

THE STATE EDUCATION DEPARTMENT / THE UNIVERSITY OF THE STATE OF NEW YORK / ALBANY, N.Y. 12234

OFFICE OF PROFESSIONAL DISCIPLINE
ONE PARK AVENUE, NEW YORK, NEW YORK 10016-5802

August 15, 1990

Kenneth Miller, Physician
10 East 21st Street
New York, N.Y. 10010

Re: License No. 147634

Dear Dr. Miller:

Enclosed please find Commissioner's Order No. 11091. This Order and any penalty contained therein goes into effect five (5) days after the date of this letter.

If the penalty imposed by the Order is a surrender, revocation or suspension of your license, you must deliver your license and registration to this Department within ten (10) days after the date of this letter. In such a case your penalty goes into effect five (5) days after the date of this letter even if you fail to meet the time requirement of delivering your license and registration to this Department.

Very truly yours,

DANIEL J. KELLEHER
Director of Investigations
By:

Maira A. Doran
MOIRA A. DORAN
Supervisor

DJK/MAH/er
Enclosures

CERTIFIED MAIL- RRR

cc: Steven Brock, Esq.
Rivkin & Radler
EAB Plaza
Uniondale, N.Y.

RECEIVED

AUG 20 1990

Office of Professional Discipline
Medical Education

EXHIBIT I

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

IN THE MATTER : APPLICATION FOR
OF : CONSENT ORDER
KENNETH MILLER, M.D. :

STATE OF)
COUNTY OF) ss.:

RESPONDENT, being duly sworn deposes and says:

On or about September 11, 1981, I was licensed to practice as a physician in the State of New York, having been issued license number 147634 by the New York State Education Department.

I am currently registered to practice medicine in the State of New York from January 1, 1989 through December 31, 1991. My registered address is 10 East 21st Street, New York, New York.

I understand that the New York State Board for Professional Medical Conduct has charged me with one specification of professional misconduct as set forth in the Statement of Charges annexed hereto, made a part hereof, and marked as Exhibit "A".

I do not contest the charge contained in the first specification.

I hereby agree to the penalty that my license to practice as a physician in the State of New York be suspended for a period of five years, that execution of said suspension be stayed, and that I be placed on probation for a period of five years under the terms set forth in the exhibit annexed hereto, made a part hereof, and marked as Exhibit "B".

I hereby make this application to the Board of Regents and request that it be granted.

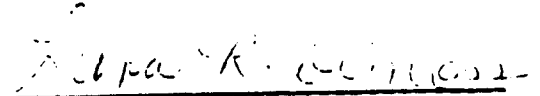
I understand that in the event this application is not granted by the Board of Regents, nothing contained herein shall be binding upon me or construed to be an admission of any act of misconduct alleged or charged against me, such application shall not be used against me in any way and shall be kept in strict confidence during the pendency of the disciplinary proceeding, and such denial by the Board of Regents shall be without prejudice to the continuance of the disciplinary proceeding and final determination by the Board of Regents pursuant to the provisions of the Education Law.

I agree that, in the event the Board of Regents grants my application, as set forth herein, an order of the Commissioner of Education may be issued in accordance with the same.

No promises of any kind were made to me. I am making this application of my own free will and accord and not under duress, compulsion, or restraint of any kind or manner.


RESPONDENT

Sworn to before me this
30th day of March, 1989


NOTARY PUBLIC
Notary Public, Cobb County, Georgia
My Commission Expires November 1993

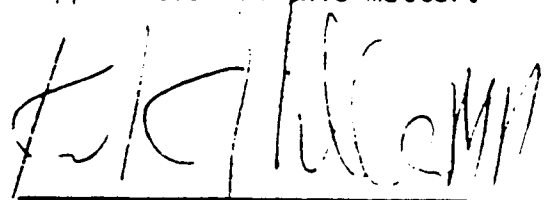
STATE OF NEW YORK : DEPARTMENT OF HEALTH
STATE BOARD FOR PROFESSIONAL MEDICAL CONDUCT
-----X

IN THE MATTER : APPLICATION FOR
OF : CONSENT ORDER
KENNETH MILLER, M.D. :

-----X

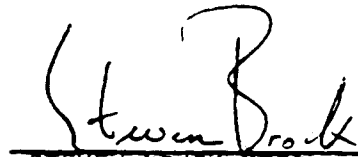
The undersigned agree to the application in this matter.

