



Board for Professional Medical Conduct

Corning Tower • Empire State Plaza • Albany, NY 12237 • (518) 474-8357

Mark R. Chassin, M.D., M.P.P., M.P.H.
Commissioner

C. Maynard Guest, M.D.
Executive Secretary

February 22, 1994

CERTIFIED MAIL-RETURN RECEIPT REQUESTED

Philip Holzberger, M.D.
P.O. Box 0
Millbrook, New York 12545-0176

9 Partners Lane
Millbrook, New York 12546-0176

RE: License No. 077646

Dear Dr. Holzberger:

EFFECTIVE DATE 03/01/94

Enclosed please find Order #BPMC 94-25 of the New York State Board for Professional Medical Conduct. This Order and any penalty provided therein goes into effect upon receipt of this letter or seven (7) days after the date of this letter, whichever is earlier.

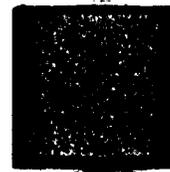
If the penalty imposed by the Order is a surrender, revocation or suspension of this license, you are required to deliver to the Board the license and registration within five (5) days of receipt of the Order.

Board for Professional Medical Conduct
New York State Department of Health
Empire State Plaza
Tower Building-Room 438
Albany, New York 12237-0756

Sincerely,

C. Maynard Guest, M.D.
Executive Secretary
Board for Professional Medical Conduct

Enclosure



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

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IN THE MATTER :
OF : ORDER
PHILIP HOLZBERGER, M.D. : BPMC #94-25
Respondent :

-----X

Upon the Application of PHILIP HOLZBERGER, M.D.
(Respondent) to Surrender his or her license as a physician in the
State of New York, which application is made a part hereof, it is

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

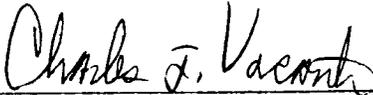
ORDERED, that the name of Respondent be stricken from
the roster of physicians in the State of New York; it is further

ORDERED, that Respondent shall not apply for the
restoration of Respondent's license until at least one year has
elapsed from the effective date of this order; and 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.

SO ORDERED,

DATED: 11 February 1994



CHARLES J. VACANTI, M.D.
Chairperson
State Board for Professional
Medical Conduct

I am applying to the State Board for Professional Medical Conduct for permission to surrender my license as a physician in the State of New York on the grounds that I admit guilt to the fifteenth through twenty-fifth specifications of the attached Statement of Charges.

I hereby make this application to the State Board for Professional Medical Conduct and request that it be granted.

I understand that, in the event that the application 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 application 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 grants my application, an 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 Application of my own free will and accord and not under duress, compulsion, or restraint of any kind or manner.

Philip Holzberger MD

PHILIP HOLZBERGER, M.D.
Respondent

Sworn to before me this
day of 28 January, 1994

P/Loi Hani
NOTARY PUBLIC

*Forme legalisation de signature
approuvee en vertu*



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

IN THE MATTER

OF

PHILIP HOLZBERGER, M.D.

: APPLICATION TO

: SURRENDER

: LICENSE
:

The undersigned agree to the attached application of the Respondent to surrender his license.

Date: 28 January 1994

Philip Holzberger MD

PHILIP HOLZBERGER, M.D.
Respondent

Date: Feb. 1st, 1994

Arthur Braiman

ARTHUR BRAIMAN
Counsel for Respondent

Date: Feb 2, 1994

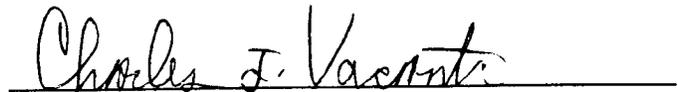
Frederick Zimmer

FREDERICK ZIMMER
Assistant Counsel
Bureau of Professional
Medical Conduct

Date: Feb. 16, 199


KATHLEEN M. TANNER
Director, Office of Professional
Medical Conduct

Date: 11 February 1994


CHARLES J. VACANTI, M.D.
Chairperson, State Board for
Professional Medical Conduct

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

-----X

IN THE MATTER : STATEMENT
OF : OF
PHILIP HOLZBERGER, M.D. : CHARGES

-----X

PHILIP HOLZBERGER, M.D., the Respondent, was authorized to practice medicine in New York State on February 23, 1956 by the issuance of license number 077646 by the New York State Education Department. The Respondent is not currently registered with the New York State Education Department to practice medicine.

