



New York State Board for Professional Medical Conduct

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

Dennis P. Whalen
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Office of Professional Medical Conduct
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Bureau of Professional Medical Conduct

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Denise M. Bolan, R.P.A.
Vice Chair
Ansel R. Marks, M.D., J.D.
Executive Secretary

July 7, 1999

CERTIFIED MAIL-RETURN RECEIPT REQUESTED

Bernard Jensen, M.D.
P.O. Box 73
6225 Main Street
Argyle, NY 12809

RE: License No. 145457

Dear Dr. Jensen:

Enclosed please find Order #BPMC 99-151 of the New York State Board for Professional Medical Conduct. This Order and any penalty provided therein goes into effect **July 7, 1999**.

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

cc: T. Lawrence Tabak, Esq.
c/o Kern, Augustine, Conroy & Schoppmann, P.C.
420 Lakeville Road
Lake Success, NY 11042

Michael Hiser, Esq.

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

IN THE MATTER	:	APPLICATION FOR
	:	CONSENT ORDER
OF	:	and to
	:	SURRENDER LICENSE
BERNARD JENSEN , M.D.	:	BPMC #99-151

BERNARD JENSEN, M.D., the Respondent, states that I was authorized to practice medicine in New York State on April 3, 1981, by the issuance of License No. 145457 by the New York State Education Department.

I am currently registered with the New York State Education Department to practice in the State of New York. My address is P.O. Box 73, 6225 Main Street, Argyle, New York 12809.

I understand that I have been charged with fifteen specifications of professional misconduct as set forth in the Statement of Charges, annexed hereto, made a part hereof, and marked as Exhibit A. I deny Specifications One through Twelve, Fourteen and Fifteen, but in satisfaction of all charges, I do not contest Specification Thirteen.

I am applying to the State Board for Professional Medical Conduct for an Order (henceforth "Consent and Surrender Order"), limiting my ability to practice medicine in New York immediately, and subsequently (effective on or before September 1, 1999) surrendering my license to practice medicine in the State of New York.

I agree that beginning with the effective date of the Order herein (hereafter called the "Consent Date"), my license to practice medicine in the State of New York shall be limited, pursuant to section 230-a of the Public Health Law, to preclude the practice of medicine. I shall be precluded from patient contact, diagnosing,

treating, prescribing or operating for any human condition.

I further agree that the Consent Order for which I hereby apply shall impose a condition that effective on the Consent Date, I shall change my registration status to "inactive" with the New York State Education Department Division of Professional Licensing Services and provide proof of such change to the Director of the Office of Professional Medical Conduct within thirty days of the Consent Date. Failure to comply with such condition shall constitute misconduct as defined by New York State Education Law section 6530(29).

I further agree that I shall surrender my license effective on or before September 1, 1999.

Finally, I agree to comply with the terms of medical practice cessation attached hereto as Exhibit B.

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

I understand that, in the event that the application is not granted by the Board, nothing contained herein shall be binding upon me or construed to be an admission of any act of misconduct alleged or charged against me.

I make this application to the Board and request that it be granted by execution by the Chairperson of the Board of the attached order. I agree that, in the event the Board 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 as of the date I surrender my license, or September 1, 1999, whichever occurs first.

I am making this application of my own free will and accord and not under duress, compulsion or restraint of any kind or manner. In consideration of the Board's granting of this application, I fully, freely waive any right I may have to appeal or otherwise challenge the validity of the said consent and surrender order.


BERNARD JENSEN, M.D.
Respondent

The undersigned agree to the attached application of the Respondent for a consent and surrender order for Respondent's license to practice medicine in the State of New York.

Date: June 16, 1999


T. LAWRENCE TABAK, ESQ.
Attorney for Respondent

Date: June 22, 1999


MICHAEL A. HISER, ESQ.
Associate Counsel
Bureau of Professional
Medical Conduct

Date: June 28, 1999


ANNE F. SAILE
Director, Office of
Professional Medical Conduct

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

IN THE MATTER : CONSENT AND
OF : SURRENDER ORDER
BERNARD JENSEN, M.D. : BPMC #

Upon the application of BERNARD JENSEN, M.D., (Respondent) for a consent order and to surrender his license as a physician in the State of New York, which application is made a part hereof, it is agreed to and

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

ORDERED, that Respondent's license to practice medicine in New York shall be limited to preclude any patient contact, diagnosing, treating, prescribing or operating for any human condition as of the effective date of the order herein; and it is further

ORDERED, that Respondent shall surrender his New York license to practice medicine on or before September 1, 1999, and that no later than that date, Respondent's name shall be stricken from the roll of physicians in the State of New York; 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: 9/1/99, 1999


