



New York State Board for Professional Medical Conduct

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Executive Secretary

PUBLIC

July 21, 2003

CERTIFIED MAIL – RETURN RECEIPT

Jane Wuchinich, MD
124 Heart Butte Road
PO Box 350
East Glacier Park, MT 59434

Re: Modification of Determination and Order

Dear Dr. Wuchinich:

A Committee of the Board for Professional Medical Conduct has granted your request for a modification of the terms of BPMC No. 00-273.

This Modification of Determination and Order No. 00-273 became effective July 14, 2003.

Sincerely,

Ansel R. Marks, MD, JD
Executive Secretary
Board for Professional Medical Conduct

Enclosure

cc: Wilfred Friedman, Esquire

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

IN THE MATTER
OF
JANE WUCHINICH, M.D.

MODIFICATION
OF
DETERMINATION AND ORDER
No. 00-273

This matter was brought to the New York State Board for Professional Medical Conduct for decision at the request of Jane Wuchinich, M.D., (Petitioner), License No. 113157. Determination and Order No. 00-273 was issued effective 10/11/00. The Order suspended Petitioner's license to practice medicine until such time as a Committee on Professional Conduct of the Board for Professional Medical Conduct (Committee) shall determine that Petitioner is no longer incapacitated for the active practice of medicine. The purpose of the proceeding was to determine whether this suspension was to be stayed upon the satisfaction of the Committee 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 the active practice of medicine and that Petitioner is both fit and competent to practice as a physician.

A meeting of the Committee was held in the above-entitled proceeding on 5/7/03. Petitioner appeared with her attorney, Wilfred T. Friedman, Esq., before the Committee consisting of Daniel W. Morrissey, O.P., Chair, Frank E. Iaquina, M.D. and Raman Kaul, M.D. The Committee determined after careful consideration of all evidence provided to them prior to the meeting and the testimony provided, that by unanimous decision, the suspension of Petitioner's license to practice medicine shall be stayed with eight (8) years probation in accordance with the following conditions.

THEREFORE, IT IS HEREBY ORDERED THAT:

The Petitioner's practice of medicine is subject to the following conditions. Unless otherwise indicated, these conditions shall remain in effect for a period of probation lasting eight (8) years from the effective date of this Order.

Petitioner may not commence the practice of medicine until all proposed monitors have been approved by the Office of Professional Medical Conduct.

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

2. 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.

3. 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 substance abuse 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, supervised, unannounced blood, breath and/or urine tests for the presence of alcohol and other drugs in Petitioner. Petitioner's drug(s) of choice including Tramadol must be specifically tested. **Petitioner shall be screened six (6) times per**

month for the first year of practice. The Petitioner shall be called on a seven day a week basis. After that period of time, if Petitioner has been fully compliant with this Order, specimens shall be collected at the discretion of the 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 the results of all forensically valid 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 by the Sobriety Monitor to submit a blood, breath and/or urine test.
- f. Petitioner shall avoid all substances which may cause positive results such as poppy seeds, mouthwash and cough medication. **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 the Sobriety Monitor and seek and receive prior written permission from the Director of OPMC subject to any additional terms and conditions required by the OPMC.

4. Petitioner shall be restricted to no more than 24 hours per week of clinical practice for the first six months, up to 36 hours per week thereafter. Petitioner shall be restricted from any solo, private practice. Petitioner shall be supervised in medical practice by a licensed physician (Practice Supervisor) proposed by Petitioner and approved in writing by the Director of OPMC. The Practice

Supervisor is to be familiar with Petitioner's history of substance abuse and with the terms of this Order. Petitioner shall submit the name of a proposed successor within seven (7) days of Petitioner becoming aware that the approved Practice Supervisor is no longer willing or able to serve in that capacity.

