

New York State Board for Professional Medical Conduct

433 River Street, Suite 303 • Troy, New York 12180-2299 • (518) 402-0863

Richard F. Daines, M.D.
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NYS Department of Health
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Keith W. Servis, Director
Office of Professional Medical Conduct

Kendrick A. Sears, M.D.
Chair
Carmela Torrelli
Vice Chair
Katherine A. Hawkins, M.D., J.D.
Executive Secretary

January 7, 2010

Corrected cover letter

CERTIFIED MAIL-RETURN RECEIPT REQUESTED

Nathan W. Keever, D.O.

Redacted Address

Re: License No. 167144

Dear Dr. Keever:

Enclosed is a copy of BPMC #09-222 of the New York State Board for Professional Medical Conduct. This order and any penalty provided therein goes into effect December 25, 2009.

If the penalty imposed by this Order is a surrender, revocation or suspension, you are required to deliver your license and registration within five (5) days of receipt of this Order and return it to the Office of Professional Medical Conduct, New York State Department of Health, 433 River Street, Suite 303, Troy, NY 12180-2299

Sincerely,

Redacted Signature

Katherine A. Hawkins, M.D., J.D.
Executive Secretary
Board for Professional Medical Conduct

Enclosure

cc: Raymond R. D'Agostino, Esq.
Hancock & Estabrook, LLP
15500 AXA Tower 1
100 Madison Street
Syracuse, NY 13202

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

**IN THE MATTER
OF
NATHAN KEEVER, D.O.**

**CONSENT
ORDER**

BPMC No. #09-222

Upon the application of Nathan Keever, D.O., (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 Consent 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.

DATE: 12-16-09

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
NATHAN KEEVER, D.O.**

CONSENT
AGREEMENT
AND
ORDER

NATHAN KEEVER, D.O., represents that all of the following statements are true:

That on or about July 22, 1986, I was licensed to practice as a physician in the State of New York, and issued License No. 167144 by the New York State Education Department.

My current address is Atwell's Mill, 132 1/2 Albany Street, Cazenovia, New York 13035, 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 (Board) has charged me with one specification of professional misconduct.

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

I admit to the Specification [negligence on more than one occasion] as to Factual Allegations A and A.1, A.2, and A.3 only, in full satisfaction of the charges against me, and agree to the following penalty:

That my license to practice medicine in New York State shall be suspended for a period of two years, with the suspension stayed so long as I comply with the Terms of Probation and Monitoring attached hereto as Exhibit B. I also agree that my medical license in New York State shall be restricted so that I am not permitted to treat patients for the management of

chronic, non-malignant pain, unless and until I demonstrate my competence to treat such patients by the successful completion of an intensive course in pain management. Said course is to be proposed by me, and is subject to approval by the Director of OPMC, in his/her discretion. If I do not complete such course to the satisfaction of the Director of OPMC within the first year after the effective date of the Order herein, the restriction on my license shall become permanent.

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

That Respondent shall remain in continuous compliance with all requirements of N.Y. Educ Law § 6502 including but not limited to the requirements that a licensee shall register and continue to be registered with the New York State Education Department (except during periods of actual suspension) and that a licensee shall pay all registration fees. Respondent shall not exercise the option provided in N.Y. Educ. Law § 6502(4) to avoid registration and payment of fees. This condition shall take effect 120 days after the Consent Order's effective date and will continue so long as Respondent remains a licensee in New York State; and

That Respondent shall cooperate fully with the Office of Professional Medical Conduct (OPMC) in its administration and enforcement of this Consent 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 Consent 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.

I stipulate that my failure to comply with any conditions of this Consent Order shall constitute misconduct as defined by N.Y. Educ. Law § 6530(29).

I agree that, if I am charged with professional misconduct in 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 N.Y. Pub. 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 Consent 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 Consent Order, this agreement, and all attached Exhibits shall be public documents, with only patient identities, if any, redacted. As public documents, they may be posted on the Department's website.

I stipulate that the proposed sanction and Consent Order are authorized by N.Y. Pub. Health Law §§ 230 and 230-a, and that the Board and OPMC have the requisite powers to carry out all included terms. 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 I ask that the Board adopt this Consent Agreement.