Date: 3/30/90




KENNETH MILLER, M.D.
Respondent

Date: 4/20/90



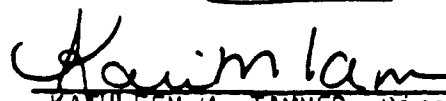
STEVEN BROCK, ESQ.
Attorney for the Respondent

Date: 25/14/90



MEMBER, STATE BOARD FOR
PROFESSIONAL MEDICAL CONDUCT

Date: May 14, 1990




KATHLEEN M. TANNER, Director
Bureau of Professional
Medical Conduct

, M.D.

The undersigned has reviewed and agrees to the attached application for consent order.

Dated: *May 4*, ¹⁹⁹⁰₁₉₈₉



DAVID AXELROD, M.D.
Commissioner of Health

The undersigned, member of the Board of Regents, has reviewed the application for consent order and recommends to the Board of Regents that the application be granted.

Dated: *July 10*, ¹⁹⁹⁰₁₉₈₉



MEMBER OF THE BOARD OF REGENTS

PROBATION TERMS

1. Respondent, during the period of probation, 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 imposed by law and by his profession;
2. Respondent shall submit written notification to the New York State Department of Health (NYSDOH), addressed to the Director, Office of Professional Medical Conduct, New York State Health Department, Empire State Plaza, Tower Building 4, 28th floor, Albany, New York 12237 of any employment and practice, of Respondent's residence and telephone number, and of any change in Respondent's employment, practice, residence, or telephone number within or without the State of New York;
3. Respondent shall submit written proof from the Division of Professional Licensing Services (DPLS), New York State Education Department (NYSED), that Respondent has paid all registration fees due and owing to the (NYSED) and Respondent shall cooperate with and submit whatever papers are requested by DPLS in regard to said registration fees, said proof from DPLS to be submitted by Respondent to the New York State Department of Health, addressed to the Director, Office of Professional Medical Conduct, as aforesaid, no later than the first three months of the period of probation;
4. Respondent shall submit written proof to the NYSDOH, addressed to the Director, Office of Professional Medical Conduct, as aforesaid that 1) Respondent is currently registered with the NYSED, unless Respondent submits written proof that Respondent has advised DPLS, NYSED, that Respondent is not engaging in the practice of Respondent's profession in the State of New York and does not desire to register, and that 2) Respondent has paid any fines which may have previously been imposed upon Respondent by the Board of Regents; said proof of the above to be submitted no later than the first two months of the period of probation;
5. Respondent will not use any drugs unless prescribed by a physician as medical treatment with knowledge of Respondent's "supervising physician."
6. Respondent will be monitored by a licensed physician, (hereinafter referred to as "monitoring physician"), who shall be selected by the Respondent but subject to approval by the Director of the Office of Professional Medical Conduct. Respondent will advise the Director of the Office of Professional Medical Conduct of the name, address, and telephone number of said monitor and shall notify the Director of any proposed change in the identity of said monitor.

Said monitoring physician shall supervise Respondent's compliance with the probationary terms set forth in the proposed consent order. Said monitoring physician shall acknowledge his/her willingness to comply with the monitoring by executing a written acknowledgement provided by the Bureau of Professional Medical Conduct.

- a. Said monitoring physician shall be familiar with Respondent's history of drug abuse, with the consent order, and with terms of probation contained therein, but shall not be Respondent's treating physician.
- b. Said monitoring physician shall see Respondent at least twice during a quarter.
- c. Said monitoring physician shall direct Respondent's submission to unannounced tests of his urine for the presence of drugs and shall report to the Board if at any time such a test is refused by Respondent. Said tests will be performed no less frequently than once every two weeks for the first year and once every month for the second through fifth year.
- d. Said monitoring physician shall immediately report to the Board any non-compliance with the terms of probation, including, but not limited to, any evidence of drug or alcohol use.
- e. Said monitoring physician shall not be a close personal friend of Respondent's.
- f. Said monitoring physician shall submit to the Board quarterly reports either certifying Respondent's compliance, or detailing his failure to comply, with each of the terms of probation. The reports shall include the results of all body fluid tests for drugs performed during that quarter.