FACTUAL ALLEGATIONS

A. Respondent, during a period beginning on or about March 14, 1986 and continuing through approximately March 5, 1991 treated Patient A (all patients are identified in the Appendix) on three occasions at his office at 9 Partners Lane, Millbrook, New York (hereinafter "Respondent's office") for complaints of back pain and drug addiction. Respondent's care was deficient, in that:

1. Respondent failed to elicit and/or record an adequate history.

2. Respondent, on or about November 7, 1990 and on or about March 5, 1991, inappropriately prescribed a total of approximately 600 tablets of Talwin 50 mg. for Patient A who presented himself as a heroin addict.

B. Respondent, during a period beginning on or about March 14, 1977 and continuing through at least October 11, 1991, treated Patient B on numerous occasions at his office for weight control, chronic pain, anxiety and other conditions.

Respondent's treatment of Patient B was deficient, in that;

1. Respondent failed to elicit and/or record an adequate history.
2. Respondent failed to perform and/or record an adequate physical examination.
3. Respondent, repeatedly and/or inappropriately, prescribed controlled substances for Patient B including Demerol, Dalmane, Talwin, Valium, Tylenol with Codeine, Bancap, Halcion, Tylox, Darvocet, Darvon, and Vicodin, without any written evaluation of Patient B's prior drug or alcohol history, and without referring Patient B for counseling and/or to a pain specialist and/or to other appropriate specialists. During a period of approximately February 20, 1988 through approximately May 7, 1990 Respondent prescribed at least 10,350 tablets and/or capsules of Darvon and/or Darvocet.
4. Respondent, on or about February 28, 1987, diagnosed that Patient B had pernicious anemia without conducting appropriate diagnostic studies. Thereafter, on or about July 30, 1991, he inappropriately doubled Patient B's dosage of Vitamin B12.
5. Respondent, beginning in April of 1987, treated Patient B with Cardizem and Quinidex without appropriate cardiac evaluation.

C. Respondent, on or about November 23, 1990 and on or about July 20, 1991, treated Patient C for weight control at his office. Respondent's care was deficient, in that:

1. Respondent failed to perform and/or record an adequate physical examination.
2. Respondent failed to elicit and/or record an adequate history.
3. Respondent, during a period beginning on November 23, 1990 and continuing through at least July 20, 1991, inappropriately prescribed approximately 600 capsules of a controlled substance, Ionamin, for weight control for Patient C who lost four pounds as of July 20, 1991.

D. Respondent, during a period beginning on or about May 12, 1977 and continuing through at least April 20, 1991, treated Patient D on numerous occasions for weight control, at his office. Respondent's care was deficient, in that;

1. Respondent failed to perform and/or record an adequate physical examination.
2. Respondent failed to elicit and/or record an adequate history.
3. Respondent, on numerous occasions beginning on May 12, 1977 and continuing through July 26, 1991, repeatedly and inappropriately, prescribed controlled substances, including Ionamin and Tenuate, for Patient D. Respondent prescribed approximately 1560 capsules of Ionamin, during a period beginning on approximately August 16, 1989 and continuing through approximately July 20, 1991.
4. Respondent, throughout the period, failed to order appropriate diagnostic studies, for this patient who was obese and on amphetamine-like substances.

5. Respondent, on November 23, 1990, inappropriately prescribed Maxzide and Potassium Chloride and failed to follow-up with serum electrolyte determinations.

E. Respondent, during a period beginning on or about on May 15, 1989 and continuing through at least October 11, 1991, treated Patient E who had a history of drug use, on numerous occasions at his office, for sleep disorders, back pain and other conditions. Respondent's care was deficient, in that:

1. Respondent failed to perform and/or record an adequate physical examination.
2. Respondent failed to elicit and/or record an adequate history.
3. Respondent on numerous occasions throughout the period, inappropriately prescribed controlled substances such as Placidyl, Vicodin, Meprobamate and Tylenol with Codeine. From on or about March 1, 1991 until September 1991, Respondent prescribed approximately 2100 tablets of meprobamate 400 mg. and/or 500 mg. and approximately 1160 tablets of APAP codeine from approximately February 27, 1991 through approximately May 14, 1991.

F. Respondent, during a period beginning on or about April 13, 1976 and continuing through at least September 18, 1991, treated Patient F at his office on numerous occasions for weight control, migraine headaches, hypertension and other conditions. Respondent's care was deficient, in that;

1. Respondent failed to perform and/or record an adequate physical examination.
2. Respondent failed to elicit and/or record an adequate history.