I understand and agree that the attorney for the Department, the Director of OPMC and the Chair of the Board each retain complete discretion either to enter into the proposed agreement and Consent Order, based upon my application, or to decline to do so. I further understand and agree that no prior or separate written or oral communication can limit that discretion.

DATE 12/1/09

Redacted Signature

NATHAN KEEVER, D.O.
RESPONDENT

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

DATE: 12-3-09

Redacted Signature

RAYMOND R. D'AGOSTINO, ESQ.
Attorney for Respondent

DATE: 12/7/09

Redacted Signature

_____)
CINDY M. FASCIA, ESQ.
Associate Counsel
Bureau of Professional Medical Conduct

DATE: 12/15/09

Redacted Signature

KEITH W. SERVIS
Director
Office of Professional Medical Conduct

IN THE MATTER
OF
NATHAN KEEVER, D.O.

STATEMENT
OF
CHARGES

NATHAN KEEVER, D.O., Respondent, was licensed to practice medicine in New York State on or about July 22, 1986, by the issuance of license number 167144 by the New York State Education Department.

FACTUAL ALLEGATIONS

- A. Respondent provided medical care to Patient A (Patients are identified in Appendix) on various occasions from approximately 2005 through approximately January 2007, at Respondent's office at 194 Main Street, Oriskany Falls, New York. Respondent's medical care of Patient A failed to meet accepted standards of care, in that:
1. Respondent, despite his documented concerns regarding Patient A, continued to prescribe narcotics and benzodiazepines to Patient A and/or to increase the doses of these medications.
 2. Respondent, despite his documented concerns regarding Patient A, failed to adequately attempt to confront and/or work with Patient A to decrease Patient A's use of addictive medications and /or to refer Patient A for treatment for addiction and/or to have a contract with Patient A regarding the patient's use of addictive medications.
 3. Respondent failed to make appropriate referrals to other treatment providers and/or specialists.

EXHIBIT A

- B. Respondent provided medical care to Patient B on various occasions at Respondent's office from on or about November 1992 through on or about September 2004. Respondent's medical care of Patient B failed to meet accepted standards of care, in that:
1. Respondent, despite his documented concerns and/or observations regarding Patient B's use of medications, continued to prescribe and/or to increase the doses of addictive medications, including benzodiazepines and/or narcotics, to Patient B.
 2. Respondent, despite his documented concerns and/or observations regarding Patient B's use of medications, failed to adequately attempt to confront and/or work with Patient B to decrease Patient B's use of addictive medications and/or to refer Patient B for treatment for addiction and/or to have a contract with Patient B regarding the patient's use of addictive medications.
 3. Respondent failed to make appropriate referrals to other treatment providers and/or specialists.
- C. Respondent provided medical care to Patient C on various occasions at Respondent's office from on or about April 2002 through on or about May 2008. Respondent's medical care of Patient C failed to meet accepted standards of care, in that:
1. Respondent, despite his documented concerns and/or observations regarding Patient C's use of alcohol and tobacco, prescribed and/or continued to prescribe addictive medications for Patient C, including a narcotic and an amphetamine.

2. Respondent, despite the absence of definitive and/or documented objective evidence that Patient C had an ongoing medical condition that required narcotic pain intervention, continued to prescribe narcotics for Patient C.
3. Respondent, despite his documented concern about prescribing a narcotic for Patient C, prescribed a Duragesic patch for Patient C.
4. Respondent inappropriately and/or rapidly escalated the strength of the Duragesic patches he prescribed for Patient C.
5. Respondent, on or about January 2006, inappropriately prescribed Adderall for Patient C's complaint of sleepiness, and/or failed to adequately address Patient C's use of addictive medication which could cause sleepiness.
6. Respondent, despite his documented concerns regarding Patient C, failed to adequately attempt to confront and/or work with Patient C to decrease Patient C's use of addictive medications and/or to refer Patient C for treatment for addiction and/or to have a contract with Patient C regarding the patient's use of addictive medications.
7. Respondent failed to make appropriate referrals to other treatment providers and/or specialists.

D. Respondent provided medical care to Patient D on various occasions at Respondent's office from on or about May 2005 through on or about April 22, 2008. Respondent's medical care of Patient D failed to meet accepted standards of care, in that Respondent failed to make appropriate referrals to other treatment providers and/or specialists, and/or failed to

document his reasons for not making said referrals.

