

Public

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

IN THE MATTER
OF
DEE L'ARCHEVEQUE, M.D.

CONSENT
ORDER

BPMC No. #09-122

Upon the application of Dee L'Archeveque, M.D., (Respondent), in the attached Consent Agreement and Order, which is made a part of this Consent Order, it is

ORDERED, that the Consent Agreement, and its terms, are adopted; and it is further

- ORDERED, that this Order shall be effective upon issuance by the Board, either
- by mailing of a copy of this Consent Order, either by first class mail to Respondent at the address in the attached Consent Agreement or by certified mail to Respondent's attorney, OR
 - upon facsimile transmission to Respondent or Respondent's attorney, whichever is first.

SO ORDERED.

DATED: 6-25-2009

Redacted Signature

KENDRICK A. SEARS, M.D.
Chair
State Board for Professional Medical Conduct

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

IN THE MATTER
OF
DEE L'ARCHEVEQUE, M.D.

CONSENT
AGREEMENT
AND
ORDER

Dee L'Archeveque, M.D., representing that all of the following statements are true, deposes and says:

That on or about June 20, 1997, I was licensed to practice as a physician in the State of New York, and issued License No. 207056 by the New York State Education Department.

My current address is Redacted Address, and I will advise the Director of the Office of Professional Medical Conduct of any change of address.

I understand that the New York State Board for Professional Medical Conduct has charged me with five specifications of professional misconduct.

A copy of the Statement of Charges, marked as Exhibit A, is attached to and part of this Consent Agreement.

I do not contest the Third Specification of the Statement of Charges with regard to Factual Allegations A and A.1 and A.5 only, in full satisfaction of the charges against me, and agree to the following penalties:

(1) I shall be censured and reprimanded.

(2) I shall be placed on probation for a period of thirty-six (36) months, subject to the terms set forth in the attached Exhibit B.

(3) I shall pay a fine in the amount of five thousand dollars (\$5,000.00), to be paid as follows:

(a) The first installment of \$2,500.00 shall be paid no later than 30 days from the effective date of this Order. The second and final installment of \$2,500.00 shall be paid no later than 90 days from the effective date of this Order.

Payments must be submitted to:

Bureau of Accounts Management
New York State Department of Health
Empire State Plaza
Corning Tower, Room 1245
Albany, New York 12237

My failure to pay any monetary penalty by the prescribed date shall subject me to all provisions of law relating to debt collection by New York State, including but 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].

I further agree that the Consent Order shall impose the following conditions:

Respondent shall maintain active registration of Respondent's license with the New York State Education Department, Division of Professional Licensing Services (except during periods of actual

suspension), and shall pay all registration fees. This condition shall take effect thirty (30) days after the Consent Order's effective date and will continue so long as Respondent remains licensed in New York State; and

Respondent shall cooperate fully with the Office of Professional Medical Conduct (OPMC) in its administration and enforcement of this Order and in its investigations of matters concerning Respondent. Respondent shall respond in a timely manner to all OPMC requests for written periodic verification of Respondent's compliance with this Order. Respondent shall meet with a person designated by the Director of OPMC, as directed. Respondent shall respond promptly and provide all documents and information within Respondent's control, as directed. This condition shall take effect upon the Board's issuance of the Consent Order and will continue so long as Respondent remains licensed in New York State.

Respondent is required to provide written notice to the Director of the Office of Professional Medical Conduct at least ninety (90) days prior to her resumption of the practice of medicine in New York State. Said notice shall provide Respondent's New York State employment and residence addresses and telephone numbers.

I stipulate that my failure to comply with any condition of this Order shall constitute misconduct as defined by New York State Education Law §6530(29).

I agree that if I am charged with professional misconduct in the future, this Consent Agreement and Order **shall** be admitted into evidence in that proceeding.

I ask the Board to adopt this Consent Agreement.

I understand that if the Board does not adopt this Consent Agreement, none of its terms shall bind me or constitute an admission of any of the acts of alleged misconduct; this Consent Agreement shall not be used against me in any way and shall be kept in strict confidence; and the Board's denial shall be without prejudice to the pending disciplinary proceeding and the Board's final determination pursuant to the Public Health Law.

I agree that, if the Board adopts this Consent Agreement, the Chair of the Board shall issue a Consent Order in accordance with its terms. I agree that this Order shall take effect upon its issuance by the Board, either by mailing of a copy of the Consent Order by first class mail to me at the address in this Consent Agreement, or to my attorney by certified mail, OR upon facsimile transmission to me or my attorney, whichever is first. The Order, this agreement, and all attached Exhibits shall be public documents, with only patient identities, if any, redacted.

I ask the Board to adopt this Consent Agreement of my own free will and not under duress, compulsion or restraint. In consideration of the value to me of the Board's adoption of this Consent Agreement, allowing me to resolve this matter without the various risks and burdens of a hearing on the merits, I knowingly waive my right to contest the Consent Order for which I apply, whether administratively or judicially, I agree to be bound by the Consent Order, and ask that the Board adopt this Consent Agreement.

