

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

IN THE MATTER
OF
GIOVANNI BIONDI, M.D.

COMMISSIONER'S
ORDER AND
NOTICE OF
HEARING

TO: GIOVANNI BIONDI, M.D.
167 White Road
Scarsdale, N.Y. 10583

The undersigned, Dennis P. Whalen, Executive Deputy Commissioner, after an investigation, upon the recommendation of a Committee on Professional Medical Conduct of the State Board for Professional Medical Conduct, and upon the Statement of Charges attached hereto and made a part hereof, has determined that the continued practice of medicine in the State of New York by GIOVANNI BIONDI, M.D., the Respondent, constitutes an imminent danger to the health of the people of this state.

It is therefore:

ORDERED, pursuant to N.Y. Pub. Health Law §230(12) (McKinney Supp. 1999), that effective immediately GIOVANNI BIONDI, M.D., Respondent, shall not practice medicine in the State of New York. This Order shall remain in effect unless modified or vacated by the Commissioner of Health pursuant to N.Y. Pub. Health Law §230(12) (McKinney Supp. 1999).

PLEASE TAKE NOTICE that a hearing will be held pursuant to the provisions of N.Y. Pub. Health Law §230 (McKinney 1990 and Supp. 1999), and N.Y. State Admin. Proc. Act §§301-307 and 401 (McKinney 1984 and Supp. 1999). The hearing will be conducted before a committee on professional conduct of the State Board for Professional Medical Conduct on February 11, 1999, at 10:00 a.m., at the offices of the New York State Health Department, 5 Penn Plaza, Sixth Floor, New

York, NY 10001, and at such other adjourned dates, times and places as the committee may direct. The Respondent may file an answer to the Statement of Charges with the below-named attorney for the Department of Health.

At the hearing, evidence will be received concerning the allegations set forth in the Statement of Charges, which is attached. A stenographic record of the hearing will be made and the witnesses at the hearing will be sworn and examined. The Respondent shall appear in person at the hearing and may be represented by counsel. The Respondent has the right to produce witnesses and evidence on his behalf, to issue or have subpoenas issued on his behalf for the production of witnesses and documents and to cross-examine witnesses and examine evidence produced against him. A summary of the Department of Health Hearing Rules is enclosed. Pursuant to §301(5) of the State Administrative Procedure Act, the Department, upon reasonable notice, will provide at no charge a qualified interpreter of the deaf to interpret the proceedings to, and the testimony of, any deaf person.

The hearing will proceed whether or not the Respondent appears at the hearing. Scheduled hearing dates are considered dates certain and, therefore, adjournment requests are not routinely granted. Requests for adjournments must be made in writing to the New York State Department of Health, Division of Legal Affairs, Bureau of Adjudication, Hedley Park Place, 433 River Street, Fifth Floor South, Troy, NY 12180, ATTENTION: HON. TYRONE BUTLER, DIRECTOR, BUREAU OF ADJUDICATION, and by telephone (518-402-0748), upon notice to the attorney for the Department of Health whose name appears below, and at least five days prior to the scheduled hearing date. Claims of court engagement will require detailed affidavits of actual engagement. Claims of illness will require medical documentation.

At the conclusion of the hearing, the committee shall make findings of fact, conclusions concerning the charges sustained or dismissed, and, in the event any of the charges are sustained, a determination of the penalty or sanction to be imposed

or appropriate action to be taken. Such determination may be reviewed by the administrative review board for professional medical conduct.

THESE PROCEEDINGS MAY RESULT IN A DETERMINATION THAT YOUR LICENSE TO PRACTICE MEDICINE IN NEW YORK STATE BE REVOKED OR SUSPENDED, AND/OR THAT YOU BE FINED OR SUBJECT TO OTHER SANCTIONS SET FORTH IN NEW YORK PUBLIC HEALTH LAW §230-a (McKinney Supp. 1999). YOU ARE URGED TO OBTAIN AN ATTORNEY TO REPRESENT YOU IN THIS MATTER.