- E. Respondent provided medical care to Patient E at Respondent's office on various occasions from on or about September 12, 2005 through on or about April 11, 2008. Respondent's medical care of Patient E failed to meet accepted standards of care, in that:
1. Respondent, despite his documented concerns and/or observations that Patient E was addicted to narcotic pain medication, specifically Duragesic, continued to prescribe and/or dispense narcotics to Patient E and/or to increase the doses or the number of narcotic pain medications Patient E was taking.
 2. Respondent, on or about July 2006, gave Patient E a time release narcotic medication which Respondent had previously prescribed for another patient, and which that other patient had returned to Respondent.
 3. Respondent, despite the absence of or his failure to document that Patient E had any medical findings which required narcotic pain intervention and/or ongoing narcotic use, continued to prescribe narcotics for Patient E.
 4. Respondent, despite his documented concerns regarding Patient E, failed to adequately attempt to confront and/or work with Patient E to decrease Patient E's use of addictive medications and /or to refer Patient E for treatment for addiction and/or to have a contract with Patient E regarding the patient's use of addictive medications.

SPECIFICATION OF CHARGES

Respondent is charged with committing professional misconduct by reason of his practicing the profession of medicine with negligence on more than one occasion in violation of New York Education Law §6530(3), as set forth in two or more of the following:

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

DATE: *December 7*, 2009
Albany, New York

Redacted Signature

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PETER D. VAN BUREN
Deputy Counsel
Bureau of Professional Medical Conduct
Division of Legal Affairs
Corning Tower, Room 2512
Empire State Plaza
Albany, New York 12237
(518) 473-4282

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 N.Y. Educ. Law §§ 6530 or 6531 shall constitute a violation of probation and may subject Respondent to an action pursuant to N.Y. Pub. 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 this 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, arrests, charges, convictions or disciplinary actions by any local, state or federal agency, institution or facility. Respondent shall notify OPMC, in writing, within 30 days of any additions to or changes in the required information.
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. Respondent's failure to pay any monetary penalty by the prescribed date shall subject Respondent 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 § 171(27); State Finance Law § 18; CPLR § 5001; Executive Law § 32].
6. The probation period shall toll when Respondent is not engaged in active medical practice in New York State for a period of 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 30 day period. Respondent shall then notify the Director again at least 14 days before returning to active practice. Upon Respondent's return to active practice in New York State, the probation period shall 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 as are necessary to protect the public health.

7. 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, hospital charts, and/or electronic records; and interviews with or periodic visits with Respondent and staff at practice locations or OPMC offices.
8. 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.
9. 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.

PRACTICE MONITOR

10. Within thirty days of the effective date of the order, Respondent shall practice medicine only when monitored by a licensed physician, board certified in an appropriate specialty, ("practice monitor") proposed by Respondent and subject to the written approval of the Director of OPMC.
 - a. Respondent shall make available to the monitor any and all records or access to the practice requested by the monitor, including on-site observation. The practice monitor shall visit Respondent's medical practice at each and every location, on a random unannounced basis at least monthly and shall examine a selection (no fewer than 20) of records maintained by Respondent, including patient records, prescribing information and office records. The review will determine whether the Respondent's medical practice is conducted in accordance with the generally accepted standards of professional medical care, and whether Respondent has sought to provide management of chronic pain. Any perceived deviation of accepted standards of medical care or refusal to cooperate with the monitor shall be reported within 24 hours to OPMC.
 - b. Respondent shall be solely responsible for all expenses associated with monitoring, including fees, if any, to the monitoring physician.
 - c. Respondent shall cause the practice monitor to report quarterly, in writing, to the Director of OPMC.
 - d. Respondent shall maintain medical malpractice insurance coverage with limits no less than \$2 million per occurrence and \$6 million per policy year, in accordance with Section 230(18)(b) of the Public Health Law. Proof of coverage shall be submitted to the Director of OPMC prior to Respondent's practice after the effective date of this Order.

11. Respondent shall comply with this Consent Order and all its terms, and shall bear all associated compliance costs. Upon receiving evidence of noncompliance with, or a 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.