7. Respondent, will be supervised in his medical practice by a licensed physician (hereinafter referred to as supervising physician), whose name, address, and telephone number will be provided to the Director of the Office of Professional Medical Conduct. Respondent shall notify the Director of any proposed change in the identity of the supervising physician. Said supervising physician shall be familiar with Respondent's history of drug abuse, with the consent order and the terms of probation. Said supervising physician shall be in a position regularly to observe and assess Respondent's practice. Said supervising physician shall acknowledge his/her willingness to perform the supervision by executing a written acknowledgement provided by the Bureau of Professional Medical Conduct.

Said supervising physician shall submit to the Board 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 term of probation.

8. Respondent will continue in evaluation treatment with a health care professional throughout the full term of probation, and with a frequency to be determined as necessary by the treating professional.
 - a. Respondent's health care professional or program shall submit to the director of the Office of Professional Medical Conduct quarterly reports certifying that Respondent is complying with the treatment.
 - b. Said treating health care professional or program shall report to the Director of the Office of Professional Medical Conduct immediately if I drop out of treatment.
 - c. Said treating health care professional or program shall report to the Director of Professional Medical Conduct any significant pattern of absences.
 - d. Said treating health care professional or program shall acknowledge his/her/its willingness to comply with the above-mentioned reporting by executing the written acknowledgement provided by the Bureau of Professional Medical Conduct.
 - e. Respondent shall provide said treating health care professional or program with Respondent's written authorization to make the required reports to the Director of the Office of Professional Medical Conduct.

9. So long as there is full compliance with every term herein set forth, Respondent may continue to practice his aforementioned profession in accordance with the terms of probation; provided, however, that upon evidence of noncompliance with any terms or conditions of probation, he shall be subject to disciplinary action and/or a violation of probation proceeding. If the board of regents determines that Respondent has violated any term or condition of probation, they may impose any additional penalty authorized pursuant to New York Education Law §6511.

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

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IN THE MATTER : STATEMENT
OF : OF
KENNETH MILLER, M.D. : CHARGES

-----X

KENNETH MILLER, M.D., the Respondent, was authorized to practice medicine in New York State on September 11, 1981 by the issuance of license number 147634 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 January 1, 1989 through December 31, 1991 at 10 East 21st Street, New York, New York.

FACTUAL ALLEGATION

A. In or about June of 1988, Respondent was a habitual user of cocaine.

SPECIFICATION OF CHARGES

FIRST SPECIFICATION

Respondent is charged with professional misconduct within the meaning of N.Y. Educ. Law Section 6509(4) (McKinney 1985)

by being a habitual user of cocaine in or about June of 1988,
in that, Petitioner charges:

1. The facts in paragraph A.

DATED: New York, New York

CHRIS STERN HYMAN
Counsel
Bureau of Professional Medical
Conduct

**ORDER OF THE COMMISSIONER OF
EDUCATION OF THE STATE OF NEW YORK**

KENNETH MILLER

CALENDAR NO. 11091



The University of the State of New York

IN THE MATTER

OF

KENNETH MILLER
(Physician)

**DUPLICATE
ORIGINAL
VOTE AND ORDER
NO. 11091**

Upon the application of KENNETH MILLER, under Calendar No. 11091, which application is made a part hereof, and in accordance with the provisions of Title VIII of the Education Law, it was

VOTED (July 27, 1990): That the application of KENNETH MILLER, respondent, for a consent order be granted; and that the Commissioner of Education be empowered to execute, for and on behalf of the Board of Regents, all orders necessary to carry out the provisions of this vote;

and it is

ORDERED: That, pursuant to the above vote of the Board of Regents, said vote and the provisions thereof as well as 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 the respondent or five days after mailing by certified mail.

KENNETH MILLER (11091)

IN WITNESS WHEREOF, I, Thomas Sobol,
Commissioner of Education of the State of
New York, for and on behalf of the State
Education Department and the Board of
Regents, do hereunto set my hand and affix
the seal of the State Education Department,
at the City of Albany, this *6th* day of
August, 1990.

Thomas Sobol
Commissioner of Education