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

EXHIBIT B

TERMS OF MEDICAL PRACTICE CESSATION

1. Respondent shall, as of the effective date of the order herein, cease and desist from engaging in the practice of medicine in accordance with the terms of the Order. In addition, Respondent shall permanently refrain from providing an opinion as to professional practice or its application and from representing himself as being eligible to practice medicine.
2. Respondent shall within ten (10) days of the Order notify his patients of the cessation of his medical practice and will refer all patients to another licensed practicing physician for their continued care, as appropriate.
3. Respondent shall make arrangements for the transfer and maintenance of the medical records of his patients. Within thirty days of the effective date of the Order, Respondent shall notify OPMC of these arrangements including the appropriate and acceptable contact person's name, address, and telephone number who shall have access to these records. Original records shall be retained for at least six years after the last date of service rendered to a patient or, in the case of a minor, for at least six years after the last date of service or three years after the patient reaches the age of majority whichever time period is longer. Records shall be maintained in a safe and secure place which is reasonably accessible to former patients. The arrangements shall include provisions to ensure that the information on the record is kept confidential and made available only to authorized persons. When a patient and/or his or her representative requests a copy of the patient's medical record or requests that the original medical record be forwarded to another health care provider, a copy of the record shall be promptly provided or forwarded at a reasonable cost to the patient (not to exceed seventy-five cents per page.) Radiographic, sonographic and like materials shall be provided at cost. A qualified person shall not be denied access to patient information solely because of their inability to pay.
4. In the event that Respondent holds a Drug Enforcement Agency (DEA) certificate, Respondent shall within fifteen (15) days advise the DEA in writing of the licensure action and shall surrender his DEA controlled substance privileges to the DEA. Respondent shall promptly surrender any unused DEA #222 U.S. Official Order Forms Schedules 1 and 2 to the DEA.
5. Respondent shall within fifteen (15) days return any unused New York State official prescription forms to the Bureau of Controlled Substances of the New York State Department of Health. Respondent shall cause all prescription pads bearing his name to be destroyed. If no other licensee is providing services at his practice location, all medications shall be properly disposed.
6. Respondent shall not share, occupy or use office space in which another licensee provides health care services. Respondent shall cause all signs to be removed within fifteen (15) days and stop all advertisements, professional listings whether in telephone directories or otherwise, professional stationery or billings by which his eligibility to practice is represented.
7. Respondent shall not charge, receive or share any fee or distribution of dividends for professional services rendered by himself or others while barred from engaging in the practice of medicine. Respondent may be compensated for the

reasonable value of services lawfully rendered and disbursements incurred on a patient's behalf prior to the effective date of this Order.

8. If Respondent is a shareholder in any professional service corporation organized to engage in the practice of medicine he shall divest himself of all financial interest in the professional services corporation in accordance with New York Business Corporation Law. Such divestiture shall occur within 90 days. If Respondent is the sole shareholder in a professional services corporation, the corporation must be dissolved or sold within ninety (90) days of the effective date of this Order.

9. Failure to comply with the above directives may result in a civil penalty or further criminal penalties as may be authorized pursuant to the law. Under Section 6512 of the Education Law it is a Class E Felony, punishable by imprisonment of up to 4 years, to practice the profession of medicine when such professional license has been suspended, revoked or annulled. Such punishment is in addition to the penalties for professional misconduct set forth in section 230-a of the Public Health Law, which includes fines of up to \$10,000 for each specification of charges of which the Respondent is found guilty and may include revocation of a suspended license.

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

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IN THE MATTER : STATEMENT
OF : OF
BERNARD P. JENSEN, M.D. : CHARGES

-----X

BERNARD P. JENSEN, M.D., the Respondent, was authorized to practice medicine in New York State on April 3, 1981 by the issuance of license number 145457 by the New York State Education Department. The Respondent is currently registered with the New York State Education Department to practice medicine.

FACTUAL ALLEGATIONS

A. Respondent treated Patient A, (a list of patients' names is included as appendix A) a sixty-five year old female, on or about August 13, 1998 in the Emergency Room of Mary McClellan Hospital, One Myrtle Avenue, Cambridge, New York 12816 (hereinafter MMH). Patient A presented with a chief complaint of weakness for three days and a fever. Respondent's medical care of Patient A failed to meet accepted standards of medical care in the following respects:

1. Respondent failed to obtain and/or document an adequate history of the patient.
2. Respondent failed to perform and/or document an adequate physical examination of the patient.
3. Respondent failed to order adequate diagnostic tests,

including a blood culture, despite indications.

B. Respondent treated Patient B, a sixty-five year old female, in the Emergency Room of MMH on or about May 21, 1995. Patient B presented with a complaint of swelling to the left side of her neck and face following a bee sting and a history of allergy to bee stings. Respondent's medical care of Patient B failed to meet accepted standards of medical care in the following respects:

1. Respondent failed to perform and/or document an adequate physical examination of Patient B, including an evaluation of the patient's cardio-respiratory status.
2. Respondent failed to adequately treat Patient B by, among other things, removing the bee stinger prior to discharging the patient.

C. Respondent treated Patient C, a three year old male, in the Emergency Room of MMH on or about November 19, 1997. Patient C presented following a motor vehicle accident approximately one hour earlier with a chief complaint of abdominal pain. Respondent's medical care of Patient C failed to meet accepted standards of medical care in the following respects:

1. Respondent failed to perform and/or document an adequate physical examination of the patient.
2. Respondent failed to order adequate diagnostic tests, including a urinalysis, complete blood count, platelet, and/or serum chemistries.
3. Respondent failed to obtain appropriate consultations prior to discharging Patient C on November 19, 1997, including a surgical and/or pediatric consultation.

