



New York State Board for Professional Medical Conduct

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

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NYS Department of Health*

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NYS Department of Health*

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Office of Professional Medical Conduct

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Ansel R. Marks, M.D., J.D.
Executive Secretary

PUBLIC

March 13, 2003

CERTIFIED MAIL-RETURN RECEIPT REQUESTED

David Lee Berndt, D.O.
401 NW 127th Avenue, #8
Plantation, FL 33325

RE: License No. 116673

Dear Dr. Berndt:

Enclosed please find Order #BPMC 03-67 of the New York State Board for Professional Medical Conduct. This Order and any penalty provided therein goes into effect March 13, 2003.

If the penalty imposed by the Order is a surrender, revocation or suspension of this license, you are required to deliver to the Board the license and registration within five (5) days of receipt of the Order to Board for Professional Medical Conduct, New York State Department of Health, Hedley Park Place, Suite 303, 433 River Street, Troy, New York 12180.

Sincerely,

Ansel R. Marks, M.D., J.D.
Executive Secretary

Board for Professional Medical Conduct

Enclosure

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

IN THE MATTER
OF
DAVID LEE BERNDT, D.O.
CO-02-11-5915-A

SURRENDER
ORDER
BPMC No. 03-67

DAVID LEE BERNDT, D.O., says:

On or about July 5, 1973, I was licensed to practice medicine as a physician in the State of New York having been issued License No. 116673 by the New York State Education Department. I currently reside at 401 NW 127th Avenue, #8, Plantation, FL 33325.

I am not currently registered with the New York State Education Department to practice as a physician in the State of New York.

I understand that the New York State Board for Professional Medical Conduct has charged me with one (1) specification of professional misconduct as set forth in the Statement of Charges, annexed hereto, made a part hereof, and marked as Exhibit "A."

I am applying to the State Board for Professional Medical Conduct for an agreement to allow me to surrender my license as a physician in the State of New York and request that the Board issue this Surrender Order.

I, hereby, agree not to contest the one (1) specification set forth in the Statement of Charges (Exhibit A).

I understand that in the event that this proposed agreement is not granted by the State Board for Professional Medical Conduct, 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 proposed agreement shall not be used against me in any way, and shall be kept in strict

confidence during the pendency of the professional misconduct disciplinary proceeding; and such denial by the State Board for Professional Medical Conduct shall be made without prejudice to the continuance of any disciplinary proceeding and the final determination by a Committee on Professional Medical Conduct pursuant to the provisions of the Public Health Law.

I agree that, in the event the Board grants my Application, as set forth herein, an order of the Chairperson of the Board shall be issued in accordance with same upon issuance by the Board, which may be accomplished by mailing, by first class mail, a copy of the Order to me at the address set forth above or to my attorney or upon transmission via facsimile to me or my attorney, whichever is first.

I am making this agreement of my own free will and accord and not under duress, compulsion or restraint of any kind or manner.

Date: 3/3, 2003


DAVID LEE BERNDT, D.O.
Respondent

AGREED TO:

Date: 3/6/r, 2003


ROBERT BOGAN
Associate Counsel
Bureau of Professional Medical
Conduct

Date: 3/10, 2003


DENNIS J. GRAZIANO
Director, Office of Professional
Medical Conduct

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

N THE MATTER
OF
DAVID LEE BERNDT, D.O.
CO-02-11-5915-A

STATEMENT
OF
CHARGES

DAVID LEE BERNDT, D.O., the Respondent, was authorized to practice medicine in New York state on July 5, 1973, by the issuance of license number 116673 by the New York State Education Department.

FACTUAL ALLEGATIONS

A. On or about October 7, 2002, the State of Florida, Board of Osteopathic Medicine (hereinafter "Florida Board"), by a Final Order Approving Consent Agreement (hereinafter "Florida Order"), reprimanded Respondent, required him to pay a \$5,000.00 administrative fine and \$1,467.43 administrative costs of investigation, required him to have a female chaperone present when examining female patients, and required him to complete ten (10) hours of CME in the area of Risk Management and/or Prevention of Medical Errors, based on inducing a patient to engage, or to engage or attempt to engage the patient, in sexual activity outside the scope of the practice or the scope of generally accepted examination or treatment of the patient, and exercising undue influence within a patient-physician relationship for purposes of engaging a patient in sexual activity.

B. The conduct resulting in the Florida Board disciplinary action against Respondent would constitute misconduct under the laws of New York state, pursuant to the following sections of New York state Law:

1. New York Education Law §6530(17) (exercising undue influence on the patient);
and/or
2. New York Education Law §6530(20) (moral unfitness).

SPECIFICATION

Respondent violated New York Education Law §6530(9)(d) by having had disciplinary action taken by a duly authorized professional disciplinary agency of another state, where the conduct resulting in the disciplinary action would, if committed in New York state, constitute professional misconduct under the laws New York state, in that Petitioner charges:

1. The facts in Paragraphs A and/or B.

DATED: *March 5*, 2003
Albany, New York


PETER D. VAN BUREN
Deputy Counsel
Bureau of Professional Medical Conduct

ORDER

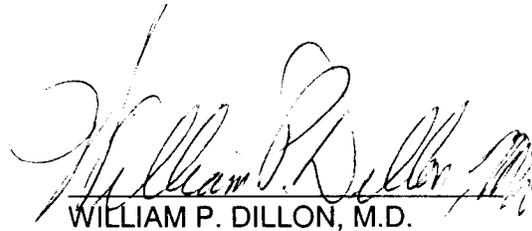
Upon the proposed agreement of **DAVID LEE BERNDT, D.O.**, to Surrender his license as a physician in the State of New York, which proposed agreement is made a part hereof, it is AGREED TO and

ORDERED, that the proposed agreement and the provisions thereof are hereby adopted; it is further

ORDERED, that the name of the Respondent be stricken from the roster of physicians in the State of New York; it is further

ORDERED, that this Order shall be effective upon issuance by the Board, which may be accomplished by mailing, by first class mail, a copy to Respondent at the addresses set forth in this agreement or to Respondent's attorney or upon transmission via facsimile to Respondent or Respondent's attorney, whichever is earliest.

DATED: 3/11, 2003



WILLIAM P. DILLON, M.D.
Chair
State Board for Professional
Medical Conduct