- a. The Practice Supervisor shall submit a report to OPMC every three (3) months regarding the quality of Petitioner's medical practice, any unexplained absences from work, and Petitioner's compliance or failure to comply with each condition described within this Order.
- b. 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.
- c. The Practice Supervisor shall oversee the Petitioner's prescribing, administering, dispensing, inventory and wasting of controlled substances.
- d. The Practice Supervisor shall report any suspected impairment, inappropriate behavior, questionable medical practice or possible misconduct to OPMC.
- e. The Practice Supervisor shall notify OPMC immediately if Petitioner violates any term(s) of this Order.

5. Petitioner shall complete continuing medical education in the intensive review of Emergency Medicine, proposed by Petitioner and approved in advance by the Director of OPMC.

6. Petitioner shall engage and continue in treatment with a qualified health care professional (Therapy Monitor), other than her current therapist, proposed by Petitioner and approved in writing by the Director of OPMC. The Therapy Monitor is to be familiar with Petitioner's history of substance abuse and the terms of this Order. Petitioner will continue in treatment with the Therapy Monitor for the duration of the Order, at a frequency of therapy

visits to be decided by the therapist. Petitioner shall submit the name of a proposed successor within seven (7) days of becoming aware that the approved Therapy Monitor is no longer willing or able to serve in that capacity.

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

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

c. The Director of OPMC shall reserve the authority to direct the Petitioner undergo an independent evaluation by a practitioner who specializes in chemical dependency issues and/or mental illness approved by the Director of OPMC who specializes in chemical dependency issues and/or mental illness. The Petitioner shall provide the evaluator with copies of all previous treatment records and a copy of this Order. Reports of such evaluations shall be submitted promptly to the Director. 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 the practice of medicine until it is determined Petitioner is fit to resume practice. Failure to comply with treatment recommendations will be considered a violation of this Order.

7. Petitioner shall continue participation in self-help fellowship (e.g., AA, NA, Caduceus, other). Petitioner shall establish and maintain ongoing relationship with a sponsor.

8. Petitioner shall comply with the terms and recommendations of a state physician assistance program (i.e., CPH, PHP, or other equivalent program). Petitioner shall provide her consent for the release of information regarding her recovery as may be requested from such program by OPMC.

9. Petitioner shall not treat or prescribe medications for any family member.
10. Petitioner shall inform all physicians or other health care practitioners from whom Petitioner seeks treatment of her history of substance abuse. 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 or, in the case of an emergency, within twenty-four (24) hours of the emergency.
11. Petitioner shall immediately notify the Director of OPMC of any residential or practice address change as well as any and all investigations, charges, convictions or disciplinary actions by any local, state or federal agency, institution or facility, within thirty (30) days.
12. The Director of OPMC shall reserve the right to conduct on-site review of Petitioner's office, office records, hospital practice and hospital records at least semi-annually.
13. Petitioner 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.
14. 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.
15. Petitioner shall conduct herself in all ways in a manner befitting her professional status and shall conform fully to the moral and professional standards of conduct and obligations imposed by law and by her profession.
16. Petitioner shall comply with all terms, conditions, restrictions and limitations to which she is subject pursuant to this Order and shall assume and bear all costs related to compliance of the Order. Upon receipt of evidence of non-compliance 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.

17. The period of probation, including some or all of the terms and conditions described above, may be tolled, at the discretion of the Director, during periods in which Petitioner is not engaged in the active practice of medicine in New York State and/or practicing under the auspices of her New York medical license. Petitioner shall notify the Director of OPMC, in writing, if Petitioner is not currently engaged in or intends to leave the active practice of medicine for a period of thirty (30) consecutive days or more. Petitioner shall then notify the Director again prior to any change in that status. Petitioner shall not resume the practice of medicine in New York State and/or practicing under the auspices of her New York medical license without the approval of the Director and shall comply with any requests from the Director necessary for such approval. The period of probation shall resume and, any terms of probation which were not fulfilled shall be fulfilled upon Petitioner's approved return to practice in New York State.

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.

DATE:

July 14, 2003

Daniel W. Morrissey, O.P.
Daniel W. Morrissey, O.P.
Committee Chair
NYS Board for Professional Medical Conduct