DATED: Albany, New York
February 4, 1999


Dennis P. Whalen
Executive Deputy Commissioner
New York State Health Department

Inquiries should be directed to:

Claudia Morales Bloch
Associate Counsel
N.Y.S. Department of Health
Division of Legal Affairs
145 Huguenot Street
Suite 601
New Rochelle, New York 10801
(914) - 632-3547

IN THE MATTER
OF
GIOVANNI BIONDI, M.D.

STATEMENT
OF
CHARGES

GIOVANNI BIONDI, M.D., the Respondent, was authorized to practice medicine in New York State on or about April 3, 1981, by the issuance of license number 145370 by the New York State Education Department.

FACTUAL ALLEGATIONS

- A. Respondent (at his office located at 211 West 56 Street, New York, N.Y. and at various other locations) undertook the psychiatric care and treatment of Patient A (identity of this patient is set forth in the annexed Appendix), and engaged in an inappropriate relationship with her, from on or about October 2, 1995 through in or about September, 1998.
- B. On Patient A's initial visit to him, Respondent failed to:
1. obtain and/or note an appropriate history.
 2. conduct and/or note a mental status evaluation.
 3. assess and/or note the current dangerousness of Patient A to self and others.
- C. On multiple occasions throughout his treatment of Patient A, Respondent

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inappropriately prescribed a variety of medications, to wit: Ambien, Trazodone, Prozac, Vistaril, Welbutrin, Clonidine, Nifedipine, Paronate, Depokote, Nardil, Ativan, Valium, Xanax, Restoril, Klonopin, Halcion, and Dexadrine. Respondent:

1. prescribed the medications without appropriate medical rationale or justification, and/or without noting a medical rationale or justification.
2. failed to assess and/or note side effects caused by the medication(s) and failed to evaluate and clinically intervene when Patient A presented with side effects.
3. inappropriately prescribed multiple medications to Patient A simultaneously. Additionally, Respondent failed to appropriately monitor and address the effects and side effects of the multiple medications and the interactions of these medications with each other.
4. prescribed medications to Patient A without appropriately monitoring the patient.
5. inappropriately prescribed medications at the request of Patient A without appropriate and justifiable medical indication.

D. Respondent failed to treat Patient A in accordance with accepted standards of psychiatric practice. Respondent:

1. failed to insure that Patient A had appropriate, and on-going, medical evaluation(s) and to appropriately refer Patient A for consultation with a neurologist and/or internist;
2. inappropriately dealt with Patient A with regard to her access to her medical record;
3. failed to appropriately formulate and/or note a treatment plan for Patient A;
4. failed to conduct treatment sessions according to a reasonable and appropriate schedule and, inappropriately failed to identify and/or note a clinical justification for the frequent and multiple therapy sessions he had with Patient A.
5. failed to appropriately assess and address, and/or note, Patient A's dangerousness to herself and others;
6. failed to arrange for coverage by another psychiatrist for Patient A when Respondent went on vacation;
7. inappropriately had lengthy and numerous telephone sessions with Patient A while Respondent was on trips abroad;
8. failed to consult with another psychiatrist when he and Patient A speculated that his treatment was causing harm to her;

9. failed to appropriately identify and monitor his emotional interest in Patient A;
10. inappropriately developed a personal relationship with Patient A;
11. failed to appropriately address the issue of termination of treatment with Patient A.

E. Respondent failed to appropriately define boundaries for Patient A with regard to his treatment, and, inter alia, as to:

1. medications;
2. scheduling of office and telephone sessions;
3. vacation coverage;
4. emotional involvement between himself and Patient A;
5. meeting Patient A at the Capri Motel, 555 Hutchinson River Parkway, Bronx, N.Y., on more than one occasion.

F. Respondent physically abused Patient A, in that:

1. on or about August 15, 1998, Respondent was checked into a room at the Capri Motel with Patient A. At this location,

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Respondent physically abused Patient A. Respondent then drove with Patient A to a location at or near his home and abandoned Patient A there.

2. on or about September 10, 1998, and/or through on or about September 12, 1998, Respondent physically abused Patient A at the Capri Motel or another Bronx Hotel, and/or at a location in Harrison, N.Y.