DATED: 6/5/09

Redacted Signature

~~DEE L'ARCHEVEQUE, M.D.~~
RESPONDENT

The undersigned agree to Respondent's attached Consent Agreement and to its proposed penalty, terms and conditions.

DATED: 6/10/2009

Redacted Signature

~~CATHERINE A. GALE, ESQ.~~
Attorney for Respondent

DATED: 6/15/09

Redacted Signature

~~CINDY M. FASCIA, ESQ.~~
ASSOCIATE COUNSEL
Bureau of Professional Medical Conduct

DATED: 6/24/09

Redacted Signature

~~KEITH W. SERVIS~~
Director
Office of Professional Medical Conduct

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

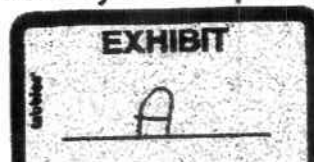
IN THE MATTER
OF
DEE L'ARCHEVEQUE, M.D.

STATEMENT
OF
CHARGES

Dee L'Archeveque, M.D., Respondent, was authorized to practice medicine in New York State on or about June 20, 1997, by the issuance of license number 207056 by the New York State Education Department.

FACTUAL ALLEGATIONS

- A. Respondent provided medical care to Patient A, (Patients are identified in Appendix) a then 70 year old woman, on or about September 23, 2004 in the Emergency Department of Lourdes Hospital in Binghamton, New York. Respondent's care of Patient A failed to meet the standard of care, in that:
1. Respondent failed to adequately evaluate Patient A prior to discharging her.
 2. Respondent failed to obtain adequate evaluation of Patient A by a consultant or consultants prior to discharging Patient A.
 3. Respondent failed to admit Patient A.
 4. Respondent made inaccurate and/or misleading and/or false entries in Patient A's medical record.
 5. Respondent made a notation in Patient A's medical record suggesting that Patient A had borderline personality disorder and/or making a diagnosis of borderline personality disorder in Patient A. This notation and/or diagnosis was not supported by clinical documentation and/or should not have been made by Respondent as an ED physician seeing for the first time this 70 year old patient presenting with chest pain.



6. Respondent failed to accurately assess and/or accurately document Patient A's risk factors for cardiac disease.
- B. Respondent provided medical care to Patient B, a then 77 year old woman, on or about September 24, 2004 in the Emergency Department of Lourdes Hospital. Respondent's care of Patient B failed to meet the standard of care, in that:
1. Respondent failed to adequately evaluate Patient B.
 2. Respondent failed to adequately assess the cause of Patient B's fall and/or attributed Patient B's "dizziness" to low blood sugar without adequately assessing Patient B for other possible causes.
 3. Respondent failed to perform and/or document an adequate neurologic exam.
 4. Respondent failed to order a repeat blood sugar.
 5. Respondent failed to order cardiac monitoring and/or cardiac enzymes.
 6. Respondent failed to order and/or obtain orthostatic vital signs.
 7. Respondent failed to adequately assess whether it was safe to send Patient B home prior to discharging her and/or failed to make adequate discharge instructions and/or failed to admit Patient B.
- C. Respondent provided medical care to Patient C, a then 66 year old woman, on or about September 22, 2004 in the Emergency Department of Lourdes Hospital. Respondent's care of Patient C failed to meet the standard of care, in that:
1. Respondent failed to adequately evaluate Patient C's hypotension and/or failed to adequately rule out other causes for Patient C's hypotension before diagnosing that Patient C's hypotension was due to medication.

2. Respondent failed to order adequate laboratory studies and/or cancelled the one laboratory study she ordered for Patient C.
 3. Respondent ordered an ECG and CXR for Patient C, then cancelled said orders and/or did not have these studies performed on Patient C.
 4. Respondent failed to have Patient C's blood pressure monitored in the ED for an adequate period of time prior to discharging her and/or failed to adequately assess Patient C's stability prior to discharging her.
- D. Respondent provided medical care to Patient D, a then 20 year old woman, on or about September 26, 2004 in the Emergency Department of Lourdes Hospital. Respondent's care of Patient D failed to meet the standard of care, in that:
1. Respondent failed to obtain and/or document an adequate history pertaining to headaches.
 2. Respondent failed to examine and/or to document an examination for signs of meningismus in Patient D.
 3. Respondent failed to perform and/or document an adequate neurologic examination of Patient D.
 4. Respondent made a diagnosis of labyrinthitis, which was not supported by the patient's presentation and/or by any documented symptoms.
 5. Respondent failed to adequately evaluate Patient D prior to discharging her.
 6. Respondent failed to re-assess Patient D prior to discharging her and/or failed to document any reassessment of Patient D.

