject to the following conditions.

THEREFORE, IT IS HEREBY ORDERED THAT:

The Petitioner's return to practice is subject to the following conditions. Unless otherwise indicated, these conditions shall remain in effect for a period of probation lasting seven (7) years from the effective date of this Order.

1. Petitioner shall provide the Director of the Office of Professional Medical Conduct (OPMC) with the following information and shall ensure that such information is kept current: a full description of Petitioner's employment and practice; all professional and residential addresses and telephone numbers within and outside New York State; and all investigations, charges, convictions or disciplinary actions by any local, state or federal agency, institution or facility, within thirty (30) days of each action.

2. Petitioner shall fully cooperate with and respond in a timely manner to requests from OPMC to provide written periodic verification of Petitioner's compliance with the terms of this Order. Petitioner shall personally meet with a person designated by the Director of OPMC as requested by the Director.

3. **Petitioner's period of probation shall be tolled during periods in which he is not engaged in the active practice of medicine in New York State.** Petitioner shall notify the Director of OPMC in writing if he 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. Petitioner shall submit written notification to the Director 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.

Petitioner may not commence the practice of medicine in New York State until all proposed monitors have been approved in writing by the Director of the Office of Professional Medical Conduct.

4. Petitioner shall remain free from alcohol and all other mood altering substances other than those prescribed for Petitioner's treatment by a licensed physician aware of Petitioner's history of chemical dependency. **Petitioner shall not self-prescribe any medications or prescribe any medications for any family member.**

5. Petitioner shall be monitored by a qualified health care professional (Sobriety Monitor) proposed by Petitioner and approved in writing by the Director of OPMC. The Sobriety Monitor is to be familiar with Petitioner's history of chemical dependency and with the terms of this Order. Petitioner shall submit the name of a proposed successor within seven (7) days of learning that the approved Sobriety Monitor is no longer willing or able to serve.

a. The Sobriety Monitor shall oversee Petitioner's compliance with the terms and conditions imposed herein and shall cause to be performed forensically valid, random, directly observed, unannounced hair, blood, breath, oral fluid and/or urine tests for the presence of alcohol and other drugs in Petitioner. These specimens shall be specifically tested for the presence of opiates. **Petitioner shall be screened no less than eight (8) times per month for the first year of practice. The Petitioner shall be called on a seven day a week basis.**

After the first year of practice, if Petitioner has been fully compliant with this Order, specimens shall be collected at the discretion of the Sobriety Monitor at a frequency to be approved by the Director of OPMC.

b. The Sobriety Monitor shall notify OPMC immediately if Petitioner refuses such a test.

c. The Sobriety Monitor shall notify OPMC immediately if such a test reveals, or if the monitor otherwise learns, the Petitioner is not alcohol/drug free.

d. Every three (3) months, the Sobriety Monitor shall submit to OPMC a report certifying compliance with each of the terms of this Order or describing in detail any failure to comply. The quarterly reports shall include forensically valid results of all tests for the presence of alcohol and other drugs performed during that quarter.

e. Petitioner shall report to the Sobriety Monitor **within four (4) hours** of being contacted to submit a hair, blood, breath, oral fluid and/or urine test.

f. Petitioner shall avoid all substances that may cause positive results such as poppy seeds/mouthwash/cough medication/herbal teas. **Any positive result will be considered a violation of this Order.**

g. If Petitioner is to be unavailable for sobriety monitoring for a period of 15 days or more, Petitioner shall notify his Sobriety Monitor and seek and receive prior written permission from the Director of OPMC subject to any additional terms and conditions required by OPMC.

