



New York State Board for Professional Medical Conduct

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

Barbara A. DeBuono, M.D., M.P.H.
Commissioner of Health

Patrick F. Carone, M.D., M.P.H.
Chair
Ansel R. Marks, M.D., J.D.
Executive Secretary

February 9, 1998

CERTIFIED MAIL-RETURN RECEIPT REQUESTED

John Burger, DO
Union Medical Associates, Suite 303
2204 Morris Avenue
Union, New Jersey 07083

RE: License No. 125378

Dear Dr. Burger:

Enclosed please find Order #BPMC 98-30 of the New York State Board for Professional Medical Conduct. This Order and any penalty provided therein goes into effect **February 16, 1998**.

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.

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

cc: Richard A. Gantner, Esq.
17 East High Street
Somerville, New Jersey 08876

Wayne E. Olinzock, Esq.

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

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IN THE MATTER : STATEMENT
OF : OF
JOHN K. BURGER, D.O. : CHARGES

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JOHN K. BURGER, D.O., the Respondent, was authorized to practice medicine in New York State on September 15, 1975, by the issuance of license number 125378 by the New York State Education Department. Respondent is currently registered with the New York State Education Department.

FACTUAL ALLEGATIONS

1. The State of New Jersey Board of Medical Examiners found Respondent guilty of professional misconduct pursuant to a Consent Order on April 22, 1997, entered into by Respondent and said Board with regard to Respondent's unlawfully distributing Controlled Dangerous Substances to five individuals in violation of New Jersey Statutes Annotated 45:1-21(c), (d), (e) and (h), and New Jersey Administrative Code 13:35-6.18(b) and (c).
2. More specifically, the Board found, based on Respondent's admission, that he:
 - provided Controlled Dangerous Substances, namely

anabolic steroids, to five individuals during the period of April 10, 1996 through June 6, 1996;

- failed to maintain medical records regarding provision of anabolic steroids to these individuals.

3. The New Jersey Board imposed discipline upon Respondent by suspending his license to practice medicine and surgery for two years, but stayed such suspension provided Respondent comply with restrictions that included, *inter alia*, reporting to the Medical Director of the Board on a regular basis concerning his professional activities, legal status and fitness to practice medicine; surrendering his original DEA registration and New Jersey registration to prescribe and dispense controlled substances; desisting from distributing and/or prescribing any Controlled Dangerous Substances as set forth in the Schedule II Controlled Dangerous Substances List as scheduled under the Controlled Dangerous Substances Act of 1970 and New Jersey Administrative Code 13:35-6.7(d) and 13:35-6.18; completing a mini-residency in the proper prescribing of Controlled Dangerous substances. The New Jersey State Board of Medical Examiners, by Order dated November 26, 1997, removed the restrictions it had previously imposed on Respondent's license.
4. The conduct underlying the New Jersey Board's determination that Respondent committed professional misconduct would, if committed in New York State, constitute professional

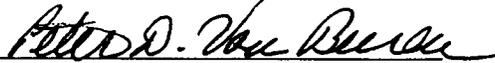
misconduct under N.Y. Education Law §§6530(3) (practicing the profession with negligence on more than one occasion) and/or 6530(5) (practicing the profession with incompetence on more than one occasion) and/or 6530(32) (failure to maintain an adequate patient record).

SPECIFICATION

Respondent is charged with professional misconduct under N.Y. Education Law §6530(9)(b) by reason of having been found guilty of improper professional practice or professional misconduct by a duly authorized professional disciplinary agency of another state where the conduct upon which the finding was based would, if committed in New York State, constitute professional misconduct under the laws of New York State, in that Petitioner charges:

1. The facts in paragraphs 1, 2, 3 and 4.

DATED: *January 30, 1998*
Albany, New York


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

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

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IN THE MATTER : SURRENDER
OF : ORDER
John K. Burger : BPMC # 98-30
:
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John K. Burger, D.O., says:

On or about September 15, 1975, I was licensed to practice medicine as a physician in the State of New York having been issued License No. 125378 by the New York State Education Department.

My current address is Union Medical Associates, Suite 303, 2204 Morris Avenue, Union, New Jersey 07083.

I am currently registered with the New York State Education Department to practice as a physician in the State of New York.

I understand that I have been charged 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."

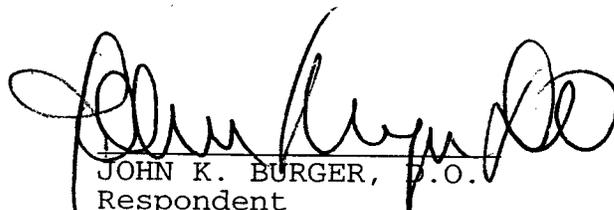
I am applying to the State Board for Professional Medical Conduct for an agreement to allow me to surrender my license as a physician in the State of New York and request that the Board issue this Surrender Order.

I hereby agree not to contest the allegations and one 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 State Board for Professional Medical Conduct agrees with my proposal, this Order shall be issued striking my name from the roster of physicians in the State of New York without further notice to me.

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


JOHN K. BURGER, P.O.
Respondent

Subscribed before me this
day of _____, 1997

NOTARY PUBLIC

AGREED TO:

Date: Jan. 28, 1998
RAG



RICHARD A. GANTNER
Attorney for Respondent

Date: January 30, 1998



WAYNE E. OLINZOCK
Assistant Counsel
Bureau of Professional
Medical Conduct

Date: Feb. 3, 1998



ANNE F. SAILE
Director, Office of
Professional Medical Conduct

ORDER

Upon the proposed agreement of JOHN K. BURGER, 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 Respondent be stricken from the roster of physicians in the State of New York; it is further

ORDERED, that this Order shall take effect as of the date of the personal service of this Order upon Respondent, upon receipt by Respondent of this Order via certified mail, or seven days after mailing of this Order via certified mail, whichever is earliest.

DATED: 2/4/98

Patrick F. Carone, M.D.

PATRICK F. CARONE, M.D., M.P.H.
Chair
State Board for Professional
Medical Conduct