3. Respondent failed to order appropriate laboratory studies.
4. Respondent, on numerous occasions throughout the period, inappropriately prescribed controlled substances such as Ionamin, Talwin, Tenuate and Demerol. Following notification in November 1987 that Patient F had been to a detoxification center for Talwin detoxification, Respondent inappropriately prescribed Darvocet, Valium and Darvon, including approximately 3660 capsules of Darvon 65 mg. between July, 1988 and April of 1991.
5. Respondent, on numerous occasions, failed to adequately monitor and/or record Patient F's weight, blood pressure and Potassium.

SPECIFICATIONS OF CHARGES

FIRST THROUGH SIXTH SPECIFICATIONS

PRACTICING THE PROFESSION
WITH GROSS NEGLIGENCE ON A PARTICULAR OCCASION

Respondent is charged with professional misconduct under N.Y. Educ. Law §6530(4) (McKinney Supp. 1992) by reason of his having practiced the profession with gross negligence on a particular occasion, in that the Petitioner charges:

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

SEVENTH THROUGH TWELFTH SPECIFICATIONS

PRACTICING THE PROFESSION WITH
GROSS INCOMPETENCE

Respondent is charged with professional misconduct under N.Y. Educ. Law §6530(6) (McKinney Supp. 1992) by reason of his having practiced the profession with gross incompetence, in that Petitioner charges:

7. The facts in Paragraphs A and A.1 and/or A.2.
8. The facts in Paragraphs B and B.1, B and B.2, B and B.3, B and B.4, and/or B and B.5.
9. The facts in Paragraphs C and C.1, C and C.2, and/or C and C.3.
10. The facts in Paragraphs D and D.1, D and D.2, D and D.3, D and D.4, and/or D and D.5.
11. The facts in Paragraphs E and E.1, E and E.2, and/or E and E.3.
12. The facts in Paragraphs F and F.1, F and F.2, F and F.3, F and F.4 and/or F and F.5.

THIRTEENTH SPECIFICATION

PRACTICING THE PROFESSION WITH
NEGLIGENCE ON MORE THAN ONE OCCASION

Respondent is charged with professional misconduct under N.Y. Educ. Law §6530(3) (McKinney Supp. 1992) by reason of his having practiced the profession with negligence on more than one occasion, in that the Petitioner charges that Respondent committed at least two of the following:

13. The facts in Paragraph A and A.1, A and A.2, B and B.1, B and B.2, B and B.3, B and B.4, B and B.5, C and C.1, C and C.2, C and C.3, D and D.1, D and D.2, D and D.3, D and D.4, D and D.5, E and E.1, E and E.2, E and E.3, F and F.1, F and F.2, F and F.3, F and F.4, and/or F and F.5.

FOURTEENTH SPECIFICATION

PRACTICING THE PROFESSION WITH
INCOMPETENCE ON MORE THAN ONE OCCASION

Respondent is charged with professional misconduct under N.Y. Educ. Law §6530(5) (McKinney Supp 1992) by reason of his having practiced the profession with incompetence on more than one occasion, in that Petitioner charges that Respondent committed at least two of the following:

14. The facts in Paragraph A and A.1, A and A.2, B and B.1, B and B.2, B and B.3, B and B.4, B and B.5, C and C.1, C and C.2, C and C.3, D and D.1, D and D.2, D and D.3, D and D.4, D and D.5, E and E.1, E and E.2, E and E.3, F and F.1, F and F.2, F and F.3, F and F.4, and/or F and F.5.

FIFTEENTH THROUGH TWENTY-FIFTH SPECIFICATION

FAILURE TO MAINTAIN RECORDS

Respondent is charged with professional misconduct under N.Y. Educ. Law §6530(32) (McKinney Supp. 1992) in that he failed

to maintain a record for each patient which accurately reflects his evaluation and treatment of the patient. Specifically, the Petitioner charges:

15. The facts in Paragraph A and A.1.
16. The facts in Paragraph B and B.1.
17. The facts in Paragraph B and B.2.
18. The facts in Paragraph C and C.1.
19. The facts in Paragraph C and C.2.
20. The facts in Paragraph D and D.1.
21. The facts in Paragraph D and D.2.
22. The facts in Paragraph E and E.1.
23. The facts in Paragraph E and E.2.
24. The facts in Paragraph F and F.1.
25. The facts in Paragraph F and F.2.

DATED: Albany, New York
September 14, 1993



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