6. **Petitioner shall practice only in a group setting (ie: multiple physician practice rather than solo practice) for the duration of this Order.** Petitioner's medical practice shall be supervised by a licensed physician (Practice Supervisor), board certified in the appropriate specialty, proposed by Petitioner and approved in writing by the Director of OPMC. The Practice Supervisor shall be on-site at all practice locations and must be in a position to regularly observe and assess the Petitioner's medical practice. The Practice Supervisor is to be familiar with Petitioner's history of chemical dependency and with the terms of this Order.

a. The Practice Supervisor shall establish the capability of doing a "stat" toxicological screen on Petitioner in response to any complaint or observation that

indicates Petitioner may not be drug or alcohol free.

b. The Practice Supervisor shall oversee the Petitioner's prescribing and wasting of controlled substances.

c. The Practice Supervisor shall immediately report any suspected impairment, inappropriate behavior, questionable medical practice or possible misconduct to OPMC.

d. The Practice Supervisor shall notify OPMC immediately if Petitioner violates any term(s) of this Order.

e. The Practice Supervisor shall submit reports to OPMC, on the schedule outlined below, regarding the quality of Petitioner's practice, any unexplained absences from work, and Petitioner's compliance or failure to comply with each condition described within this Order.

7. The Committee has outlined these specific requirements for the Petitioner's return to active practice.

a. **For the first six (6) months the Petitioner is limited to practicing no more than 24 hours per week.**

b. For the first six (6) months, the Petitioner's practice is limited to performing surgical procedures in an office-based practice under local anesthesia and under the direct supervision of his approved Practice Supervisor. The Practice Supervisor shall maintain a log of Petitioner's cases to include the date, patient's name and procedure.

This log is to be included with the Practice Supervisor report, which must be submitted to OPMC on a monthly basis. Throughout this period, the Petitioner may observe, but provide no care, during major surgical procedures.

c. After the first six (6) months, the Petitioner may submit a written request to the Director of OPMC that his practice hours be increased. However, **his practice hours may not exceed 40 hours per week for the remainder of the Order.**

d. At the end of the first six-month period, the Petitioner may submit a written request to the Director of OPMC to practice as a first assistant during surgical operating room procedures. Approval of this progression in practice will be contingent upon satisfactory reports from the Practice Supervisor as well as full compliance with the other terms of this Order. If approved, the Petitioner shall be permitted to practice as a first assistant during surgical operating room procedures for a period of **6 (six) months**. The Practice Supervisor shall maintain a log of Petitioner's cases to include the date, patient's name and procedure. This log is to be included with the Practice Supervisor report, which must be submitted to OPMC on a monthly basis.

e. At the end of the second six-month period, the Petitioner may submit a written request to the Director of OPMC to practice as a primary surgeon. Approval of this progression in practice will be contingent upon satisfactory reports from the Practice Supervisor, as well as full compliance with the other terms of this Order. If approved, the Petitioner shall be permitted to practice as the primary surgeon under the direct supervision of his approved Practice Supervisor for a period of **twelve (12) months**. The Practice Supervisor shall maintain a log of Petitioner's cases to include the date, patient's name and procedure. This log is to be included with the Practice Supervisor

report, which must be submitted to OPMC on a monthly basis.

f. At end of the 12-month period, the Petitioner may submit a written request to the Director of OPMC to commence full practice without the direct supervision of his Practice Supervisor. Approval of this progression in practice will be contingent upon satisfactory reports from the Practice Supervisor, as well as full compliance with the other terms of his Order. If approved, the Petitioner may commence full surgical practice. At this time, the Practice Supervisor shall submit reports to OPMC on a quarterly basis.

8. **Petitioner shall be restricted from applying for a DEA certificate for a period of four (4) years of active practice. After this time, the Petitioner may submit a written request to the Director of OPMC to lift this restriction.**

9. **Petitioner shall be restricted from administering controlled or mood-altering substances to any patients for the duration of the Order.**

10. **Petitioner shall be permanently restricted from ordering bulk supplies of controlled or mood-altering substances.**

11. **Petitioner shall enroll in and complete a minimum of 50 hours of Category I Continuing Medical Education (CME) in his specialty each year. The CME courses are subject to the Director of OPMC's prior written approval. During the first year of probation, the CME courses should include a comprehensive board review course in his specialty. Petitioner shall provide written confirmation to OPMC of his completion of the CME courses.**

12. Petitioner shall enroll in and complete a CME course in the area of Medical Ethics. This CME course is subject to the Director of OPMC's prior written approval and shall be completed within the first year of the probation period. Petitioner shall provide written confirmation to OPMC that he has successfully completed this course.