G. Respondent failed to maintain medical records for Patient A in accordance with accepted medical/psychiatric standards and in a manner which accurately reflects his care and treatment of the patient. Additionally, Respondent:

1. failed to document numerous office sessions, telephone sessions and contacts with Patient A;
2. used obscure and medically unacceptable terms;
3. inappropriately altered and falsified his record.

H. During his interview with an Office of Professional Medical Conduct investigator and medical coordinator on December 8, 1998, Respondent stated that, in his practice of child psychiatry, it is not unusual for him to "pal around" with his patients, taking them for walks in the park; to a movie, show or other event; or to places for a meal. Respondent's practice in this regard is not in accordance with accepted standards of psychiatric practice.

SPECIFICATION OF CHARGES

FIRST SPECIFICATION

GROSS NEGLIGENCE

Respondent is charged with committing professional misconduct as defined in N.Y. Educ. Law §6530(4)(McKinney Supp. 1999) by practicing the profession of medicine with gross negligence as alleged in the facts of the following:

1. The facts in paragraphs A, B, B(1), B(2), B(3), C, C(1) through C(5), D, D(1) through D(11), E, E(1) through E(5), F, F(1), F(2), G, G(1), G(2), G(3), and H.

SECOND SPECIFICATION

GROSS INCOMPETENCE

Respondent is charged with committing professional misconduct as defined in N.Y. Educ. Law §6530(6)(McKinney Supp. 1999) by practicing the profession of medicine with gross incompetence as alleged in the facts of the following:

2. The facts in paragraphs A, B, B(1), B(2), B(3), C, C(1) through C(5), D, D(1) through D(11), E, E(1) through E(5), F, F(1), F(2), G, G(1), G(2), G(3), and H.

THIRD SPECIFICATION

NEGLIGENCE ON MORE THAN ONE OCCASION

Respondent is charged with committing professional misconduct as defined in N.Y. Educ. Law §6530(3)(McKinney Supp. 1999) by practicing the profession of

medicine with negligence on more than one occasion as alleged in the facts of two or more of the following:

3. The facts in paragraphs A, B, B(1), B(2), B(3), C, C(1) through C(5), D, D(1) through D(11), E, E(1) through E(5), F, F(1), F(2), G, G(1), G(2), G(3), and H.

FOURTH SPECIFICATION

INCOMPETENCE ON MORE THAN ONE OCCASION

Respondent is charged with committing professional misconduct as defined in N.Y. Educ. Law §6530(5)(McKinney Supp. 1999) by practicing the profession of medicine with incompetence on more than one occasion as alleged in the facts of two or more of the following:

4. The facts in paragraphs A, B, B(1), B(2), B(3), C, C(1) through C(5), D, D(1) through D(11), E, E(1) through E(5), F, F(1), F(2), G, G(1), G(2), G(3), and H.

FIFTH AND SIXTH SPECIFICATIONS

WILLFUL PATIENT ABUSE

Respondent is charged with committing professional misconduct as defined in N.Y. Educ. Law §6530(31)(McKinney Supp. 1999) by willfully abusing a patient physically, as alleged in the facts of:

5. The facts in paragraphs A, F, and F(1).
6. The facts in paragraphs A, F, and F(2).

SEVENTH SPECIFICATION
FAILURE TO MAINTAIN RECORDS

Respondent is charged with committing professional misconduct as defined in N.Y. Educ. Law §(32)(McKinney Supp. 1999) by failing to maintain a record for the patient which accurately reflects the care and treatment of the patient, as alleged in the facts of:

7. The facts in paragraphs A, B(1), B(2), B(3), C(1), C(2), D(3), D(4), D(5), G, G(1), G(2), and G(3).

EIGHTH SPECIFICATION
MORAL UNFITNESS

Respondent is charged with committing professional misconduct as defined in N.Y. Educ. Law §6530(20)(McKinney Supp. 1999) by engaging in conduct in the practice of the profession of medicine that evidences moral unfitness to practice as alleged in the facts of the following:

8. The facts in paragraphs A, D(2), D(4), D(8) through D(11), E, E(1) through E(5), F, F(1), F(2), G(2), G(3) and H.

DATED: February 4, 1999
New York, New York

Roy Nemerson by WJC.

ROY NEMERSON
Deputy Counsel
Bureau of Professional
Medical Conduct