D. Respondent treated Patient D, a thirty-one year old female, on or about October 7, 1994 in the Emergency Room of MMH.

Patient D, two months pregnant, presented to the Emergency Department with a complaint of severe lower abdominal pain, and nausea. Respondent's medical care of Patient D failed to meet accepted standards of medical care in the following respects:

1. Respondent failed to obtain and/or document an adequate history of the patient.
2. Respondent failed to perform and/or document an adequate physical examination.
3. Respondent failed to order adequate diagnostic tests, including, but not limited to, a quantitative HCG and a pelvic ultrasound.
4. Respondent failed to obtain appropriate consultations prior to discharging Patient D on October 7, 1994, including a surgical and/or gynecologic consultation.
5. Respondent discharged Patient D despite failing to reassess the patient's vital signs or abdominal examination, absence of a quantitative HCG or pelvic ultrasound, and without scheduling formal follow-up or ongoing care.

E. Respondent treated Patient E, a forty-seven year old male, on or about November 3, 1992, at Emergency Department of the Saratoga Hospital, Saratoga, New York. Patient E presented with a complaint of pounding headache. Respondent's medical care of Patient E failed to meet accepted standards of medical care in the following respects:

1. Respondent failed to obtain and/or document an adequate history.
2. Respondent failed to perform and/or document an adequate neurologic examination.
3. Respondent failed to adequately rule out the necessity of a CT scan of patient's head.

SPECIFICATIONS OF MISCONDUCT

FIRST SPECIFICATION

FRAUDULENT PRACTICE

Respondent is charged with committing professional misconduct as defined in N.Y. Education Law §6530(2) by practicing the profession of medicine fraudulently as alleged in the facts of the following:

1. The facts in Paragraphs A and A.2 and/or B and B.1.

SECOND SPECIFICATION

MORAL UNFITNESS

Respondent is charged with committing professional misconduct as defined in N.Y. Education Law §6530(20) 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:

2. The facts in Paragraphs A and A.2 and/or B and B.1.

THIRD THROUGH SEVENTH SPECIFICATIONS

GROSS NEGLIGENCE

Respondent is charged with professional misconduct as defined in N.Y. Education Law §6530(4) by reason of his practicing the profession of medicine with gross negligence, in

that Petitioner charges that Respondent committed one of the following:

3. The facts in Paragraphs A and A.1, A and A.2 and/or A and A.3.

4. The facts in paragraphs B and B.1, and/or B and B.2.

5. The facts in paragraphs C and C.1, C and C.2 and/or C and C.3.

6. 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.

7. The facts in paragraphs E and E.1, E and E.2 and/or E and E.3.

EIGHTH THROUGH TWELFTH SPECIFICATIONS

GROSS INCOMPETENCE

Respondent is charged with professional misconduct as defined in N.Y. Education Law §6530(6) by reason of his practicing the profession of medicine with gross incompetence, in that Petitioner charges that Respondent committed one of the following:

8. The facts in Paragraphs A and A.1, A and A.2 and/or A and A.3.

9. The facts in paragraphs B and B.1, and/or B and B.2.

10. The facts in paragraphs C and C.1, C and C.2 and/or C and C.3.

11. 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.

12. The facts in paragraphs E and E.1, E and E.2 and/or E

and E.3.

THIRTEENTH SPECIFICATION

NEGLIGENCE ON MORE THAN ONE OCCASION

Respondent is charged with professional misconduct as defined in N.Y. Education Law §6530(3) by reason of his practicing the profession of medicine with negligence on more than one occasion, in that Petitioner charges that Respondent committed two or more of the following:

13. The facts in Paragraphs A and A.1, A and A.2, A and A.3, B and B.1, B and B.2, 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 and/or E and E.3.

FOURTEENTH SPECIFICATION

INCOMPETENCE ON MORE THAN ONE OCCASION

Respondent is charged with professional misconduct as defined in N.Y. Education Law §6530(3) by reason of his practicing the profession of medicine with incompetence on more than one occasion, in that Petitioner charges that Respondent committed two or more of the following:

14. The facts in Paragraphs A and A.1, A and A.2, A and A.3, B and B.1, B and B.2, 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 and/or E and E.3.

FIFTEENTH SPECIFICATION

FAILURE TO MAINTAIN RECORDS

Respondent is charged with professional misconduct under N.Y. Education Law § 6530(32) by reason that the Respondent failed to maintain a record for each patient which accurately reflects the evaluation and treatment of the patient in that Petitioner charges:

15. The facts in Paragraphs A and A.1, A and A.2, B and B.1, C and C.1, D and D.1, D and D.2, E and E.1, and/or E and E.2.

Dated: *June 22*, 1999
Albany, New York


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

FOR FURTHER INFORMATION:
MICHAEL A. HISER
ASSOCIATE COUNSEL
(518) 473-4282