13. Petitioner shall continue in treatment with a qualified health care professional (Therapist) proposed by Petitioner and approved, in writing, by the Director of OPMC. The Therapist is to be familiar with the Petitioner's history of chemical dependency and the terms of this Order. Petitioner will continue in treatment with the Therapist for the duration of this Order, in accordance with a treatment plan approved by the Director of OPMC. Petitioner shall submit the name of a proposed successor within seven (7) days of becoming aware that an approved Therapist is no longer willing or able to serve in that capacity.

a. The Therapist shall submit reports to OPMC every three (3) months certifying compliance with treatment by Petitioner and describing in detail any failure to comply.

b. The Therapist shall report immediately to OPMC any significant pattern of absences or failure to comply with recommended treatment by Petitioner.

14. The Director of OPMC shall reserve the authority to direct the Petitioner to undergo an independent evaluation by a practitioner approved by the Director of OPMC who specializes in alcohol/chemical dependency issues and/or mental illness. The Petitioner shall provide the evaluator with copies of previous treatment records and a copy of this Order. The Petitioner shall execute authorizations, and keep said authorizations active, allowing the evaluator to obtain collateral information and communicate with OPMC. Reports of such evaluations shall be submitted directly to

the Director of OPMC. Petitioner shall follow treatment recommendations made by the evaluator. If the evaluator determines that the Petitioner is not fit to practice, the Petitioner shall immediately cease practice until it is determined he is fit to resume practice. Failure to comply with treatment recommendations will be considered a violation of this Order.

15. Petitioner shall continue participation in self-help fellowship (e.g., AA, Caduceus, other).

Petitioner shall maintain an ongoing relationship with a sponsor.

16. Petitioner shall inform all physicians or other health care practitioners from whom Petitioner seeks treatment of Petitioner's history of chemical dependency. Should Petitioner be prescribed any controlled or mood-altering substances, Petitioner shall notify the Sobriety Monitor and the Director of OPMC before such medications are administered.

17. The Director of OPMC shall reserve the right to conduct on-site review of Petitioner's office, office records, hospital practice and hospital records.

18. Petitioner shall maintain legible and complete medical records that accurately reflect the evaluation and treatment of patients. The medical records shall contain all information required by State rules and regulations regarding controlled substances.

19. Petitioner shall conduct himself in all ways in a manner befitting his professional status and shall conform fully to the moral and professional standards of conduct and obligations imposed by law and by his profession.

20. Petitioner shall comply with all terms, conditions, restrictions and limitations to which he is subject pursuant to the Order and shall assume and bear all costs related to compliance of the Order.

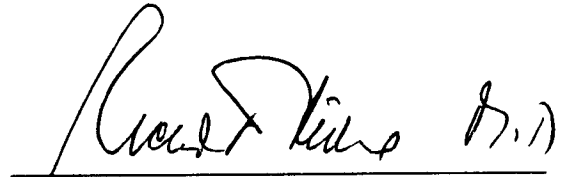
Upon receipt of evidence of noncompliance with, or any violation of these terms, the Director of OPMC and/or the Board may initiate a violation of probation proceeding and/or any such other proceeding against Petitioner as may be authorized pursuant to the law.

As Petitioner agreed in the Consent Order, failure to comply with any of the conditions described above may result in disciplinary action.

This Order shall be effective upon issuance.

Dated: New York, NY

August 22, 2005



Richard Milone, M.D.
Committee Chair
State Board for Professional Medical Conduct