SPECIFICATION OF CHARGES

FIRST SPECIFICATION **GROSS NEGLIGENCE**

Respondent is charged with professional misconduct by reason of her practicing medicine with gross negligence on a particular occasion in violation of New York Education Law §6530(4), in that Petitioner charges:

1. The facts in Paragraphs A and A.1 and/or A.2 and/or A.3 and/or A.4 and/or A.5 and/or A.6.

SECOND SPECIFICATION **GROSS INCOMPETENCE**

Respondent is charged with gross incompetence by reason of her practicing medicine with gross incompetence in violation of New York Education Law §6530(6), in that Petitioner charges:

2. The facts in Paragraphs A and A.1 and/or A.2 and/or A.3 and/or A.4 and/or A.5 and/or A.6.

THIRD SPECIFICATION **NEGLECT ON MORE THAN ONE OCCASION**

Respondent is charged with professional misconduct by reason of her practicing medicine with neglect on more than one occasion in violation of New York Education Law §6530(3), in that Petitioner charges:

3. The facts in Paragraphs A and A.1 and/or A.2 and/or A.3 and/or A.4 and/or A.5 and/or A.6; B and B.1 and/or B.2 and/or B.3 and/or B.4 and/or B.5 and/or B.6 and/or B.7; C and C.1 and/or C.2 and/or C.3

and/or C.4; D and D.1 and/or D.2 and/or D.3 and/or D.4 and/or D.5 and/or D.6.

FOURTH SPECIFICATION
INCOMPETENCE ON MORE THAN ONE OCCASION

Respondent is charged with professional misconduct by reason of her practicing medicine with incompetence on more than one occasion in violation of New York Education Law §6530(5), in that Petitioner charges:

4. The facts in Paragraphs A and A.1 and/or A.2 and/or A.3 and/or A.4 and/or A.5 and/or A.6; B and B.1 and/or B.2 and/or B.3 and/or B.4 and/or B.5 and/or B.6 and/or B.7; C and C.1 and/or C.2 and/or C.3 and/or C.4; D and D.1 and/or D.2 and/or D.3 and/or D.4 and/or D.5 and/or D.6.

FIFTH SPECIFICATION
FAILURE TO MAINTAIN ACCURATE RECORDS

Respondent is charged with professional misconduct by reason of her failing to maintain a record for each patient which accurately reflects the evaluation and treatment of the patient in violation of New York Education Law §6530(32), in that Petitioner charges:

5. The facts in Paragraphs A and A.4 and/or A.5 and/or A.6; B and/or B.3; D and D.1 and/or D.2 and/or D.3 and/or D.4 and/or D.6.

DATE: March 19, 2009
Albany, New York

Redacted Signature

Peter D. Van Buren
Deputy Counsel
Bureau of Professional Medical Conduct

EXHIBIT B

Terms of Probation

1. Respondent's conduct shall conform to moral and professional standards of conduct and governing law. Any act of professional misconduct by Respondent as defined by New York State Education Law §6530 or §6531 shall constitute a violation of probation and may subject Respondent to an action pursuant to New York State Public Health Law §230(19).
2. Respondent shall maintain active registration of Respondent's license (except during periods of actual suspension) with the New York State Education Department Division of Professional Licensing Services, and shall pay all registration fees.
3. Respondent shall provide the Director, Office of Professional Medical Conduct (OPMC), Hedley Park Place, 433 River Street Suite 303, Troy, New York 12180-2299 with the following information, in writing, and ensure that such information is kept current: a full description of Respondent'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.
4. Respondent shall cooperate fully with, and respond in a timely manner to, OPMC requests to provide written periodic verification of Respondent's compliance with the terms of this Consent Order. Upon the Director of OPMC's request, Respondent shall meet in person with the Director's designee.
5. The probation period shall toll when Respondent is not engaged in active medical practice in New York State for a period of thirty (30) consecutive days or more. Respondent shall notify the Director of OPMC, in writing, if Respondent is not currently engaged in, or intends to leave, active medical practice in New York State for a consecutive thirty (30) day period. Respondent shall then notify the Director again at least ninety (90) days before returning to active medical practice in New York State. Upon Respondent's return to active practice in New York State, the probation period will resume and Respondent shall fulfill any unfulfilled probation terms and such additional requirements as the Director may impose as reasonably relate to the matters set forth in Exhibit A or are necessary to protect the public health, including but not limited to a practice monitor.
6. The Director of OPMC may review Respondent's professional performance. This review may include but shall not be limited to: a review of office records, patient records and/or hospital charts; and interviews with or periodic visits with Respondent and staff at practice locations or OPMC offices.
7. Respondent shall adhere to federal and state guidelines and professional standards of care with respect to infection control practices. Respondent shall ensure education, training and oversight of all office personnel involved in medical care, with respect to these practices.

8. Respondent shall maintain complete and legible medical records that accurately reflect the evaluation and treatment of patients and contain all information required by State rules and regulations concerning controlled substances.

CONTINUING MEDICAL EDUCATION

9. Respondent, during the period of probation, shall complete a total of 100 hours of Category I Continuing Medical Education (CME). Said CME is to be in the areas of medical recordkeeping, emergency medicine, and communication skills with patients. All CME courses are subject to the prior written approval of OPMC. Said 100 hours of CME shall be in addition to any other CME that Respondent is required to complete to maintain licensure in any jurisdiction or privileges in any facility.
10. Respondent shall comply with this Order and all its terms, and shall bear all associated compliance costs. Upon receiving evidence of noncompliance with, or violation of, these terms, the Director of OPMC and/or the Board may initiate a violation of probation proceeding, and/or any other such proceeding authorized by law, against Respondent.